

**CHAPTER 4: PERMITTED USES**  
**4-10: Permitted and Special Review Uses**  
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**CHAPTER 4: PERMITTED USES**

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<i>Agricultural/Residential – 2 Acre (AR-10), 18, 30, 49, 52, 61</i>	<i>Rural Business (B-1), 18, 49, 51, 52, 54</i>
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<i>Moderate Density Residential – 15,000 Sq. Ft. Lot (R-15), 17, 18</i>	<i>Village Commercial (VC), 8, 48, 62, 63</i>
<i>Moderate Density Residential – 15,000 Sq. Ft. Lot (R-15A), 17, 18, 61</i>	<i>Village Residential – 6,000 Sq. Ft. Lot (VR), 8, 62, 63</i>

## **CHAPTER 4: PERMITTED USES**

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Chapter 4 established the uses allowed by right and the uses allowed subject to special review, accessory uses, and temporary uses in each zone district. All uses not listed for a zone district are prohibited; except in the B-2 zone district, where uses not listed are allowed by special review. All uses require a development permit.

### **4-10: PERMITTED AND SPECIAL REVIEW USES**

Table 4-1 lists the uses allowed within all zoning districts. Each of the listed uses is defined in Chapter 11.

#### **4-10-10: EXPLANATION OF TABLE ABBREVIATIONS**

##### **(a) Allowed By-Right Uses**

“A” in a cell indicates that the use is allowed by right as a primary use of land in that zone district. Permitted uses are subject to all other applicable regulations of this Land Use Code, including the use-specific standards set forth in this chapter and the requirements of Chapters 5 and 7. A land use listed as an “A” use in the Primary Use portion of Table 4-1 cannot be accessory to another, different primary use of land on the same parcel.

##### **(b) Special Review Uses**

“S” in a cell indicates that, in the respective zone district, the use is allowed as a primary use of land only if reviewed and approved as a special use in accordance with the procedures of Sec. 2-40-20. Unless otherwise stated in this Land Use Code or in a special review use approval, special review uses are subject to all other applicable regulations of this Land Use Code, including the use-specific standards set forth in this chapter and the requirements of Chapters 5 and 7. A land use listed as an “S” use in the Primary Use portion of Table 4-1 cannot be accessory to another, different primary use of land on the same parcel. If a use is listed in Table 4-1 as an “S” use in a specific zone district, but was an “A” use in that same zone district under the previous code, then on and after the 5th of July, 2006 the landowner shall be deemed to have applied for and obtained a Special Review Use Permit for such use.

##### **(c) Master Plan Uses**

“M” in a cell indicates that the use is only permitted if approved as part of a Master Plan for lands in the SKI-REC and P-I districts, pursuant to Sec. 2-40-80 and either Secs. 3-40-120 or 3-70-10, as applicable. Unless otherwise stated in this Land Use Code or in a master plan approval, master plan uses are subject to all other applicable regulations of this Land Use Code, including the use-specific standards set forth in this chapter and the requirements of Chapters 5 and 7.

##### **(d) Prohibited Uses**

A blank cell indicates that the use is prohibited in the respective zoning district.

**(e) Accessory and Temporary Uses**

Some uses by right and special review uses are only permitted as accessory uses to a different, principal use of the property, and are generally not permitted to occur before the principal use has been established or after it has ended. Other uses by right and special review uses are permitted only as temporary uses. Status as an accessory or temporary use is shown by including the use in the Accessory or Temporary Use section of Table 4-1, or by identifying the accessory or temporary nature of the use in use-specific standards. A use listed in the Accessory or Temporary Use sections of Table 4-1 are not available as primary uses of the land unless they are also listed in the Primary Use portion of the table. Home occupations are a special form of accessory use, and are also only permitted if accessory to the principal use of the property as a dwelling occupied by one (1) or more of the same persons conducting the home occupation.

**(f) Use-Specific Standards**

Regardless of whether a use is allowed by right or permitted as a special use, there may be additional standards that are applicable to the use. The existence of these use-specific standards is noted through a cross-reference in the last column of the table. Some use-specific standards specify that the use is only permitted as an accessory use to a different, principal, use of the property. Cross-references refer to the Use-Specific Standards in Sec. 4-30. These standards apply in all zone districts unless otherwise specified. If a proposed use does not comply with applicable use-specific standards, it is prohibited.

**4-10-20: ONLY ONE PRINCIPAL RESIDENTIAL USE PER LOT OR PARCEL**

Only one principal residential use, either by right or by special review, is permitted per lot or parcel, except as allowed by Secs. 3-70-40, 6-30-60, or 6-30-40.

**4-10-30: TABLE ORGANIZATION**

In Table 4-1, land uses and activities are classified into general “use categories” and specific “use types” based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. This classification provides a systematic basis for assigning present and future land uses into appropriate zone districts. This classification does not list every use or activity that may appropriately exist within each category, and specific uses may be listed in one category when they may reasonably have been listed in one or more other categories. The use categories are intended merely as an indexing tool and are not regulatory.

**4-10-40: USE FOR OTHER PURPOSES PROHIBITED**

Approval of a use listed in Table 4-1, and compliance with the applicable use-specific standards for that use, authorizes that use only. Development or use of a property for any other use not specifically allowed in Table 4-1 and approved under the appropriate process is prohibited, unless the use is permitted pursuant to Chapter 9 of this Land Use Code.

#### **4-10-50: CLASSIFICATION OF NEW AND UNLISTED USES**

When an application is made for a use category or use type that is not specifically listed in Table 4-1, the Community Development Director shall be authorized to make a determination as to whether the proposed use category or use type is included within the definition of an existing use category or use type in Chapter 11, based on the characteristics of use types and categories set forth in Chapter 11. Any such determination shall be in writing, and a copy of the decision shall be given to the party proposing the use. If the Community Development Director determines that the proposed use type or use category is not included in any existing use type or category, then the proposed use may only be allowed if this Land Use Code is amended to include such use type or category in Table 4-1 and to include a definition of the use type or category in Chapter 11.

#### **4-10-60: PRINCIPAL USES IN RR DISTRICT**

In addition to those principal and accessory uses listed in Table 4-1, certain minor uses of land are authorized in the RR zone district pursuant to Sec. 3-40-20.

#### **4-10-70: ACCESSORY USE OR STRUCTURE IN RR, LIR-35, AND AH-PUD DISTRICTS**

For those accessory uses available in the RR, LIR-35, and AH-PUD zone districts, as shown in Table 4-1, the following additional conditions shall apply.

**(a)** In the LIR-35 zone district accessory structures and uses are limited to those associated with single-family residential use, which may be accompanied by farming or ranching not conducted for the primary purpose of obtaining monetary profit.

**(b)** In the AH/PUD zone district commercial uses accessory to the housing development are available by special review.

**(c)** In the RR zone district, accessory structures existing before the 5th of July, 2006 may continue in use if a special review approval is obtained, but new accessory structures shall not be erected.

#### **4-10-80: USES IN PUB, I U AND AC/REC-2 DISTRICTS**

Uses available in the PUB, I, U and AC/REC-2 zone districts are listed in Sec. 3-80.

#### **4-20: PERMITTED USE TABLE**

Permitted, special review, and master plan uses are shown in Table 4-1 below.



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TABLE 4-1: PERMITTED USES	Intended for Rural Areas												Intended for Urban Areas								Ei ther				
	Rural Districts												Urban / Suburban Residential District				Business & Special Purpose								
Use Category/ Use Type	R S - G	R R	R S - 1 6 0	R S - 3 5	LI R - 1 3 5	T R - 1	T R - 2	R S - 3 0 & 2 0	A R - 1 0	A R - 2	S K I - R E C	B - 1	R - 3 0	R - 1 5 & 1 5 A 1 5 B	R - 6	V R	M H P	A H	A H - P U D	B - 2	V C	P - I	T	Use- Specific Regulations §	
Mobile Home Park																		A							
Multi-family Dwelling Unit											M	S							S	S	S	S	M	A	§4-30-010(d)
Single Family Dwelling Unit		A	A	A	A	A	A	A	A	A	M		A	A	A	A	A	A	A		A	M	A	§4-30-010(f)	
<b>Group Living</b>																									
Dormitory Housing											M	S						S	S	S		M	S		
Group Home													S	S	S									§4-30-010(b)	
Nursing, Convalescent, Rest, or Retirement Home										S			S	S	S				S		S	M	-	§4-30-010(e)	
<b>Agricultural &amp; Resource</b>																									
Unlisted Agricultural Use			A	A				A	A																
Blacksmithing			S	S				S	S																
Agricultural Building	S		A	A	S			A	A	A			S										S	§4-30-020(a)	
Farming	S	A	A	A	A			A	A	A	M											M	A	§4-30-020(b)	
Firewood Splitting, Commercial			S	S				S	S	S	M	A								A				§4-30-020(c)	
Horse Boarding, Primary	A		A	A				A	S															§4-30-020(d)	
Kennel or Veterinary Clinic				S				S	S	S		S								S		M	-	§4-30-020(e)	
Logging	S		S	S				S	S		M											M	-	§4-30-020(f)	

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	Rural Districts											Urban / Suburban Residential District				Business & Special Purpose								
Use Category/ Use Type	R S - G	R R	R S - 1 6 0	R S - 35	LI R - 35	T R- 1	T R- 2	R S - 30 & 20	A R - 10	A R - 2	S K I - R E C	B - 1	R - 30	R - 15 & 15 A 15 B	R - 6	V R	M H P	A H	A H - P U D	B - 2	V C	P - I	T	Use- Specific Regulations §
Mineral and Gravel Extraction (formerly Mineral & Gravel Exploration / Mining, Concrete, Batch Plants)	S		S	S		S	S	S	S	S	M											M		§4-30-020(g)
Oil and Gas Extraction	S	S	S																					§4-30-020(h)
Ranching (formerly Animal Production & Husbandry Services, Other Farm and Agricultural uses (not including Commercial Feed lots))	A	A	A	A	A			A	A	A	M											M		§4-30-020(i),
Silviculture			A	A				A	A		M													
<b>Civic &amp; Institutional</b>																								
Airport																						M		§4-30-030(a)
Cemetery			S	S				S	S	S												M	-	
Day Care Center								S	S	S	M	S	S	S	S	S	S	S	S	S	S	M	S	
Educational Class								S				S								S				§4-30-030(b)
Hospital																						M		§4-30-030(c)
Institute											M		S	S	S							M	-	§4-30-030(d)
Park, Playground or Playfield							S	S	S	S	M		A	A	A	A	A	A	A	A	A	A	S	
Public Facilities,											M	S								S		M		§4-30-030(e)

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TABLE 4-1: PERMITTED USES	Intended for Rural Areas											Intended for Urban Areas								Ei th er				
	Rural Districts											Urban / Suburban Residential District				Business & Special Purpose								
Use Category/ Use Type	R S - G	R R	R S - 1 6 0	R S - 35	LI R - 35	T R- 1	T R- 2	R S - 30 & 20	A R - 10	A R - 2	S K I - R E C	B - 1	R - 30	R - 15 & 15 A 15 B	R - 6	V R	M H P	A H	A H - P U D	B - 2	V C	P - I	T	Use- Specific Regulations §
Major (Formerly Essential Government and Public Utility Uses, Facilities and Services)																								
Public Utilities, Major			S	S	S			S	S	S	S	S	S	S	S	S	S	S	S	S	S	M	S	
Public Utilities, Minor			A	A	A	A	A	A	A	S	A	A	A	A	A	A	A	A	A	A	A	M	A	4-30-030(f)
Religious Institution (formerly Church)				S	S			S	S	S	M		S	S	S	S					S	M	S	§4-30-030(g)
School or University									S	S	M		S	S	S							M		§4-30-030(h)
Sewage Disposal Area or Water Plant			S	S	S			S	S	S	M	S	S	S	S		S	S	S	S		M	S	
Transit Facility											M	S								S		M		
<b>Commercial &amp; Industrial</b>																								
<b>Entertainment &amp; Recreation</b>																								
Adult Entertainment Establishment												S									S		S	§4-30-040(a)
Alpine Ski Area & Support											M													
Amusement or Entertainment Establishment											M	S									S		S	§4-30-040(b)
Campground			S	S				S	S	M													S	§4-30-040(f)

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 4-20: Permitted Use Table  
 4-10-80: Uses in PUB, I U and ac/rec-2 districts

TABLE 4-1: PERMITTED USES	Intended for Rural Areas												Intended for Urban Areas							Ei th er				
	Rural Districts												Urban / Suburban Residential District				Business & Special Purpose							
Use Category/ Use Type	R S - G	R R	R S - 1 6 0	R S - 35	LI R - 35	T R- 1	T R- 2	R S - 30 & 20	A R - 10	A R - 2	S K I - R E C	B - 1	R - 30	R - 15 & 15 A 15 B	R - 6	V R	M H P	A H	A H - P U D	B - 2	V C	P - I	T	Use- Specific Regulations §
(formerly Commercial Camping Areas)																								
Golf Course											M											M		
Nordic Ski Area and Support Facilities			S	S				S	S	M												M	S	
Outdoor Recreational, Other	S	S	S	S				S	S	S	M											M	S	§4-30-040(q)
Riding Stable or Academy (formerly Commercial Riding Stables)	S							S	S	S	M												S	§4-30-040(w)
<b>Eating, Meeting &amp; Lodging</b>																								
Bed and Breakfast			A	A				A	S	S	M		S	S	S							S		§4-30-040(d)
Country Inn, Guest Ranch, and Resort Cabins			S	S				S	S	M												S	S	§4-30-040(i)
Hotels, Motel or Lodge																						S	S	§4-30-040(l)
Meeting Hall or Conference Center (formerly Reception Halls and Meeting Facilities)				S				S	S	M												S	S	§4-30-040(o)
Restaurant and/or										M	A										A	A	S	§4-30-040(u)

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TABLE 4-1: PERMITTED USES	Intended for Rural Areas												Intended for Urban Areas								Ei th er				
	Rural Districts												Urban / Suburban Residential District				Business & Special Purpose								
Use Category/ Use Type	R S - G	R R	R S - 1 6 0	R S - 35	LI R - 35	T R- 1	T R- 2	R S - 30 & 20	A R - 10	A R - 2	S K I - R E C	B - 1	R - 30	R - 15 & 15 A 15 B	R - 6	V R	M H P	A H	A H - P U D	B - 2	V C	P - I	T	Use- Specific Regulations §	
Bar																									
Timesharing or Fractional Ownership											M													S	§4-30-040(x)
<b>Office and Clinic Uses</b>																									
Financial Institution											M										S	S			§4-30-040(j)
Medical or Dental Clinic											M										A				§4-30-040(n)
Office											M	A									A	A	M		§4-30-040(p)
Research Facility																					S		M		§4-30-040(t)
<b>Sales and Service Uses</b>																									
Arts and Craft Studio, Primary												A									A	A		A	§4-30-040(h)
Building Materials and Landscaping (formerly Equipment Supplies and Contracting or Subcontracting)								S	S			S									A				§4-30-040(e)
General Services												S									A				§4-30-040(k)
Personal Service Outlet											M	A									A	A			§4-30-040(r)
Retail Sale of Goods (formerly Places for Retailing of Goods)											M	A										A		A	§4-30-040(v)
<b>Vehicle and Equipment Uses</b>																									
Automobile											M										S	S	M	S	

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TABLE 4-1: PERMITTED USES	Intended for Rural Areas												Intended for Urban Areas								Ei th er				
	Rural Districts												Urban / Suburban Residential District				Business & Special Purpose								
Use Category/ Use Type	R S - G	R R	R S - 1 6 0	R S - 35	LI R - 35	T R- 1	T R- 2	R S - 30 & 20	A R - 10	A R - 2	S K I - R E C	B - 1	R - 30	R - 15 & 15 A 15 B	R - 6	V R	M H P	A H	A H - P U D	B - 2	V C	P - I	T	Use- Specific Regulations §	
Parking Lot, Commercial																									
Automobile Service Station												S									A	S			§4-30-040(c)
Vehicle and Aircraft Sales and Service (formerly Vehicle and Aircraft Related Business)																					S		M		
<b>Other Principal Uses</b>																									
Cellular Telephone Facility	S		S	S		S	S	S	S	S	M	S									S		M	S	§4-30-040(g)
Junk Yard								S	S												S				§4-30-040(m)
Radio or TV Transmitting Station	S		S	S	S			S	S	S	M	S	S	S	S	S	S	S	S	S	S	S	M		§4-30-040(r)
Solar Farms	S		S	S	S	S	S	S	S	S	M	S	S	S	S	S	S	S	S	S	S	S	S	S	§4-30-50(m) &§ 4-30-050(h)(5)
Use by Federal Permit (formerly Uses, Activities & Facilities Permitted by Special Use Permit Issued by Federal Agency)	S	S	S	S	S			S	S	S	M	S	S	S	S	S	S	S	S	S	S	S	M	S	
<b>Accessory &amp; Temporary Uses</b>																									

CHAPTER 4: PERMITTED USES  
 4-20: Permitted Use Table  
 4-10-80:

TABLE 4-1: PERMITTED USES	Intended for Rural Areas												Intended for Urban Areas								Ei ther					
	Rural Districts												Urban / Suburban Residential District				Business & Special Purpose									
Use Category/ Use Type	R S - G	R R -	R S - 1 6 0	R S - 3 5	L I - 3 5	T R- 1	T R- 2	R S - 3 0 & 2 0	A R -	A R -	A R -	S K I - R E C	B - 1	R - 3 0	R - 1 5 & 1 5 A 1 5 B	R - 6	V R	M H P	A H	A H - P U D	B - 2	V C	P - I	T	Use- Specific Regulations §	
Accessory Structures with Bathing Facility			A	A	A			A	A																§4-30-050(a)	
Agricultural Stand			A	A	A			A	A	A	M	A	A	A	A	A					A	A	M	A	§4-30-050(b)	
Arts and Crafts Studio, Accessory		A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A	M	A		
Building-Mounted Cellular Telephone Antennae			S	S	S			S	S	S	S	S	S	S	S						S		S	S	§4-30-050(c)	
Bus Stop			A	A	A			A	A	A	A	S	A	A	A	A	A	A	A	A	A	A	A	A		
Camping Area			A	A				A															M		§4-30-050(d)	
Caretaker Dwelling Unit			S	S	S			S	S	S				S	S	S	S				S	S	M	S	§4-30-050(e)	
Club House or Recreational Building			S	S				S	S	S	M			S	S	S	S		S	S				M		
Day Care Home			A	A				A	A	A	M			A	A	A	A	A	A	A	A	A		A		
Employee Dwelling Unit			S	S				S	S	S		S		S	S	S					S		M	S		
Home Occupation		A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A	M	A	§4-30-050(f)	
Horse Boarding, Accessory	A		A	A				A	S																	
Satellite Reception Device		S	A	A	A	S	S	A	A	A	M	A	A	A	A	A	A	A	A	A	A	A	M	A	§4-30-050(g)	
Solar Energy Collector	A	A	A	A	A	A	A	A	A	A	M	A	A	A	A	A	A	A	A	A	A	A	M	A	§4-30-050(h)	
Ground Mounted Solar Energy Collector Greater than 12' in Height	S	S	S	S	S	S	S	S	S	S	M	S	S	S	S	S	S	S	S	S	S	M	S		§4-30-050(hy)(5)	

CHAPTER 4: PERMITTED USES  
 4-20: Permitted Use Table  
 4-10-80: Uses in PUB, I U and ac/rec-2 districts

TABLE 4-1: PERMITTED USES	Intended for Rural Areas												Intended for Urban Areas								Ei th er			
	Rural Districts												Urban / Suburban Residential District				Business & Special Purpose							
Use Category/ Use Type	R S - G	R R	R S - 1 6 0	R S - 35	LI R - 35	T R- 1	T R- 2	R S - 30 & 20	A R - 10	A R - 2	S K I - R E C	B - 1	R - 30	R - 15 & 15 A 15 B	R - 6	V R	M H P	A H	A H - P U D	B - 2	V C	P - I	T	Use- Specific Regulations §
Temporary Commercial Use	A	A	A	A	A	A	A	A	A	A	M	A	A	A	A	A	A	A	A	A	A	M	A	§4-30-050(i)
Trail	A	A	A	A	A	A	A	A	A	A	M	A	A	A	A	A	A	A	A	A	A	M	A	
Water Crossing or Diversion	S	S	S	S	S	S	S	S	S	S	M	S	S	S	S	S	S	S	S	S	S	M	S	
Wind Powered Electric Generator		S	S	S	S	S	S	S			M	S										M		§4-30-050(j)
Micro Hydro Electric Energy System	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	§4-30-050(k)
Snow Storage/Dumping Trucking	S		S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S	§4-30-050(l)

(Code repealed and reenacted (all sections) by Ord. 014-D, 2006, 07-05-08; § 4-20 - Table 4-1 (part) amended [Ord. 012-08, 04-09-08](#); [Ord. 019-2009, 06-24-09](#); [Ord. 025-09, 10-14-09](#); [Ord. 010-11, 08-10-11](#); [Ord. 011-11, 08-10-11](#))

## **4-30: USE-SPECIFIC STANDARDS**

All uses by right, special review uses, accessory uses, and temporary uses shall comply with the following use-specific standards.

### **4-30-10: RESIDENTIAL**

#### **(a) Duplex Dwelling Unit**

- (1) In the SKI-REC zone district, after the 5th of July, 2006, duplex units must be Category affordable housing units or resident-occupied units, as defined by the employee housing guidelines.
- (2) Duplexes are not allowed in the R-15 and R-15B zone districts. In the R-15A zone district, only lawfully established duplex units existing prior to 1974 that have been continually so used since that date are allowed, subject to the area and bulk requirements in Table 5-1.B. New duplex units are prohibited in the R-15A zone district.
- (3) In the T and P-I zone districts, duplex dwelling units shall only be permitted within urban growth boundaries.
- (4) Duplex dwelling units that are condominiums shall be subject to all of the provisions of Sec. 4-30-40(x) relating to common interest communities; but shall not be subject to the provisions of Table 4-1 limiting the location of timesharing and fractional fee units and communities.

#### **(b) Group Home**

- (1) Each group home shall remain in compliance with all local, state, and federal health, safety, and fire code provisions at all times.
- (2) Each group home that is required to be licensed by the State of Colorado shall obtain a license prior to beginning operation, and shall maintain the license in good standing at all times.

#### **(c) Mobile Home**

Mobile homes existing in the unincorporated areas of the county on the 5th of July, 2006 may continue to be occupied as a dwelling unit in its current location. However, no such dwelling unit may be installed in a new location in the County after the 5th of July, 2006, and no mobile home that is not currently located in Pitkin County may be installed in the County after the 5th of July, 2006.

#### **(d) Multi-Family Dwelling Unit**

- (1) In the SKI-REC zone district, after the 5th of July, 2006, multi-family dwelling units must be Category affordable housing units or resident-occupied units, as defined by the employee housing guidelines.
- (2) In the T and P-I zone districts, multi-family residential uses shall only be permitted within urban growth boundaries.
- (3) Multi-family dwelling units that are condominiums shall be subject to all of the provisions of Sec. 4-30-40(x) relating to common interest communities; but shall

not be subject to the provisions of Table 4-1 limiting the location of timesharing and fractional fee units and communities.

- (4) In the B-1 zone district, multi-family uses are only permitted above the ground floor and only within structures where the ground floor use is a non-residential use permitted by right or by special review.

**(e) Nursing, Convalescent, Rest, or Retirement Home**

- (1) Nursing, convalescent, rest, or retirement homes with a capacity of more than five (5) guest bedrooms shall be permitted only within the urban growth boundaries.
- (2) Nursing, convalescent, rest, or retirement homes shall not exceed fifteen thousand (15,000) square feet of floor area.
- (3) Nursing, convalescent, rest, or retirement homes are permitted by special review in R-15 zone district, but are not permitted either by right or by special review in the R-15A zone district.
- (4) In the P-I zone district, nursing, convalescent, rest, or retirement homes shall only be permitted within the urban growth boundaries.
- (5) In the AR-10 zone district, only nursing, convalescent, rest, or retirement homes in operation on or before the 5th of July, 2006 are permitted. Such facilities may not be expanded or relocated to other sites within the AR-10 zone district after the 5th of July, 2006.

**(f) Single Family Dwelling**

- (1) All single family dwelling units are subject to those restrictions on size contained in Chapter 5.
- (2) In the AH zone district, single family dwelling units must be Category deed restricted units, as defined by the employee housing guidelines. No other types of single family dwelling units are permitted by special review.
- (3) In the SKI-REC zone district, single family dwelling units must be Category affordable housing units or resident-occupied units, as defined by the employee housing guidelines.
- (4) Single family dwelling units that are condominiums shall be subject to all of the provisions of Sec. 4-30-40(x) relating to common interest communities; but shall not be subject to the provisions of Table 4-1 limiting the location of timesharing and fractional fee units and communities.

**4-30-20: AGRICULTURAL AND RESOURCE**

**(a) Agricultural Building**

- (1) In the LIR-35 zone district only agricultural buildings are permitted, and then only as accessory special review uses.
- (2) Certain agricultural buildings are subject to floor area limitations pursuant to Sec. 6-30-140.

**(b) Farming**

- (1) In the RR zone district, agricultural operations and practices are limited to those that were in existence prior to the property being zoned to Rural/Remote.
- (2) In the LIR-35 zone district, uses by right are limited to (a) farming or ranching conducted for the primary purpose of obtaining a monetary profit, and (b) single family dwelling unit and associated accessory structures and uses that may be accompanied by farming or ranching not conducted for the primary purpose of obtaining monetary profit.

**(c) Firewood Splitting, Commercial**

- (1) Firewood splitting and related storage must comply with all setback requirements of the underlying zone district.
- (2) The site must be kept orderly and free of all unrelated machinery or discarded trash and junk.
- (3) On-site sales are limited to sales of block or slabwood and post-season clearance sales.
- (4) The site shall be limited to one (1) acre or less.

**(d) Horse Boarding**

A horse boarding facility shall be limited to ten (10) visitor trips per day relating to the horse boarding operation.

**(e) Kennel and/or Veterinary Clinic**

Outdoor dog runs or animal pens are only permitted by special review, and shall only be approved if adverse noise and odor impacts on nearby properties can be avoided or mitigated.

**(f) Logging**

**(1) INTENT**

The intent of these logging standards is to manage the removal, damage or destruction of trees on individual properties in the County in order to preserve scenic resources, to maintain air and water quality and to protect wildlife habitats for the continued health, safety and welfare of the people of Pitkin County.

**(2) APPLICABILITY**

Development permits are required and may be approved, approved with conditions, or denied for:

- (a) All logging operations (including the harvest of firewood or logs for commercial sale);
- (b) Removing, damaging or destroying more than forty (40) trees or similar woody vegetation with a Diameter-Breast-Height (D.B.H.) of six (6) inches or more on a single property;
- (c) Removing, damaging or destroying thirty (30) percent or more of the trees with a D.B.H. of six (6) inches or greater on a single property.

**(3) PROHIBITED ACTIVITIES**

- (a) Removing, damaging or destroying trees or other vegetation within one hundred (100) feet of the mean high water mark on any stream or within wetlands or riparian habitat is prohibited unless approved by Pitkin County pursuant to other sections of this Land Use Code.
- (b) Removing, damaging or destroying trees or other vegetation within elk calving habitat is prohibited.

**(4) EXEMPTIONS**

The following logging activities are exempt from County review:

- (a) Removing, damaging or destroying trees with a D.B.H. of less than six (6) inches, provided the trees are not located within a wetland or riparian area.
- (b) Removing, damaging or destroying forty (40) trees or less with a D.B.H. of less than six (6) inches on a parcel of land, or removing, damaging or destroying of less than thirty (30) percent of the trees or similar woody vegetation on a parcel of land, whichever is less.
- (c) The selective removal or trimming of dead, diseased or damaged trees or other woody vegetation that constitute a significant and direct hazard to persons or property, provided that the removal is accomplished through the use of standard forestry practices and techniques.
- (d) Prior to vegetation removal under this provision, the applicant must present to the Community Development Department written confirmation from a certified arborist or recognized tree/forestry expert documenting the condition of the tree/vegetation and the hazard created if removal does not take place. This requirement can be waived pursuant to section 7-20-10(b). The applicant is required to properly dispose of dead or diseased trees in accordance with the Land Management Department's policy. Dead or diseased trees that are removed as a result of the Mountain Pine Beetle shall not be stored for firewood.
- (e) Clear cutting of areas larger than five thousand (5,000) square feet shall not be permitted, unless requested or approved in writing by a state or federal government agency in order to avoid or mitigate a public health or safety hazard.
- (f) Actions taken in times of emergency, including the repair or restoration of public roads, electrical lines, natural gas lines, water lines, sewage lines, and storm drainage systems, when immediate action is necessary to protect public health or safety or to prevent damage to property.
- (g) Removal of trees or other vegetation that has either been approved or required pursuant to a development approval granted by the County.

**(5) FEDERAL AND STATE PRE-EMPTION**

Standards in this section shall apply to any logging activities on any lands within the County, except to the extent that any specific regulation is preempted by Federal or State law. In determining whether Federal or State law preempts enforcement of these requirements, the Board of County Commissioners shall be guided by the factors in this section:

- (a) County regulation of logging activities shall be preempted where Federal or State law specifically and explicitly precludes local regulation.
- (b) The Board may require a County development permit to be obtained for federally approved activities, including unpatented mining claims on Federal lands, provided the purpose of the review is to impose conditions for the protection of the public health, safety and welfare and the environment.
- (c) Patented lands shall be treated as any other private property. Logging and tree removal on private lands shall be subject to the use limitations imposed by this Land Use Code without regard to Federal preemption.
- (d) Where logging activities are approved by the Board of County Commissioners, reasonable conditions may be imposed on such activities for the protection of the public health, safety, welfare and the environment.

**(6) SITE SELECTION**

Sites selected for logging activities shall comply with the standards in this section. An applicant for a development permit will produce sufficient and substantial evidence that the proposed operation will not:

- (a) Occur within one hundred (100) feet of a public road;
- (b) Occur within one thousand (1,000) feet of any urban/suburban zone district or any business or special purpose zone district.
- (c) Occur within one hundred (100) feet of a stream, river, lake or water impoundment;
- (d) Occur within one thousand (1,000) feet of any public park, publicly owned building, national wilderness area or other public institution, places having unique historic interest or value unless the owner of the site or governmental body having jurisdiction over the site has consented to the logging operation;
- (e) Substantially injure or detract from the lawful existing or permitted uses of neighboring properties;
- (f) Adversely affect any public land used for a public purpose; and
- (g) In the P-I zone district, logging shall only be permitted outside urban growth boundaries.

The Board of County Commissioners may reduce the above requirements upon their finding that a lesser distance will result in substantially the same or less

impact due to unique site features or the nature of the equipment that will be utilized.

**(7) ENVIRONMENTAL PROTECTION**

Logging activities shall comply with the standards in this section.

- (a) Operations must conform with the forestry management plan for the subject area prepared by a licensed forester and approved by the County. The County may refer the management plan to the Colorado State Forest Service and other agencies for review and comment.
- (b) Operations must conform to state and local pollution regulations.
- (c) Permittees shall maintain public and private haulage roads in a reasonable dust-free condition.
- (d) Disruption of natural vegetation within one-hundred (100) feet of a water course or riparian area is prohibited.
- (e) Damage to any public, private, residential or agricultural water supply source is prohibited.
- (f) Adverse impacts to any environmental system such as aquifers, landslide or avalanche prone areas, floodplains, riparian areas, or wildlife habitat of significance to the County, region or nation is prohibited.

**(8) OPERATIONS**

This section contains general operational standards applicable to logging activities.

- (a) Logging shall not be permitted closer than ten (10) feet to the boundary of an adjacent property, easement, irrigation ditch or right-of-way, or the established zone district setbacks in which the operation is located, whichever distance is greater. The Board of County Commissioners may require a greater distance, when justified.
- (b) Equipment shall be located to minimize nuisance effects such as visual, noise and dust.
- (c) Hours of operation, unless otherwise specified, shall be from 7:00 a.m. to 7:00 p.m., unless special permission is granted by the Board of County Commissioners.
- (d) Material, equipment, machinery, or vehicles not intended for immediate use or servicing of the logging activity shall not be stored on site.
- (e) Logging sites and all permanent installations shall be maintained in a neat, clean and orderly condition.
- (f) Operations may be limited to certain operating hours and time of year to protect wildlife.

**(9) REGENERATION PLANS**

Applicants for logging development permits shall prepare a regeneration plan for review and approval by the Board of County Commissioners. The finished, final condition of the logged area shall be in accordance with the approved plan. If, because of a change of conditions, a permittee may request an amendment to the regeneration plan. The amended plan shall be subject to approval by the Board of County Commissioners. All regeneration plans shall provide that all rehabilitated or disturbed areas shall be reestablished with appropriate tree and ground cover vegetation. The revegetation program shall consist of the following:

- (a) A certified tree count shall be submitted by a landscape architect, surveyor or engineer registered in the State of Colorado. The tree count shall include all on-site trees. The number of existing trees shall then be divided by the total number of acres to obtain a trees-per-acre figure. The number of replacement trees to be planted at the time of rehabilitation shall be determined by multiplying the trees-per-acre figure by the number of land acres to be rehabilitated.
- (b) Replacement trees shall be a minimum of two (2) feet in height immediately after planting. Species and general location of the replacement trees shall be reviewed by the Board of County Commissioners based upon staff recommendations taking into account future use of land, and the physical and chemical properties of soil. All disturbed surface areas shall be planted or seeded with appropriate ground cover to prevent erosion. The survival ratio of the replacement trees after two (2) years shall be no less than ninety (90) percent before the remainder of the non-expiring bond is released pursuant to subsection (12) below.

**(10) PERMITTING AND INSPECTIONS**

An annual inspection shall be performed by a representative of the Community Development Department to assess compliance with the approved operating plan. The applicant shall pay a fee for this inspection prior to January 1<sup>st</sup> of each year. The amount of the fee will be based on the number of hours required to make the inspection and will be based on the normal hourly billing rate for Community Development Department review activities.

**(11) INSURANCE**

The permittee shall furnish evidence of insurance, to the extent determined by the Board of County Commissioners, against liability for any negligent act or omission by the operator from the operation and all activities connected with or incidental thereto.

**(12) PERFORMANCE BOND**

The parties to the permit shall post a performance bond or other security acceptable to the County, payable to Pitkin County, in a sum acceptable to the Board of County Commissioners, to ensure full compliance with all of the terms and conditions of the permit and the rules and regulations of the Board of

County Commissioners pertaining to exploration or mining, and the rules and regulations pertaining to site rehabilitation. The Board of County Commissioners, upon determining that a logged area complies with all the terms and conditions of the permit, may release such acreage from coverage by the performance bond.

**(13) INITIATION OF LOGGING**

Permitted logging or tree removal shall begin within twelve (12) months following the date of approval of the development permit, or the approval shall be null and void.

**(g) Mineral and Gravel Extraction**

**(1) APPLICABILITY**

Mineral exploration and mining is only permitted pursuant to the standards of this Sec. 4-30-20(g). Development applications for special review approval for mineral exploration, mining sand and gravel pits, rock crushers, concrete batch plants, asphalt hot mix plants, surface mining, open pit mining and subsurface mining may be denied, approved or approved with conditions subject to the standards in this section.

**(2) EXEMPTIONS**

The following mineral exploration and mining activities are exempt from County review, pursuant to this Sec. 4-30-20(g), but are still subject to the other standards of this Land Use Code.

- (a)** Gravel excavation by a property owner of fifty (50) cubic yards or less for non-commercial purposes.
- (b)** Mineral exploration limited to non-motorized hand tools with no new or improved access for motorized vehicles and less than fifty (50) cubic yards of excavation or fill. Examples of these exempt activities include hand-panning or collecting of rock or ore samples using non-motorized hand tools such as picks or hammers.
- (c)** Underground mineral exploration that results in no surface disturbance. This includes underground drilling, excavation or maintenance undertaken as part of an existing underground operation.
- (d)** Mapping activities that do not require the use of explosives, motor vehicles or other surface disturbance.
- (e)** Excavation and reclamation of existing unreclaimed tailings or spoils dumps that exceed fifty (50) cubic yards may be approved through the issuance of a County earthmoving permit.

**(3) FEDERAL AND STATE PRE-EMPTION**

The standards in this section and the requirements of Sec. 2-40-20(d) shall apply to any and all mineral exploration and mining activities on all lands within the County, except to the extent that any specific regulation is preempted by Federal or State law. In making a determination whether Federal or State law

preempts enforcement of these requirements, the Board of County Commissioners shall be guided by the factors in this section.

- (a) The Board may require a County development permit to be obtained for federally approved activities on Federal lands, including unpatented mining claims, provided the purpose of the review is to impose conditions for the protection of the public health, safety, welfare and the environment.
- (b) Patented lands are to be treated as any other private property and are not subject to the preemption of Federal mining laws. Mining on private lands shall be subject to the use limitations imposed by this Land Use Code without regard to Federal preemption.
- (c) Where mineral exploration or mining activities are approved by the Board of County Commissioners, reasonable conditions may be imposed on such activities for the protection of the public health, safety, welfare and the environment.

**(4) SITE SELECTION**

Sites selected for mineral exploration, mining, sand and gravel pits, rock crushers, surface mining, open pit mining and subsurface mining shall comply with the standards in this section. Concrete batch plants and asphalt hot-mix plants may only be located and operated at the sites of sand and gravel pits and rock crushers, but may temporarily be located in conjunction with major construction sites if special review approval is granted. An applicant for a development permit will produce sufficient and substantial evidence that the proposed operation will not:

- (a) Occur within two hundred (200) feet of a public road;
- (b) Occur within two hundred (200) feet of a stream, river, lake or water impoundment;
- (c) Occur within one thousand (1,000) feet of any public park, publicly owned building, national wilderness area or other public institution, places having unique historic or patriotic interest or value unless the owner of the site or the governmental body having jurisdiction over the site has consented to the mining operation;
- (d) Substantially injure or detract from the lawfully existing or permitted uses of neighboring properties;
- (e) Adversely affect any public land use;
- (f) Occur within one thousand (1,000) feet of any occupied dwelling, unless the consent of the owner of the dwelling has been obtained in advance of the submission of application for development permit;
- (g) Occur within one thousand (1,000) feet of any school, church, community or institutional building;
- (h) Occur within one thousand (1,000) feet of a cemetery; and

- (i) In the P-I zone district, mineral and gravel extraction shall only be permitted outside urban growth boundaries.

The Board of County Commissioners may reduce the above requirements upon their finding that a lesser distance will result in substantially the same or less impact due to unique site features or the nature of the equipment that will be utilized.

(5) **ENVIRONMENTAL PROTECTION**

Mineral exploration, mining, sand and gravel pits, rock crushers, concrete batch plants and asphalt hot-mix plants, surface mining, open pit mining and subsurface mining shall comply with the standards in this section.

- (a) Damage or nuisance resulting from noise, smoke, odor, dust, vibration or erosion is prohibited.
- (b) Dust produced by mechanical operation, trucking or road conditions must be controlled.
- (c) Permittees shall maintain private and public roads in a reasonable dust-free condition.
- (d) Landscaping or appropriate visible barriers may be required to screen the operations from the general public.
- (e) Disruption of natural vegetation within two hundred (200) feet of a water course or riparian area is prohibited, unless the Board approves a lesser distance upon a finding that no adverse impacts will result.
- (f) Damage to any public, private, residential, or agricultural water supply source is prohibited.
- (g) Adverse impacts to any environmental system such as aquifers, landslide or avalanche prone areas, floodplains, riparian areas, or wildlife habitat of significance to the County, region, or nation is prohibited.
- (h) Toxic wastes shall be disposed of pursuant to an approved toxic waste disposal plan approved by the County.

(6) **OPERATIONS**

This section contains general operational standards applicable to mineral exploration, mining, sand and gravel pits, rock crushers, concrete batch plants and asphalt hot-mix plants, surface mining, open pit mining and subsurface and specific operational standards for sand and gravel pits, rock crushers, concrete batch plants and asphalt hot-mix plants; and oil and gas drilling.

(a) **General Operational Standards**

The general operational standards in this section apply to Mineral exploration, sand and gravel pits, rock crushers, concrete batch plants and asphalt hot-mix plants, oil and gas drilling, surface mining, open pit mining and subsurface mining.

1. Excavation shall not be permitted closer than ten (10) feet to the boundary of an adjacent property, easement, irrigation ditch or right-of-way. The Board may require a greater distance, when justified.
2. Equipment shall be located to minimize nuisance effects such as noise and dust.
3. Hours of operation, unless otherwise specified, shall be from 7:00 a.m. to 7:00 p.m., unless special permission is granted by the Board.
4. Operations may be required to be fenced, or otherwise enclosed for health and safety protection.
5. Sound levels must comply with Pitkin County Noise Standards or other specific standards as may be approved by the Board for a specific development.
6. Material, equipment, machinery, or vehicles, not intended for immediate use or servicing of the exploration or mining site shall not be stored on site.
7. Exploration or mining sites and all permanent installations shall be maintained in a neat, clean and orderly condition.
8. All surfaces of permanent buildings and structures shall be painted and maintained in a neat and orderly manner.
9. Operations may be limited to certain seasons and time of day to protect wildlife.

**(b) *Additional Standards for Sand and Gravel Pits, Rock Crushers, Concrete Batch Plants and Asphalt Hot-mix Plant Operations***

In addition to the general operational standards in subsection (a) above, sand and gravel pits, rock crushers, concrete batch plants and asphalt hot-mix plants are required to comply with the operational standards in this section.

1. All sand and gravel pits shall be excavated in such a manner as to leave an average of not less than two (2) feet of undisturbed sand or gravel, as evenly as possible over the entire excavation tract, to provide a water bearing strata for any existing ground water, unless the rehabilitation plan provides for a permanent lake or other appropriate reconstruction.
2. In no event shall slopes steeper than 2:1 be left when operations are completed, unless the approved rehabilitation plan calls for other types of stabilized slopes.
3. Pit floors shall be graded in reasonable, smooth condition so that excavated areas will not collect water or permit polluted water to remain therein; however, where the rehabilitation plan for the subject property, as approved by the Board, provides for a permanent lake, the foregoing requirements shall not apply.

**(7) REHABILITATION, GENERAL**

Applicants for mineral exploration, mining, sand and gravel pits, rock crushers, concrete batch plants, asphalt hot mix plants, surface mining, open pit mining and subsurface mining permits must prepare a rehabilitation plan for review and approval by the Board of County Commissioners and State or Federal agencies, if applicable. The finished, final condition of the explored or mined area shall be in accordance with the approved plan; or, since conditions of material or economics may change, a permittee may request an amendment to the rehabilitation plan. The amended plan shall be subject to County Commissioner approval. Reclamation plans shall comply with the general rehabilitation plan standards in subsection (8) below. In addition to complying with the general rehabilitation standards in subsection (8) below, sand and gravel operations rehabilitation plans must comply with the specific rehabilitation standards in subsection (9) below.

**(8) GENERAL REHABILITATION PLAN**

Rehabilitation plans for mineral exploration, sand and gravel pits, rock crushers, concrete batch plants, asphalt hot mix plants, surface mining, open pit mining and subsurface mining shall comply with the standards in this section.

- (a) Existing topsoil shall be quality tested, stored and redistributed on-site to provide adequate growing conditions for revegetation. Where such storage is not feasible, the area shall be restored with soil of an equal or better quality to previously existing topsoil and be redistributed to provide adequate growing conditions.
- (b) Toxic wastes remaining on site, if any, shall be covered or disposed of in a manner acceptable to the Environmental Protection Agency.
- (c) All rehabilitated or disturbed areas shall be reestablished with appropriate tree and ground cover vegetation. The revegetation program shall consist of the following:

  - 1. A certified tree count shall be submitted by a landscape architect, surveyor or engineer who is registered in the State of Colorado. The tree count shall include all existing on-site trees with a diameter-breast-height (D.B.H.) of four (4) inches or greater. The number of existing trees meeting this standard shall then be divided by the total number of acres to obtain a trees-per-acre figure. The number of replacement trees to be planted at the time of rehabilitation shall be determined by multiplying the trees per acre figure by the number of rehabilitated land acres.
  - 2. Replacement trees may be required in specific areas to mitigate visual impacts, provide buffer areas, to prevent erosion, or for other specific purpose. Large areas over an acre may be planted with seedlings or other approved foliage. Replacement trees shall be a minimum of (2) inch caliper at diameter-breast-height for deciduous trees or four (4) feet in height for evergreens. Species number and location of the

replacement trees shall be reviewed by the Board of County Commissioners based upon staff recommendations taking into account the future use of land and the physical and chemical properties of soil. [Slightly revised for clarity]

3. Credit shall be given for existing trees greater than six (6) inches at diameter-breast-height that are relocated or adequately protected during excavation. Any tree so relocated or protected shall be deducted from the replacement tree count standards.
- (d) All disturbed surface areas shall be planted or seeded with appropriate ground cover to prevent erosion.
- (e) The survival ratio of the replacement trees shall be no less than ninety (90) percent of the required number of replacement trees before the remainder of the non-expiring bond is released pursuant to subsection (12) below.
- (f) No pits, tailings, depressions or debris accumulation shall remain after rehabilitation. Final grades shall conform to the contour lines and grades approved on the site rehabilitation plan.

**(9) SPECIAL STANDARDS FOR SAND AND GRAVEL OPERATION REHABILITATION PLANS**

In addition to complying with the general rehabilitation standards in subsection (8) above, sand and gravel operation rehabilitation plans must comply with the special rehabilitation standards in this section.

**(a) Dry Pit Rehabilitation**

1. After sand and gravel excavation has been completed in a dry pit, the permittee shall spread fill evenly over the bottom of the excavation and excess waste materials. The permittee shall then evenly spread topsoil to a minimum depth of eighteen (18) inches, unless evidence shows that the land excavated had less than eighteen (18) inches of topsoil prior to commencement of operations. The topsoil shall be spread so as to produce a new surface for the purpose of growing crops or other vegetation.
2. The graded or backfill area shall not permit water to collect or remain therein unless approved as part of the rehabilitation plan.

**(b) Wet Pit Rehabilitation**

Like dry pit rehabilitation, the wet pit must be filled. Filling must be accomplished in accordance with the conditions set for recreational or scenic purposes. The following standards apply to rehabilitation of a wet pit into a lake:

1. All banks shall be sloped to the water line; a slope that shall not be steeper than two (2) feet horizontal to one (1) foot vertical.
2. All banks shall be stabilized unless otherwise called for on the approved rehabilitation plan.

3. Stabilization shall be accomplished by surfacing with soil of a quality at least equal to the topsoil of land areas immediately surrounding.
4. Topsoil, as required by subsection 3. above, shall be planted with trees, shrubs, legumes, or grasses upon the parts of such area where revegetation is possible, unless otherwise specified in the rehabilitation plan.

**(10) PERMITTING AND INSPECTIONS**

An annual inspection shall be performed by a representative of the Community Development Department to assess compliance with the approved operating plan. The applicant shall pay a fee for this inspection prior to January 1<sup>st</sup> of each year. The amount of the fee will be based on the number of hours required to make the inspection and will be based on the normal hourly billing rate for Community Development Department review activities.

**(11) INSURANCE**

The permittee shall furnish evidence of insurance, to the extent determined by the Board of County Commissioners, against liability for any negligent act or omission by the operator from the operation and all activities connected with or incidental thereto.

**(12) PERFORMANCE BOND**

The parties to the permit shall post a performance bond or other security acceptable to the County, payable to Pitkin County, for a sum acceptable to the Board to ensure full compliance with all of the terms and conditions of the permit and the rules and regulations of the Board pertaining to exploration or mining, and those rules and regulations pertaining to site rehabilitation. The Board of County Commissioners, upon determining that an explored or mined area complies with all the terms and conditions of the permit, may release such acreage from coverage by the performance bond.

**(13) CONVERSION OF INITIAL, SHORT-TERM PERMIT TO LONG-TERM PERMIT**

The Board shall consider the degree to which the permittee has complied with all of the terms and special conditions of the initial, short-term permit, citizen comments and changing conditions that may affect the exploration or mining operation.

**(14) INITIATION OF EXPLORATION OR MINING**

Permitted exploration or mining operations shall begin within twelve (12) months following the date of approval of the development permit, or the approval shall be null and void.

**(15) SKI-REC ZONE DISTRICT**

Standards for mineral exploration, mining or uses and activities not under the control of ski area operator:

- (a) Mineral exploration and mining shall be subject only to the procedures of Sec. 2-40-20(d), and standards of this Sec. 4-30-20.

- (b) If the right to the use of property located within the boundaries of the SKI-REC zone district comes under the control of a person other than the proponent of a master plan required under this section, and where such person is unsuccessful after reasonable efforts in securing approval with the master plan review process, such person may apply for review and approval of such proposed development as if the property were located in the AR-10 zone district, and in accordance with the procedures, submission contents and standards applicable thereto.

## **(h) Oil and Gas Extraction**

### **(1) INTRODUCTION**

- (a) The Board of County Commissioners' decision to approve, conditionally approve, or deny an application for an oil or gas facility/operation in the County shall be made and determined based upon the compliance of the applicant with the following performance standards, to the extent applicable and relevant, and not waived based upon technical infeasibility. The burden shall be on the applicant to meet these standards to the satisfaction of the Board.
- (b) Any proposed oil and gas facility/operation, excluding well sites, must be compatible with existing uses and those, which can be projected in the area in which the oil and gas facility is proposed. A facility's compatibility with land uses in the surrounding area, which the Board finds will be affected by its operation, shall be determined by the operator's ability to mitigate the impacts which it generates, as set forth in the facility operation plan, and in accordance with applicable county, state and federal rules, regulations and standards. Compatibility does not necessarily mean that a proposed use must be identical with neighboring uses.
- (c) The Board understands that based upon state and federal law, there are areas in which it does not have the legal right to establish and enforce performance standards, primarily where those standards are duplicative of state or federal regulations. In those cases, to require compliance with the standards does not presume the right of Pitkin County to enforce state or federal regulations, or County regulations which duplicate those of the federal or state government.

### **(2) OIL AND GAS WELLS AND WELL SITES**

The following performance standards apply to the siting, construction and operation of oil and gas wells within the County.

#### **(a) Access by Pitkin County Local Government Designee**

The Pitkin County Local Government Designee (LGD) shall have access to an oil and gas facility/operation for the purpose of determining compliance with these conditions. The Local Government Designee shall comply with all safety requirements and shall preserve the confidentiality of any proprietary information which becomes known to him. Pitkin County shall also comply

with confidentiality requirements, as defined and to the extent stated in the Colorado Oil and Gas Conservation Commission rules and regulations.

**(b) Emergency Response Requirements**

1. Each operator with oil and gas facilities/operations in the County is required to provide an emergency response plan. The plan shall be filed with the County and updated on an annual basis or as conditions change (responsible field personnel change, ownership changes, etc.). The emergency plan shall consist of the following information, as a minimum:
  - a. Name, address and telephone number, including a 24-hour emergency number of at least two (2) persons responsible for emergency field operations.
  - b. An as-built facilities map showing the name, location, and description of all oil and gas facilities, including the size and type of all pipelines and isolation valves (note: isolation valves shall not be operated by anyone except the owner of the pipeline). The map shall be prepared either manually on U.S.G.S. 7.5 Minute Series maps (1"=2000'), or digitally on the County Geographic Information System Parcel Maps, if available. The as-built facilities map which includes the information regarding the location of isolation valves shall be held confidentially by the County's Emergency Management Staff and shall only be disclosed in the event of an emergency. The County's Emergency Management Staff shall deny the right of inspection of the as-built facilities map to the public pursuant to C.R.S. 24-72-204(3)(a)(IV). An operator who is new to Pitkin County and has no facility shall supply the information in this paragraph within six (6) months of commencement of operations.
  - c. Provide a written response plan for the potential emergencies that may be associated with the operation of the facilities. This may include any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills.
  - d. Project specific emergency response plans are required for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas, as determined by the County's Emergency Management Staff. This plan shall be coordinated with and approved by the County's Emergency Management Staff prior to beginning field operations.
2. Oil and gas facilities shall be located and designed so as to provide access by fire or other emergency response personnel and vehicles.

3. All storage tank batteries shall be bermed, subject to requirements placed on oil and gas facilities according to Colorado Oil and Gas Conservation Commission rules and regulations.
4. The operator shall obtain an address from the County before beginning any work on the site other than site analysis and surveying. The well site shall be incorporated into the E911 Emergency Reporting System.
5. The operator shall provide special training and on-site orientation at the drill site for personnel from the Fire District and/or the Pitkin County Hazardous Material Team. The operator agrees to furnish equipment (spill kit) to contain spills including drilling, completion and testing fluids on land and in water courses to the Fire District personnel and/or the Pitkin County Hazardous Material Team in the event of a truck accident, spill and/or fire.
6. The operator shall become a member and pay any necessary fees of the applicable Ambulance Service prior to commencing operations to drill the well.

**(c) *Federal, State and Local Regulations***

1. All oil and gas operations shall comply with federal, state and local regulations applicable to the proposed operations. An applicant is required to obtain federal or state permit approval(s) before the County can grant final approval. The County will process such an application under the County's normal procedures and timetable, but County approval will not become effective until all requisite state and federal permits are obtained.
2. An applicant shall inform the County of any notice of non-compliance by the appropriate authority concerning a state or federal permit within a reasonable time, not to exceed thirty (30) days from the applicant's receipt of such notice. The County may not, however, take any action with regard to a pending or existing development agreement different than the state or federal agency as a result of the alleged non-compliance with approvals issued by those agencies. The County may only suspend or revoke a development agreement as a result of a notice of non-compliance if the applicable federal or state agency has suspended or revoked its corresponding permit approval as a result of the alleged non-compliance. In the event that the County has suspended or revoked a development agreement in this circumstance, it must reinstate the development agreement when the applicable state or federal agency reinstates its corresponding permit for whatever reason.
3. By requiring such compliance in this Land Use Code, Pitkin County does not presume any absolute right to enforce state or federal regulations.

**(d) Fire Protection**

1. If the oil and gas facilities are located in a severe or low to moderate wildfire hazard area, the fire mitigation plan shall include detailed information as to fuel location, hazardous materials and proposed methods of fire suppression, including the use of foam. The operator shall comply with the recommendations (if any) of the Fire District to mitigate any fire hazards at the facilities.
2. The operator shall comply with any state and local fire restrictions applicable to the property upon which oil and gas facilities will be located. If there is a County fire ban, no open flames should be allowed without additional approval of the Board of County Commissioners or its designee.
3. For oil and gas facilities located outside the boundaries of a Pitkin County Fire Protection District, the operator shall agree to reimburse each Fire District for all costs of responding to and fighting any fire and/or emergency situation requiring the presence of the Fire District.

**(e) Floodplain**

1. Oil and gas facilities that are located within, or partially within, a special flood hazard area shall comply with the requirements of the Pitkin County Floodplain Regulations.
2. No oil and gas operation shall result in the handling or storage of hazardous materials in a special flood hazard area. Any other outdoor storage permitted in a special flood hazard area shall be of materials that will not float, or that are confined by a fence or other means to prevent flotation.

**(f) Impact on Agriculture**

1. Where irrigation and waste water ditches, pipelines, waterways or any other means of conveyance cross or adjoin the land proposed to be developed, adequate provisions shall be made to ensure that their use, including the maintenance thereof, will continue uninterrupted. Ditch rights of way shall be recognized and/or granted if not already established. Existing historical easements utilized to gain access to ditches, headgates and fences for maintenance shall be preserved or replaced with alternate easements suitable for a continuation of historic use. No operator shall channel storm water, produced water or snowmelt runoff into any irrigation system without the written consent of the responsible irrigation entity.
2. Oil and gas facilities/operations shall not interfere with the irrigation of neighboring lands or alter any irrigation system without the written consent of the affected entity.
3. Oil and gas facilities/operations shall not interfere with the normal operation of existing agricultural operations including, but not limited to,

dairies, feed lots, fruit orchards, onion sheds, crop and livestock production and other agricultural activities; provided that this provision does not give Pitkin County authority over the siting or location of oil and gas wells. In particular, such facilities/operations shall not generate dust or other air pollutants that will interfere with crop and orchard pollination or growth, or negatively impact the health of livestock.

**(g) Insurance and Financial/Performance Security**

1. Each operator shall maintain general liability insurance for property damage and bodily injury to third parties as required by the Colorado Oil and Gas Conservation Commission, and such policy shall include Pitkin County as a certificate holder so that the County may receive advance notice of cancellation.
2. In addition to the requirements of subsection (j)3. below concerning road bonds, the operator shall provide one form of the following security to assure compliance with mitigation requirements set forth in these regulations and specific conditions of approval for oil and gas facilities. Five thousand dollar (\$5,000.00) performance bond for each oil and gas facility; fifty thousand dollars (\$50,000.00) Countywide blanket bond for all facilities operated by the applicant within the County; irrevocable letter of credit; or equivalent financial security acceptable to the County.
3. Growth shall pay its own way; therefore operators shall be required to pay their appropriate share of the impact created on public facilities and infrastructure. The share of the impact and cost shall be determined according to standards and formulas designed to estimate the cost of growth in Pitkin County.

**(h) Notice/Exchange of Information**

The operator shall notify the County with respect to the following events:

1. Upon the commencement of final reclamation of each well site or upon a request for waiver of final reclamation pursuant to Section 1001.C. of the Rules of the Colorado Oil and Gas Conservation Commission.
2. With respect to any sale, lease or other reassignment of the operating interest in the oil and gas facility/operation to another party, within thirty (30) days after the transfer.
3. Any permits obtained by operator from federal and state agencies pursuant to their regulations, e.g., stormwater discharge permit, including copies of said permits, as well as copies of written notices of any alleged violations of federal or state law received by operator concerning oil and gas operations in Pitkin County.

**(i) Off-Site Staging Area**

If an off-site staging area is required during the drilling, completion, and production of an oil and gas facility, the area shall be constructed and protected in the same manner as the access to the County road. Provided,

however, if such staging area is accessed off a County road in a different location from the access to the oil and gas facility then an additional access permit shall be obtained prior to the use of the area. The staging area will be authorized for a period of one (1) year, but if required beyond that period, the operator shall file an application for its continuation under the Sec. 2-20-150 at least ninety (90) days before the year expires.

**(j) Roads and Access**

The following requirements are applicable to roads over which Pitkin County has jurisdiction, (such as public roads, but not to private, internal roads):

1. Prior to commencing operations, the operator shall apply for and receive approval of a Pitkin County Access Permit and Road Use Permit for each oil and gas facility accessed off a County road.
2. No other haul route than the route approved by the Board of County Commissioners or its designee may be used without written consent of the Board.
3. The County shall determine the current condition of the County roads and if the roads will be able to handle the number and weight of proposed truck traffic. The operator shall agree to bond these designated haul routes in an amount determined necessary by the Board and return the road surfaces in equal or better condition after completion of drilling. The operator shall further comply with any regulations in place in Pitkin County which require a special use permit or a road use permit to cover the proposed operations of the operator. If Pitkin County determines the existing haul routes, or a portion thereof, are not able to handle the weight and number of truck traffic, the operator and the County will negotiate an agreement to determine the operator's share of any needed improvements.
4. With respect to roads over which the County may exert jurisdiction, the operator will endeavor to ensure that texture and composition of any disturbed areas will be similar to that of the surrounding undisturbed ground. Exhumed rock that cannot be backfilled will be disposed of in a manner that is compatible with the surrounding area. Any areas that may be compacted or rutted by wheeled traffic, and other areas disturbed by construction, will be re-contoured and reseeded in a manner that minimizes the possibility of erosion.
5. The operator will avoid scheduling heavy truck traffic on County roads between October 1 and May 1 because of muddy conditions and frost heave. Operator will seek approval from the local Road & Bridge Foreman to use the roads during this period of time. If the operator cannot avoid using County roads for heavy truck traffic during this period of time, the Board may impose additional bonding requirements to remediate anticipated road damage.

6. To the extent that heavy truck traffic resulting from the operations of the operator will impact residential neighborhoods, the applicant will use its best efforts to minimize such heavy truck traffic between the hours of 11:00 p.m. and 6:00 a.m.
7. Operator shall control fugitive dust emissions from oil and gas operations on all access and County roads used as haul routes as part of oil and gas operations.
8. A drainage plan relating to the access roads will be prepared and submitted to the County.

**(k) Security**

1. Security arrangements, including fencing and locked gates for oil and gas facilities shall be as mutually agreed between the operator and the surface owner.
2. Operator may be required by the County to construct a gate at the point of access to the County road, so long as emergency vehicle passage is not restricted.
3. Open-ended discharge valves on all storage tanks, pipelines, and other containers shall be secured where the facility site is unattended and/or accessible to the general public.

**(l) Trash and Waste Removal**

1. Oil and gas operations shall be conducted in such a manner that liquid and solid wastes and other nuisances are confined to the site or disposed of in compliance with any applicable County regulations so as to avoid any adverse impact on adjoining lands. An adequate container is required at each facility to handle municipal solid waste and construction debris. All other solid waste if intended for disposal at the Pitkin County Landfill will require approval of the Pitkin County Solid Waste Coordinator prior to disposal.
2. Chemical toilets shall be required and shall be pumped and maintained in a sanitary condition by a contractor licensed by Pitkin County.

**(m) Utilities and Utility Easements**

All utilities and associated utility easements required for oil and gas facilities/operations shall be provided to the site as specified by the utility providers.

**(n) Visual Impact Mitigation**

The County may require reasonable vegetative screening requirements on well sites and associated infrastructure. In addition, permanent oil and gas facilities shall be located to avoid crossing hills and ridges or silhouetting to the extent reasonably possible.

1. The visual impact mitigation provisions of these regulations shall apply if:

- a. The oil and gas facility is located within three hundred fifty (350) feet of an existing residential dwelling, unless a waiver is obtained in writing from the homeowner, or
  - b. Public facilities, including public parks, schools, hospitals or similar facilities are within a one thousand (1000) foot radius of the facility; unless a waiver is obtained in writing from the County, school district, hospital association or other public entity; or
  - c. The oil and gas facility is located within two hundred (200) feet of a maintained public road; or
  - d. The oil and gas facility is visible from a designated scenic byway (West Elk Scenic Byway or Grand Mesa Scenic Byway).
2. Visual Impacts
- a. Oil and gas facilities shall be located away from prominent natural features such as distinctive rock and landforms, river crossings and other landmarks.
  - b. Oil and gas facilities shall be located to avoid crossing hills and ridges or silhouetting.
  - c. The operator shall use structures of minimal size to satisfy present and future functional requirements.
  - d. When clearing trees and vegetation for construction of oil and gas facilities, the operator shall feather and thin edges of vegetation.
  - e. The operator shall locate facilities at the base of slopes to provide a background of topography and/or natural cover.
  - f. The operator shall replace earth adjacent to water crossings at slopes less than the natural angle of repose for the soil type of the site.
  - g. The operator shall align access roads to follow existing grades and minimize cuts and fills.
  - h. Oil and gas facilities shall be painted as follows:
    - i. Uniform, non-contrasting, non-reflective color tones, similar to Munsel Soil Color coding system.
    - ii. Color matched to land, not sky, slightly darker than adjacent landscape.
  - i. The operator shall minimize damage to existing trees and vegetation.
  - j. Dimensions for an oil and gas facility shall be the minimum size necessary to provide a safe work area and minimize surface disturbance.

k. Utilities

- i. For utility corridors: varying the visual line created in the landscape to match the existing terrain and vegetation.
  - ii. New utility distribution lines serving oil and gas facilities shall be underground. EXCEPTION: This requirement may be waived where geologic or hydrologic conditions prohibit underground installation.
- l. One or more of the following landscape practices may be applied on a site specific basis:
- i. Establishment of ground cover.
  - ii. Shaping cuts and fills to appear as natural forms.
  - iii. Cutting rock areas to create irregular forms.
  - iv. Designing the facility to utilize natural or planted screens.
  - v. Construction of fences for use with or instead of landscaping.
- m. The provisions of subsections 2.a-2.g above may be waived if the operator notifies the County that geologic, topographic, or hydrologic conditions preclude compliance, or if a surface use agreement entered into between the operator and the surface owner is inconsistent herewith.
- n. Scenic Byways
- Oil and gas facilities within the viewshed of the West Elk Scenic Byway and the Grand Mesa Scenic Byway, should generally not be located on ridgelines with a direct affect on the skyline or block viewsheds from adjoining properties.

(o) **Noxious Weed Control**

1. The operator shall be responsible for noxious weed control on oil and gas facility sites and roadways during construction and operation of the facility, until the Colorado Oil and Gas Conservation Commission reclamation bond is released or operation of the facility is terminated.
2. The appropriate noxious weed control methods and species to be controlled shall be determined through review and recommendation by the Pitkin County Weed Coordinator.

(p) **Time Frame**

A mutually agreed upon time frame shall be established between the applicant and Pitkin County to determine the timeline for the completion of the construction and development including the installation of all infrastructure. In the absence of a specific agreement otherwise, the applicable time frame shall be deemed to be two (2) years from the date of the approval by the Board of County Commissioners. One (1) or more extensions may be granted by the Board.

**(3) OIL AND GAS GATHERING SYSTEMS AND TRANSMISSION PIPELINES**

The following performance standards apply to the siting, construction and operation of gathering systems and transmission pipelines within Pitkin County, as defined in Chapter 11.

**(a) Access by Pitkin County Local Government Designee**

The Pitkin County Local Government Designee (LGD) shall have access to an oil and gas facility/operation for the purpose of determining compliance with these conditions. The Local Government Designee shall comply with all safety requirements and shall preserve the confidentiality of any proprietary information which becomes known to him. Pitkin County shall also comply with confidentiality requirements, as defined and to the extent stated in the Colorado Oil and Gas Conservation Commission rules and regulations.

**(b) Emergency Response Requirements**

1. Each operator with oil and gas facilities/operations in Pitkin County is required to provide an emergency response plan. The plan shall be filed with the County and updated on an annual basis or as conditions change (responsible field personnel change, ownership changes, etc.). The emergency plan shall consist of the following information, as a minimum:
  - a. Name, address and telephone number, including a 24-hour emergency number of at least two (2) persons responsible for emergency field operations.
  - b. An as-built facilities map showing the name, location, and description of all oil and gas facilities, including the size and type of all pipelines and isolation valves (note: isolation valves shall not be operated by anyone except the owner of the pipeline). The map shall be prepared either manually on U.S.G.S. 7.5 Minute Series maps (1"=2000'), or digitally on the County Geographic Information System Parcel Maps, if available. The as-built facilities map which includes the information regarding the location of isolation valves shall be held confidentially by the County's Emergency Management Staff and shall only be disclosed in the event of an emergency. The County's Emergency Management Staff shall deny the right of inspection of the as-built facilities map to the public pursuant to C.R.S 24-72-204(3)(a)(IV). An operator who is new to Pitkin County and has no facility shall supply the information in this paragraph within six (6) months of commencement of operations.
  - c. Provide a written response plan for the potential emergencies that may be associated with the operation of the facilities. This may include any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills.

- d. Project specific emergency response plans are required for any project that involves the handling or transport of hazardous material, as determined by the County's Emergency Management Staff. This plan shall be coordinated with and approved by the County's Emergency Management Staff prior to beginning field operations.
2. Oil and gas facilities shall be located and designed so as to provide access by fire or other emergency response personnel and vehicles.
3. All storage tank batteries shall be bermed, subject to requirements placed on oil and gas facilities according to Colorado Oil and Gas Conservation Commission rules and regulations.
4. The operator shall obtain an address from the county before beginning any work on the site other than site analysis and surveying. The oil and gas facility shall be incorporated into the E911 Emergency Reporting System.
5. The operator shall provide special training and on-site orientation at the project site for personnel from the Fire District and/or the Pitkin County Hazardous Material Team. The operator agrees to furnish equipment (spill kit) to contain spills including the testing of fluids on land and in water courses to the Fire District personnel and/or the Pitkin County Hazardous Material Team in the event of a truck accident, spill and/or fire.
6. The operator shall become a member and pay any necessary fees of the applicable Ambulance Service prior to commencing operations to construct the facility or pipeline.

**(c) Erosion Control**

1. Upon the specific request of the County Planner or Board, in the exercise of its reasonable discretion, a Registered Professional Engineer in the State of Colorado or qualified geologist shall certify that any oil and gas facilities constructed on slopes of thirty (30) percent or more shall not create any significant hazard or slope failure or accelerated soil erosion and submit a report to Pitkin County.
2. The operator will endeavor to insure that texture and composition of any disturbed areas will be similar to that of the surrounding undisturbed ground. Exhumed rock that cannot be backfilled will be disposed of in a manner that is compatible with the surrounding area. Any areas that may be compacted or rutted by wheeled traffic, and other areas disturbed by construction, will be re-contoured and reseeded in a manner that minimizes the possibility of erosion.

**(d) Federal, State and Local Regulations**

1. All oil and gas operations shall comply with federal, state and local regulations applicable to the proposed operations. An applicant is required to obtain federal or state permit approval(s) before the County

can grant final approval. The County will process such an application under the County's normal procedures and timetable, but County approval will not become effective until all requisite state and federal permits are obtained.

2. An applicant shall inform the County of any notice of non-compliance by the appropriate authority concerning a state or federal permit within a reasonable time, not to exceed thirty (30) days from the applicant's receipt of such notice. The County may not, however, take any action with regard to a pending or existing development agreement different than the state or federal agency as a result of the alleged non-compliance with approvals issued by those agencies. The County may only suspend or revoke a development agreement as a result of a notice of non-compliance if the applicable federal or state agency has suspended or revoked its corresponding permit approval as a result of the alleged non-compliance. In the event that the County has suspended or revoked a development agreement in this circumstance, it must reinstate the development agreement when the applicable state or federal agency reinstates its corresponding permit for whatever reason.
3. By requiring such compliance in this Land Use Code, Pitkin County does not presume any absolute right to enforce state or federal regulations.

**(e) Fire Protection**

1. If the oil and gas facilities are located in a severe or low to moderate wildfire hazard area, the fire mitigation plan shall include detailed information as to fuel location, hazardous materials and proposed methods of fire suppression, including the use of foam. The operator shall comply with the recommendations (if any) of the Fire District to mitigate any fire hazards at the facilities.
2. The operator shall comply with any state and local fire restrictions applicable to the property upon which oil and gas facilities will be located. If there is a County fire ban, no open flames should be allowed without additional approval of the Board of County Commissioners or its designee.
3. For oil and gas facilities located outside the boundaries of a Pitkin County Fire Protection District, the operator shall agree to reimburse each Fire District for all costs of responding to and fighting any fire and/or emergency situation requiring the presence of the Fire District.

**(f) Floodplain**

1. Oil and gas facilities that are located within, or partially within, a special flood hazard area shall comply with the requirements of the Pitkin County Floodplain Regulations.
2. No oil and gas operation shall result in the handling or storage of hazardous materials in a special flood hazard area. Any other outdoor

storage permitted in a special flood hazard area shall be of materials that will not float, or that are confined by a fence or other means to prevent flotation.

**(g) Geologic Hazard**

Oil and gas operations shall not cause a significant risk of geologic hazards.

**(h) Impact on Agriculture**

1. Where irrigation and waste water ditches, pipelines, waterways or any other means of conveyance cross or adjoin the land proposed to be developed, adequate provisions shall be made to ensure that their use, including the maintenance thereof, will continue uninterrupted. Ditch rights of way shall be recognized and/or granted-if not already established. Existing historical easements utilized to gain access to ditches, headgates and fences for maintenance shall be preserved or replaced with alternate easements suitable for a continuation of historic use. No operator shall channel storm water, produced water or snowmelt runoff into any irrigation system without the written consent of the responsible irrigation entity.
2. Oil and gas facilities/operations shall not interfere with the irrigation of neighboring lands or alter any irrigation system without the written consent of the affected entity.

**(i) Insurance and Financial/Performance Security**

1. Each operator shall maintain general liability insurance for property damage and bodily injury to third parties as required by the Colorado Oil and Gas Conservation Commission, and such policy shall include Pitkin County as a certificate holder so that the County may receive advance notice of cancellation.
2. In addition to the requirements of Section (l)3., concerning road bonds, the operator shall provide one form of the following security to assure compliance with mitigation requirements set forth in these regulations and specific conditions of approval for oil and gas gathering lines and transmission pipelines. Five thousand dollar (\$5,000.00) performance bond for each oil and gas facility up to a maximum of fifty thousand dollars (\$50,000.00) Countywide blanket bond for all facilities operated by the applicant within the County; irrevocable letter of credit; or equivalent financial security acceptable to the County.
3. For purposes of this section a "facility" is defined as: (1) Any collection of equipment that processes or stores produced oil and/or gas after production related activities are conducted at or near the well head, or (2) Each five (5) miles, or a fraction thereof, of a transmission pipeline which is part of the gathering system for oil and/or gas production. A combined oil and gas facility shall be counted as a single facility.

**(j) Notice/Exchange of Information**

The operator shall notify the County with respect to the following events:

1. Upon the commencement of final reclamation of each project or facility installation or upon a request for waiver of final reclamation pursuant to Section 1001.C. of the Rules of the Colorado Oil and Gas Conservation Commission.
2. With respect to any sale, lease or other reassignment of the operating interest in the oil and gas facility/operation to another party, within thirty (30) days after the transfer.
3. Any permits obtained by operator from federal and state agencies pursuant to their regulations, e.g., stormwater discharge permit, including copies of said permits, as well as copies of written notices of any alleged violations of federal or state law received by operator concerning oil and gas operations in Pitkin County.

**(k) Off-Site Staging Area**

If an off-site staging area is required during the construction and operation of an oil and gas facility, the area shall be constructed and protected in the same manner as the access to the County road. Provided, however, if such staging area is accessed off a County road in a different location from the access to the oil and gas facility then an additional access permit shall be obtained prior to the use of the area. The staging area will be authorized for a period of one (1) year, but if required beyond that period, the operator shall file an application for its continuation under Sec. 2-20-150 at least ninety (90) days before the year expires.

**(l) Roads and Access**

1. Prior to commencing operations, the operator shall apply for and receive approval of a Pitkin County Access Permit and Road Use Permit for each oil and gas facility accessed off a County road.
2. No other haul route than the route approved by the Board of County Commissioners or its designee may be used without written consent of the Board.
3. Pitkin County shall determine the current condition of the County roads and if the roads will be able to handle the number and weight of proposed truck traffic. The operator shall agree to bond these designated haul routes in an amount determined necessary by the Board and return the road surfaces in equal or better condition after completion of drilling. The operator shall further comply with any regulations in place in Pitkin County which require a special use permit or a road use permit to cover the proposed operations of the operator. If Pitkin County determines the existing haul routes, or a portion thereof, are not able to handle the weight and number of truck traffic, the

operator and Pitkin County will negotiate an agreement to determine the operator's share of any needed improvements.

4. The operator will avoid scheduling heavy truck traffic on County roads between October 1 and May 1 because of muddy conditions and frost heave. Operator will seek approval from the local Road & Bridge Foreman to use the roads during this period of time. If the operator cannot avoid using County roads for heavy truck traffic during this period of time, the Board may impose additional bonding requirements to remediate anticipated road damage.
5. To the extent that heavy truck traffic resulting from the operations of the operator will impact residential neighborhoods, the applicant will use its best efforts to minimize such heavy truck traffic between the hours of 11:00 p.m. and 6:00 a.m.
6. Operator shall control fugitive dust emissions from oil and gas operations on all access and County roads used as haul routes as part of oil and gas operations.
7. A drainage plan relating to the access roads will be prepared and submitted to the County.

**(m) Security**

1. Security arrangements, including fencing and locked gates for oil and gas facilities shall be as mutually agreed between the operator and the surface owner.
2. Operator may be required by the County to construct a gate at the point of access to the County road, so long as emergency vehicle passage is not restricted.
3. Open-ended discharge valves on all storage tanks, pipelines, and other containers shall be secured where the facility site is unattended and/or accessible to the general public.

**(n) Trash and Waste Removal**

1. Oil and gas operations shall be conducted in such a manner that liquid and solid wastes and other nuisances are confined to the site or disposed of in compliance with any applicable county regulations so as to avoid any adverse impact on adjoining lands. An adequate container is required at each facility to handle municipal solid waste and construction debris. All other solid waste if intended for disposal at the Pitkin County Landfill will require approval of the Pitkin County Solid Waste Coordinator prior to disposal.
  - a. Chemical toilets shall be required and shall be pumped and maintained in a sanitary condition by a contractor licensed by Pitkin County.

**(o) Utilities and Utility Easements**

All utilities and associated utility easements required for oil and gas facilities/operations shall be provided to the site as specified by the utility providers.

**(p) Visual Impact Mitigation**

1. Gathering systems and transmission pipelines shall be located to avoid crossing hills and ridges or silhouetting, to the extent reasonably possible.
2. When clearing trees and vegetation for construction of oil and gas facilities, the operator shall feather and thin edges of vegetation.
3. The operator shall align access roads to follow existing grades and minimize cuts and fills.
4. The operator shall minimize damage to existing trees and vegetation.
5. Utilities
  - a. For utility corridors: varying the visual line created in the landscape to match the existing terrain and vegetation.
  - b. New utility distribution lines serving oil and gas facilities shall be underground. EXCEPTION: This requirement may be waived where geologic or hydrologic conditions prohibit underground installation.

**(q) Noxious Weed Control**

1. The operator shall be responsible for noxious weed control on oil and gas facility sites and roadways during construction and operation of the facility, until the Colorado Oil and Gas Conservation Commission reclamation bond is released or operation of the facility is terminated.
2. The appropriate noxious weed control methods and species to be controlled shall be determined through review and recommendation by the Pitkin County Weed Coordinator.

**3. Wildlife**

When an oil and gas facility is located within a critical wildlife habitat or wildlife migration corridor, the following mitigation measures shall be considered and addressed in one (1) or more of those documents required to be submitted pursuant to the Pitkin County Land Use Application Manual:

- a. Avoid construction activities during critical use periods. (Examples: near eagle nests during nesting, on big game winter ranges during winter, and during big-game hunting seasons.)
- b. Avoid conducting on-site operation and maintenance activities during critical use hours.
- c. Confine vehicular access to established roads except under emergency circumstances.

- d. Install gates that can be locked at first property boundary crossed when accessing facility from closest public road.
- e. Conduct work in streams in a manner that minimizes siltation and erosion and at a period of little or no flow.
- f. Place pipe below channel scour depths in streams and rivers to avoid partial diversion or channel discharges.
- g. Stabilize excess material at stream and river crossings in place or remove off site.
- h. Complete fueling and lubrication of construction equipment away from aquatic environments.

**(r) Time Frame**

A mutually agreed upon time frame shall be established between the applicant and Pitkin County to determine the timeline for the completion of the construction and development including the installation of all infrastructure. In the absence of a specific agreement otherwise, the applicable time frame shall be deemed to be two (2) years from the date of the approval by the Board of County Commissioners. One or more extensions may be granted by the Board.

**(s) Construction Standards/Disclosure**

1. Upon completion of the project, but prior to placing it in service, the applicant shall provide certification acceptable in the industry or other evidence satisfactory to the County Planner that the construction was completed as designed or amended or that all construction and material quality assurance standards are no less than a Class II Standard, as defined in DOT CFR 49, Part 192.5.
2. The following disclosure statement shall be completed and included in the Development Agreement and a copy shall be sent to all property owners upon which the gathering system is located and the property owners located within the 220 yard setback on either side of the centerline of the pipeline:

"The gathering system has been designed, constructed and installed to a Class \_ classification which restricts the number of separate buildings intended for human occupation (dwelling units) to \_\_\_\_\_ within the class location unit, the area extending two hundred twenty (220) yards on either side of the centerline of any continuous one (1) mile running length of pipeline."

**(i) Ranching**

- (a) In the RR zone district, agricultural operations and practices are limited to those that were in existence prior to the date the property was zoned to Rural and Remote.

In the LIR-35 zone district, uses by right are limited to (a) farming or ranching conducted for the primary purpose of obtaining a monetary profit, and (b) single family dwelling unit and associated accessory structures and uses that may be accompanied by farming or ranching not conducted for the primary purpose of obtaining monetary profit. **(Code revised (all sections) Ord. 014-D, 2006, 07-05-08; § 4-30-20 (part) amended by [Ord. 019-09; 06-24-09](#))**

#### **4-30-30: CIVIC AND INSTITUTIONAL**

##### **(a) Airport**

The standards of this Code may be varied for an airport use as part of the review and approval of a Master Plan in the Public and Institutional zone district.

##### **(b) Educational Class**

This use shall be limited to a maximum class size of twenty-five (25) persons, including instructors, at one time. In the RS-20 and RS-30 zone districts this use shall be limited to one (1) class per day.

##### **(c) Hospital**

In the P-I zone district, hospitals shall only be located within urban growth boundaries.

##### **(d) Institute**

In the Urban Areas, and unless the property is located in a P-I zone district, the maximum size of a lot or parcel containing an Institute shall be five (5) acres, and the maximum size of a structure containing an Institute use shall be the same as for a single family dwelling in the zone district where the lot or parcel is located. Within the P-I zone district, larger parcels and structures may be permitted pursuant to the Master Plan.

##### **(e) Public Facilities, Major**

###### **(1) LIR-35 ZONE DISTRICT**

In the LIR-35 zone district, only utility facilities are permitted, and only as an accessory special review use. Utility facilities that are accessory to uses on other properties are also permitted through this process.

###### **(2) ACTIVITIES OF STATE INTEREST**

Any Major Public Utility that is listed as an Activity of Local and State Interest in Sec. 2-40-120 shall comply with all applicable requirements for that use.

##### **(f) Public Utilities, Minor**

###### **(1) UTILITY EXTENSIONS IN THE RURAL/REMOTE ZONE DISTRICT**

The following criteria are to be used in conjunction with the special review criteria established in Sec. 2-40-20 of this Land Use Code in order to allow the extension of utilities such as electricity, water, sewer, telephone and cable on lands located within the Rural/Remote zone district:

- (a)** Is the extension of the utility service less disruptive to the environment than an alternative source?

- (b) Does the proposed utility extension encroach upon or impact environmental hazards or resources such as floodplain, geologic hazards, slopes exceeding fifteen (15) percent in grade, wildlife habitat, wildfire, groundwater, ridgelines, vegetation, agricultural lands (irrigated meadows, dryland pastures or other environmentally significant features)?
- (c) Is there a significant visual change or impact to the land area affected by the utility extension?
- (d) Can the visual impact be mitigated?
- (e) Does the extension visually impact surrounding properties?
- (f) Do reclamation and landscaping measures appear natural as related to the former condition and surrounding environment?
- (g) Does the utility extension comply with the intent of the Rural/Remote zone district?

**(g) Religious Institution**

Outside of the urban growth boundaries:

- (1) No religious institution shall have a floor area exceeding (a) fifteen thousand (15,000) square feet, or (b) the maximum size of a house available in the same zone district through the purchase of transferable development rights, and
- (2) No religious institution shall have a main worship or sanctuary area with a seating capacity of greater than two hundred (200) persons.

**(h) School or University**

- (1) No school subject to the land use controls of Pitkin County and located outside the urban growth boundaries shall have a floor area exceeding (a) fifteen thousand (15,000) square feet, or (b) the maximum size of a house available in the same zone district through the purchase of transferable development rights.
- (2) No school subject to the land use controls of Pitkin County and located outside the urban growth boundaries shall have a main assembly area with a seating capacity of greater than two hundred (200) persons.
- (3) Universities shall be permitted only within portions of the P-I zone district located within the Aspen Urban Growth Boundary.

**4-30-40: COMMERCIAL AND INDUSTRIAL**

**(a) Adult Entertainment Establishment**

These regulations shall apply to all adult entertainment establishments, but shall not apply to any establishment otherwise exempted by C.R.S. 30-15-401(I)(III) as it currently exists or may be amended in the future.

- (1) No one under twenty-one (21) years of age shall be admitted to any adult entertainment establishment. The minimum age limitation also applies to any employees, agents, servants, or independent contractors working on the premises during hours when nude entertainment is presented.

- (2) Entertainment involving any person in a state of nudity shall only be available at adult entertainment establishments from the hours of 6:00 p.m. to 12:00 midnight, Monday through Saturday of each week.
- (3) No person shall appear in a state of nudity except within the fully enclosed portions of the structure housing the adult entertainment establishment.
- (4) No person shall operate or maintain an adult entertainment establishment within one thousand (1,000) feet of any religious institution, school, day care center or preschool, or residential dwelling unit or within one thousand (1,000) feet of any other adult entertainment establishment. The one thousand (1,000) foot distance shall be measured from any point of access to the structure housing the adult entertainment establishment to the closest property line of the property containing the religious institution, school, day care center or preschool, residential dwelling unit, or adult entertainment establishment.
- (5) No landowner or lessee shall knowingly permit an adult entertainment establishment to be operated or maintained upon their property in violation of subsection (4) above.
- (6) Any person who violates any provision of these regulations commits a class 2 petty offense and upon conviction shall be punishable by a fine of three hundred (300) dollars for each separate violation. Each day of operation in violation of any provision of this ordinance shall constitute a separate violation.
- (7) The zoning administrator, chief building official, zoning inspectors, building inspectors, or other agents or employees of the County Community Development Department, or any law enforcement officer may follow the penalty assessment procedure provided in C.R.S. 16-2-201 for any violation of this Sec. 4-30-40, or may enforce the provisions of this Sec. 4-30-40 by filing and service of a summons and complaint in accordance with County court procedures.
- (8) Any adult entertainment establishment that engages in repeated or continuing violations of these regulations shall constitute a public nuisance. For purposes of this subsection, repeated violations shall mean three (3) or more violations of any provision within a one (1) year period dating from the time of any violation, and a continuing violation shall mean a violation of any provision lasting for more than three (3) or more consecutive days.
- (9) The County Attorney, acting pursuant to C.R.S. 16-13-302, may bring an action in the District Court for Pitkin County for an injunction against the operation of such establishments in a manner that violates any provision.
- (10) In the T zone district, adult entertainment establishments shall only be permitted within an urban growth boundary.

**(b) Amusement or Entertainment Establishment**

Outside of the urban growth boundaries, amusement or entertainment establishments shall be located in a structure existing on the 5th of July, 2006. No event shall have more than fifty (50) people in attendance.

**(c) Automobile Service Station**

- (1) In the VC zone district, only one (1) automotive service station shall be permitted.
- (2) In the Frying Pan Overlay zone district, only one (1) automotive service station shall be permitted. An automotive service station existing on the 5th of July, 2006 shall not be required to obtain a new special review approval after that date.

**(d) Bed and Breakfast**

- (1) The owner of the premises shall reside in and manage the establishment.
- (2) A structure used as a bed and breakfast shall not be altered in a way that changes its residential appearance or character.
- (3) The total number of guest rooms shall not exceed four (4) per dwelling unit in the RS-160, RS-35, LIR 35, RS-30, RS-20, and zone districts, and two (2) per dwelling unit in all other zone districts where the use is permitted by right or by special review.
- (4) Bed and breakfasts shall only be permitted lots that conform with the minimum lot size for the zone district where the property is located, as shown in Table 5-1.
- (5) No cooking facilities, other than a microwave oven, shall be allowed in guest rooms.
- (6) The establishment shall not contain restaurant facilities, but may provide food service for lodging guests only.
- (7) Outdoor events (i.e. weddings, receptions, parties) with an attendance of more than twenty (20) guests shall be limited to one (1) event per three (3) month period. No outdoor event shall have more than forty (40) people in attendance.
- (8) Occupancy by any guest shall not exceed fifteen (15) consecutive days, or more than thirty (30) days in any six month period.

**(e) Building Materials and Landscaping**

- (1) In the B-1 zone district, each building materials and landscaping use is restricted to a maximum of one (1) business, a maximum of three thousand (3,000) square feet of floor area, and a maximum of five (5) employees per location.
- (2) All storage of supplies, inventory, and materials shall be indoors unless the terms of the development approval permit outdoor storage. If outdoor storage is permitted, the use shall provide buffering and landscaping for outdoor storage and service areas under Sec. 7-20-130.
- (3) In the RS-30, RS-20, and AR-10 zone districts, this use shall not include retail sales to the public (as opposed to contractors), shall only be permitted to have a maximum of four (4) commercial vehicles on site at any time, shall be permitted a maximum of five (5) customer visits per day, and shall only operate between the hours of 8:00 a.m. and 6:00 p.m.

**(f) Campground**

Camping as a primary use is only permitted in a campground for which a development permit has been issued. Unless the development permit specifies longer periods of occupancy, camping shall not exceed fifteen (15) consecutive days or thirty (30) days in any six (6) month period. Camping may also be permitted as an accessory use of land if it meets the definition of a camping area.

**(g) Cellular Telephone Facility**

**(1) PRINCIPAL USE OF THE LAND**

A cellular telephone facility is a principal use of land, but may be located on a legally created lot or parcel without the need to include any additional acreage for the second principal use.

**(2) BUILDING-MOUNTED ANTENNAE AND TOWERS**

Building-mounted antennae and towers are an accessory use of the land permitted pursuant to Sec. 4-10-10(e).

**(3) FREESTANDING TOWERS**

A non-stealth, freestanding tower shall not be located within two hundred (200) feet of an existing urban/suburban residential district. Freestanding non-stealth telecommunication towers located more than two hundred (200) feet from an urban/suburban residential, commercial, or special purpose zone district may be permitted through special review. The maximum permitted height for freestanding towers is forty (40) feet.

**(4) CO-LOCATION REQUIRED**

Each new tower shall be designed to accommodate one (1) additional user's equipment.

**(5) SETBACKS**

**(a)** All towers, both concealed and not concealed, shall be set back from all existing dwellings and other urban/suburban zone districts property by a minimum of two hundred (200) feet, or at least two (2) times the height of the proposed tower, whichever is greater.

**(b)** All towers, both stealth and non-stealth, in a business, commercial, or special purpose zone district shall be set back a distance equal to the height of the proposed tower from the property boundary or rights-of-way, whichever would require the larger setback.

**(6) GENERAL DEVELOPMENT STANDARDS**

**(a) Design and Neighborhood Compatibility**

1. The exterior appearance of all towers and associated support structures and buildings shall be compatible with other buildings and/or the natural environment in the surrounding area.
2. The Board may require the applicant to apply to the Federal Aviation Administration (FAA) for compliance with FAA standards for a dual lighting system rather than a red and white marking pattern, when the

Board determines such a marking pattern would cause aesthetic blight due to the visibility of the tower.

3. Support buildings located in any residential district may not be used as an employment center for any worker. This provision does not prohibit the periodic maintenance or periodic monitoring of equipment and instruments.
4. No advertising sign or logo shall be permitted on any telecommunications facility.
5. The decision-making body may require any other conditions to mitigate the impact of the tower on adjacent properties and uses.

**(b) Buffering and Screening**

1. All fences and walls shall be screened with landscaping meeting the requirements of Sec. 7-20-130(d)(2)(a).
2. The Board may require all antenna(ae) be appropriately screened to safeguard surrounding property provided that such screening will not interfere with the transmission and/or reception capabilities of any antennae located on the tower.
3. Output power levels from the tower and/or all associated antennae shall not exceed the current federally approved levels for the tower as a whole for exposure to electromagnetic radiation.
4. Radio, television, or other electromagnetic transmission(s) or reception on other properties shall not be disturbed or diminished.

**(7) EXISTING TOWERS**

New antennae may be co-located upon towers that exist on the 5th of July, 2006 without the need to obtain a separate special review approval.

**(8) OUTSIDE EXPERTS AND DISPUTES**

- (a)** Siting of telecommunications facilities may involve complex technical issues that require review and input by outside experts. Staff may require the applicant to pay the reasonable costs of a third-party technical study of a proposed facility. Selection of expert(s) to review the proposal shall be at the sole discretion of the decision-making body.
- (b)** If an applicant for a telecommunications facility claims that one or more standards of this section are inconsistent with federal law as applied to a particular property, or would prohibit the effective provision of wireless communications within the relevant market area, the decision-making body may require that the application be reviewed by a qualified engineer for a determination of the accuracy of such claims. Any costs shall be charged to the applicant.

**(h) Arts and Crafts Studio**

- (1) All uses shall comply with all applicable nuisance standards in Sec. 7-100, including without limitation restrictions on odors, vibration, and glare.
- (2) In the B-1 zone district, arts and crafts studios are restricted to a maximum of two thousand (2,000) square feet of floor area per business. In other zone districts where the use is a permitted or special review use, arts and crafts studios are restricted to a maximum of five thousand (5,000) square feet of floor area per business.

**(i) Country Inn, Guest Ranch, or Resort Cabins**

- (1) This use shall not be permitted on lands previously zoned FRS-35.
- (2) The owner or manager shall provide full-time management on the premises at all times when the establishment is occupied by guests.
- (3) The establishment may contain a full-service restaurant that provides meal services to guests, but not to the general public.
- (4) Occupancy by any guest shall not exceed fifteen (15) consecutive days, or more than thirty (30) days in any six month period.
- (5) In the T zone district outside of urban growth boundaries, resort cabin developments are limited to no more than fifteen (15) cabins.

**(j) Financial Institution**

Drive-up facilities may only be provided for financial institutions located within the urban growth boundaries. Such facilities shall not require direct access to or from a State Highway, and shall provide on-site stacking spaces for at least three (3) vehicles (in addition to the vehicle being served) at each drive-up window or facility. Such stacking spaces shall be located so as not to interfere with traffic flow within any required parking area, or with traffic flow on any adjacent public right-of-way.

**(k) General Services**

In the B-1 zone district, each general services use is restricted to a maximum of one (1) business, a maximum of three thousand (3,000) square feet of floor area, and a maximum of five (5) employees. No more than one (1) of each specific use included in the definition of general services may be located within a contiguous area zoned B-1.

**(l) Hotel, Motel/Lodge**

- (1) Each guest room in a hotel, motel, or lodge, shall have a maximum size of five hundred (500) square feet.
- (2) In the T zone district outside of urban growth boundaries, hotels, motels, and lodges are limited to no more than fifteen (15) guest rooms.
- (3) Occupancy by any guest shall not exceed fifteen (15) consecutive days, or more than thirty (30) days in any six (6) month period.

**(m) Junk Yard**

- (1) Junk yards shall be suitably screened so that stored materials shall not be visible from adjacent properties and rights-of-way. No material shall be piled or stacked to a height in excess of fifteen (15) feet above the ground level.
- (2) In the RS-30, RS-20, and AR-10 zone districts, sales of materials from the premises shall not be permitted.

**(n) Medical/Dental Clinic**

In the SKI-REC zone district, medical and dental clinics shall only be permitted for purposes of emergency treatment and must be located at the base of the recreation area.

**(o) Meeting Hall or Conference Center**

- (1) Meeting halls and conference centers in the Rural Area shall only be located in structures existing on the 5th of July, 2006.
- (2) No event shall have more than one hundred and fifty (150) people in attendance.
- (3) Meeting halls and conference centers shall not be permitted on lands previously zoned UFRS-35.

**(p) Office**

The following standards apply to offices located outside of a home that is occupied for residential purposes. Offices located in homes that are being occupied for residential purposes are an accessory use to the primary residential use, and are subject to the requirements of Sec. 4-30-50(f).

- (1) In the B-1 zone districts, office space is restricted to a maximum of one thousand (1,000) square feet of floor area per business. Office space larger than one thousand (1,000) square feet of floor area per business is not permitted, either as a use by right or by special review.
- (2) In the B-2 zone district, office space is restricted to a maximum of one thousand five hundred (1,500) square feet of floor area per business. Office space larger than one thousand five hundred (1,500) square feet of floor area per business is a special review use.
- (3) In the SKI-REC zone district, offices are only permitted at the base of the ski/recreation facility.

**(q) Outdoor Recreational Use, Other**

Outdoor recreational uses of land that are not listed separately in this Code and that occur on a repetitive or continuing basis more than six (6) times in any twelve (12) month period require a special review approval by the BOCC pursuant to Sec. 2-40-20, except as specified in (3) below. Outdoor recreational uses that occur less frequently require the approval of a temporary commercial use/special event permit pursuant to Sec. 2-30-20.

- (1) In all zone districts, any outdoor recreational use that is not listed separately and that is subject to a U.S. Forest Service or Pitkin County Open Space and Trails

permit requirement shall also require a special review use approval from the County.

- (2) Any outdoor recreational use that occurs on or across property that is subject to a Pitkin County Open Space and Trails management plan shall comply with all standards and requirements contained in that plan. In the event of a conflict between the provisions of this subsection (q) and the terms of any such management plan, the latter shall govern.
- (3) Any commercial outdoor recreational use on Pitkin County Open Space and Trails property or on County-owned property or roads requires a special review use approval from the County, subject to the criteria in Sec. 2-30-30(h)(2). The Community Development Director, the Hearing Officer or the BOCC may approve an outdoor recreational use on Pitkin County Open Space and Trails property or on County-owned property or roads, based on the following:
  - (a) The Community Development Director may approve a proposed use, if it does not exceed the following thresholds:
    1. Involves three (3) or fewer persons on a given property/road at any given point in time; and/or
    2. Occupies no more than one on-site parking space; and/or
    3. Utilizes any given property/road no more than once a day; and/or
    4. Utilizes any given property/road no more than fifteen (15) days per year.
  - (b) The Hearing Officer may approve a proposed use, if it does not exceed the following thresholds:
    1. Involves more than three (3) and fewer than ten (10) persons on a given property/ road at any given point in time; and/or
    2. Occupies no more than five (5) on-site parking spaces; and/or
    3. Utilizes any given property/road no more than twice a day; and/or
    4. Utilizes any given property/road no more than thirty (30) days per year.
  - (c) The BOCC may approve a proposed use that exceeds the following thresholds:
    1. Involves more than ten (10) persons on a given property/road at any given point in time; and/or
    2. Occupies more than five (5) on-site parking spaces; and/or
    3. Utilizes parking spaces for any single vehicle with a passenger capacity of more than ten (10) persons; and/or
    4. Utilizes any given property/road more than twice a day; and/or
    5. Utilizes any given property/road more than thirty (30) days per year.

**(r) Personal Service Outlet**

In the B-1, B-2, T, and SKI-REC zone districts, total space shall be limited to no more than two thousand (2,000) square feet of floor area per business. In the B-1 and B-2 zone districts, a grocery store shall be limited to no more than three thousand (3,000) square feet of floor area.

**(s) Radio or Television Transmitting Station**

Outside the urban growth boundaries, no radio or television transmitting station shall have any on-site employees.

**(t) Research Facility**

All activities must be conducted indoors.

**(u) Restaurant and/or Bar**

- (1) In the B-1 zone district, restaurants or bars shall not exceed two thousand (2,000) square feet of floor area.
- (2) In the T zone district, restaurants and bars are allowed by right if located within the urban growth boundaries.
- (3) In the T zone district, restaurants and bars located outside urban growth boundaries shall require special review approval, and shall not exceed five thousand (5,000) square feet of floor area.

**(v) Retail Sale of Goods**

- (1) Unless subject to a smaller size limit under this Land Use Code, each business for the retail sale of goods is limited to two thousand (2,000) square feet of floor area.
- (2) In the B-1 zone district, a maximum of six thousand (6,000) square feet of retail sales uses shall be permitted within each contiguous area zoned B-1.
- (3) In the T zone district, retail sales of goods located outside the urban growth boundaries shall only be permitted as an accessory use, and shall be limited to two thousand (2,000) square feet of floor area.
- (4) On lands in the B-1 zone district, located in the Upper Frying Pan Valley, retail sales is limited to general stores, fly and tackle shops, and similar retail businesses and public uses that serve the rural and recreational nature of the Upper Frying Pan Valley.

**(w) Riding Stable or Academy (Principal Use)**

- (1) Indoor facilities relating to riding stables or academies shall only be permitted on lots that conform with the minimum lot or parcel size in the zone district where the property is located, and shall be limited to twenty thousand (20,000) square feet of gross floor area.
- (2) Riding stables or academies located on parcels of forty (40) acres or less shall be limited to ten (10) visitor trips per day; those on parcels between forty (40) and eighty (80) acres shall be limited to twenty visitor (20) trips per day; and

those on parcels of eighty (80) acres or more shall be limited to thirty (30) visitor trips per day.

**(x) Timesharing, Fractional Fee, or Common Interest Community**

**(1) PURPOSE**

The purpose of this section is to regulate the use of common interest time share communities and time shares in accordance with state law and Pitkin County land use policy and regulation.

**(2) APPLICABILITY**

This section shall apply to all common interest communities and timeshares created pursuant to C.R.S. 3-33.3-101, et seq. (the Colorado Common Interest Ownership Act), 38-33-101, et seq. (the Condominium Ownership Act) and 38-33.5-101, et seq. (Cooperative Housing Corporations), as those provisions may be amended or replaced from time to time. It is the intent of these regulations to avoid conflict with state regulation of condominiums or common interest communities, and in the event of any inconsistency between these regulations and applicable state law, the latter shall apply.

**(3) LOCATION**

Timeshare or fractional fee units and communities shall be limited to those zone districts identified for timeshare and fractional fee uses in Table 4-1.

**(4) GENERAL STANDARDS: COMMON INTEREST COMMUNITIES**

**(a) Compliance with State Law**

Common interest communities shall be created as set forth by C.R.S. 38-33.3-101, et seq. (the Colorado Common Interest Ownership Act), 38-33-101, et seq. (the Condominium Ownership Act) or 38-33.5-101, et seq. (Cooperative Housing Corporations), as such provisions may be amended or replaced from time to time.

**(b) General Standards Applicable to Condominiums and Cooperatives**

Common interest communities that are created in the condominium or cooperative form are subject to the following general standards:

**1. The Creation of Condominiums or Cooperatives is Not a Land Use Approval**

A condominium or cooperative interest created in existing structures and/or land is the creation of an interest in real property recognized by state law and does not constitute a land use approval by Pitkin County.

**2. The Creation of Condominiums or Cooperatives Does Not Effect a Subdivision of Land**

The conversion of units to a condominium ownership structure or creation of cooperative interests in existing structures and/or land is not a subdivision of land and does not result in the creation of legally separate lots or parcels for purposes of development.

**3. The Creation of Condominiums or Cooperatives Creates a Separate Parcel for Taxation Purposes Only**

The conversion of units to a condominium form of ownership or creation of cooperative interests in existing structures and/or land creates a separate parcel for purposes of taxation only.

**(c) General Standards Applicable to Planned Communities**

Common interest communities that are created in the planned community form are subject to the following general standards:

**1. Creation of Planned Community Requires Pitkin County Subdivision Approvals**

The creation of a common interest community in the planned community form constitutes a subdivision of land that requires conceptual submission, detailed submission, subdivision and final plat review and approval by Pitkin County.

**2. Conversion of Existing Development Into Planned Community Requires Pitkin County Subdivision Approvals**

The conversion of existing units and land into a planned community without additional development also requires the approvals described in subsection 1. above.

**(d) Regulations Applicable to Common Interest Communities**

Common interest communities are subject to all of the provisions of the underlying zone district and any other building, land use of regulations and approvals, except as follows:

**1. Firewall Required**

Condominiums and cooperatives shall have a minimum one-hour fire wall between units that share common walls. Existing units that are converted to condominiums or turned into cooperatives shall be retrofitted to comply with the one-hour fire wall requirement. More restrictive fire wall requirements may be imposed where they are also imposed on rental units and/or separately owned units.

**2. Common Interest Communities Allowed in Condominium and Cooperative Form**

The condominium and cooperative form of common interest community ownership may not be prohibited.

**(5) GENERAL STANDARDS: TIMESHARES**

**(a) Compliance With State Law**

Timeshares must be created in accordance with C.R.S. 38-33-111, as such provision may be amended or replaced from time to time.

**(b) The Creation of Timeshares Does Not Effect a Subdivision of Land**

The creation of timeshares for existing structures and/or land is merely the creation of an interest in real property recognized by state law and does not constitute a land use approval by Pitkin County. The creation of timeshares

for existing structures and/or land is not a subdivision of land and does not result in the creation or legally separate lots or parcels.

**(c) *Conforming Tourist Accommodations Required and Special Review Required in Certain Zone Districts***

Timeshares are only permitted in conforming tourist accommodations, and are a special review use in certain zone districts.

**(d) *Protection of Adjacent Land Uses, One Hundred Percent Timesharing Required of All Residential Units Within A Building***

Timesharing must be conducted in all of the residential units in a building or not at all. For purposes of determining what constitutes a building, a building shall be considered all attached units and structures that are physically connected to one another (for example: attached townhomes shall constitute a building). Mixing timesharing with other less intensive uses is undesirable as a tourist use and is incompatible with residential uses or less intensive tourist uses.

**(e) *Growth Management Allocations Required***

Growth management allocations shall be required for all new units and/or structures as set forth in Sec. 6-60.

**(f) *Mitigation Required***

Timeshares must fully mitigate all impacts and pay all exactions set forth in Chapter 8.

**(g) *All Regulations Applicable***

Timeshares are subject to all of the provisions of the underlying zone district and any other land use regulations and approvals.

**(6) *DECLARATIONS, MAPS AND PLAT REQUIREMENTS***

**(a) *Declaration Requirements***

Common interest community and timeshare declarations shall comply with all applicable state requirements relating to declarations, maps and platting. The declarant shall provide a copy of the declaration to the Pitkin County Assessor. The County Clerk shall not accept any declaration for recordation unless it contains the following:

1. A statement of the type of common interest community that is being created as either a condominium, cooperative or planned community. Where timeshares are being created, a statement containing the number of interests created and the type.
2. A statement that reads as follows: "The creation of this [common interest community, specifying by type] [timeshare] does not constitute a legal subdivision of land pursuant to the Pitkin County Land Use Code. The separate ownership interests do not result in the creation of separate, legal lots or parcels under the Pitkin County Land Use Code."

3. A statement that reads as follows: "Any alteration, change, expansion, modification of any structure in the common interest community or timeshares may require the approval of Pitkin County."
4. Where the declarant reserves the right to create additional units or timeshare interests, a statement that reads as follows: "The declarant has reserved the right to create additional units, or interests, which may require the approval of Pitkin County before such units or interests may be lawfully created."
5. Where the declarant reserves the right to exercise any additional development rights or make additional improvements, a statement that reads as follows: "The declarant has reserved the right to exercise additional development rights and/or make additional improvements that may require the approval of Pitkin County before such additional development rights may be lawfully exercised or created, or additional improvements may lawfully occur."
6. A statement that reads as follows: "The partition of any interest in a common ownership community or timeshare is prohibited. By becoming part of this common ownership community or a timeshare, any right to maintain a legal partition action is forever waived. In the case where a court may allow a partition action in a common interest community or timeshare, the interested party agrees that a partition action constitutes an evasion of Pitkin County subdivision regulations and agrees to be bound by all provisions of the Pitkin County Land Use Code relating to subdivision."

**(b) *Maps and Platting Requirements***

Common interest community and timeshare maps and plats shall comply with all applicable state requirements. The declarant shall provide a copy of the map or plat to the Pitkin County Assessor. The County Clerk shall not accept any map or plat for recordation unless it contains the following notations and signature blocks:

1. A signature block for the Clerk and Recorder that contains a statement that reads as follow: "This map or plat is accepted for filing in the office of the Clerk and Recorder for Pitkin County, Colorado, this        day of        , 19     [or 2     ], Plat book        on Page     ."
2. An executed signature block for the County Attorney that contains a statement that reads as follows: "By signing this map or plat, the County Attorney signs only as to form as required by the Pitkin County Land Use Code. The County Attorney does not represent or warrant that this [common interest community] [timeshare] has been created in conformance with state law." The review by the County Attorney as to form may be subject to an administrative fee.

3. Unit boundaries shall be clearly delineated and labeled as the "unit lines" or "unit boundaries." Boundaries between units and delineations of common and limited common elements shall be clearly labeled as such. Separate addresses shall be obtained for each unit and depicted on the map or plat.
4. A notation indicating the type of common interest community that is being created as either a condominium, cooperative or planned community. Where timeshares are being created, a notation indicating the type of timeshare and number of interests.
5. A notation that read as follows: "The creation of this [common interest community, specifying by type] does not constitute a legal subdivision of land pursuant to the Pitkin County Land Use Code. The separate ownership interests do not result in the creation of separate, legal lots or parcels under the Pitkin County Land Use Code."
6. A notation that reads as follows: "Any alteration, change, expansion, modification of any structure in the [common interest community] [timeshare] may require the approval of Pitkin County."
7. Where the declarant reserves the right to create additional units or additional timeshare interests, a notation that reads as follows: "The declarant has reserved the right to create [additional units] [timeshare interests], which may require the approval of Pitkin County before such units may be lawfully created."
8. Where the declarant reserves the right to exercise any additional development rights or make additional improvements, a notation that reads as follows: "The declarant has reserved the right to exercise additional development rights and/or make additional improvements that may require the approval of Pitkin County before such additional development rights may be lawfully exercised or created, or additional improvements may lawfully occur."

**(7) SUBDIVISION REQUIRED TO CREATE SEPARATE LOTS IN CONDOMINIUMS, COOPERATIVES AND TIMESHARES**

**(a) Subdivision Required to Create Separate Lots**

No legal, separate lot or parcel shall be recognized for the interests in condominiums, cooperatives or timeshares unless subdivision approval is granted by Pitkin County. Exemptions from the County's subdivision process shall not be allowed.

**(b) Mitigation Required**

Under all circumstances, the approval of any subdivision associated with condominium, cooperatives or timeshare interest shall include a requirement that all development exactions be paid as if the subdivision was a new development as provided in Chapter 8.

**(c) Growth Management Allocations or Exemption Required**

Under all circumstances, the approval of any subdivision associated with condominium, cooperatives or timeshare interest shall include a requirement that growth management allocations or an exemption be obtained as provided in Secs. 6-60 and 6-30-150.

**(8) NO PARTITION PERMITTED**

No partition of any common interest community or timeshare interest shall be permitted. The filing of any legal partition action shall be considered an evasion of the Pitkin County subdivision requirements.

**(9) GROWTH MANAGEMENT ALLOCATIONS REQUIRED TO CREATE NEW STRUCTURES, DWELLING UNITS OR TIMESHARE INTERESTS**

Any additional structures or dwelling units in a common interest community shall require growth management allocations or exemptions pursuant to Secs. 6-60 and 6-30-150.

**(10) ADDITIONAL TIMESHARES REQUIRE GROWTH MANAGEMENT ALLOCATIONS OR EXEMPTIONS.**

The creation of any additional timeshare interests shall require growth management allocations pursuant to Sec. 6-60.

**(y) Vehicle and Aircraft Sales and Service**

(1) A gas station or accessory service facility shall not exceed a total land area of thirty-two thousand (32,000) square feet.

(2) Aircraft service and sales shall only be permitted in the P-I zone district.

**4-30-50: ACCESSORY AND TEMPORARY USES**

**(a) Accessory Structure with Bathing Facility**

(1) Must be located on lots or parcels that contain at least thirty-five (35) acres.

(2) Must record a deed restriction approved by the County Attorney ensuring only one (1) dwelling unit exists on the parcel.

(3) One (1) structure on the parcel shall be designated "principal" for height measurement purposes.

(4) For purposes of calculating Road Impact Fees each of the structures containing bathing facilities shall be considered a separate dwelling unit and will be assessed the appropriate fee based on the size of the structure. Floor area of other residential structures, not containing bathing facilities, will be treated as if attached to one (1) of the structures with bathing facilities. For the purpose of calculating development exactions or impact fees based on aggregate floor area or square footage rather than on a per unit basis, the aggregate of all residential floor area or square footage on the parcel will be cumulated and will be used for calculating fees.

**(b) Agricultural Stand**

Vendors are permitted to sell Colorado-grown agricultural or farm products subject to compliance with the standards in this section and approval of an Temporary Use Permit under Sec. 2-30-20.

- (1) The vendor shall have the permission of the owner of the property for use of the site for vending purposes.
- (2) The vending stand or vehicle is adequately set back from the adjacent road, does not block any required access to or egress from the site, does not disrupt vehicular or pedestrian circulation in the surrounding area, and does not cause a traffic hazard or safety problem. In addition, an off-road parking area of sufficient size shall be provided to accommodate the anticipated number of customers.
- (3) The temporary structure, if any, complies with applicable adopted building codes and other County regulations.
- (4) Not more than two (2) vendors may be allocated a permit for any single location.
- (5) Temporary use permits for agricultural products shall not exceed a period of five (5) months.
- (6) Stand operators may receive an unlimited number of development permits; however when more than two (2) operators wish to use a given location during the same time period, preference shall be given to new permit applicants in the order in which they apply.
- (7) Identification signs must comply with the sign standards in Sec. 7-60-50.

**(c) Building-Mounted Cellular Telephone Antennae**

Building-mounted antennae may be located on buildings within or outside the urban growth boundaries, provided that the maximum height of the building and tower or antenna does not exceed the maximum building height in the zone district by more than ten (10) feet.

**(d) Camping Area**

Camping as an accessory use, outside of a campground approved by a development permit, is only permitted on property owned by the camper or the camper's family. Occupancy of any tent, recreational vehicle, or any other form of temporary dwelling shall be limited to fifteen (15) consecutive days, and to no more than thirty (30) days in any six (6) month period.

**(e) Caretaker Dwelling Unit**

These standards are for the purposes of providing a voluntary caretaker dwelling unit on a legally created lot or parcel in the County. Caretaker dwelling units created pursuant to these provisions, shall not be used for mitigation of employee housing requirements as established elsewhere in this Land Use Code.

**(1) CDU AS PERMITTED ACCESSORY USE**

In the RS-160, RS-35, RS-30, RS-20, AR-10, AR-2, R-30, R-15, R-15A, and R-6 zone districts, one (1) caretaker dwelling unit shall be a permitted accessory use provided that:

- (a) It is attached to a single family home (“principal dwelling”);
- (b) The lot or parcel on which it is located conforms to the minimum lot area requirements for each dwelling in the zone district in which the caretaker dwelling unit is located, as shown in Table 5-1;
- (c) The caretaker dwelling unit shall not exceed one thousand (1,000) net livable square feet on lots or parcels that are thirty thousand (30,000) square feet or greater in lot area, and seven hundred (700) net livable square feet on lots or parcels that are less than thirty thousand (30,000) square feet in lot area;
- (d) The floor area of the caretaker unit shall be included in the total allowed floor area for the lot or parcel of land (e.g., if the CDU is seven hundred (700) square feet, the maximum total area of the primary residence and other included accessory structures shall be seven hundred (700) square feet less than what would apply without the CDU);
- (e) Two (2) off-street parking spaces shall be provided for each caretaker dwelling unit.
- (f) The applicant shall by deed restriction or other permanent commitment running with the land guarantee that the caretaker dwelling unit:
  - 1. Shall not be required to be rented;
  - 2. Shall not be sold or otherwise conveyed or separated from the original parcel *regardless of the ultimate form of ownership of the caretaker unit*;
  - 3. Shall be limited to occupancy by (i) not more than two (2) adults, and related children, who qualify as (and have been found by the Housing Office to be) employees of the community under such guidelines as may from time to time be established, or (ii) members of the owner’s immediate family, even though they may not qualify as employees of the community.
  - 4. Shall be rented for terms not less than six (6) months if rented.
- (g) The Caretaker Dwelling Unit restriction may be removed by the property owner upon approval of the Community Development Director, subject to the requirement that the dwelling is removed or modified. If modified, the remaining improvements must no longer be capable of occupancy as a dwelling unit and must meet otherwise applicable requirements of this Land Use Code.
- (h) The provisions of this regulation are for the purpose of providing a voluntary Caretaker Dwelling Unit on a legally created lot or parcel in the County. Any

unit approved under this provision of this Land Use Code shall not be used for mitigation of employee housing requirements as established elsewhere in this Land Use Code

**(2) CDU AS SPECIAL REVIEW ACCESSORY USE**

A caretaker dwelling unit that is (a) located in the LIR-35, VR, B-2, VC, P-I, or T zone district, or (b) located on a lot or parcel that does not meet the minimum lot area requirements for each dwelling unit in the zone district where it is located, as set forth in Table 5-1, or (c) is detached from the principal single-family dwelling on the lot or parcel, shall require approval through the Special Review Use process in Chapter 2, and shall meet the requirements of subsections (1)(c) through (1)(g) above.

**(f) Home Occupation**

A home occupation shall:

- (1) Employ no more than one (1) person who is a non-resident of the premises, except in the Rural/Remote zone district, where no employees are allowed who do not reside on the premises;
- (2) Operate pursuant to a valid occupational license held by the resident of the dwelling unit, if applicable;
- (3) Be confined to no more than twenty-five (25) percent of the existing residential floor area on the property;
- (4) Not advertise, display or otherwise indicate the presence of the home occupation on the premises;
- (5) Not sell any stock in trade, supplies or products on the premises;
- (6) Not store outside of the dwelling unit or accessory structure any equipment or materials used in the home occupation;
- (7) Not utilize mechanical, electrical, or other equipment or items that produce noise, electrical or magnetic interference, vibration, heat, glare, smoke, dust, odor or other nuisance outside the residential building or accessory structure; and
- (8) Not operate more than one (1) more than one commercial vehicle associated with the home occupation.

**(g) Satellite Reception Device**

The following standards shall apply to the installation and use of all accessory satellite reception devices in all zone districts. If the dish does not comply with the following standards, see Sec. 2-30-20(g)(8).

- (1) Satellite reception dish devices accessory to residential uses that are one (1) meter (40 inches) or less in diameter are allowed as a use by right. If located in the VR zone district such dishes shall be located so as to function effectively while minimizing visibility from neighboring properties and public rights-of-way, in order to preserve the historic character of the Redstone townsite.

- (2) Satellite reception dish devices accessory to industrial/commercial uses that are two (2) meters (80 inches) or less in diameter are allowed as a use by right. If located in the VC zone district, such dishes shall be located so as to function effectively while minimizing visibility from neighboring properties and public rights-of-way, in order to preserve the historic character of the Redstone townsite.

**(h) Solar Energy Collector**

**(1) General:**

(a) Solar energy collectors can be an accessory use to a residential or non-residential use.

(b) Solar energy collectors shall be used primarily for onsite purposes, and not primarily for the generation of electricity to be used off-site.

(c) In the RR zone district, solar energy collectors may only be used for on-site residential purposes.

(d) Pursuant to Section 7-20-120(d)(4), solar energy collectors shall not protrude above a ridgeline.

(e) Solar energy collectors shall not shade an evapotranspiration leach field.

(f) Rooftop panels are preferred over ground mounted panels, unless good cause is demonstrated that ground mounted panels are considered necessary.

(g) Newly constructed residences shall have a minimum of 400 square feet of roof space sited for solar gain and available for the construction of solar energy collectors.

**(2) Roof Mounted Solar Energy Collectors – General:**

(a) Roof mounted solar energy collectors shall not result in any structure exceeding the maximum height limit pursuant to Section 5-20-60(f).

(b) Roof mounted solar energy collectors are exempt from standard 7-20-120(d)(12) that regulates reflective roofs.

(c) Roof mounted solar energy collectors shall be generally consistent with the roof design and avoid breaking up the array into sections or “pods”.

**(3) Flat Roof Mounted Solar Energy Collectors:**

(a) Solar energy collectors constructed on flat roofs can be raised up to six foot (6) above the height limit of the roof, measured to the top of the panel.

(b) Solar energy collectors constructed on flat roofs shall have a three (3) foot setback from the edges of the roof.

**(4) Pitched Roof Solar Energy Collectors:**

(a) Solar energy collectors on pitched roofs shall not protrude above the ridge of the roof.

(b) Solar energy collectors on pitched roofs can be raised up to four (4) feet above the height limit of the roof, measured to the top of the panel.

**(5) Ground Mounted Solar Energy Collectors:**

**(a)** Ground mounted solar energy collectors and other ancillary development (racking assembly, balancing system, utility boxes, etc.) shall have a “matte” finish or be of a non-reflective material/color. Equipment that is painted shall be maintained.

**(b)** Ground mounted solar collectors shall be limited to twelve (12) feet in height unless Special Review approval is granted. Special Review ground mounted panels shall not exceed sixteen (16) feet in height.

**(c)** Ground mounted energy collectors shall be measured in conformance with the applicable height regulations in the Code. However, a pit may be dug for placement of a ground mounted solar energy collector so that snow does not accumulate and block solar access. In this case, the height of the panel assembly shall be measured from the least restrictive grade.

**(d)** Ground Mounted solar energy collectors shall be located within an approved envelope pursuant to Section 2-30-20(g)(20), unless an exemption can be attained pursuant to section 7-10-30 of the Code.

**(6) Objections:**

**(a)** If an objection is received by the date stated in the 30 day public notice, the Community Development Department shall continue the application to a public hearing before the Planning and Zoning Commission.

**(i) Temporary Commercial Use/Special Events**

The temporary commercial use and occupancy of public or private land and/or roadways for commercial activities or special events requires the issuance of a Temporary Use Permit pursuant to Sec. 2-30-20, provided that the proposed temporary use complies with the standards in this section.

**(1)** Temporary structures constructed or placed on the premises shall conform to all applicable adopted building codes and other County regulations.

**(2)** All applications shall make adequate provision for (a) public parking, (b) site setup, maintenance, and clean up, (c) public safety, and (d) availability of emergency services.

**(3)** A fund-raising or non-commercial event for a nonprofit religious, educational, or community service organization shall not require a temporary use permit provided that:

**(a)** The special event is conducted entirely (including parking) on private property owned or leased by the sponsoring organization as a permanent facility;

**(b)** Any structure used in conjunction with the event shall be the subject of a valid building permit, and shall be promptly removed upon cessation of the event; and

**(c)** The event shall be limited to hours of operation between 8:00 a.m. and 9:00 p.m., to a maximum duration of one (1) day, and to a maximum frequency for similar events of two (2) times per calendar year. This does not exempt

the sponsoring organization from obtaining other permits or approvals that may be required such as special events liquor license, pyrotechnic permit, amplified noise variance, etc.

- (d) Notice of the time and place of the event and estimated attendance shall be provided to the County Engineer and Sheriff seventy-two (72) hours prior to the event.
- (4) Temporary use permits may be issued through the Administrative Review process.
- (5) If a special event is anticipated to occur annually, or on a periodic basis, the applicant may request a multiple event temporary use permit, and such permits may authorize the special event for up to three (3) years. Multiple event temporary use permits shall require that the applicant notify the Community Development Department at least ninety (90) days prior to each event to identify the date and location of the event and any changes in the nature, size, or activities to be conducted since the preceding event covered by the permit, and, if proof of insurance coverage was required for previous approvals, shall submit updated evidence of insurance coverage covering the dates of the upcoming event. If the Community Development Department determines that the changes in the event were not anticipated or covered by the existing permit, and could have unanticipated adverse impacts on surrounding properties or traffic on County rights-of-way, or the event has not complied with provision of previous approval(s) it may be revoked and/or the Department may require that the applicant (a) apply for and receive a new temporary use permit, or (b) modify the event to avoid the unanticipated adverse impacts. If the Community Development Department does not respond to the notice with concerns about unanticipated adverse impacts, the event may proceed without the need to obtain a new temporary use permit.

**(j) Wind Powered Electric Generator**

- (1) Only wind powered generators with a rated capacity of less than two hundred fifty (250) kilowatts are permitted as accessory uses. Wind powered generators with higher rated capacities are only permitted as a major public facility.
- (2) A maximum of one (1) small wind powered electric generator may be accessory to a residential or non-residential use.
- (3) A wind powered electric generator shall be used primarily for private purposes, and not primarily for the generation of electricity to be used off-site.
- (4) The maximum height of a wind powered electric turbine shall not exceed eighty (80) feet, measured from the ground to the tip of the blade in its tallest position, and the minimum height of the turbine blade above ground level shall not be less than twenty (20) feet.
- (5) No part of any wind powered electric generator, including guy wire anchors, may extend closer to any property boundary than the height of the tower.

- (6) Except during severe wind storms, wind powered electric generators shall not cause a sound level exceeding fifty (50) dba, as measured at the closest neighboring inhabited dwelling.
- (7) All wind powered electric generators shall meet all applicable requirements of the Land Use Code, applicable adopted building codes, the National Electric Code, and regulations of the Federal Aviation Administration.

**(k) Micro Hydroelectric Energy System**

- (1) Wheel turbines, generators, and other mechanical equipment shall be enclosed in a wheelhouse/pumphouse structure. The structure shall be detached from other structures and sized only to house necessary mechanical equipment for the hydroelectric system.
- (2) Only one structure for housing equipment mentioned above shall be permitted.
- (3) Maximum size for this structure shall be 150 square feet, eight (8) feet in height, and used solely for hydro electricity generation.
- (4) The maximum size of a system shall be 500 kw.
- (5) The system shall be designed to blend in with its natural surroundings and be of earth tone colors. All system components, including the structure and pipes shall not create visual or auditory impacts, or create impediments or other unnatural hazards upon wildlife.
- (6) Systems in place in fish bearing streams must have structures installed, which prevent fish from entering the system.
- (7) A System shall be designed to reduce the length of the reach of the diversion as much as possible in an effort to avoid de-watering a stream.
- (8) The system must be in compliance with Federal Energy Regulation Commission 4.30(29) and other applicable standards, such as U.S. Army Corps of Engineer Permitting, State Water Resources Permitting and appropriate water rights.
- (9) Dams are not allowed for micro hydroelectric systems. Partial diversion structures such as weirs or head gates are allowed with proper permitting. Diversions from the river/stream shall be designed so that minimum stream flows are not threatened in the reach between the intake and the return of the hydroelectric system.
- (10) If a system is not in continuous use for more than one (1) calendar year for reasons other than low stream flows, disruption to stream habitat, or drought, the structures associated with a hydro electric system may be required to be removed. Prior to issuance of a permit for the micro hydroelectric system, the applicant shall grant Pitkin County a non-revocable license to enter the property for decommissioning the system. A covenant shall also be recorded that acknowledges that the property owner shall bear the cost of decommissioning the facility. This cost will include rehabilitation of the site.

- (11) A system shall also comply with Section 7-20-80(c) if it is proposed within the riparian and wetland setback.
- (12) Micro hydroelectric generation systems that do not divert water from a creek or stream but, from an irrigation ditch and does not disrupt stream/riparian habitat or encroach into a streamside setback shall be reviewed by the Community Development Director through Site Plan review. Section 7-10-30: Exempt Development Activities could apply if the system is not located within a constrained area as defined by Chapter 7. In all cases the proposal must contain proof of adequate water rights.
- (13) The County shall review the impacts of a micro hydroelectric system on the natural environment with consideration given to the intensity and amount of electricity generated by the system.
- (14) Appropriate water rights and an augmentation plan shall be submitted for review and approval if the micro hydroelectric system proposes construction of ponds and/or storage reservoirs.

***(Code repealed and reenacted (all sections) Ord. 014-D, 2006, 07-05-08; § 4-30-50 (part) amended [Ord. 23-07, 08-28-07](#); [Ord. 012-08, 04-09-08](#); [025-09, 10-14-09](#))***

**(I) Snow Dumping/Trucking/Storage**

When a special review use is requested for a snow storage area, the applicant shall comply with the following conditions when siting the storage area:

**(1) Setbacks**

- (a)** Setbacks shall be regulated by Section 7-20-80 and Chapter 5.

**(2) Slopes**

- (a)** Slopes in excess of 10% shall be avoided

**(3) Groundwater**

- (a)** Snow storage and/or dumps shall not be located in areas of high groundwater
- (b)** It must be demonstrated that the groundwater high water mark is four (4) feet or more below snow storage area.

**(4) Flood plain**

- (a)** Snow storage areas shall not be located within the 100-year floodplain

**(5) Surface Runoff**

- (a)** Snow storage shall not result in surface runoff unless best management practices are utilized to remove sediment and other contaminants from melt water and promote infiltration vs. runoff

**(6)** Dumping into waterway or water-body

**(a)** Snow storage areas shall comply with section 7-20-80(d)(12)

**(b)** Snow shall not be pushed or dumped into any waterway or water-body at any time.

**(7)** Refuse removal/disposal

**(a)** It will be a condition of approval that at the end of each winter season (when all snowmelt is complete) that documented cleanup occurs at the site to remove non-snow refuse from the storage site.

**(8)** Scenic Impact Consideration

**(a)** Potential scenic impacts of the location of proposed snow storage areas shall be addressed in the application.

**(9)** Revegetation

**(a)** If a snow storage area is abandoned for more than two years, revegetation of the site (where necessary) is required.

**(10)** Trips

**(a)** The Applicant shall present a dumping schedule for consideration that includes hours of operation and estimated number of trucks per hour/day, source of snow, and load size in average volume.

**(11)** A log shall be created of the criteria outlined in condition #10(a) and submitted for review to the Community Development Department, annually, when soil monitoring tests are submitted.

**(12)** Noxious Weed Control

**(a)** The Applicant is required to control for noxious weeds.

**(13)** Snow dump sites shall be sited at least 200 feet from private wells and public water systems. The 200 foot setback from a public water system shall be measured from the source from which water is collected for the public water system.

**(14)** A snow dump site shall be located at least fifty feet (50') from a property line. The BOCC may increase this setback if it is found that runoff or other negative impacts may implicate an adjacent property. The BOCC may decrease this setback if it is found that runoff or other negative impacts will not implicate an adjacent property.

**(15)** An Applicant for an existing snow dumping site shall test soil annually in the spring, or after the dumping site has melted. An applicant for an initial snow dumping site shall provide soil test results in their application to the Community Development Department. In both cases, the following contaminants shall be tested.

- Volatile Petroleum Hydrocarbons (VPH)
- Extractable Petroleum Hydrocarbons (EPH)
- B-Test
- Oil and Grease
  - a. Sampling testing shall occur on each snow dump site. If a dumping site is larger than one (1) acre every acre of the snow dump site shall be tested.
  - b. Testing shall occur on the down gradient of the site, and the test sample should be taken from an eight (8) inch depth.
  - c. The threshold levels for the B-test shall be as follows:
    - Benzene = 1ppm
    - Toluene = 1000 ppm
    - Ethylbenzene = 1000 ppm
    - Xylene = 280 ppm
  - d. The threshold levels for Total Petroleum Hydrocarbons (TPH) shall be 500 ppm. TPH is the sum of VPH, EPH, and Oil and Grease.
  - e. If testing shows that a site is over any of the thresholds mentioned above, the Applicant shall not be allowed to dump snow at that site and reapplication will be required.

**(m) Solar Farm:**

- (1)** Siting of solar farms shall be in conformance with Chapter 7 and Activity Envelope/Site Plan Review submission.
- (2)** Site plans shall include locations of all panels and accessory development such as utility trenching, access roads, service plans, structures associated with the solar farm.
- (3)** At review of a solar farm application, the Applicant shall submit, for consideration, a construction management plan and a decommissioning plan.
- (4)** Solar farms shall be approved in accordance with all State and Federal rules and regulations.

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- (5) Accessory buildings associated with the solar farms shall be limited to one thousand (1,000) square feet in aggregate.
- (6) The Applicant shall submit an annual report that includes information about the preceding year of operations of the project, power output, comments received, or any other information pertinent to the operation of the solar farm. This annual report shall be submitted to the Community Development Director for review.
- (7) On site power lines associated with the solar farm shall, to the maximum extent practical, be placed underground.

***(Code repealed and reenacted (all sections) Ord. 014-D, 2006, 07-05-08; § 4-30-50 amended (part) [Ord. 027-10, 11-17-10](#); [Ord. 005-11, 04-13-11](#))***

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