

**CHEYENNE COUNTY, COLORADO**  
**COMPREHENSIVE PLAN AND**  
**ZONING ORDINANCE**

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## **PART I**

### **General Information, Goals, and Policies**

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### **Part I**

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**Foreword:**

The Cheyenne County Planning and Zoning Board, according to the mandate set by the Board of Cheyenne County Commissioners and Colorado Statute 30-28-106, 1973, as amended, has prepared a Comprehensive Plan for the County of Cheyenne, State of Colorado.

This plan, with any accompanying maps, plats, charts, or descriptive and explanatory matter, sets forth the County policies for the development and land use covering the unincorporated areas of Cheyenne County.

This plan, as allowed by statute, may refer to any of the following items:

- 1) General location, character, and extent of streets, roads, viaducts, bridges, parkways, playgrounds, forests, reservations, parks, airports, and other public ways, grounds, places, and spaces;
- 2) The general location and extent of public utilities and terminals, whether publicly or privately owned, for water, light, power, sanitation, transportation, communication, heat, and other purposes;
- 3) The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, or change of use of any of the foregoing public ways, grounds, places, spaces, buildings, properties, utilities, or terminals;
- 4) The general character, location, and extent of community centers, townsites, housing developments, whether public or private, and urban conservation or redevelopment areas;
- 5) The general location and extent of forests, agricultural areas, flood control areas, and open development areas for purposes of conservation, food and water supply, sanitary and drainage facilities, flood control, or the protection of urban development;
- 6) And a land classification and utilization program.

**Purpose:**

The general purpose of this Comprehensive Plan is in guiding and accomplishing a coordinated, adjusted, and harmonious development of the County, in accordance with present and future needs and resources, supplementing and sustaining the necessary zoning, subdivision, and land use regulations which will best promote the health, safety, morals, order, convenience, prosperity, or general welfare of the inhabitants, as well as efficiency and economy in the process of development, including such distribution of population habitation, recreation, agriculture, forestry, and other purposes as will tend to create civic activities, and recreational, educational, and cultural opportunities; will tend to reduce the wastes of physical, financial, or human resources which result from either excessive congestion or excessive scattering of population; and will tend toward and efficient and economic utilization, conservation, and production of the supply of food and water and of drainage, sanitary, and other facilities and resources.

This plan is to be reviewed annually at the Planning and Zoning Board reorganizational meeting.

To this end the following goals and policies have been formulated and adopted.

### **Underlying Principles or Goals of the Cheyenne County Comprehensive Plan**

1. Protect the health and safety of Cheyenne County residents.
2. Protect the quality and value of Cheyenne County land.
3. Protect air and water quality.
4. Provide encouragement and guidance for economic development.
5. Provide guidance for infrastructure improvement and development.
6. Provide guidance for enhancement of quality of life.
7. Provide encouragement and guidance for wildlife development.
8. Maintain and upgrade the agricultural industry as the backbone of Cheyenne County's economy and lifestyle.
9. Encourage the maintenance of all land in the unincorporate portions of the County as agricultural land until such time as a more intensive use would appear beneficial to all residents of the County.
10. Encourage the majority of the residential, commercial, or industrial growth to locate immediately around or within the existing towns or communities of Kit Carson, Cheyenne Wells, and Arapahoe
11. Cheyenne County should encourage economic, industrial, and commercial growth which would, in turn, support population growth.
12. Encourage a strong public education system within the County.

### **Agricultural Development Policies**

1. In order to support the continued development of the agricultural sector, the development of various agribusinesses may be encouraged, and those businesses should be permitted to locate in the unincorporated area, where appropriate.
2. Although the unincorporated area should be retained primarily for agricultural uses, non-agricultural related uses may be permitted in the area.
3. Any use of prime farmland for uses other than agriculture will be critically reviewed.
4. Transfer of groundwater and/or surface water from the Cheyenne County area to be used in other areas shall be resisted.
5. Conservation of all natural resources will be encouraged.
6. We encourage the promotion of methods which can increase crop production.
7. We promote efforts which would encourage agricultural producers to use water more efficiently.
8. We encourage the promotion of efforts to improve marketing of agricultural products.
9. We encourage wildlife ranching and the promotion of recreational hunting.
10. We encourage the development of private and commercial renewable energy sources such as wind power and solar energy.



### **Residential Development Policies**

1. It is more desirable to have development in the rural areas clustered, rather than single plots widely dispersed.
2. We should encourage housing programs for the elderly and handicapped people in the incorporated areas of our County.
3. During the residential development process, the separation of residential areas from inharmonious land uses should be encouraged.
4. Any new residential development will be encouraged to locate adjoining to an existing municipality in order to maximize the utilization of existing public facilities and service investments such as schools, parks, streets, and community sewer and water.
5. The encouragement of quality housing within the county.
6. The encouragement of a variety of housing available for the full spectrum of income levels within the county.

### **Commercial Development Policies**

1. Only those commercial developments that cannot reasonably be located in the existing municipalities will be allowed to locate in unincorporated areas. Agricultural commercial developments would be encouraged in the unincorporated portions of the County if such a location is more reasonable than locating in town.
2. Automotive related commercial services will be encouraged to locate within existing communities or at well-planned and located areas along major highways.
3. The extension of commercial development into the unincorporated areas from the County's municipalities should be encouraged. This development should be encouraged to locate around or within the existing towns or communities.
4. Commercial feedlots should not be allowed any closer than three miles from any existing town or community.
5. To encourage commercial development which will broaden the economic base of the county and still safeguard our existing environment.

### **Industrial Development Policies**

1. To facilitate the location of industry in Cheyenne County, we should encourage the development of industrial parks so that facilities and land could be available.
2. The logical place for industrial development within Cheyenne County is surrounding the incorporated areas of the County.
3. Zoning for industrial use in areas outside of planning areas of towns should be encouraged for industries that cannot reasonably be located in those planning areas.
4. Local officials, public and private, should promote the development of an expanded and diversified industrial base.
5. To encourage industrial development which will not have a negative effect on our existing environment.

## **Transportation Policies**

1. We should designate certain roads within the County as collector roads. These roads should be widened and highly maintained.
2. We should encourage obtaining and maintaining crossing signals at each of the railroad crossings in all towns, incorporated or unincorporated, in Cheyenne County.
3. Airports should be maintained and upgraded as a vital part of our transportation.
4. Any new major highway facilities shall be located and designed as not to diminish the economic base of the County.
5. Any rezoning, subdivision, or building adjacent to major highways or the County's collector roads shall not be approved unless adequate right-of-way is dedicated.
6. Driveway permits shall not be approved in Cheyenne County unless the location meets the standards set by the Colorado State Highway Access Code adopted.
7. Over width and overweight vehicle permits and fees for U.S. 385, U.S. 287, U.S. 40 and Colorado Highway 59 are now required by the Colorado Highway Department. We should locally require the same controls for all public roads in Cheyenne County by adopting local regulations.
8. We should control the transportation of hazardous waste and/or hazardous materials over our local roads as allowable under state statutes.
9. We should protect residential, commercial, industrial, and public areas from undesirable and unnecessary traffic while still providing good access to these areas.
10. We should encourage a well-balanced transportation system including an automobile, bus, railroad, pedestrian, and bicycle.
11. We encourage keeping the general public (adjacent landowners especially) informed of any proposed construction to new roads.
12. We encourage retaining a countywide road foreman to coordinate an efficient road system throughout the county and to provide expertise on road construction and maintenance.

## **Water and Mineral Resources**

### **Water**

1. Water is the one resource which will determine if growth of our agricultural industry is to continue. Our planning needs to always look toward conservation of this resource.
2. An adequate water supply shall be a primary requisite for any new land development.
3. We should take all necessary measures that will help prevent the contamination of groundwater.

### **Mineral Resources**

1. Gravel is a limited resource in our County which we should develop.
2. The natural gas and oil industry within the County should be encouraged.
3. Promotion of efficient recovery of any other minerals and resources which might be in the County.

### **Communications**

1. Maintain a technologically up to date communication system throughout the county.

## **Wind and Solar Resources**

1. Wind and Solar power are abundant in Cheyenne County. Renewable energy is important to our present day private and commercial economy. Cheyenne County encourages and promotes the development of these alternative energy sources.

## **Environmental Protection**

1. Natural hazard areas should either be avoided, or the hazardous effects of those areas should be mitigated.
2. Any land use that will pollute any stream, body of water, subsurface aquifer, aquifer recharge, the air, or the surrounding surface will require the development of a proper treatment facility before said land use can be allowed.
3. Floodplains and other unsafe or unsuitable areas for building shall be kept open and free.
4. For the most part, environmental issues don't seem to be a problem in Cheyenne County. Growth can generally be encouraged without any real dangers posed to our environment.
5. Deep-drilled sewage waste disposal should not be condoned by the Cheyenne County Commissioners. Texas postholes should be prohibited. Efforts to enforce this policy will require communication with the State Engineer's office.
6. To coordinate and oversee the placement of any landfills or other proposed disposal sites. Any sites which are not environmentally sound should be discouraged.

7. To take and encourage all measures to reduce wind or water erosion in the County.
8. We encourage the management of noxious weeds.

### **Parks and Recreation Policies**

1. We should encourage the development of bodies of water in the County where County residents could fish, picnic, or in general have a recreational area.
2. We should provide a full, balanced and readily accessible program of recreation and facilities for all ages, income levels and cultural backgrounds with special emphasis on programs and facilities for youth.
3. We want to create, encourage and preserve a viable habitat for game birds and other wildlife.

### **Public Facilities and Services Policies**

1. We should encourage police protection for the entire County, including municipalities, under a single Sheriff's Department.
2. We should encourage or help the communities of Cheyenne County obtain water, sewer, and solid waste disposal sites if and when the local residents desire such facilities
3. All new developments shall have complete and adequate utilities and public service; ta fees, service charges and tax revenues from ail new developments shall be sufficiently high to properly protect the existing users from increased cost due to the new developments.
4. Proliferation of service districts shall be opposed while consolidation of existing districts shall be encouraged when it tends to improve the efficiency and economy of the service.
5. Regionalization of service and facilities shall be opposed if it will lead to growth which is not compatible with the desires of the towns involved.
6. We will encourage the promotion of adequate health care for all County residents.
7. We will encourage the promotion and continuation of the County's emergency medical service.
8. We will promote educational opportunities within our communities.
9. We will pursue provisions of needed public facilities and service in an efficient and economic manner to promote, protect, and enhance our existing population.

### **Adoption**

[Intentionally Omitted, please see PDF]

## **PART II**

### **Cheyenne County Zoning Resolution**

#### **Cheyenne County, Colorado**



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### Part II

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### **Description of Zoned Areas in Cheyenne County**

All subdivided areas and small tracts in Arapahoe shall be zoned Commercial.

All subdivided areas in Arena shall be zoned Agriculture. All subdivided areas in Aroya shall be zoned Agriculture.

The Town of Cheyenne Wells will not be affected inside the corporate limits. The following legals surrounding Cheyenne Wells and lying outside of the corporate limits shall be zoned as listed:

- 1) All that part of the SW 1/4 of Section 20, T14S, R44W lying south of the railroad tracks ROW shall be zoned Commercial.
- 2) The East 350' of the E 1/2 of Section 19, T14S, R44W lying north of the Railroad ROW shall be zoned Commercial.
- 3) Tracts 24, 25, 26, 27, 28, 29, 40, 41, and 42 of the Hillcrest Acres Subdivision shall be zoned Commercial.
- 4) The North 1/2 of Tract 37, tracts 43 through 55, tracts 75 through 84, and tracts 88 through 116 of the Hillcrest Acres Subdivision shall be zoned Other Agricultural Lands (A-2).
- 5) Tracts 85 through 87 and tracts 117 through 119 of the Hillcrest Acres Subdivision shall be zoned Commercial.
- 6) The NW 1/4 of Section 20, T14S, R44W lying north of the Hillcrest Acres Subdivision shall be zoned Other Agricultural Lands (A-2).
- 7) Blocks 1, 2, 3, 14, 15, 16, 17, 18, 19, 20, 31, and 32 of the now vacated Stanley's Subdivision in the NW ¼ of the NE ¼ of section 20, T14S, R44W shall be zoned Other Agricultural Lands.
- 8) That portion of the west half of Blocks 4, 13, 20, and 29 of the now vacated Stanley's Subdivision (which lies outside the corporate limits of Cheyenne Wells) in the NW 1/4 of the NE 1/4 of Section 20, T14S, R44W shall be zoned Other Agricultural Lands (A-2).
- 9) Blocks 25 and 26 of Knoll's Subdivision in the NE 1/4 of the NE 1/4 of Section 20, T14S, R44W shall be zoned Commercial.
- 10) The N 1/2 of the NW 1/4 of Section 21, T14S, R44W, EXCEPT for the West 300' thereof, lying outside the corporate limits of Cheyenne Wells shall be zoned Other Agricultural Lands (A-2).

- 11) That portion of the NE 1/4 of Section 21, T14S, R44W lying outside of the corporate limits of Cheyenne Wells shall be zoned Other Agricultural Lands (A-2).
- 12) Bonelli's Subdivision in the s 1/2 of the NE 1/4 of Section 21, T14S, R44W south of the Railroad ROW shall be zoned Commercial.
- 13) The SE 1/4 of Section 21, T14S, R44W shall be zoned Commercial.
- 14) The Railroad ROW lying north of the railroad tracks in Sections 20, T14S, R44W, lying outside of the corporate limits of Cheyenne Wells, shall be zoned Other Agricultural Lands (A-2).
- 15) The West 350' of the NW 1/4 of the NW 1/4 of Section 21, T14S, R44W shall be zoned Residential.

The subdivided areas in Firstview shall be zoned Agriculture.

The Town of Kit Carson will not be affected inside the corporate limits. The lands immediately surrounding Kit Carson and lying outside of the corporate limits shall all be zoned Agriculture.

The subdivided areas in Sorrento shall be zoned Agriculture.

The subdivided areas and tracts in Wild Horse shall be zoned Commercial.

All other areas of Cheyenne County not specifically referred to in the above descriptions shall be zoned Agriculture.

Amendments:

- 1) The following described tract near Arapahoe has been re-zoned from A to C, Commercial:

A tract in the NW 1/4 SE 1/4 of Section 12, T14S, R43W of the 6th P.M., Cheyenne County, Colorado more particularly described as Beginning at a point 68.9 feet s 00°08'W of the NW Corner of the SE 1/4 of said Section 12; thence S 86°58'E along the Highway Right-of- way a distance of 330.0 feet; thence s 00°08'W a distance of 481.0 feet; thence N 86°58'W a distance of 330.0 feet; thence N 00°08' along the west line of the SE 1/4 of said Section 12 a distance of 481.0 feet more or less to the point of beginning.

- 2) The following described tract has been changed from A to C, Commercial:

A one-acre parcel in the NW 1/4 of Section 14, T12S, R47W of the 6th P.M. which lies approximately 1400 feet south of the NW Corner of said Section 14 and runs 250 feet east and west and 175 north and south.

- 3) The following described tract has been changed from A to I, Industrial:

A tract in the S 1/2 SE 1/4 of Section 25, T14S, R45W of the 6th P.M. which contains approximately 25 acres, more or less (the exact legal description to be determined by actual survey).

- 4) The following described tract has been changed from Agricultural (A) to Commercial (C):

A tract of land containing 5 acres mor or less in the Northwest (NW) corner of the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub> of Section 22, in Town ship 14 South, Range 44 West of the Sixth Principal Meridian in Cheyenne County, Colorado (the exact description to be determined by survey).

- 5) The following described tract has been changed from Agricultural (A) to Commercial (C):

A tract of land containing 1 acre more or less in the Southwest Quarter (SW<sup>1</sup>/<sub>4</sub>) of Southwest Quarter (SW<sup>1</sup>/<sub>4</sub>) corner of the Southwest Quarter of Section 1, in Township 13 South, Range 45 West of the Sixth Principal Meridian in Cheyenne County, Colorado.

- 6) The following described tract has been changed from Agricultural (A) to Commercial (C):

A tract of land 100 ft. x 10 ft. located in the Northeast Quarter (NE<sup>1</sup>/<sub>4</sub>) of Section 10, Township 13 South, Range 43 West of the Sixth Principal Meridian in Cheyenne County, Colorado.

## Section 1

### **Purposes, Authority, Jurisdictional Area, Definitions**

#### 1-101      Title

A resolution establishing zoning districts comprising all the unincorporated area within Cheyenne County, Colorado; adopting maps of said area and zoning districts therein; regulating the location, height, bulk and size of buildings and other structures, the size of lots, courts, and other open space, and the location and use of land for agriculture, commerce, industry, and other purposes; providing for the adjustment, enforcement, and amendment thereof; defining certain terms used herein; prescribing methods for granting variances and for amendment, enforcement, interpretation, separability, and repeals; and prescribing penalties for the violation of its provisions.

#### 1-102      Short Title

These regulations shall be known and may be cited as the "Zoning Resolution of Cheyenne County."

#### 1-103      Purposes

The purposes of these regulations are:

- (A) To conserve and stabilize the value of property;
- (B) To aid in the rendering of police and fire protection;
- (C) To provide adequate open space for light, air, and aesthetic satisfaction;
- (D) To preclude congestion on streets, roads, and highways;
- (E) To facilitate orderly, efficient, and integrated development of the county;
- (F) To facilitate the provision of efficient community utilities and facilities, such as water, sewerage, and electrical systems, transportation, schools, parks, and other public requirements; and in general,
- (G) To promote the public health, safety, and general welfare of the county.

#### 1-104      Authority

The Cheyenne County Zoning Resolution is authorized by Article 28, Title 30, of the Colorado Revised Statutes, 1973, as amended, and is hereby declared to be in accordance with all provisions of these Statutes.

#### 1-105      Jurisdictional Area

These zoning regulations shall apply to all land and buildings within the unincorporated portions of Cheyenne County.

1-106            Definitions

For the purposes of this resolution, certain terms or words used herein shall be interpreted as follows:

- A.     The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.
- B.     The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.
- C.     The word "shall" is a mandatory requirement, the word "may" is a permissive action, and the word "should" is a preferred action.
- D.     The words "uses" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
- E.     The word "lot" includes the words "plot" and "parcel."

The following words and phrases shall be interpreted as having the meanings stated below.

ADMINISTRATOR

Administrator is the Cheyenne County Land Use Administrator, who has been previously defined as "Inspector" in the Land Use Regulations.

ACCESSORY USE OR STRUCTURE

A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

AGRICULTURE

The use of land for farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

AGRICULTURAL LAND (IRRIGATED)

This land lies in areas where the soils are categorized in land capability classes I-IV and are thus considered suitable for agricultural purposes. These are areas that have been converted to active agricultural use by means of permanent irrigation facilities.

AIRPORT ZONE

Area lying directly under flight paths, under airspace where aircraft noise is at its highest levels, and adjacent to existing airports where future expansion may occur.

ALLEY

A minor way which is used primarily for vehicular service access to the rear or side of properties otherwise abutting on a street.

#### ALTERATIONS

As applied to a building structure, a change or rearrangement of the supporting members or enlargement, or the moving of one location or position to another.

#### ANIMAL HOSPITAL

A veterinary hospital where household pets are brought for medical and surgical treatment and may be held during the time of such treatment. All facilities for holding animals on the premises shall be housed in a completely enclosed building and used incidental to such medical and surgical services only.

#### APARTMENT HOUSE

See Dwelling, Multiple-Family.

#### APPLICANT

The owner or duly designated representative of land for which a conditional use permit, amendment, variance or zoning permit has been requested.

#### AUTOMOTIVE, MOBILE HOME, TRAILER, AND FARM IMPLEMENT SALES

The sale or rental of new and used motor vehicles, mobile homes, trailers, or farm implements, but not including repair work except incidental warranty repair if same to be displayed and sold on the premises.

#### AUTOMOTIVE OR MACHINERY AND EQUIPMENT WRECKING BUSINESS

The dismantling or wrecking of used motor vehicles, machinery and equipment, mobile homes, trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

#### BASEMENT

A story all or partly underground but having at least one-half (1/2) of its height below the average level of the adjoining ground.

#### BATTERY ENERGY STORAGE SYSTEM (BESS)

Batteries assembled and housed in one or more enclosures with substations, cables/wires and accessory structures, to receive, store and supply electrical energy to the grid at a future time. The term Battery Energy Storage Systems or BESS as used herein shall be interpreted as both the singular and the plural.

#### BUILDING

Any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, chattels, or property.

#### BUSINESS-CONVENIENCE

Commercial establishments which cater to and can be located in close proximity to or within residential districts without creating undue vehicular congestion, excessive noise, or other objectionable influences. To prevent congestion, convenience uses include, but need not be limited to, drugstores, beauty salons, barber shops, carry-outs, dry cleaning and laundry pickup facilities, and grocery stores if less than ten thousand (10,000) square feet in floor area. Uses in this classification tend to serve a day-to-day need in the area.

#### BUSINESS-GENERAL

Commercial uses which generally require locations on or near major thoroughfares and/or their intersections, and which tend, in addition to serving day-to-day needs of the area, to also supply the more durable and permanent needs of the area. General business uses include, but need not be limited to, such activities as supermarkets; stores that sell hardware, apparel, footwear, appliances, and furniture; department stores; and discount stores.

#### BUSINESS-HIGHWAY

Commercial uses which generally require locations on or near major thoroughfares and/or their intersections and which tend to serve the motoring public. Highway business uses include, but need not be limited to, such activities as filling stations, truck and auto sales and service, restaurants and motels, commercial recreation, and farm equipment sales and service.

#### BUSINESS SERVICES

Any profit-making activity which renders services primarily to other commercial or industrial enterprises or which services and repairs appliances and machines used in homes and businesses.

#### BUSINESS-WHOLESALE

Business establishments that generally sell commodities in large quantities or by the piece to retailers, jobbers, other wholesale establishments, or manufacturing establishments. The commodities are basically for further resale, for use in the fabrication of a product, or for use by a business service.

#### CAMPGROUND

Any plot of improved property utilized for camping and parking of recreational vehicles, as herein defined, for a period not to exceed thirty (30) days.

#### CEMETERY

Land used, or intended to be used, for the burial of the animal or human dead and dedicated for cemetery purposes, including crematoriums, mausoleums, and mortuaries if operated in connection with and within the boundaries of such cemetery.



## CHANNEL

A natural or artificial watercourse of perceptible extent with bed and banks to continue and conduct continuously or periodically flowing water.

## COMPREHENSIVE PLAN

A plan, or any portion thereof, adopted by the Cheyenne County Planning Commission and/or the Cheyenne County Board of County Commissioners showing the general location and extent of present and proposed physical facilities including housing, industrial and commercial uses, major streets, roads, and highways, parks, schools, and other community facilities, and establishing the goals, objectives, and policies of the county.

## CONDITIONAL USE

A use within a district requiring a conditional use permit and approval by the Board of County Commissioners. In each case the Planning and Zoning Board shall submit a recommendation to the Board of County Commissioners before the Commissioners' decision.

## CONDITIONAL USE PERMIT

A permit issued by the Land Use Administrator upon recommendation by the Planning and Zoning Board and subject to final approval by the Board of County Commissioners. The purpose of the permit is to allow a use other than an unconditionally permitted use to be established within a district.

## COUNTY

The County of Cheyenne, State of Colorado.

## CROPLAND

Land used primarily for the production of adapted cultivated and close growing crops for harvest, alone or in association with sod crops.

## CRUDE OIL PIPELINE

Pipe connecting a tank battery or other crude oil delivery point to a crude oil main line to transport produced oil to a refining plant or facility

## DENSITY

A unit of measurement; the number of dwelling units per acre of land.

1. Gross Density - the number of dwelling units per acre of the total land to be developed.
2. Net Density - the number of dwelling units per acre of land when the acreage involved includes only the land devoted to residential uses

## DEVELOPMENT

Any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs

#### DISTRIBUTED SOLAR ENERGY SYSTEM

Solar electrical power generation that occurs close to where the power is consumed and is primarily used on site by the system owner. A private on-site solar energy conversion system consisting of many ground-mounted solar arrays in rows or roof panels, and associated control or conversion electronics, occupying more than 2.5 acres and no more than 30 acres of land, and that will be used to produce utility power to on-site uses.

#### DISTRIBUTED WIND ENERGY SYSTEM

Wind electrical power generation that occurs close to where the power is consumed and is primarily used on site by the system owner. A wind energy conversion system consisting of Wind Turbine(s) and associated control or conversion electronics, with a rated capacity of not more than 100 kW per unit, that will be used to produce utility power to on-site uses.

#### DWELLING, MOBILE HOME

A structure designed to be transported after fabrication and exceeding either eight (8) feet in body width or thirty-two (32) feet in body length. Such a structure is built on a chassis and retains the chassis on which it was built, whether or not such structure is placed on a permanent foundation. Such a structure is suitable for human habitation on a year-round basis when provided with the required plumbing, heating, and electrical facilities

#### DWELLING, MODULAR HOME

Any structure, or component thereof, designed primarily for single-family residential occupancy, not including a mobile home, which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation on the building site. Each modular home shall be certified by the Colorado Division of Housing, and shall have attached thereto, in a visible location, an insignia of approval containing the following information:

1. Date of manufacture;
2. Insignia serial number beginning with the letters FB.

#### DWELLING, MULTI-FAMILY

A building consisting of three or more dwelling units including condominiums with varying arrangements of entrances and party walls. Multi-family housing may include public housing and industrialized units.

#### DWELLING, RANCH AND FARM

Residential dwellings appurtenant to agricultural operations including living quarters for persons employed on the premises (but not including labor camps or dwellings for transient labor), guest houses not rented or otherwise conducted as a business, and private garages, stables and barns.

### DWELLING, SINGLE-FAMILY

A building consisting of a single dwelling unit only; separated from other dwelling units by open space.

### DWELLING, TWO-FAMILY

A building consisting of two dwelling units which may be either attached side by side or one above the other, and each unit having a separate or combined entrance or entrances.

### DWELLING, UNRELATED

Any dwelling unrelated to nor incidental to the operation of a commercial feed lot, small animal farm, kennel, veterinary hospital, or commercial riding stable.

### DWELLING UNIT

Space within a building comprising living, dining, sleeping room or rooms, storage closets, as well as space and equipment for cooking, bathing and toilet facilities; all used by only one family and its household employees.

### FAMILY

One (1) or more persons occupying a common household, but not including, boarding or rooming houses, lodges, clubs, hotels, or fraternities.

### FARM, SMALL ANIMAL

The confinement of fifty (50) or more fowl or fur-bearing animals in enclosed cages with the intent of selling for profit any part of the animal, the animal as a whole, or any by-product of the animal.

### FEED LOT, COMMERCIAL

The confined feeding of livestock in buildings, lots, or pens which are not normally used for raising crops or for grazing livestock. For the purpose of this resolution, the term commercial feed lot shall include the confined feeding of not less than a capacity of ten (10) feeder or fat cattle, beef cows, dairy cattle, swine, sheep, or goats.

### FEED LOT, DOMESTIC

The confined feeding of livestock in buildings, lots, or pens which are not normally used for raising crops or for grazing livestock. For the purpose of this resolution, the term domestic feed lot shall include the confined feeding of not more than a capacity of nine (9) feeder or fat cattle, beef cows, dairy cattle, swine, sheep, or goats.

### FLOOD PLAN

Areas of land covered by flowing or stored surface water when normal channels are unable to carry increased volumes of water, which area is so adverse to past, current or foreseeable

significant construction, or significant populations use as to constitute a significant hazard to public safety or to property.

An intermediate regional flood plain is that area of land that would be covered by a flood statistically occurring once every hundred years.

#### FLOOR AREA

The sum of all gross horizontal enclosed area of the several floors of a building and its accessory buildings on the same lot, excluding basement floor areas and non-enclosed portions of the structure. All dimensions shall be measured between exterior faces of walls.

#### FOSTER HOME

A facility operated for the care of three (3) or more children or the elderly for the purpose of providing family care and/or-training for children or elderly not related. to the head of such home or facility. The term also applies to group homes for children or elderly whose special needs can best be met through the medium of a small group.

#### GAS

For pipeline quality purposes, natural gas containing less than four parts per million (ppm) of hydrogen sulfide (H<sub>2</sub>S).

#### GAS DISCHARGE LINE

Pipe connecting a compressor station to a main trunk line. This line contains primarily gas with small amounts of condensate and water and generally operates at medium pressure (approximately 400-1200 psi).

#### GAS SUCTION LINE

Pipe connecting a gas well lateral line to a compressor station. Several gas well lateral lines may connect to a single Gas suction line which generally operates at a low pressure (approximately 400 psi or less).

#### GAS WELL FLOW LINE

Pipe connecting a gas well to a separator station for removal of condensate and water, generally operating at low pressure (approximately 400 psi or less).

#### GAS WELL LATERAL LINE

Pipe connecting a gas well separator or separation station to a gas suction line. Gas well lateral lines generally operate at low pressures (approximately 400 psi or less).

#### GENERATING FACILITY (COMMERCIAL)

A facility capable of producing electricity by means of gas, oil, steam, nuclear fuel, waterpower, solar energy, or wind power.

### GENERATING FACILITY (PRIVATE)

A small facility capable of producing electricity to be used on- site, as specified in Colorado HB-1160.

### HEIGHT OF BUILDING (HEIGHT)

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

### HOME OCCUPATION

An occupation carried on within a dwelling or accessory building by members of the family occupying the dwelling with no servant, employee or other person being engaged, provided the residence character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes

### HOSPITAL

An establishment which provides sleeping and eating facilities to persons receiving medical, obstetrical, or surgical care and nursing service on a continuous basis

### HOTEL

A building in which lodging is provided for guests for compensation and in which no provision is made for cooking in the guest rooms.

### INDEPENDENT MOBILE HOME

A mobile home parked on a private lot, the front lot line of which shall face and abut a public street or road.

### JUNK

Junk means old or scrap copper, brass, rope, rugs, batteries, paper, trash, rubber debris, waste; or junked, dismantled, or wrecked automobiles, appliances, or parts thereof; iron, steel and other old or scrap ferrous or nonferrous material.

Junk also means a vehicle that is incapable of operating on roads and is no longer a vehicle because it has been destroyed, dismantled, or changed. These vehicles may not be issued a certificate of title, and any title secured in the purchase of such a vehicle is to be surrendered to the department, which shall cancel the vehicle identification number and remove the vehicle from the motor vehicle system.

### JUNKYARD

Any establishment of place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk.

### KENNEL

A lot or building in which four or more dogs or cats, at least four months of age, are kept commercially for board, propagation, or sale.

### LAND USE CHANGE

Any development, grading, construction, activity or operation that changes the basic character, configuration or use of the land or structures after the enactment of this Land Use Change.

### LAND USE PERMIT

The Land Use Permit is the conditional land use permit that is more fully described in Section 4 of the Land Use Regulations.

### LOADING SPACE, OFF-STREET

Space logically and conveniently located for bulk pickups and deliveries, scaled to delivery vehicles expected to be used, and accessible to such vehicles when required off-street loading space is not to be included as off-street parking space in computation of required off-street parking space. All off-street loading spaces shall be located totally outside of any street or alley right-of-way.

### LOT

A parcel or tract of land which is occupied by a structure, together with the yards and other open spaces required by these regulations.

### LOT AREA

The total horizontal area within the lot lines of a lot.

### LOT, CORNER

A lot abutting on two intersecting streets other than an alley, provided that the streets do not intersect at any angle greater than one hundred thirty-five (135) degrees.

### LOT DEPTH

The horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line.

### LOT, INTERIOR

A lot other than a corner lot.

### LOT LINE

The property line bounding a lot.

### LOT LINE, FRONT

In the case of an interior lot, the lot line separating the lot from the street other than an alley; and in the case of a corner lot, the shortest lot line along a street other than an alley.

### LOT LINE, REAR

A lot line which is opposite and most distant from the front line, and in the case of an irregular, triangular, or other shaped lot, a line ten (10) feet in length within the lot parallel to and at a maximum distance from the front lot line.

### LOT LANE, SIDE

Any lot line not a front or rear lot line.

### LOT WIDTH

The distance on a horizontal plane between the side lot lines of a lot, measured at right angles to the line establishing the lot depth at the established building setback line.

### MAIN TRUCK LINE

Pipe connecting multiple gas discharge lateral lines to a processing plant at medium pressure (approximately 400 - 1,200 psi).

### MET TOWER

A meteorological tower used for the measurement of wind speed.

### MINERAL RESOURCE (OTHER THAN NATURAL GAS OR OIL)

An inanimate constituent of the earth in a solid, liquid, or gaseous state which, when extracted from the earth, is useable in its natural form or is capable of conversion into a useable form as a metal, a metallic compound, a chemical, an energy source, or a raw material for manufacturing or construction material. For this purpose of this resolution, this resolution does not include water, geothermal resources, or natural gas or oil.

### MOBILE HOME

See Dwelling, Mobile Home.

### MOBILE HOME PARK

Any site or tract of land under single ownership upon which three or more mobile homes, used for habitation, are parked for periods of longer than ninety (90) days, either free of charge or for revenue purposes, including any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park.

### MOBILE HOME PARK (TRANSIENT)

Any plot of ground upon which three (3) or more mobile homes and/or recreational vehicles are located and occupied, or intended to be occupied, for dwelling or sleeping purposes for periods not to exceed ninety (90) days, regardless of whether or not a charge is made for such accommodation

### MOTEL

A building or group of buildings containing individual sleeping or living units, designed for use overnight. or for short periods by automobile tourists or transients, with attached garage or parking space located conveniently to each unit.

#### NATURAL GAS LIQUIDS PIPELINE

Pipeline connecting the outlet of a processing plant to a final sales point for the NGL product from the plant. Contains natural gas liquids recovered from the plant at high pressure (approximately 1,200 psi or greater).

#### NONCONFORMING USE

A building, structure, or use of land existing at the time of enactment of this resolution and which does not conform to the regulations of the district or zone in which it is situated.

#### NURSING HOME – CONVALESCENT HOME

A licensed dwelling where persons are housed or lodged and furnished with nursing and convalescent care for a fee.

#### OIL WELL FLOW LINE

Pipe connecting an oil well to a tank battery. Contains oil, gas and water and generally operates at low pressure (approximately 400 psi or less).

#### PARKING LOT

An area, other than a private parking area, street, or alley, used for the parking of automobiles and available for public or semipublic use.

#### PARKED MOBILE HOME

A mobile home parked in a mobile home park, transient mobile home park, or planned unit development as defined elsewhere in this resolution.

#### PARKING SPACE

That part of a parking area, exclusive of drives, turning-areas, or loading spaces, devoted to parking for one automobile or vehicle.

#### PARKING, OFF-STREET

Any parking area located wholly within the limits of one (1) or more lots.

#### PIPELINE

Any pipeline designed for or capable of transporting natural gas or other petroleum derivatives of two (2) inches in diameter or larger, specifically including crude oil pipelines, gas discharge lines, gas suction lines, main trunk lines, residue gas pipelines, natural gas liquids pipelines, and refined crude oil products lines, but specifically excluding oil well flowlines, tank battery lines, saltwater lines, gas well flowlines, and gas well lateral lines.



## PLANNED UNIT DEVELOPMENT

Any area of land in which a variety of housing types and/or related commercial and industrial facilities are accommodated in a preplanned environment under more flexible standards, such as lot sizes and setbacks, than those restrictions that would normally apply under these regulations. The procedure for approval of such development contains requirements in addition to those of the standard subdivision, such as building design principles, and landscaping plans.

## PLANNING AND ZONING BOARD

An advisory board appointed by the Board of County Commissioners to decide upon variances and appeals and make recommendations on conditional uses and any other matters that the Board of County Commissioners may determine necessary and appropriate.

## PROFESSIONAL ACTIVITIES

The use of offices and related spaces for such professional services as are provided by medical practitioners, lawyers, architects, engineers, accountants, and similar professionals.

## PUBLIC HEARING

A meeting called by the Board of County Commissioners and/or the Planning and Zoning Board for which public notice has been given and which is held in a place in which the general public may attend to hear issues and express their opinions.

## PUBLIC IMPROVEMENT

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

## PUBLIC RECREATIONAL FACILITY

Facilities for outdoor leisure time activity including skiing, hiking, hunting, fishing, boating, sightseeing, driving for pleasure, picnicking, court games, and similar activities.

## RANGELAND

The term "rangeland" shall include uncultivated lands, particularly those producing forage for animal consumption as follows: (1) lands supporting native and/or naturalized herbaceous or shrubby plants; (2) lands seeded with native forage species following seeded preparation, or interceded into native seed; and (3) lands seeded to adapted, mostly perennial, introduced forage plants not requiring frequent periodic re-establishment

## RECREATIONAL VEHICLE

Any pickup camper, motor home, travel trailer, tent trailer, or similar mobile unit and designed specifically for recreational and vacation purposes.

## REFINED CRUDE OIL PRODUCTS LINE

Pipe transporting hydrocarbon products resulting from crude oil processing and/or refining. This definition includes but is not limited to refined gasoline lines.

#### RESIDUE GAS PIPELINE

Pipe connecting the outlet of a processing plant to a final sales point for the gas product from the plant. Generally, contains pipeline quality gas at medium pressure (approximately 400 - 1,200 psi).

#### RESIDENTIAL SOLAR ENERGY SYSTEM

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

#### RESIDENTIAL WIND ENERGY SYSTEM

Wind electric power generation systems up to 50kW, used on site by the system owner to reduce or eliminate dependence on gridelectricity.

#### RESTAURANT

A commercial establishment designed primarily to serve food to customers to be eaten within the interior of the premises and which has interior seating arrangements.

#### RESTAURANT (DRIVE-IN)

A commercial establishment designed primarily to serve food to customers within their vehicles, or to be eaten within their vehicles.

#### ROAD

See Street.

#### ROADSIDE STAND

A temporary structure designed or used for the display or sale of agricultural and related products.

#### PSI

Pounds per square inch as a unit of pressure.

#### SALTWATER LINE

Pipe connecting the outlet of a processing plant to a final sales point for the gas product from the plant. Generally, contains pipeline quality gas at medium pressure (approximately 400 psi or less).

#### SANITARY LANDFILL

A site for final disposal of solid wastes on the land by a method employing compaction of the refuse and covering with earth or other inert material. Such site shall comply with the health laws, standards, rules and regulations of the Colorado Health Department, the Air Pollution Control Commission, and the Water Pollution Control Commission.

### SCHOOL

An educational institution devoted primarily or exclusively to the purpose of providing training, instruction, day care services, or schooling for three (3) or more persons. Such institutions must satisfy all applicable State and Federal regulations for the operation of such institutions.

### SETBACK

See Yard.

### SIDEWALK

See Walkway.

### SOUR GAS

For pipeline quality purposes, natural gas containing greater than four parts per million (4 ppm) of hydrogen sulfide (H<sub>2</sub>S). For safety purposes, sour gas means gas containing that concentration of hydrogen sulfide (H<sub>2</sub>S) identified as acceptable under applicable OSHA standards for air contaminants.

### STORY

That portion of building included between the upper surface of any floor and the upper surface of the floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than six (6) feet above grade, such basement or cellar shall be considered a story.

### STORY, HALF

A story under a gable, hip or gambrel roof, the wall plates of which, on at least two (2) opposite exterior walls, are not more than two (2) feet above the floor of such story.

### STREET

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

### STRUCTURAL ALTERCATIONS

Any change in the supporting members of a building, such s bearing walls or partitions, columns, beams or girders; any substantial change in the roof or in the exterior walls, excepting from this definition such alterations as may be required for the safety of the building.

### STRUCTURE

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

#### SUPPLY YARD

A commercial establishment storing and offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods.

#### SYSTEM HEIGHT

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

#### TANK BATTERY LINE

Pipe transporting oil, gas or water within a tank battery, generally operating at low pressure (approximately 400 psi or less). (A gas line within the tank battery may go to a compressor for re-injection in a well).

#### TANK FARM

A cluster of petroleum, gas or petroleum by-products, storage containment facilities.

#### TRANSMISSION LINE

Any electrical transmission line, including, but not limited to, wind and solar, and appurtenant facilities which emanate from a power plant or substation and terminate at a substation.

#### TRUCKING TRMINAL

Any lot, structure or premises used for the parking or storage of capital equipment such as trucks, trailers, or other similar equipment over three-quarter (3/4) ton capacity

#### USE

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

#### UTILITY SCALE SOLAR ENERGY SYSTEM

A utility-scale solar energy conversion system consisting of many ground-mounted solar arrays in rows, and associated control or conversion electronics and includes substations, MET stations, cables/wires, energy storage and other buildings and structures accessory to such facility, occupying more than 30 acres and that will be used to produce utility power to off-site customers.

#### UTILITY SCALE WIND ENERGY SYSTEM

An electricity generating facility consisting of one or more Wind Turbines under common ownership or operating control, and includes substations, MET Towers, cables/wires, energy

storage and other buildings, and structures accessory to such facility, whose main purpose is to supply electricity to off-site customer(s).

#### UTILITY SUBSTANTION

Any facility designed to provide switching, voltage transformation, or voltage control required for the transmission of electricity.

#### VARIANCE

A modification of the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

#### VETERINARY ANIMAL HOSPITAL OR CLINIC

A place used for the care, grooming, diagnosis, and treatment of sick, ailing, infirm or injured animals, and those who are in need of medical or surgical attention, and may include overnight accommodations on the premises for the treatment, observation and/or recuperation.

#### WALKWAY

A dedicated public way, four (4) feet or more in width, for pedestrian use only, whether along the side of a road or not.

#### WATER AND SEWAGE TREATMENT FACILITY

Any sewage treatment plant, sewage treatment works, sewage disposal facilities, pumping and ventilating plants or stations, compensating reservoirs, or other plants, structures, facilities, equipment and appurtenances useful or convenient for the interception, transportation, treatment, purification or disposal of sewage, liquid wastes, solid wastes, or industrial wastes.

#### WIND TURBINE

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

#### YARD

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

#### YARD, FRONT

That portion of a yard between the street line and the building, and between the two (2) side lot lines, the depth of which shall be the least distance between the front lot line and the building.

#### YARD, REAR

That portion of a yard between the rear of a building and a rear lot line, and between two (2) side lot lines, the depth of which shall be the least distance between the building and the rear lot line.

YARD, SIDE

All the yard between the front and rear yards, the width of which shall be the least distance between the side lot lines and the building.

## Section 2

### District Regulations

#### PART 1. ESTABLISHMENT OF DISTRICTS

##### District Abbreviations

In order to carry out provisions of this Resolution, the County is hereby divided into the following zoning districts:

Districts	Abbreviated Designations
Agricultural Districts	A
Other Agricultural Lands District	A-2
Residential District	R
Commercial District	C
Industrial District	I

## **2-101 Agricultural District (A)**

This district is comprised of areas which are primarily in a natural state or areas utilized for growing of crops, raising of livestock, and other similar farming, ranching and resource conservation activities. The principal purpose of this district is the preservation and protection of croplands, rangelands, watersheds and wildlife habitats in the County. This district is designed to be utilized in a major portion of the unincorporated area of the County.

### **A. Permitted Uses**

1. General farming and ranching, including, but not limited to, raising of grains, vegetables, grasses, hay, hemp, and livestock, and accessory uses.
2. Management of natural wildlife habitats and reserves, both public and private.
3. Ranch and farm dwellings.
4. Recreational facilities (parks, rodeo grounds, play fields, playgrounds, and golf courses).
5. Cemeteries.
6. Flood control and irrigation facilities.
7. Agricultural rangeland and cropland.
8. Historical landmarks.
9. Extraction of natural gas or oil.
10. Hydrocarbon and fuel tank farms if located at least 1/4 mile from any unrelated dwelling.
11. Oil well flowlines, tank battery lines, saltwater lines, gas well flowlines and gas well lateral lines.
12. Residential Wind and Solar Energy Systems

### **B. Conditional Uses**

1. Single- and multiple-family dwellings (other than accessory uses).
2. Feed lots except new feedlot shall not be located within three miles of the communities of Cheyenne Wells, Kit Carson, Arapahoe, and Wildhorse.
3. Commercial feed mills.
4. Commercial feed plants.
5. Commercial grain elevators.
6. Sanitary landfills.
7. Commercial auction yards and barns.



8. Commercial production and husbandry of poultry, fish and small animals.
9. Commercial greenhouses.
10. Public schools, vocational schools, business schools, private schools, hospitals, rest homes, nursing homes, and convalescent homes.
11. Utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility offices, repair, storage or production facilities).
12. Public facilities, uses and buildings.
13. Gun clubs and shooting ranges.
14. Public airports.
15. Churches.
16. Radio, television, and microwave transmitting or relay stations and towers.
17. Commercial storage of trucks implements and related farm materials.
18. Public and private riding academies provided that no stable, building or structure in which horses or other animals are kept may be kept closer than three hundred (300) feet from any residential district.
19. Public campgrounds.
20. Home occupations.
21. Rendering plants.
22. Veterinarian facilities, kennels and animal hospitals.
23. Extraction of other minerals resources besides natural gas or oil.
24. Commercial facilities to service agriculture, oil and gas, and other industries.
25. Pipelines are added as a conditional use in all districts. However, any segment of a pipeline which (i)complies with the guidelines established for pipelines in Section 4-107(A), and (ii) is proposed to be constructed: (a) at least 500 feet from any existing dwelling or other occupied building, (b) at least 200 feet from any existing barn, shed, or other storage facility and, (c) at least 200 feet from any existing water well, shall be exempt from the conditional use permit requirements. The minimum pipeline distances specified above shall be waived if the affected landowner consents, in writing, to shorter distances. To obtain an exemption, the applicant shall submit its application for exemption together with a detailed plan depicting the proposed location of the pipeline, identifying the owner(s) of the lands crossed by the proposed pipeline and depicting all visible improvements within 500 feet of the proposed pipeline. (Visible improvements shall include, but not be limited to, all buildings, publicly maintained roads and trails,

major above-ground utility lines, railroads, pipelines, oil wells, gas wells, injection wells, water wells, visible plugged wells, ponds or other standing bodies of water, and any canals or ditches through which water flows). The applicant shall certify that it has the legal right to construct the proposed pipeline as depicted in the application. The Board of County Commissioners shall review the application for exemption and shall approve or deny the same at its next meeting within twenty-one (21) days from the date of submittal; provided, however, that if the proposed pipeline is longer than 25 miles, the Board of County Commissioners (upon notice to the applicant) may require an additional period of up to ten (10) days to approve or deny the application for exemption. Grounds for denial of an exemption shall include an insufficient plat which fails to show the location of the proposed pipeline and depicting all visible improvements within 500 feet of the proposed pipeline, and/or failure of the applicant to provide written consent given by all landowners affected by a proposed waiver of minimum pipeline distances showing the voluntary consent to the location of the proposed pipeline across their lands. No exemptions shall be available for a refined crude oil products line or a pipeline transporting sour gas.

26. Generating facilities (commercial).

27. Generating facilities (residential business/farm & ranch).

28. Propane storage facility.

29. Wholesale/retail fuel distributors.

30. Distributed Wind and Solar Energy Systems

31. Utility Wind and Solar Energy Systems

32. BESS

C. Lot Size

1. Lots shall not be less than one (1) acre in size.

2. Minimum lot width: one hundred (100) feet.

3. Minimum lot depth: one hundred (100) feet.

D. Setback Requirements

1. Minimum front yard: thirty-five (35) feet or seventy-five (75) feet from the road centerline, whichever is greater.

2. Minimum side yard: twenty (20) feet.

3. Minimum rear yard: twenty (20) feet.

4. Minimum set back at a road intersection will be one hundred and fifty (150) feet from centerline of road.
5. Minimum setback from existing power lines or transmission lines shall be twenty-five (25) feet unless a lesser amount is approved by the servicing power company.

E. Location Requirements for Specified New or Expanded Uses in this District

The following uses must be located one-half mile or further from the nearest residential dwelling, Residential {excluding owner or operator), Commercial, or Industrial Districts as measured from the nearest edge of the lot lines of the zoning district.

1. Feed lots, confined hog-feeding. facilities and related run-off control ponds and basins required by the State Department of Health.
2. Commercial auction yards and barns.
3. Commercial production and husbandry of poultry and small animals.
4. Feed mills, packing plants, fertilizer plants and anhydrous ammonia or any other storage tank facilities or plants.
5. Rendering plant.
6. Gun Clubs.

**2-102 Other Agricultural Lands District (A-2)**

This district is comprised of areas which are primarily a transition zone, normally adjacent to existing municipalities, where land is used in small farm or ranch tracts, agricultural storage, or land in transition between agricultural land and land which is developed for a more intense municipal use. The permitted and conditional uses for the Agricultural (A) and the Other Agricultural Lands Districts (A-2) are identical. The only real difference between the two districts is that land in the Other Agricultural Lands District (A-2) usually immediately adjoins developed land and may also soon undergo development itself.

A. Permitted Uses

1. General farming and ranching, including raising of grains, vegetables, grasses, hay and livestock, and accessory uses.
2. Management of natural wildlife habitats and reserves, both public and private.
3. Ranch and farm dwellings.
4. Recreational facilities (parks, rodeo grounds, play fields, playgrounds, and golf courses).
5. Cemeteries.

6. Flood control and irrigation facilities.
7. Agricultural rangeland and cropland.
8. Historical landmarks.
9. Extraction of natural gas or oil.
10. Hydrocarbon and fuel tank farms if located at least 1/4 mile from any unrelated dwelling.
11. Oil well flowlines, tank battery lines, saltwater lines, gas well flowlines and gas well lateral lines.

B. Conditional Uses

1. Single- and multiple-family dwellings (other than accessory uses).
2. Feed lots except new feedlot shall not be located within three miles of the communities of Cheyenne Wells, Kit Carson, Arapahoe, and Wildhorse.
3. Commercial feed mills.
4. Commercial feed plants.
5. Commercial grain elevators.
6. Sanitary landfills.
7. Commercial auction yards and barns.
8. Commercial production and husbandry of poultry, fish and small animals.
9. Commercial greenhouses.
10. Public schools, vocational schools, business schools, private schools, hospitals, rest homes, nursing homes, and convalescent homes.
11. Utility installations such as electric substations, sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility offices, repair, storage or-production facilities).
12. Public facilities, uses and buildings.
13. Gun clubs and shooting ranges.
14. Public airports.
15. Churches.
16. Radio, television and microwave transmitting or relay stations and towers.
17. Commercial storage of trucks implements and related farm materials.

18. Public and private riding academies provided that no stable, building, or structure in which horses or other animals are kept may be kept closer than three hundred (300) feet from any residential districts.
19. Public campgrounds.
20. Home occupations.
21. Rendering plants.
22. Veterinarian facilities, kennels and animal hospitals.
23. Extraction of other minerals resources besides natural gas or oil.
24. Pipelines are added as a conditional use in all districts. However, any segment of a pipeline which (i)complies with the guidelines established for pipelines in Section -4-107(A), and (ii) is proposed to be constructed: (a) at least 500 feet from any existing dwelling or other occupied building, (b) at least. 200 feet from any existing barn, shed, or other storage facility and, (c) at least 200 feet from any existing water well, shall- e exempt from the conditional use permit requirements. The minimum pipeline distances specified above shall be waived if the affected landowner consents, in writing, to shorter distances. To obtain an exemption, the applicant shall ubm.it its application for exemption together with a detailed plan depicting the proposed location of the pipeline, identifying the owner(s) of the lands crossed by the proposed pipeline and depicting all visible improvements within 500 feet of the proposed pipeline. (Visible improvements shall include, but not be limited to, all buildings, publicly maintained roads and trails, major above-ground utility lines, railroads, pipelines, oil wells, gas wells, injection wells, water wells, visible plugged wells, ponds or other standing bodies of water, and any canals or ditches through which water flows). The applicant shall certify that it has the legal right to construct the proposed pipeline as depicted in the application. The Board of County Commissioners shall review the application for exemption and shall approve or deny the same at its next meeting within twenty-one (21) days from the date of submittal; provided, however, that if the proposed pipeline is longer than 25 miles, the Board of County Commissioners (upon notice to the applicant) may require an additional period of up to ten (10) days to approve or deny the application for exemption. Grounds for denial of an exemption shall include an insufficient plat which fails to show the location of the proposed pipeline and all visible improvements located within 500 feet of the proposed pipeline, and/or failure of the applicant to provide written consent given by all landowners affected by a proposed waiver of minimum pipeline distances showing the voluntary consent to the location of the proposed pipeline across their lands. No exemption shall be available for a refined crude oil products line or a pipeline transporting sour gas.
25. Generating facilities (commercial).
26. Generating facilities (business/farm & ranch).

27. Propane storage facility.
28. Wholesale/retail fuel distributors.
29. Distributed Wind and Solar Energy Systems
30. Utility Wind and Solar Energy Systems

C. Lot Size

1. Lots shall not be less than one (1) acre in size.
2. Minimum lot width: one hundred (100) feet.
3. Minimum lot depth: one hundred (100) feet.

D. Setback Requirements

1. Minimum front yard: thirty-five (35) feet or seventy- five (75) feet from the road centerline, whichever is greater.
2. Minimum side yard: twenty (20) feet.
3. Minimum rear yard: twenty (20) feet.
4. Minimum set back at a road intersection · will be one hundred and fifty (150) feet from centerline of road.
5. Minimum setback from existing power lines or transmission lines shall be twenty-five (25) feet unless a lesser amount is approved-by the servicing power company.

E. Location Requirements for Specified New or Expanded Uses in this District

The following uses must be located one-half mile or further from the nearest residential dwelling, Residential (excluding owner or operator), Commercial, or Industrial Districts as measured from the nearest edge of the lot lines of the zoning district.

1. Feed lots, confined hog-feeding facilities and related run-off control ponds and basins required by the State Department of Health.
2. Commercial auction yards and barns.
3. Commercial production and husbandry of poultry and small animals.
4. Feed mills, packing plants, fertilizer plants and anhydrous ammonia or any other storage tank facilities or plants.
5. Rendering plant.

6. Gun Clubs.

## **2-103 Residential District (R)**

This district is composed of certain quiet low-density residential areas of the County plus certain open areas where similar residential development should occur. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote and encourage a suitable environment for family life where children are members of many families and to prohibit activities of a commercial nature.

### **A. Permitted Uses**

1. General farming and ranching including raising of grains, vegetables, grasses, hay-and livestock in compliance with the Supplemental Regulation 10-109.
2. Single family dwellings, including modular homes.
3. Recreational facilities (parks, play fields, playgrounds, tennis clubs, swimming clubs and golf courses) operated by a public entity or homeowners association.
4. Libraries and community centers.
5. Public schools.
6. Churches
7. Accessory buildings and use.

### **B. Conditional Uses**

1. Nursery or daycare schools.
2. Hospitals, rest homes, nursing homes and convalescent homes.
3. Vocational, private and business schools.
4. Multi-family dwellings, including condominiums and townhouses.
5. Utility installations such as electric substations sewer lift stations, telephone exchanges, gas regulators and major transmission lines (not including utility office, repair, storage or production facilities).
6. Sewage disposal and water supply and treatment facilities.
7. Home occupations.
8. Pipelines and generating facilities (commercial).
9. Generating facilities--private (residential, business/farm & ranch).

10. Propane storage facility.
11. Wholesale/retail fuel distributors.

C. Lot Size

1. On land not served by public water and public sewerage facilities:
  - a. Minimum lot width: two hundred (200) feet.
  - b. Minimum lot depth: one hundred forty (140) feet.
  - c. Minimum lot area: one (1) acre.
2. On land served by public water facilities only:
  - a. Minimum lot width: one hundred twenty (120) feet.
  - b. Minimum lot depth: one hundred forty (140) feet.
  - c. Minimum lot area: sixteen thousand eight hundred (16,800) square feet.
3. On land served by both public water and public sewage facilities:
  - a. Minimum lot width: fifty (50) feet.
  - b. Minimum lot depth: one hundred forty (140) feet.
  - c. Minimum lot area: seven thousand (7,000) square feet.

D. Setback Requirements

1. Minimum front yard: thirty-five (35) feet or seventy-five (75) feet from the road centerline, whichever is greater.
2. Minimum side yard: ten (10) feet.
3. Minimum rear yard: twenty (20) feet.
4. Minimum setback from existing power lines or transmission lines shall be twenty-five (25) feet unless a lesser amount is approved by the servicing power company.

**2-104 COMMERCIAL DISTRICT (C)**

This district is intended to provide a full range of retail sales and services, including opportunities for a complete variety of goods for comparative shopping. The regulations for this district are designed to stabilize and protect the essential characteristics of the district, to promote



and encourage a suitable environment for providing service to the people of the retail trade area, and to prohibit activities of an industrial nature.

A. Permitted Uses

1. All uses permitted in the Residential District, unless listed as a conditional use in the C zone.
2. General businesses.
3. Highway businesses.
4. Convenience businesses.
5. Wholesale businesses.
6. Roadside stands.
7. Recreational facilities.
8. Public, utility uses, facilities, services, and buildings.
9. Accessory buildings and uses.
10. Temporary uses or-structures incidental to construction work, but only for the period of such work.

B. Conditional Uses

1. Churches.
2. Commercial feed mills and feed plants.
3. Planned unit developments.
4. Vocational and private schools.
5. Campgrounds.
6. Drive-in theaters.
7. Veterinarian facilities, kennels, and animal hospitals.
8. Drive-in restaurants.
9. Radio, television, and microwave transmitting or relay stations and towers.
10. Anhydrous ammonia storage facilities.
11. Pipeline and generating facilities.
12. Commercial grain elevators.

13. Sanitary landfills.
14. Commercial auction yards and barns.
15. Commercial production of poultry, fish, small animals.
16. Commercial greenhouses.
17. Health care.
18. Public airports.
19. Commercial storage of trucks, implements.
20. Concrete plants.
21. Generating facilities-private (residential, business/farm & ranch).
22. Propane storage facility.
23. Wholesale/retail fuel distributors.

C. Lot size

1. Minimum lot width: one hundred (100) feet.
2. Minimum lot depth: one hundred (100) feet.
3. Minimum lot area: ten thousand (10,000) square feet.
4. Existing platted area will only be required to meet the minimum lot area of 10,000 square feet. They will not be required to meet the minimum width and depth requirements.

D. Setback Requirements

1. Minimum front yard: thirty-five (35) feet or seventy-five (75) feet from the road centerline, whichever is greater, unless greater requirement by Federal and/or State law or regulations.
2. Minimum side yard: none, except twenty-five (25) feet when abutting a residential district.
3. Minimum rear yard: none, except fifteen (15) feet when abutting a residential district.
4. Minimum setback from existing power lines or transmission lines shall be twenty-five (25) feet unless a lesser amount is approved by the servicing power company.

E. Use Limitations

1. All business, service, repair, processing, storage or merchandise display on property abutting or facing a lot within a residential district shall be conducted entirely within an enclosed building unless screened from the residential district by a sight-obscuring fence or landscaped area permanently maintained at least six (6) feet in height.
2. Openings to structures on side adjacent to or across the street from a residential district shall be prohibited if such access or openings will cause glare, excessive noise, or other adverse effects on residential properties.

## **2-105 Industrial District (I)**

The I-1 Industrial District is primarily intended for the storage, production, and assembly of goods which will not cause objectionable noise, odor, dust, or other land pollutants.

### **A. Permitted Uses**

1. All uses. permitted in the Commercial District unless listed as a conditional use in the I district.
2. Facilities for the manufacturing, fabrication, processing, or assembly of products, provided that such facilities are not detrimental to the public health, safety or general welfare and provided that the following standards are met.
  - a. Smoke: no operation shall be conducted unless it conforms to the State and Federal standards established pertaining to smoke emission.
  - b. Particulate matter: no operation shall be conducted unless it conforms to the State and Federal standards established pertaining to emission of particulate matter.
  - c. Dust, odor, gas, fumes, glare or vibration: no emission of these matters shall result in a concentration at or beyond the property line which is detrimental to the public health, safety, or general welfare or which causes injury or damage to property.
  - d. Radiation hazards and electrical disturbances: no operation shall be conducted unless it conforms to State .and Federal standards established pertaining to radiation control.
  - e. Noise: no operation shall be conducted in a manner such that any noise produced is objectionable due to intermittence, beat frequency or shrillness.
  - f. Water pollution: no water pollutants shall be emitted by manufacturing or other processing. In a case in which potential hazards exist, it shall be necessary to install safeguards acceptable to the State.
3. General resource facilities
4. Public utility uses, facilities, services, and buildings.
5. Accessory buildings and uses.

B. Conditional Uses

1. Automobile wrecking businesses or junkyards.
2. Industrial parks
3. Extraction of mineral resources.
4. Sanitary landfill operations.
5. Recycling plants.
6. Animal by-products.
7. Tank farms.
8. Hazardous waste incinerators or hazardous waste landfills, also subject to a special regulation for those uses adopted by the county.
9. Pipelines and generating facilities (commercial).
10. Generating facilities-private (residential/ business/farm & ranch).
11. Propane storage facilities.
12. Wholesale/retail fuel distributors.
13. Concrete plants.

C. Lot Size

1. Minimum lot width: one hundred (100) feet.
2. Minimum lot depth: one hundred (100) feet.
3. Minimum lot area: one (1) area.

D. Setback Requirements

1. Minimum front yard: twenty-five (25) feet.
2. Minimum setback of twenty-five (25) feet shall be required for each side of a lot either across a street from or abutting a residential district.
3. Minimum side yard: ten (10) feet.
4. Minimum rear yard: twenty (20) feet.
5. Minimum setback from existing power lines or transmission lines shall be twenty-five (25) feet unless a lesser amount is approved by the servicing power company.

E. Height Limitation of Towers

Any tower built in the Industrial Zone should be built on a portion of land large enough so that the tower will not land outside the property boundaries if it were to fall. The tower shall also adhere to all federal and state lighting requirements.

F. Use Limitations

The following conditions and limitations shall apply in an I-1 District.

1. All business, service, repair, processing, storage, or merchandise display on property abutting or facing a lot in a residential district shall be conducted wholly within an enclosed building unless screened from the residential district by a sight-obscuring fence permanently maintained at no less than six (6) feet nor more than eight (8) feet in height.
2. Openings to structures on sides adjacent to, or across a street from, a residential district shall be prohibited if such access or openings will cause glare, excessive noise, or other adverse effects, as determined by the Land Use Administrator.
3. Yards abutting, or across a street from, a residential district shall be continuously maintained in lawn or other similar landscaping unless screened from the residential district.
4. Access points from a public road to properties in an I-1 District shall be so located as to minimize traffic congestion and to avoid directing traffic onto local access streets of a primarily residential character.
5. All materials, including wastes, shall be stored; and all grounds shall be maintained in a manner which will not attract or aid the propagation of insects or rodents nor create a health hazard.
6. Trash receptacles shall be located in a general area and attractively screened from view.
7. All tank farms must comply with State and Federal safety regulations as to setbacks, overflow precautions, and other measures.
8. Sufficient off-street parking shall be provided\_ for every industrial use.

G. Special Review Requirements for Hazardous Waste Incinerators

Because of the adverse public health and environmental impacts which can result from the improper placement of a hazardous waste landfill or hazardous waste incinerator, special review requirements are hereby established for the use of a hazardous waste landfill or hazardous waste incinerator. These requirements are in addition to those of other conditional uses and in addition to any requirements of the State Air Quality Control Division. These special requirements are outlined in Appendix A.

**2-106 Review Of Small Underground Pipelines, Telephones, Service Lines, and Overhead Distribution Lines**

All telephone lines, fiber optic lines, low-pressure and/or small diameter collection or distribution pipelines (less than 2" in diameter), and regular electric distribution lines which

cross any public right-of-way are uses .by right in Cheyenne County. However, these uses are subject to review and approval of location and design by the Board of County Commissioners or the Cheyenne County Planning Commission.

### **Section 3**

#### **Individual Sewage Disposal System**

##### **3-101           New Systems**

All new individual sewage disposal systems put in place in Cheyenne County after the date of adoption of this Zoning Resolution shall meet or exceed the standards set forth by the Colorado Department of Health as provided by Colorado Statute 25-10-104 (C.R.S. 1996, as amended).

A copy of these minimum standards is available from the County. Application for a permit to install, alter, or repair an individual sewage disposal system is available from the County. Permit fees shall be reviewed by the Planning and Zoning Board and approved by the Board of Commissioners each year.

## **Section 4**

### **Conditional Use Review**

#### **4-101      Authorization to Grant or Deny Conditional Uses**

Uses designated in this resolution as conditional uses may be permitted or enlarged or altered, upon recommendation by the Planning and Zoning Board; and approval by the Board of County Commissioners and in accordance with the standards and procedures specified in Sections 4-101 through 4-106. The Planning and Zoning Board may request an investigation and recommendation by the County Planning Commission. In recommending a conditional use, the Planning and Zoning Board may recommend imposing, in addition to the regulations and standards expressly specified by these regulations, other conditions found necessary to protect the best-interest of the surrounding property or neighborhood or the County as a whole. These conditions may include, but are not limited to, requirements increasing the required lot size or yard dimension, increasing street widths, controlling the location and number of vehicular access points to the property, increasing the number or specifying the type of signs, limited the coverage or height of buildings because of obstruction to view or reduction of light and air to adjacent property, requiring screening and landscaping where necessary to reduce noise and glare and maintain the property in a character in keeping with the surrounding area, and requirements under which any future enlargement or alteration of the use shall be reviewed by the Planning and Zoning Board and new conditions imposed. Any change in use, expansion or contraction of a site area, or alteration of structures or uses classified as conditional and existing prior to the effective date of these regulations, shall conform to all regulations pertaining to conditional uses. All recommendations must be approved, enlarged, or altered, by the Board of County Commissioners.

#### **4-102      Application for a Conditional Use Permit**

A request for a permit allowing a conditional use or modification of any existing conditional use to take place may be initiated by a property owner or his authorized agent by filing an application with the Land Use Administrator using forms prescribed for the purpose. The application shall be accompanied by a site plan, drawn to scale, showing the dimensions and arrangement of the proposed development, and by a fee pursuant to the fees recommend by the Planning and Zoning Board and approved by the Board of Commissioners each year and the cost of the required newspaper ad. If the Planning and Zoning Board requests more information, data, or tests, the applicant will be solely responsible for the costs involved. The Planning and Zoning Board may require other drawings or material essential to an understanding of the proposed use and its relationship to surrounding properties.

#### **4-103      Public Hearing on a Conditional Use**

Any request for a conditional use permit shall be considered by the Planning and Zoning Board at a public hearing held within forty-five (45) days after submission of the request. The County Clerk shall give notice of the hearing, at the applicant's expense, in the following manner:

- (A) By publication of a notice in a newspaper of general circulation in the county not less than fifteen (15) days prior to the date of the hearing.
- (B) By sending notices by certified mail not less than fifteen (15) days prior to the date of the hearing to the property owners within the area enclosed by lines parallel to and one thousand (1,000) feet from the exterior boundaries of the property or quarter-section involved, up to the city limits (then the distance shall be two hundred (200) feet from the exterior boundary in accordance with zoning book of Town of Cheyenne Wells) using for this purpose the name and address of owners as shown upon the records of the County Assessor. Failure to receive such notice shall not invalidate any proceedings in connection with the application for a conditional use.

#### 4-104 Recess of the Hearing by Planning and Zoning Board

The Planning and Zoning Board may recess a hearing on a request for a conditional use permit in order to obtain additional information or to serve further notices upon other property owners or persons whom it decides may be interested in the proposed conditional use. Upon recessing for this purpose, the Planning and Zoning Board shall announce the time and date when the hearing will be resumed.

#### 4-105 Action of a Conditional Use Permit Request

The Planning and Zoning Board may recommend approval, conditional approval, or denial of a request for a conditional use permit. A file containing a written record of the action taken by the Planning and Zoning Board with regard to a request for a conditional use permit shall be maintained by the Planning and Zoning Board.

#### 4-106 Notification of Action

Once a decision has been reached by the Planning and Zoning Board, they must present their recommendation to the Board of County Commissioners within seven (7) days. The Board of County Commissioners must make their decision to uphold, modify, or overturn the Planning and Zoning Board's recommendation at their next regularly scheduled meeting. The County Clerk shall notify the applicant for a conditional use permit in writing of the final decision within seven (7) days after a decision has been rendered.

#### 4-107 Guidelines for Pipelines and Electric Utility Facilities

The following guidelines shall be used by the Planning and Zoning Board and the Board of County Commissioners when considering a conditional use permit application for a pipeline or an electric utility substation, transmission line or generating facility.

##### (A) Pipelines

1. Location. No pipeline shall be constructed within: (i) 250 feet from any existing dwelling or other occupied building; (ii) 100 feet from any existing barn, shed or other storage facility; or (iii) 100 feet from any existing oil well, gas well or water well. No pipeline which runs parallel to a section line shall be constructed within



30 feet of said section line without first obtaining approval from the County for said placement.

2. Cover. All pipelines shall be buried to a minimum depth of forty-eight (48) inches unless competent evidence indicates that a greater depth is necessary for safety purposes.
3. Consultation. The party proposing to construct a pipeline shall consult with the surface owner (or an authorized representative of the surface owner) of the lands to be crossed by the pipeline regarding the proposed route and any reasonable adjustments to the proposed route.
4. Notification. A party constructing a pipeline shall participate in Colorado's One Call notification system, the requirements of which are established by C.R.S. § 9-1.5-101, et seq.
5. Standards. A party constructing a pipeline shall comply with all applicable standards established or adopted by the Office of Pipeline Safety of the United States Department of Transportation, the Colorado Public Utilities Commission, and the Colorado Oil and Gas Conservation Commission for design, construction and operation of a pipeline.

(B) Electric Utility Facilities

1. The location of transmission lines generating plants, substations on productive cropland, especially irrigated cropland, shall be discouraged when other alternatives are feasible. If transmission corridor alternatives include:
  - a) a route through irrigated cropland,
  - b) a route through dryland cropland, and
  - c) a route through grazing land, barring unforeseen circumstances, route number 3 would be the most preferable, route 2 the next most preferable, and route number 1 the least preferable
2. Whenever feasible, transmission lines should always follow section lines, half-section lines, quarter-section lines, property lines, and/or field fence lines when traversing dryland or irrigated cropland.
3. When routing transmission lines through cropland areas, routes utilizing existing rights-of-way, such as for railroads and country roads, shall be especially encouraged.
4. Utility facilities should not be encouraged to be located where there is a good chance they will have to be moved, such as in rights-of-way which have proposals for expansion.

5. Whenever possible, major transmission\_ lines should be routed to avoid residences.
  6. Where practical, retirement or upgrading of existing lower voltage transmission circuits should be required to allow construction of higher capacity circuits on the existing right-of-ways.
  7. After staking transmission lines, the owner of the land and the utility company official should walk or ride the proposed site and discuss any existing problems.
  8. Proposed transmission lines should be reviewed with safety for the current residents as the number one priority.
  9. When a proposed transmission line is to parallel an existing line, care should be taken to minimize the problems that will arise for crop-dusting operators. Consideration might be given to placing one of the two parallel lines underground or making the height of the new line equal to the height of the already existing line, or placing the new line at a distance which will cause no problems to aerial crop-dusters.
  10. In each decision, a determination should be made as to whether or not all reasonable alternatives the proposed action, including use of existing right-of-ways (whenever uses are compatible), have been adequately assessed and the proposed action represents the best interests of the people of the jurisdiction and represents the best utilization of resources.
  11. A determination should be made that a satisfactory program to mitigate and minimize adverse impacts has been presented and will be implemented.
  12. It should be determined that the nature and location of the facility or expansion will not duly interfere with any existing easements or right-of-ways for other utilities or roads.
- (C) In every decision, the health, welfare, and safety of the citizens of Cheyenne County shall be a prime concern.

## **Section 5**

### **Nonconforming Uses and Structures**

#### **5-101      Continuation of Nonconforming Use or Structure**

Subject to the provisions of Section 5-101 through 5-104, a non-conforming structure or use may be continued and maintained in reasonable repair but shall not be altered or extended.

#### **5-102      Nonconforming Structure**

A structure conforming as to use but nonconforming as to setback, height, or coverage may be altered providing the alteration or extension does not result in a violation of these regulations.

#### **5-103      Discontinuance of a Nonconforming Use**

- A. If a nonconforming use involving a dilapidated structure is discontinued from use for a period of three (3) years, further use of the property shall be for a conforming use.
- B. If a nonconforming use involving a structure is discontinued for a period of three (3) years, further use of the property shall be for a conforming use.

#### **5-104      Termination of Certain Nonconforming Uses**

A use which is nonconforming with respect to provision for screening shall provide screening within a period of two (2) years from the date of passage of these regulations.

#### **5-105      Destruction of a Nonconforming Use**

If a nonconforming structure or a structure containing a nonconforming use is destroyed by fire, explosion, or other unforeseen circumstance to an extent exceeding fifty (50) percent of the cost of replacement of the buildings using new materials, a future structure or use on the property shall conform to the provisions of these regulations.

#### **5-106      Completion of Building**

Nothing contained in these regulations shall require any change in the plans, construction, alteration, or designated use of a building for which construction work has commenced prior to the adoption of these regulations.

#### **5-107      Repairs and Maintenance**

On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs or on repair or replacement of non-bearing walls, fixtures, wiring, or plumbing, provided that the cubic content existing when it became nonconforming shall not be increased. Nothing in this section shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof

declared to be unsafe by any official charged with protecting the public safety upon order of such official.

5-108            Nonconforming Junk Yards

The right to operate and maintain a junk yard (salvage) nonconforming as to use within a residential district shall terminate within five (5) years of the adoption of these regulations. At that time its operation shall become prohibited and shall be immediately discontinued.

## Section 6

### **Planned Unit Development**

#### 6-101      Intent

In order to minimize the environmental impact of urban development by allowing certain characteristics of the land such as bluffs, historical buildings, archaeological sites, trees or streams to remain within the development; to enable the developer to make more efficient use of the site by the possibility of relaxing such restrictions as setbacks, building heights and density requirements; and to encourage innovative design and open space techniques thus providing the consumer with a more flexible and entertaining housing market.

#### 6-102      Standards and Requirements

##### (A)      General

- (1)      The Cheyenne County subdivision resolution shall apply to all subdivisions unless the requirements are relaxed under a planned unit development review.
- (2)      No portion. of a planned unit development may be separated from the whole.
- (3)      The location and arrangement of structures, parking areas, walks, lighting, and appurtenant facilities shall be compatible with the surrounding land area, and any part of a PUD not used for structure, parking and loading areas, or access ways shall be landscaped or maintained as recreational areas.
- (4)      Any PUD that contains fifty (50) or more units must satisfy the school district that adequate schools are available or set aside land for a school site.

##### (B)      Development Standards

- (1)      The minimum common open space shall be thirty percent (30% } of the gross acreage of the site.
- (2)      The minimum acreage upon which a PUD may be developed is five (5) acres.
- (3)      All parking areas designed to serve as visitor parking or serving more than five (5) vehicles in tandem, shall be landscaped a minimum of five percent (5%) of the parking lot area.
- (4)      All streets shall be paved.

- (5) Adequate access to transportation routes shall be established by the PUD developers.
- (6) A well-designed pedestrian walkway shall be approved by the County.
- (7) Other requirements such as setbacks, building heights, density per acre, location of structures shall be determined by the Planning and Zoning Board.

6-103 Procedure for Securing Approval of a PUD

(A) Preliminary Development Plan

- (1) A developer seeking the establishment of a planned unit development shall prepare and submit to the Cheyenne County Planning and Zoning Board a preliminary development.
  - (a) A survey of the tract to be developed showing existing features of the property including streets, alleys, easements, utility lines, existing land use, general topography, adjacent land use, and physical features;
  - (b) A site plan showing the location and arrangement of all existing and proposed structures, the proposed traffic and pedestrian circulation within the development, the areas to be developed for parking, complete landscaping plans, the points of ingress and egress, including access streets where required, the relationship of abutting land uses and zoning districts, proposed lots and blocks, if any, and proposed public or common open space, . including parks, playgrounds, school sites, recreational facilities, distinctive or interesting land features that should be retained;
  - (c) Preliminary plat plan showing structures, densities, and locations;
  - (d) When a PUD is to be constructed in stages, a schedule for the development of such stages shall be submitted;
  - (e) A full statement of ownership and beneficial interests in the tract of land and the proposed development;
  - (f) A statement showing the relationship of the PUD to the county land use plan;
  - (g) Design plan for the structures;
  - (h) Traffic survey setting out and analyzing the effect that the PUD will have upon traffic in the streets and thoroughfares adjacent to and in the vicinity of the prepared development;

- (i) Copies of any restrictive covenants that are to be recorded with respect to the PUD.

(B) Action on Preliminary Development Plan

- (1) Hearings, findings, and recommendations of Planning and Zoning Board:

The Planning and Zoning Board upon receiving a preliminary development plan, shall review, make recommendations, if any, and set to hold a public hearing within forty-five (45) days of receiving such plan. The Planning and Zoning Board must also follow the guidelines set forth under 4-103 of these regulations. Within thirty (30) days after the public hearing is closed, the Planning and Zoning Board must make its recommendation of action to the Board of County Commissioners. The Planning and Zoning Board may make any of the following recommendations to the Board of County Commissioners: disapproval, approval, or approval with amendment, conditions, or restrictions.

- (2) Action by the Board of County Commissioners:

The Board of County Commissioners shall approve or disapprove the preliminary development plan within thirty (30) days after receiving the Planning and Zoning Board's recommendation. If the plan is disapproved, the developer shall be furnished with a written statement of the reasons for disapproval.

- (3) Restrictions and Conditions:

The Board of County Commissioners may attach restrictions or conditions to the preliminary plan, and these must be adhered to by the developer prior to filing a final plan.

(C) Final Development Plan:

After the Board of County Commissioners has approved the preliminary plan, with or without restrictions and conditions, the developer will prepare a final plan incorporating all of the aspects of the approved preliminary plan. The developer will have one (1) year from date of preliminary approval to submit his final plan. If he fails to accomplish this, the whole process must be repeated. The final plan must be acted upon by the Planning Commission within thirty (30) days of receipt and recommendations forwarded to the Board of County Commissioners within fifteen (15) days of their action. The Board of County Commissioners has thirty (30) days upon which to make a decision upon the final plan. The developer must commence development within one (1) year of final approval, or the PUD becomes null and void.

- (1) The final development plan approved by the Board of County Commissioners shall be certified by the County Clerk and a copy of the final development plan shall be filed with the Planning and Zoning Board before any development takes

place. The Land Use Administrator will then issue a building permit. It is the duty of the Land Use Administrator to ascertain that the developer is in compliance with the final development plan.

- (2) No separate POD district will be created by approval of the development plan. The existing zone will remain in effect and govern in all cases not spoken to by the final development plan.
- (3) The final development plan will be incorporated by resolution of the Board of County Commissioners.

6-104      Amendments

A PUD approved, preliminary or final, development plan may be amended by the Planning Commission with the concurrence of the Board of County Commissioners, but only after a public hearing in accord with Section 4-103 of these regulations.



## Section 7

### **The Planning and Zoning Board**

#### PART 1 AUTHORIZATION

##### 7-101 Establishment

A Planning and Zoning Board shall be established by appointment of the Board of County Commissioners.

##### 7-102 Membership

The membership of the Planning and Zoning Board shall consist of five (5) members. The Board of County Commissioners shall fix terms for the members of the Planning and Zoning Board, which shall be of such length and so arranged that the term of at least one (1) member will expire each year. Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments. The Board of County Commissioners may also appoint associate members to the Planning and Zoning Board; and in the event that any regular member is temporarily unable to carry out his membership responsibilities due to absence from the county, illness, interest in a case before the Planning and Zoning Board or any other cause, his place may be taken during such temporary disability by an appointed associate member. Any member of the Planning and Zoning Board may be removed for cause by the Board of County Commissioners upon written charges and after a public hearing.

##### 7-103 Jurisdiction

The Planning and Zoning Board shall have the following jurisdiction and authority:

- (A) To hear and decide appeals, subject to the procedures and standards set out in this section where it is alleged by the appellant that there is error in any order, requirement, decision, or refusal made by the Administrator, other administrative officer, or agency based on, or made in, the enforcement of this resolution;
- (B) To hear and recommend, in accordance with the provisions of this resolution, requests for conditional use permits, interpretation of the zoning map, or special questions upon which the Planning and Zoning Board is authorized to pass judgment;
- (C) To hear and decide upon applications for variances from the resolution and restrictions imposed by the resolution in the manner, procedures, and standards enunciated in this section;
- (D) To hear and recommend on all matters referred to it upon which it is required to make recommendations by this resolution.

##### 7-104 Hearings and Meetings

All hearings and meetings of the Planning and Zoning Board shall be held at the call of the Administrator and at such other times as the Planning and Zoning Board in its rules of procedure may specify. The Administrator, or in his absence the Acting Administrator, may administer oaths and compel the attendance of witnesses by application to the district court. The court, upon proper showing, may issue subpoenas and enforce obedience by contempt proceedings. All meetings of the Planning and Zoning Board shall be open to the public. The Planning and Zoning Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent and failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the County Clerk and shall be a public record.

7-105            Finality and Judicial Review of Decisions

All decisions made by the Planning and Zoning Board, except in the case of variances and appeals, shall be reviewed by the Board of County Commissioners who may amend, affirm, or reverse, wholly or partly, the Board's decision. Variance decisions are final, unless appealed in the manner set-forth in Section 7-309. All final decisions shall be subject to judicial review in the manner provided for by the applicable Colorado Statutes.

7-201            Authorization

An appeal of a decision of the Administrator with respect to the interpretation or application of this resolution may be taken to the Planning and Zoning Board by any person aggrieved, or by any officer, department, board or bureau, or any governmental agency or body affected by such decision of the Administrator.

7-202            Time for Appeals

The Planning and Zoning Board shall prescribe the time for taking appeals by general rule. Appeals shall be taken within the prescribed time by filing a notice of appeal with the Administrator. The notice of appeal shall specify the grounds for such appeal. Upon receipt of a notice of appeal, the Administrator shall forthwith transmit to the Planning and Zoning Board all of the papers constituting the record upon which the decision being appealed was based.

7-203            Stay of Proceedings

An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the Administrator certifies to the Planning and Zoning Board, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Planning and Zoning Board, or by a court of record on application, on notice to the Administrator and on due cause shown.

7-204            Hearing and Notice

The Planning and Zoning Board shall select a reasonable time and place for the hearing of any appeal. Public notice of the time, place, date, and subject of such hearing shall be published once in a newspaper of general circulation in the county at least twenty-one (21) days prior to the date of the hearing. A copy of such notice shall be mailed to each interested party. Any party interested in the appeal may appear and be heard at the hearing in person, by agent, or by attorney.

7-205            Decision of Appeals

The Planning and Zoning Board may affirm or reverse, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the Administrator and may issue or direct the issuance of a permit. The concurring vote of four (4) members of the Planning and Zoning Board shall be necessary to reverse any order, decision, or determination of the Administrator under these regulations. The Planning and Zoning Board shall render a written decision on the appeal without unreasonable delay after the close of a hearing, and in all cases, within forty-five (45) days after the close of the hearing.

7-206            Records of Appeals

The Administrator shall maintain complete records of all actions of the Planning and Zoning Board with respect to appeals and shall keep the Board of County Commissioners informed on a current basis of the disposition of each case.'

PART 3                      VARIANCES

7-301            Authorization

The Planning and Zoning Board may authorize such variances from the terms of these regulations as will not be contrary to the public interest. Variances may be authorized only in those specific instances enumerated in Section 7-304, and then only when the Planning and Zoning has made findings of fact, based upon the standards set out in Section 7-305, that owing to special conditions a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship for the owner, lessee, or occupant of land or structures.

7-302            Application for Variance

An application for a variance, together with an application for a building permit, shall be filed in duplicate with the Administrator who shall forward without delay a copy of each to the Planning and Zoning Board. The application shall contain the following information as may be prescribed by rule of the Planning and Zoning Board:

- (A) The particular requirements of these regulations which prevent the proposed use of construction;
- (B) The characteristics of the subject property which prevent compliance with said requirements of these regulations;
- (C) The reduction of the minimum requirements of these regulations which would be necessary to permit the proposed use or construction;
- (D) The particular hardship which would result if said particular requirements of these regulations were applied to the subject property;

#### 7-303 Hearing and Notice

The Planning and Zoning Board shall select a reasonable time and place for the hearing. Notice, including public notice, of such hearing shall be given in the manner required for hearings on appeals by Section 7-204 of these regulations. Such notice shall contain the date, time, and place of the hearing, the legal description, the street address, if applicable, or common description of the property involved, and a brief description of the relief sought. The Planning and Zoning Board may give such additional notice as it may from time to time by rule provide. Any party interested in the application for variance may appear and be heard at the hearing in person, by agent, or by attorney.

#### 7-304 Authorized Variances

Variances from the provisions of these regulations shall be granted by the Planning and Zoning Board only in accordance with the standards set out in Section 7-305, and may be granted only in the following instances, and in no others:

- (A) To vary the applicable lot area, lot width, and lot depth requirements, subject to the following limitations:
  - (1) The minimum lot width and lot depth requirements shall not be reduced more than twenty-five (25) percent.
  - (2) The minimum lot area for a single-family or two-family dwelling shall not be reduced more than twenty (20) percent.
  - (3) The minimum lot area per dwelling unit requirements for multiple-family dwellings shall not be reduced so as to permit more than one dwelling unit in addition to the number that would be permitted by-strict application of the minimum lot area requirements.
- (B) To vary the applicable bulk regulations, including maximum height, lot coverage, and minimum lot or yard requirements.
- (C) To vary the applicable off-street loading requirements contained in regulations:
- (D) To vary the regulations relating to restoration of damaged or destroyed nonconforming structures contained in these regulations.

- (E) To vary any requirements relating to location, construction or operation of pipelines contained in these regulations.

#### 7-305 Standards for Variances

The Planning and Zoning Board shall not grant a variance as authorized in Section 7-304 hereof unless it shall, in each case, make specific written findings of fact directly based upon the particular evidence presented to it that support conclusions that:

- (1) The variance requested arises from such condition which is unique to the property in question, and which is not ordinarily found in the same zoning district and is not created by an action or actions of the property owner or the applicant;
- (2) The request for a variance is not based exclusively upon a desire of the owner, lessee, occupant, or applicant to make more money out of the property;
- (3) The granting of the variance will not be materially detrimental or injurious to other property or improvements in the neighborhood in which the subject property is located;
- (4) The proposed variance will not impair an adequate supply of light or air to adjacent property, substantially increase the congestion in the public streets, increase the danger of fire, endanger the public safety, or substantially diminish or impair property values within the neighborhood.

#### 7-306 Conditions and Restrictions

In granting a variance, the Planning and Zoning Board may impose such conditions, safeguards, and restrictions upon the premises benefitted by the variance as may be necessary to comply with the standards set out in Section 7-305 to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood and to carry out the general purpose and intent of these regulations. Failure to comply with any of the conditions or restrictions placed on a variance shall constitute a violation of these regulations.

#### 7-307 Decisions and Records

The Planning and Zoning Board shall render a written decision on an application for a variance without unreasonable delay after the close of a hearing but, in all cases, within sixty (60) days from the close of the hearing. The Administrator shall maintain complete records of all actions of the Planning and Zoning Board with respect to applications for variances.

#### 7-308 Period of Validity

No variance granted by the Planning and Zoning Board shall be valid for a period longer than one hundred eighty (180) days from the date on which the Planning and Zoning Board grants the variance, unless, within such one hundred eighty (180) day period, a building permit is obtained and the construction, remodeling, or moving of a structure is

started or a use commenced. The Planning and Zoning Board may grant additional extensions not exceeding one hundred eighty (180) days each, upon written application, without notice or hearing.

#### 7-309 Appeals

The party requesting a variance or any party that attended the public hearing or submitted evidence thereto may appeal the Planning and Zoning Board's decision to the Board of County Commissioners within sixty (60) days of the Board's rendering.

### PART 4 CONDITIONAL USES

#### 7-401 Authorization

The Board of County Commissioners may authorize, as an exception to the provisions of these zoning regulations, the establishment of those conditional uses that are expressly authorized to be permitted as a conditional use in a particular zoning district or in one or more zoning districts. No conditional use shall be authorized as an exception to these regulations unless the Board of County Commissioners is specifically authorized, by these regulations, to grant such conditional use and unless such grant complies with all of the applicable provisions of these regulations as specified in Section 4.

## Section 8

### AMENDMENTS

#### PART 1 GENERAL PROVISIONS

##### 8-101 Authority

The regulations imposed authority- of this resolution may be mended from time to time by resolution duly enacted by the Board of County Commissioners. No such amendment shall be adopted except in accordance with the provisions of this Section.

##### 8-102 Proposal of Amendments

Amendments may be proposed by the (1) Board of County Commissioners, (2) Planning and Zoning Board, or (3) upon application by, or on behalf of, an owner of property affected by this resolution, but only in the manner and pursuant to the procedure set forth in Section 8-103. The applicant shall pay the cost of all required publications. When the Board of County Commissioners proposes an amendment, it shall, except as specified in Section 8-104, prior to the holding of a public hearing on the amendment, transmit its proposal to the Planning and Zoning Board for its examination and report thereon.

##### 8-103 Amendment Application Procedures

When an owner of property affected by this resolution proposes an amendment to any of the regulations imposed by this resolution or to any zoning district created thereby, an application for such amendment shall be submitted to the Board of County Commissioners for transmittal to the Planning and Zoning Board. The application shall be prescribed by the Planning and Zoning Board, but shall in all instances contain the following information:

- (A) The applicant's name and address;
- (B) The precise wording of any proposed amendment to the text of this resolution;
- (C) In the event that the proposed amendment would change the zoning classification of any property:
  - (1) The legal description and, if applicable, street address of the property proposed to be reclassified;
  - (2) The name and address of the owner or owners of the said property;
  - (3) The present zoning classification and existing uses of the property proposed to be reclassified;
  - (4) The area of the property proposed to be reclassified, stated in acres or fractions thereof, or if in a residential district, in square feet or fractions thereof.

- (5) A plat, drawn to scale, accompanying the petition, which shall clearly show the property proposed to be reclassified and its present zoning classification and existing uses.
- (6) An ownership list certified by a registered abstracter of the owners of all property located within one thousand (1,000) feet of the boundaries of the property to be affected by the proposed amendment.

#### 8-104 Special Amendment Procedures

Upon application, or on its own initiative, the Board of County Commissioners may, by resolution, add to the uses listed for a given zoning district any other similar, but un-itemized, use which conforms to the conditions set forth in the following special criteria.

- (A) Such use is appropriate in the permitted, conditional, or prohibited use group to which it is added;
- (B) Such use conforms to the basic characteristic of the permitted conditional, or prohibited use group to which it is added;
- (C) Such use does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other. objectionable influence or more traffic hazards than the minimum amount normally resulting from the other uses listed in the permitted, conditional, or prohibited use group to which it is added;

When any use has been added to any use group in accordance with this provision, such use shall be deemed to be listed in the appropriate zoning district and shall be added thereto in the published text of this resolution at the first convenient opportunity.

#### 8-105 Disposition of Amendment Proposals

Upon receipt of a proposed amendment, the Board of County Commissioners shall transmit said proposal to the Planning and Zoning Board for its recommendations relative to the approval or disapproval of the proposal. The Board of County Commissioners shall further, within fifteen (15) days after receipt of a proposed amendment, schedule a public hearing relative to the proposal in the manner specified in Section 8-201 and Section 8-202. Upon receipt of the proposal from the Board of County Commissioners, the Planning and Zoning Board shall thereupon have forty-five (45) days to develop its recommendations relative to the proposal and transmit them to the Board of County Commissioners for their action.

## PART 2 HEARINGS

### 8-201 Public Hearing



The Board of County Commissioners shall hold a public hearing on each proposed amendment that is referred to, filed with, or initiated by the Board of County Commissioners. The Board of County Commissioners shall select a reasonable hour and place for such public hearing; and it shall hold such hearing within sixty (60) days from the date on which the proposed amendment is referred to, filed with, or initiated, by the Board of County Commissioners. An applicant for an amendment may waive the requirement that such hearing be held within sixty (60) days.

8-202            Notice of Hearing

Public notice of a hearing on a proposed amendment shall be published in a newspaper of general circulation in the county once and at least fifteen (15) days shall elapse between the date of publication and the date set for the hearing. Such notice shall state the date, time, and place of the hearing and - shall contain a statement regarding the proposed changes in regulations or restrictions or the zoning classification or zoning district boundaries of any property. If the proposed amendment would change the zoning classification of any property, or the boundaries of any zoning district, such notice shall contain the legal description· and, if applicable, street address or general street location of such property, its present zoning classification, and the proposed classification. When a proposed amendment will affect the zoning classification of specific property, the Board of County Commissioners shall authorize the Planning and Zoning Board or Administrator to mail a written notice of the public hearing thereon, to the owner or owners of the property affected, and to the owners of all property within one thousand (1,000) feet of the boundaries thereof, at least thirty (30) days prior to the date of such hearing. The Board of County Commissioners may give such additional notice to other persons as it may, from time to time, provide by its rules.

8-203            Conduct of Hearing

The hearing shall be conducted -and a record of the proceedings shall be preserved in such a manner and according to such procedures as the Board of County Commissioners may, from time to time, prescribe by rule. Any interested person or party may appear and be heard at the hearing in person, by agent, or by attorney. The Board of County Commissioners may request a report on any proposed amendment from any governmental official or agency or any other person, firm, or corporation. If such a report is made, a copy thereof shall be made available to the applicant and any other interested person in the offices of the Board of County Commissioners at least three (3) days before the date set for the public hearing.

PART 3            COUNTY PLANNING COMMISSION'S REPORT ON PROPOSED  
AMENDMENT

8-301            Procedure

As stated in Section 8-104 above, upon receipt of a proposed amendment from the Board of County Commissioners, the Planning and Zoning Board shall, within forty-five (45) days, develop its recommendations relative to the proposal and transmit them to the Board of County Commissioners. A copy of the report detailing the County Planning Commission's recommendations shall also be filed with the County Clerk and with the Administrator, and such copies shall be kept available for public inspection. A copy of the report shall also be mailed to the owner of the specific property affected by the proposed amendment. Such report shall contain a recommendation as to whether the proposed amendment should be adopted and specific written determinations on the items listed in Section 8-302 and Section 8-303 and on such other items as the County Planning Commission may consider relevant.

8-302            Amendments to Text

When a proposed amendment would result in a change in the text of these regulations, but would not result in a change of zoning classification of any specific property, the report of the County Planning Commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items:

- (A)    Whether such change is consistent with the intent and purpose of these regulations;
- (B)    The areas which are most likely to be directly affected by such change and in what way they will be affected.
- (C)    Whether the proposed amendment is made necessary because of changed or changing conditions in the areas and zoning districts affected, or in the unincorporated area of the county generally, and, if so, the nature of such changed or changing conditions.

8-303            Amendments the Change Zoning Districts (rezone)

When a proposed amendment would result in a change of the zoning classification of any specific property, the report of the County Planning Commission shall contain statements as to the present classification, the classification under the proposed amendment, and the reason for seeking such reclassification, and determinations as to the following items:

- (A)    Whether the change in classification would be consistent with the intent and purpose of these regulations;
- (B)    Whether the rezoning is in accord with the Comprehensive Plan;
- (C)    Whether every use that would be permitted on the property, if it were reclassified, would be compatible with the uses permitted on other property in the immediate vicinity;

- (D) Whether adequate sewer and water facilities, and all other needed public services, exist or can be provided to serve the uses that would be permitted on the property if it were reclassified;
- (E) The amount of vacant land that currently has the same zoning classification as is proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances that make a substantial part of such vacant land available for development;
- (F) Whether the property as reclassified would be available for business or manufacturing uses, and whether such uses, particularly in the area in question, will provide business or manufacturing services or employment opportunities;
- (G) Whether the proposed amendment would correct an error in the application of these regulations as applied to the subject property;
- (H) Whether the proposed amendment is made necessary because of. changed or changing conditions in the area affected and, if so, the nature of such changed or changing conditions.

#### PART 4 ACTION BY THE BOARD OF COUNTY COMMISSIONERS

##### 8-401 Procedure

If, upon receipt of the written report containing the Planning and Zoning Board recommendations on the proposed amendment, it is learned that the Planning and Zoning Board has recommended disapproval of the proposed amendment, such amendment, to become effective, must receive the favorable vote of not less than a majority of the entire membership of the Board of County Commissioners. If a proposed amendment is defeated by vote of the Board of County Commissioners, such amendment shall not thereafter be approved without a further public hearing and notice thereof as provided in Part 2 of Section 8.

## Section 9

### **Administration, Enforcement, and Interpretation**

#### 9-101 Administration

##### (A) Administrator

This ordinance shall be administered and enforced by the Administrator. The Administrator or his deputy shall have authority to issue building permits and certificates of compliance. He shall have authority to make inspections and to make all decisions necessary for the proper enforcement of this Resolution. No oversight or dereliction on the part of the Administrator shall legalize, authorize, or excuse the violation of any of the provisions of this Resolution.

##### (B) Building Permits

It shall be unlawful to erect, construct, reconstruct, alter, or change the use of any building or other structure which changes the assessed valuation of the property, within the unincorporated territory covered by this Zoning Resolution, without the property owner or his authorized representative first obtaining a building permit from the Administrator or his deputy. Remodeling which takes place entirely within an existing building does not require a building permit. The cost of a building permit shall be the fee as set forth by the Planning and Zoning Board and approved yearly by the Board of County Commissioners.

##### (C) The Administrator or his deputy are hereby empowered to inspect and examine any building, structure, or tract of land concerning which they have reasonable cause to believe that a use exists or construction or alteration work is being performed, or has been performed, in violation of the applicable provisions of this Resolution; provided, however, that the issuance of such order shall in no way or manner be deemed a prerequisite to the institution of such enforcement proceedings as are hereinafter set forth; and provided further, that compliance with such order shall not necessarily be deemed to be a defense of any alleged violation of this Zoning Resolution in any court action instituted seeking full compliance therewith, but evidence of compliance with such order may be introduced as matter in mitigation and extenuation.

#### 9-102 Enforcement

##### (A) Violations and Remedial Action

Any person, firm, or corporation, whether as principal, agent, employee or otherwise, who shall use any land or erect, construct, reconstruct, alter, maintain, or use any building or structure in violation of any regulation in or any provision of this zoning Resolution, shall be fined an amount not to exceed one hundred

dollars (\$100.00) for each violation; such fine to inure to Cheyenne County. Each day during which such illegal erection, construction, reconstruction, alteration, maintenance, or use continues shall be deemed a separate offense. If any land shall be used or any building or structure erected, constructed, reconstructed, altered, maintained, or used in violation of any regulation or provision of this Zoning Resolution or amendments thereto or to the applicable Statutes of the State of Colorado, the Board of County Commissioners by the County Attorney or any owner of real estate within the district in which such building, structure, or land is situated, in addition to other remedies provided by law, may institute injunction, mandamus, abatement, or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, maintenance or use; and the fine herein above provided for may be recovered in that same civil action wherein such injunction, mandamus, and/or abatement is sought or separate and district proceedings may be instituted seeking varying forms of relief as the law may allow.

(B) Non-liability for Damages

Any County official or employee, charged with the enforcement of this Zoning Resolution, acting in good faith and without malice on behalf of said County in the discharge of his official duties, shall not thereby render himself personally liable for any damages which may accrue to persons or property resulting from any such act or omission committed in the discharge of such duties. Any suit or proceeding instituted against such official or employee, stemming from any act or omission performed by him in the enforcement or attempted enforcement of any provision of this Resolution, shall be defended by the legal officer(s) of the County until final termination of the proceedings.

9-103 Interpretation

The provisions of this Resolution shall be held to be the minimum requirements fulfilling its objectives. Where the conditions imposed by any provision of this Resolution are less restrictive than comparable conditions imposed by any other provision of this Resolution or any other statute, resolution, or regulation, the provisions which are most restrictive shall govern.

9-104 Severability

It is hereby declared to be the legislative intent that the provisions of this Resolution shall be severable in accordance with the provisions set forth below:

(A) If any provision of this Resolution is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that:

(1) The effect of such decision shall be limited to that provision or provisions which are expressly stated in the decision to be invalid; and

- (2) Such decision shall not affect, impair, or nullify this Resolution as a whole or any other part thereof, but the rest of this Resolution shall continue in full force and effect.
- (B) If the application of any provision of this Resolution to any tract of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that:
  - (1) The effect of such decision shall be limited to that tract of land immediately involved in the controversy, action, or proceeding in which the judgment or decree of invalidity was rendered; and
  - (2) Such decision shall not affect, impair, or nullify this Resolution as a whole or the application of any provision thereof, to any other tract of land.

9-105            Zoning Maps

The location and boundaries of all districts designated in the Cheyenne County Zoning Resolution are shown on maps entitled "Cheyenne County Zoning Maps" and are hereby made a part of these regulations.

These areas are also described on the "Description of Zoned Areas in Cheyenne County" sheet in the beginning of the Zoning Resolution.

## **Section 10**

### **Supplementary Provisions**

#### **10-101 General Provisions Regarding Accessory Uses**

Accessory uses shall comply with all requirements for the principal use, except where specifically modified by these regulations, and shall comply with the following limitations:

- (A) Fences, which may be located within yards, shall not exceed three and one-half (3 1/2) feet in height from the curb elevation in a vision clearance area.
- (B) Regardless of the side yard requirements of the district, a side yard may be reduced to two (2) feet for an accessory structure erected more than forty (40) feet from a street other than an alley, provided the structure is detached from other buildings by five (5) feet or more and does not exceed a height of one (1) story nor an area of seven hundred (700) square feet.

#### **10-102 Standard Governing Home Occupations**

Home occupations shall be governed by the following regulations:

- (A) Home occupations shall be operated entirely from an enclosed structure in a residential district.
- (B) The operation shall not substantially increase traffic in the area.
- (C) The operation shall not be objectionable due to odor, dust, smoke, noise, vibration, or other similar causes.
- (D) The home occupation shall adhere to the sign regulations in the zoning district in which it is located.

#### **10-103 Maintenance of Minimum Regulation Requirements**

No lot area, yard, or other open space or required off-street parking or loading area existing on or after the effective date of these regulations shall be reduced in area, dimension, or size below the minimum required by these regulations; nor shall any lot area, yard, or other open space or off-street parking or loading area which is required by these regulations for one use be used as the lot area, yard, or other open space or off-street parking or loading area requirement for any other use.

#### **10-104 General Exception to Lot Size Requirements**

If, at the time of passage of these regulations, a lot, or the aggregate of continuous lots or land parcels held in a single ownership has an area of dimension which does not meet the lot size requirements of the district in which the property is located, the lot or aggregate

holdings may be occupied by any use permitted unconditionally in the district subject to the other requirements of the district; and, provided, if there is an area deficiency, residential use shall be limited to a single-family residence.

10-105            Exceptions to Yard Requirements

The following exception to the front yard requirement for a dwelling is authorized for a lot in any district. If there are dwellings on both abutting lots with front yards of less than the required depth for the district, the front yard for the lot need not exceed the average front yard of the abutting dwellings. If there is a dwelling on one abutting lot with a front yard of less than the required depth for the district, the front yard for the lot need not exceed a depth one-halfway between the depth of the abutting lot and the required front yard depth.

10-106            General Exception to Building Height Limitations

The following type of structures or structural parts are not subject to the building height limitations of these regulations: chimneys, tanks, church spires, belfries, domes, monuments, fire and hose towers, observation towers, masts, aerials, cooling towers, elevator shafts, and other similar projections.

10-107            Access

All lots shall abut a street other than an alley for a width of at least forty (40) feet.

10-108            Vision Clearance

Vision clearance areas shall be provided with the following distance establishing the size of the vision clearance area:

- (A)    In all districts, the minimum distance shall be thirty (30) feet, or at intersections including an alley, ten (10) feet.

10-109            Animals in Residential Districts

- (A)    All animals in residential districts shall be subject to a special review to be conducted by the Board of County Commissioners. Any proposed domestic feed lot in a residential district shall be submitted for consideration. The Board of County Commissioners, upon receipt of said application, shall review and render a decision at least by their next regular board meeting. They may request that all adjoining property owners be contacted before a decision is rendered. All applications which are approved shall be reviewed on an annual basis during the month of August by the Board of County Commissioners. The permit can be revoked at the annual review if the animals are not being kept properly in the judgement of the County Commissioners. Swine shall not be permitted in a residential district.



- (B) Cows, horses, sheep, and goats shall not be kept on lots having an area less than one (1) acre, and under no circumstances shall they be kept for commercial use.
- (C) Animal runs or barns and chicken or fowl pens shall be located on the rear half of the lot and not closer than fifty (50) feet from any residence.
- (D) Animals, chickens, and fowl in residential districts shall be properly caged or housed, and proper sanitation shall be maintained at all times.

## **Section 11**

### **Enactment Clause**

Upon approval and adoption of the Board of County Commissioners of Cheyenne County, a certified copy of this Resolution and of the Official Zoning Map shall be filed, according to law, in the office of the County Clerk and Recorder of the County of Cheyenne. This resolution shall become of full force and effective as of the 1st day of January 1994.

**Part III**  
**Cheyenne County Zoning Maps**

[Section Intentionally Omitted, See PDF Version]

## **Part IV**

### **General Instructions for Applying for an Exemption from County Subdivision Approval Procedures**

## **General Instructions for Applying for an Exemption from County Subdivision Approval Procedures**

In general, subdivision approval procedures must be followed whenever a parcel of land of less than 35 acres, located within the unincorporated area of Cheyenne County, is to be sold. However, an exemption from County subdivision approval procedures may be granted by the Board of County Commissioners if "it is determined that the proposed division of land does not fall within the purposes of the Cheyenne County Subdivision Regulations (Article II-27, "Subdivisions", p. 8).

A sample application form follows on the next page. In completing the application, please recognize that some items may not apply to your particular situation. When any item does not appear to apply to you, please write N/A in the appropriate section. Please do not leave any items blank.

Please submit the completed form to the address listed below. Along with the application, you must also enclose a check or money order in the amount required by the County for such year. All checks or money orders must be made out to the Cheyenne County Board. Please do not send cash.

If a survey has been completed on the property, please enclose a copy of that survey. If no survey is done, complete a sketch of the proposed sale on the sheet provided.

In most cases, approximately four weeks will be required to process your application. However, every effort will be made to render a decision as quickly as possible.

Send your form and check or money order to:

Cheyenne County Zoning Administrator  
Cheyenne County Courthouse P.O. Box 567  
Cheyenne Wells, Colorado 80810

Application for Exemption  
From Subdivision Approval Regulations

[Draft Application Intentionally Omitted, please see PDF Version]

**Part V**

**Cheyenne County Rules and Regulations Pertaining to Hazardous Waste Landfills And  
Hazardous Waste Incinerators**

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### **Part V**

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Resolution Application of Domestic Sludge Regulation, #147: Five Year Moratorium,  
Cheyenne County, CO

Resolution to Define Domestic Sludge As Used in the Domestic Sludge Regulation 5 Year  
Moratorium



**Cheyenne County Rules and Regulations Pertaining to Hazardous Waste Landfills and  
Hazardous Waste Incinerators**

1.1 Scope and Applicability

These regulations shall be applicable to the location, design and operation of any hazardous waste disposal site or hazardous waste incinerator site in Cheyenne County which is in operation or proposed to be operated after the date of adoption of these regulations

1.1.1 These regulations are enacted under authority granted to the County by the Colorado State Legislature, specifically in CRS 24-65.1-402 relating to activities of State interest, and generally in CRS 29-20-104 enabling local governments to provide for planned and orderly development. In addition, the requirement for a certificate of designation from the board of county commissioners is ID mandated in CRS 25-15-201., and the authority to govern hazardous waste incinerator sites given in CRS 25-15-501 through 515.

1.1.2 In the event any provision, term, or condition of these regulations shall be held to be illegal, invalid, or void, for any reason whatsoever, by any court of competent jurisdiction, and such declaration shall be upheld on any and all appeals taken therefrom, these regulations shall be read as if such illegal, invalid, or void provision were not a part hereof.

2.1 Definitions

The following definitions, as used in these regulations, shall apply when used unless the context otherwise requires:

2.1.1 "Adverse Effect" means a potential or actual exposure of humans that exceeds public health protection standards or than can be shown to produce potential or actual effects on health contrary to a person's welfare, degradation of an environmental medium in excess of quality standards, or significant deterioration of vegetation, crops or wildlife so as to endanger their viability or normal use.

2.1.2 "Aquifer" means any geologic formation, group of formations, or portion of a formation capable of yielding groundwater to wells and springs.

2.1.3 "Board" means the state board of health created by CRS 25-1-103.

2.1.4 "Change in ownership, design, or operation" means any redesign or planned construction which would significantly negate the planned design or planned design performance of a hazardous waste disposal site as originally designated; any increase of the total lifetime disposal capacity that was originally designated; the addition of a category of wastes together than those originally planned to be

received; the planned construction of a new facility, disposal cell, or other waste handling process that has not been previously approved under these regulations; or the selling or transferring of the site or the certificate of designation to a new owner or operator

- 2.1.5 "Disposal site" means all contiguous land, including publicly owned land, used for hazardous waste disposal under common ownership
- 2.1.6 "Domestic sewage" means untreated sanitary wastes that pass through a sewer system
- 2.1.7 "Existing hazardous waste disposal site" means a hazardous waste disposal site which is in active operation prior to May 1, 1982.
- 2.1.8 "Federal Act" means the federal "Solid Waste Disposal Act", as amended by the Federal "Resource Conservation and Recovery Act of 1976", and as from time to time amended (42 U.S.C 6901 et seq.).
- 2.1.9 "Governmental unit" means the State of Colorado, every county, city and county, municipality, school district, special district, and authority located in this state, every public body corporate created or established under the constitution or any law of this state, and every board, commission, department, institution, or agency of any of the foregoing or of the United States.
- 2.1.10 "Hazardous waste" means any material, alone or mixed with other materials, which is discarded or is to be discarded by the producer thereof, and which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or contribute to any increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or pose a present or potential hazard to human or animal health or to the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. The term does not include:
  - a. discharges which are point sources subject to permits under section 402 of the "Federal Water Pollution Control Act", as amended;
  - b. source, special nuclear, or byproduct material as defined by the Federal "Atomic Energy Act of 1954", as amended;
  - c. agricultural waste from the raising of crops or animals, including animal manures, which are returned to the soil as fertilizers or soil conditioners;
  - d. domestic sewage;
  - e. irrigation return flows;
  - f. inert materials deposited for construction fill or topsoil placement in connection with actual or contemplated construction at such location or for changes in land contour for agricultural and mining purposes;

- g. any waste or other materials exempted or otherwise not regulated as a hazardous waste under the Federal Act.
- 2.1.11 "Hazardous waste disposal" means any long-term action to abandon, deposit, inter or otherwise discard hazardous waste after its use has been achieved or a use is no longer intended. The term does not include recycling, reclaiming, or treatment of hazardous waste when such activity exists on a site already zoned or otherwise allowed for the uses producing the waste or when such activity has otherwise received land use approval by the appropriate local government. The term also does not include the beneficial use, including use for fertilizer, soil conditioner, fuel, or livestock feed, or sludge from wastewater treatment plants if such sludge meets all applicable standards of the Colorado Department of Health.
- 2.1.12 "Hazardous waste disposal site" means any disposal site which is subject to the permit requirements of section 3005 of the Federal Act.
- 2.1.13 "Hazardous waste incinerator" means any boiler or industrial furnace that burns hazardous waste, as defined in subpart B of part 260 of title 40, code of federal regulations, as from time to time amended. Such term shall include, but is not limited to, any cement kiln, lime kiln, aggregate kiln, or blast furnace.
- 2.1.14 "Ignitable or reactive wastes" means any waste or mixture of wastes which is capable of:
- a. generating extreme heat or pressure, fire or explosion, or violent reaction;
  - b. producing uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosion;
  - c. Producing uncontrolled toxic mists, fumes, dusts, or gasses; or
  - d. any other similar reaction
- 2.1.15 "Incompatible wastes" means a waste which is unsuitable for placement in a particular device or facility because it may corrode or decay the containment materials or is unsuitable for mixing with another waste or material because the mixture might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, fumes, mists, or gases, or flammable fumes or gases.
- 2.1.16 "Landfill" means a natural depression or artificial excavation or other arrangement where wastes are placed in or on land to confine and contain waste materials therein.
- 2.1.17 "Land treatment facilities" means locations and sites where hazardous wastes are applied on to the land and/or incorporated into the surface soil for the purpose of biological reduction and/or soil attenuation in such a manner as to constitute hazardous waste disposal.

- 2.1.18 "Leachate" means liquid that has or may be percolated through or drained from a solid waste or hazardous waste landfill or surface impoundment which contains soluble, partially soluble, or miscible components removed from such waste contained therein
- 2.1.19 "Long-term", when used in connection with hazardous waste disposal means a period of time after operations and post closure activities are completed during which consideration of the chemical and physical state, the persistence, and any potential removal of hazardous waste from its disposal location are of concern relative to public health and environmental protection.
- 2.1.20 "Manifest" means the document used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of storage, treatment, or disposal.
- 2.1.21 "On-site hazardous waste disposal site" means a site regulated by section 3005 of the Federal Act but excluded from a requirement to obtain a certificate of designation from the applicable local government by Section 25-15-201 (4) and (5) of the State Act for disposal of one's own waste or of a mining waste.
- 2.1.22 "Operator" means the person operating a hazardous waste disposal site or hazardous waste incinerator by permit issued under these regulations.
- 2.1.23 "Person" means any individual, public or private corporation, partnership, association, firm, trust or estate; the state or any executive department, institution, or agency thereof; any municipal corporation, county, city and county, or other political subdivision of the state; or any other legal entity whatsoever which is recognized by law as the subject of rights and duties
- 2.1.24 "Publicly-owned land" mean any land owned by the federal government or any agency thereof or land owned by the state of any agency thereof.
- 2.1.25 "State Act", when used in connection with hazardous waste, means the provisions of Article 15 of Title 25 of the Colorado Revised Statutes, as amended by Senate Bill 519 enacted by the 1981 Session of the Colorado General Assembly.
- 2.1.26 "Solid waste":
- a. A solid waste is any garbage, refuse, sludge, or any other waste material which is not excluded under 2.1.10.
  - b. An "other waste material" is any -solid, liquid, semi-solid or contained gaseous material, resulting from industrial, commercial, mining, or agricultural operations, or from community activities which:
    - i. is discarded or is being accumulated, stored or physically, chemically, or biologically treated prior to being discarded; or
    - ii. has served its original intended use and sometimes is discarded; or

- iii. is a manufacturing or mining by-product and sometimes is discarded.
- c. A material is "discarded" if it is abandoned (and not used, re-used, reclaimed or recycled) by being:
  - i. Disposed of; or
  - ii. burned or incinerated, except where the material is being burned as a fuel for the purpose of recovering usable energy; or
  - iii. physically, chemically, or biologically treated (other than burned or incinerated) in lieu of or prior to being disposed of.
- d. A material is "disposed of" if it is discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or- discharged into ground or surface waters.
- e. A "manufacturing or mining by-product" is a material that is not one of the primary products of a particular manufacturing or mining operation, is a secondary and incidental product of the particular operation and would not be solely and separately manufactured or mined by the particular manufacturing or mining operation. The term does not include intermediate manufacturing or mining product which results from one of the steps in a manufacturing or mining process and is typically processed through the next step of the process within a short time.

2.1.27 "Surface impoundment" means any natural depression, artificial excavation or dike arrangement, including a pit, pond, or lagoon, to be used or operated in such a manner that it may directly or indirectly result in the disposal of hazardous waste.

### 3.1 Application Requirements for Certificate of Designation and County Operating Permit

3.1.1 Any person who proposes to operate a hazardous waste disposal site or hazardous waste incinerator shall, unless specifically exempted by Section 25-15-200 through 515 of the State Act, make application for certificate of designation and county operating permit to the Board of County Commissioners of Cheyenne County.

- a. The County Commissioners shall approve, conditionally approve, or disapprove an application for a hazardous waste disposal site or hazardous waste incinerator site certificate of designation within one hundred eighty days after receiving such application.

- b. The County Commissioners shall determine whether or not the site conforms to the comprehensive land use plans and relevant land use regulations of Cheyenne County.
- c. The Commissioners shall hold a public hearing on the application after notice has been given. Such notice shall contain the date, time, and location of the hearing and shall state that the matter to be considered at such hearing is the applicant's application for a hazardous waste disposal site or hazardous waste incinerator site. Such notice shall be published in a newspaper having general circulation in days prior to the date of such hearing. Any such notice shall be printed prominently in at least ten- point boldface type. Such notice shall be posted at the proposed site for a period beginning at least thirty days before such public hearing and continuing throughout the date of such hearing.

At such hearing the County Commissioners shall hear or receive any written or oral testimony presented by the applicant and by any residents or interested parties concerning such site.

The County Commissioners shall notify the Colorado Department of Health of the approval or disapproval of any application of a site certificate of designation within five days after such approval or disapproval.

- 3.1.2 The application for a hazardous waste disposal site or hazardous waste incinerator site shall set forth the names of the applicant and the owner of the site (in the case of a corporation it shall provide the name of controlling corporate entities, subsidiaries, their state of incorporation, registered agents, and address, and the names and addresses of all boards of directors with decision making power), the names or titles of the persons in charge of the site, the legal description of the property, the location of the site, each specific waste to be accepted or rejected, the types of disposal, the hours of operation, the anticipated access routes in the county in which the site is located, the method of supervision, and the rates to be charged for the various wastes to be received.
- 3.1.3 Upon submittal of an application for a hazardous waste disposal site or hazardous waste incinerator site a fee up to ten per cent of the total estimated development and construction cost shall be remitted to the county. The maximum fee shall be the amount allowed pursuant to C.R.S. § 25-15-501 et seq. In the event there are improvements and adjustments that increase the total cost of the hazardous waste disposal site or hazardous waste incinerator, an additional fee of up to ten percent of the increased cost shall be submitted to the county at the time the new design features are proposed. The maximum fee shall again be the amount allowed pursuant to C.R.S. § 25-15-501 et seq. This fee shall be used for technical analysis, expert consultants, public review process, citizen participation processes and other

related costs incurred by the County in considering and reaching a final decision on the application. Upon completion of the permit process any excess funds and any receipts, vouchers, or other proof of expenditure shall be returned to the applicant.

- 3.1.4 An application for a hazardous waste disposal site or hazardous waste incinerator site shall be accompanied by an economic analysis report that addresses both the short-term and long-term impacts of the proposed project. Any measurable economic change, either negative or positive, should be included, but at a minimum it shall include the following:
- a. Property tax impact in Cheyenne County, addressing the next increase or decrease in tax revenue; and taking into consideration the site development, possible diminution of value to adjoining land and potential effects if contamination from the site should spread in the air, soil, ground, or surface water.
  - b. Direct increases to the local economy from expenditures in constructing and operating the site. This shall include a schedule of goods and services needed by the company, local availability and estimated total expenditure on an annual basis for the first ten years of operation.
  - c. Employment profile for the proposed site including the expected number of employees, salary ranges, qualification, availability of qualified workers in the local community, and anticipated source of workers not available in the local community.
  - d. Demand for public services that will be generated by the site including resources, utilities, schools, transportation, police and fire protection, housing and medical services.
  - e. Impact that closure of the facility will have on the local economy, including employment, housing and retail sales.
- 3.1.5 An application for a hazardous waste disposal site or hazardous waste incinerator site shall be accompanied by an engineering design report which details the proposed location, the proposed design, the design performance, and any operational or maintenance procedures that may be necessary for achieving the design performance for the site.
- 3.1.6 The engineering design report and any amendments thereto shall demonstrate that the site can achieve a design performance that will comply with all applicable criteria specified in rules and regulations established by the County, State Board, the Water Quality Control Commission, the Air Quality Control Commission, and any conditions required in a Certificate of Designation pursuant to Section 25-15-204 or Section 25-15-503 of the State Act.

- 3.1.7 The design report shall provide adequate information necessary for the County Commissioners to ascertain whether the proposed site design and method of construction would comply with the minimum design performance criteria set forth in Section 4.1 of these regulations and would comply with the siting requirements contained in Section 5.1 of these regulations.
  - 3.1.8 Any change in ownership, design, or operation pursuant to Section 25-1-5-206 or 25-15-507 of the State Act shall be accompanied by a design report which contains information necessary for determining whether such change comply with the minimum design performance criteria set forth in Section 4.1 of these regulations and any applicable siting requirements contained in Section 5.1 of these regulations.
  - 3.1.9 The County Commissioners shall employ expert consultants to review the engineering report to determine whether it satisfies all criteria set forth in these regulations.
- 4.1 Minimum Design Performance Criteria for Off-Site Disposal Sites
- 4.1.1 All landfills or incinerator sites subject to these regulations shall be located and designed in a manner that the design performance will assure long-term protection of human and animal health and the environment.
  - 4.1.2 Hazardous waste disposal site or hazardous waste incinerators shall be located and designed such that the design performance will prevent adverse effects on the groundwater quality, considering:
    - a. The volume and physical and chemical characteristics of the waste in the facility, including its potential for migration through any liner provided in the design and the surrounding soils or bedrock strata;
    - b. The hydrogeological characteristics of the facility and the surrounding land and other site specific factor which are basic to preventing adverse effects on groundwater quality;
    - c. The quantity and quality, including source, destination and/or entry to aquifer, and direction of flow of groundwater;
    - d. The proximity of existing and planned groundwater users, current planned uses of the groundwater, and the withdrawal rates of such uses;
    - e. The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater;
    - f. The potential of contamination of any element of any food chain, considering secondary and tertiary sources and destinations;



- g. The potential damage to soil, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;
- 4.1.3 Hazardous waste disposal site or hazardous waste incinerators shall be located and designed such that the design performance will prevent adverse effects on surface water quality, considering:
  - a. The volume and physical and chemical characteristics of the waste in the facility;
  - b. The hydrogeological characteristics of the facility and surrounding land and other site-specific factors which are basic to preventing adverse effects on surface water quality, including the topography of the area around the facility and any engineering features to influence surface water flow patterns that may be appropriate;
  - c. The quantity, quality, source, destination, directions of flow of surface waters; and
  - d. The pattern of precipitation in the region and potential impacts on disposal location, including removal of wastes. The design must demonstrate a capability to safely control a maximum rainfall of 22-24 inches in a 24-hour period;
  - e. The proximity of the facility to or accessibility by existing or potential surface waters;
  - f. The existing and planned uses of nearby surface waters and existing water quality and quality established for those surface waters;
  - g. The existing quality of surface water, including other sources of contamination and their cumulative impact on surface water;
  - h. The potential for health risks caused by human and animal exposure to waste constituents;
  - i. The potential of contamination of any element of any food chain including secondary and tertiary sources and destinations;
  - j. The potential damage to soil, wildlife, crops, vegetation and physical structures caused by exposure to waste constituents; and,
  - k. The persistence and permanence of the potential adverse effects.
- 4.1.4 Hazardous waste disposal site or hazardous waste incinerators shall be located and designed such that the design performance will prevent adverse effects on air quality, considering:

- a. The volume and physical and chemical characteristics of the waste in the facility, including its potential for volatilization, and wind dispersal;
  - b. The existing quality of the air, including other sources of contamination and their cumulative impact on air quality;
  - c. The potential for health risks caused by human and animal exposure to waste constituents;
  - d. The prevailing wind patterns in the region and other site-specific factors including tornadoes, air-induced soil erosion, blowing debris, and blowing snow that may influence or cause adverse effects on air quality;
  - e. The potential damage to soil, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;
  - f. The potential of contamination of any element of any food chain including secondary and tertiary sources and destination; and
  - g. The persistence and permanence of the potential adverse effects.
- 4.1.5 Hazardous waste disposal site or hazardous waste incinerators shall be located and designed such that the design performance will prevent long term adverse effects on human and animal health and the environment due to migration of waste constituents in the surface and subsurface environment, considering:
- a. The volume and physical and chemical characteristics of the waste in the facility, including its potential for migration through or over the soil;
  - b. The geologic characteristics of the facility and surrounding land and other site-specific factors that may affect the potential for migration of waste constituents into surface and subsurface physical structures;
  - c. The potential for migration of waste constituents as a result of tornado, persistent wind, windblown dirt and debris and blizzard conditions;
  - d. The potential for migration of waste constituents onto the surface or into the root zone of food-chain and other vegetation;
  - e. The potential for health risks caused by human and animal exposure to waste constituents;
  - f. The potential damage to soil, wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents;
  - g. The potential of contamination of any element of any food chain including secondary and tertiary sources and destinations; and

- h. The persistence and permanence of the potential adverse effects.
- 4.1.6 The function and physical integrity of any liner emplaced in hazardous waste disposal site to accomplish the design performance of the site shall be demonstrated to be impervious for 1000 years.
- 4.1.7 The design of a hazardous waste disposal site shall include a liner the performance of which will comply with paragraphs 4.1.1, 4.1.2, 4.1.3, 4.1.4, 4.1.5, and 4.1.6 of these regulations, considering:
- a. The physical and chemical characteristics of the waste in the facility, including any treatment or wastes to promote the immobilization of hazardous substances;
  - b. The pressure head of leachate on the liner under worst case conditions;
  - c. The permeability of the liner material at specified compaction density and moisture content where earthen materials are used;
  - d. The potential chemical reactions between the wastes and the liner material that could affect the integrity of the liner;
  - e. The physical and chemical properties of the soil underlying the facility that sports an impacted liner; and
  - f. The potential for damage to the liner system that could occur during installation, planned use, or after closure for the remainder of the one thousand years.
- 4.1.8 Any leachate and runoff control system shall be designed with sufficient capacity such that the design performance will comply with paragraphs 4.1.1, 4.1.2, 4.1.3, 4.1.4, and 4.1.5 of these regulations, considering:
- a. The volume and types of leachate or contaminated runoff produced at the facility;
  - b. The climate and hydrogeological conditions of the area; and
  - c. The available demonstrated alternatives for managing any leachate or contaminated runoff produced.
- 4.1.9 The design of a hazardous waste disposal site and facility shall include a method for closure that will provide assurance of long-term compliance with paragraphs 4.1.1, 4.1.2, 4.1.3, 4.1.4, and 4.1.5 of these regulations, considering:
- a. The types and amount of waste in the facility, including the amount of free liquids;
  - b. The mobility and expected rates of migration of emplaced wastes;

- c. The site location, topography, and surrounding land use;
- d. Climatic conditions in the area;
- e. The thickness, porosity and permeability of the cover proposed to be used, the percent slope and length of run of the slope, the final surface contours of the completed cover, and the types and durability and establishment of vegetation proposed to be placed on the cover;
- f. Geological and soil profiles and the surface and subsurface hydrology of the site and the surrounding area; and
- g. The maintenance of any post-closure groundwater monitoring system and any leachate and runoff control system.

4.1.10 The design of a hazardous waste landfill shall include systems for monitoring groundwater, surface water, and providing quality control of materials used in construction. Such systems shall be sufficient to demonstrate via professionally accepted methods (e.g. those of the American Society of Testing Materials) that the design performance requirements of these regulations are satisfied.

4.1.11 The design of a hazardous waste disposal landfill or hazardous waste incinerator shall include procedures to be followed during construction, including supervision and certification by a professional geologist and a professional engineer, and by a professionally qualified county representative to demonstrate that the facility is constructed in accordance with the design approved.

## 5.1 Requirements for Siting and Design of OH-Site Disposal Sites

5.1.1 The siting and design of each site for disposal of hazardous waste shall demonstrate that all design performance criteria contained in section 4.1 of these regulations will be satisfied before and after site- construction of the proposed design.

5.1.2 The proposed location, design and design performance of a hazardous waste disposal site or hazardous waste incinerator shall satisfy the following conditions:

- a. Under local climatic conditions odor-threshold concentration levels established in State air pollution regulations will not be exceeded;
- b. Proposed access routes shall be reasonably safe based on minimizing public exposure to transportation incidents, and a finding is required that such routes can be shown to meet or exceed classification standards for State roads;

- c. Adequate fire protection is provided on a 24-hour basis by an organized fire department or equivalent if such service is provided by the owner/operator of the site;
  - d. Adequate security is provided for the site and its operations on a 24hour daily basis by security personnel and by adequate security barriers to the site and its operations;
  - e. The proper materials will be available in adequate supply for constructing liners of disposal cells and for providing a compacted impermeable cover to prevent any seepage into the completed fill upon closure; and
  - f. Adequate professional competence and resources exists to design and construct the site, to operate the site for its approved period of operation, and to provide for closure and post-closure care to guarantee long- term protection of human and animal health and the environment.
- 5.1.3 The geological and hydrological conditions of a site in which hazardous wastes are to be disposed shall be such that assurance is provided that such wastes are isolated for one thousand years within the designated disposal area of the site and away from natural environmental pathways that could transmit hazardous waste contaminants to the public. Such assurance is to be based on the following conditions:
- a. Geomorphic conditions either will not vary significantly from the present state or will occur to a predictable degree which can be accommodated in the facility design;
  - b. The immediate area of the site is in strata of minimal groundwater flow;
  - c. The geologic strata surrounding the site combined with engineered barriers included in the design shall provide a permeability equal to or less than 10<sup>-8</sup> cm/sec;
  - d. The juxtaposition of the site and any free flowing or standing surface flows shall be such that disposal locations will not impact or be impacted by such waters;
  - e. The terrain is such that good drainage exists for movement of precipitation away from the disposal area, and such that water and wind erosion will be prevented; and
  - f. The geochemical characteristics of the geologic strata at the site are compatible with the waste categories proposed to be disposed at the site especially in terms of providing high adsorption, absorption, chemical bonding, or chemical fixation of any wastes that may migrate from the immediate areas where disposed.

- 5.1.4 The design of each hazardous waste disposal site shall include a leachate and runoff control system which will provide compliance with sections 4.1.4, 4.1.2, 4.1.3, 4.1.4, 4.1.5, and 4.1.6 of these regulations, considering:
- a. The physical and chemical characteristics of the waste in the facility;
  - b. Climatic conditions in the area, including precipitation events;
  - c. The volume of leachate or contaminated runoff that could be produced at the facility; and
  - d. The available option for managing any leachate or contaminated runoff that is collected at the facility.
- 5.1.5 The location of any facility for disposal or preparation for disposal of hazardous waste shall be within a distance controlled by the owner/operator by an acceptable means to prevent adverse effects on human and animal health should unexpected discharges of hazardous waste occur.

6.1 Operating Requirements for Off-Site Disposal Site

- 6.1.1 Financial Requirements. The owner or operator must have a written estimate of the cost of closing the facility in accordance with the requirements herein, and applicable closure requirements in 6.1.10. The owner or operator must keep this estimate, and all subsequent estimates otherwise required, at the facility. The estimate must equal the cost of closure at the point in the facility's operating life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan.
- a. The owner or operator must prepare a new closure cost estimate whenever a change in the closure plan affects the cost of closure.
  - b. On each anniversary of the date on which the first estimate was prepared the owner or operator must adjust the latest closure cost estimate using inflation factor derived from the annual Implicit Price Deflator for Gross National Product as published by the United States Department of Commerce in its survey of current business. The inflation factor must be calculated by dividing the latest published annual deflator by the deflator for the previous year. The result is the inflation factor. The adjusted closure cost estimate must equal the latest closure cost estimate times the inflation factor.
  - c. Financial assurance for facility closure. An owner or operator of each facility must establish financial assurance for closure of the facility. He must choose between the following options:
    - i. Surety bond guaranteeing performance of closure. An owner or operator may satisfy the requirements by obtaining a surety bond

which conforms to the requirements of this paragraph and by having the bond delivered to the county by certified mail. An owner or operator of a new facility must have the surety bond delivered to the county by certified mail at least sixty days before storage or disposal. The surety bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the United States Department of the Treasury.

1. The wording of the surety bond must be identical to the wording specified in 40 CFR 264.151(c).
2. The owner or operator who uses a surety bond to satisfy the requirements of 6.1.1 (c) must also establish a standby trust fund by the time the bond is obtained. Under the terms of the surety bond, all payments made thereunder will be deposited directly into the standby trust fund. This trust fund must meet the following requirements:
  - a. The wording of the trust agreement must be identical to the wording specified in 40 CFR 264.151 (a) (1) and the trust agreement must be accompanied by a formal certification of acknowledgement. An originally signed duplicate of the trust agreement must be delivered to the county with the surety bond; or
  - b. A nominal initial payment agreed upon between the trustee and the owner or operator will be required.
  - c. The bond must guarantee that the owner or operator will:
    - i. Perform final closure in accordance with the closure plan and other requirements in the permit for the facility; or
    - ii. Perform final closure following an order to begin closure issued by a court, or following issuance of a notice of termination of the permit; or
    - iii. Provide alternative financial assurance as specified in these regulations within thirty days after receipt by the county of a notice of cancellation of the bond from the surety.

- d. The surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.
- e. The penal sum of the bond must be in the amount at least equal to the amount of the adjusted closure cost estimate.
- f. Whenever the adjusted closure cost estimate increases to an amount greater than the amount of the penal sum of the bond, the owner or operator must, within sixty days after the increase, cause the penal sum of the bond to be increased to an amount at least equal to the new estimate or obtain other financial assurance herein as specified to cover the increase. Whenever the adjusted closure cost estimate decreases, the penal sum may be reduced to the amount of the adjusted closure cost estimate following written approval by the county. Notice of an increase or decrease in the penal sum must be sent to the county by certified mail within sixty days after the change.
- g. The bond shall remain in force unless the surety sends written notice of cancellation by certified mail to the owner or operator to the county. Cancellation cannot occur, however;
  - i. During the ninety days beginning on the date of the receipt of the notice of cancellation by the department as shown on the signed return receipt; or
  - ii. While a compliance procedure is pending.
- h. Following a determination that the owner or operators has failed to perform final closure in accordance with the closure plan and other permit requirements or closure order, than as an alternative the surety bond may deposit the amount of the penal sum into the standby trust fund.
- i. The surety bond no longer satisfies these requirements subsequent to the receipt by the county of a notice of cancellation of the surety



bond. Upon receipt of such cancellation notice, the county will issue a notice of violation, unless the owner or operator has demonstrated alternate financial assurance. In the event the owner or operator does not correct the violation by demonstrating such alternate financial assurance within thirty days after issuance of the notice of violation, the county may direct the surety to place the penal sum of the bond in the standby trust fund.

- j. The owner or operator may cancel the bond if the county has given prior written consent based on receipt of evidence of alternate financial assurance as specified herein.
  - k. The county will notify the surety if the owner or operator provides alternate financial assurance.
- ii. An owner or operator may satisfy the requirements of 6.1.1 (c) by obtaining an irrevocable standby letter of credit which conforms to the requirements of this section and having it delivered to the county by certified mail. An owner or operator of a new facility must have the letter of credit delivered to the department by certified mail at least sixty days before the date on which hazardous waste is first received for treatment, storage, or disposal. The letter of credit must be effective before the initial receipt of hazardous waste. The issuing institution must be a bank or other financial institution which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal agency.
  - a. The wording of the letter of credit must be identical to the wording specified in 40 CFR 264.151 (f).
  - b. An owner or operator who uses a letter of credit to satisfy the requirements of 6.1.1 (c) must also establish standby trust fund by the time the letter of credit is obtained. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the county will be deposited promptly and directly by the issuing institution into the standby trust fund. The standby trust fund must meet the following requirements:
    - i. The wording of the trust agreement must be identical to the wording specified in 40 CFR 264.151 (a) (1) and the trust agreement must be accompanied by a formal certification of acknowledgement.

- ii. An originally signed duplicate of the trust agreement must be delivered to the county with letter of credit; and
  - iii. A nominal initial payment agreed upon between the trustee and the owner or operator will be required.
- c. The letter of credit must be irrevocable · and issued for a period of at least one year. the letter of credit must provide that the expiration date· will be automatically extended for a period of at least one year. If the issuing institution decides not to extend the letter of credit beyond the then current expiration date it must, at least ninety days before that date, notify both the owner or the operator and the county by certified mail of that decision. The ninety-day period will begin on the date of receipt by the county as shown on the- signed return receipt. Expiration cannot occur, however, while a compliance procedure is pending.
- d. The letter of credit must be issued for at least the amount of the adjusted closure cost estimate.
- e. Whenever the adjusted closure cost estimate increases to an amount greater than the amount of the credit during t e operating life of the facility, the owner or operator must, within sixty days of the increase, cause the amount of the credit to be increased to an amount at least equal to the new estimate or obtain other financial assurance as specified to cover the increase. Whenever the adjusted closure cost estimate decreases · dur.j.ng the operating life of the facility the letter of credit may be reduced to the amount of the new estimate following written approval by the county. Notice of an increase or decrease in the amount of the credit must be sent to the county by certified mail within sixty days of the change.
- f. Following a notice that the owner or operator has failed to perform closure in accordance with the closure plan or other permit requirements, the county may draw on the letter of credit.
- g. The letter of credit no longer satisfies the requirements subsequent to the receipt by the county of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the then current expiration date. Upon receipt of such notice, the county will issue a notice of violation, unless the owner or operator has demonstrated alternate financial assurance as specified. In the event the owner or operator does not correct the violation by demonstrating such alternate financial assurance within thirty days of issuance of the notice of violation, the county may draw on the letter of credit.

- h. The county will return the original letter of credit to the issuing institution for termination when the owner or operator substitutes alternate financial assurance for closure as specified.
- d. Financial assurance for post-closure monitoring and maintenance. An owner or operator of each disposal facility must establish financial assurance for post-closure care in accordance with the approved post-closure plan for the facility. He must choose between the following options:
  - i. Surety bond guaranteeing performance of post-closure care. The surety bond guaranteeing performance of post-closure care shall be identical to the surety bond requirements of 6.1.1 (c) (i), except for the following:
    - a. The words "post-closure" will be used wherever "closure" appears;
    - b. The wording of the surety bond must be identical to the wording specified in 40 CFR 264.151 (e);
    - c. The following requirement shall be added:
      - i. During the period of post-closure care, the county may approve a decrease in the penal sum of the surety bond if the owner or operator demonstrates to the county that the amount exceeds the remaining cost of post-closure care.
      - ii. Post-closure letter of credit. The post-closure letter of credit requirements shall be identical to the letter of credit requirements of 6.1.1 (c) (ii), except for the following:
        - a. The words "post-closure" will be used wherever "closure" appears;
        - b. The wording of the surety bond must be identical to the working specified in 40 CRF 264.151(e);
        - c. The following requirement shall be added:
          - i. During the period of post-closure care, the county may approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the county that the amount exceeds the remaining cost of post-closure care.
  - ii. Post-closure letter of credit. The post-closure letter of credit requirements shall be identical to the letter of credit requirements of 6.1.1(c)(ii), except for the following:
    - a. The words “post-closure” will be used whenever closure appears;

b. The following requirement shall be added:

- i. During the period of post-closure care, the county may approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the county that the amount exceeds the remaining cost of post-closure care.

6.1.2 Security A facility must have:

- a. Signs posted at each entrance to the active portion, and at other locations, in sufficient numbers to be seen from any approach to the active portion. Signs must bear the legend, "Danger Unauthorized Personnel Keep Out", or an equivalent legend, written in English, and must be legible from a distance of twenty-five feet or more; and either:
  - i. A 24-hour surveillance system which continuously monitors and controls entry onto the active portion of the facility; or
  - ii. An artificial or natural barrier, or a combination of both, which completely surrounds the active portion of the facility, with a means to control access through gates or other entrances to the active portion of the facility at all times.

6.1.3 Personnel Training

- a. Training program for facility personnel. This teaches personnel to perform their duties in ensures the facility's compliance with these and shall include those elements set forth in plan required below. In addition:
  - i. The training program shall be directed by a person knowledgeable in hazardous waste management procedures, and must include training relevant to the positions in which the facility personnel are employed;
  - ii. Facility personnel must participate in an annual review of the training provided in the training program.
  - iii. This program must be successfully completed by the facility personnel;
    - a. Within six months after these regulations become effective; or
    - b. Within 30 days after their employment at or assignment to the facility, or to a new position at the facility, whichever is later.
  - iv. All initial employees shall be fully trained before the facility opens to receive any waste whatsoever.
  - v. No employee shall be in a responsible position until fully trained.

- b. Employees hired after the effective date of the regulations must be supervised until they complete the training program; and
  - i. At a minimum, the training program shall familiarize facility personnel with emergency equipment and systems, and emergency procedures. The program shall include other parameters as set forth by the county, but at a minimum shall include, where applicable.
    - a. Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment.
    - b. Key parameters for automatic waste feed cut-off systems;
    - c. Communications or alarm systems;
    - d. Response to fires or explosions;
    - e. Response to groundwater contamination incidents; and
    - f. Shutdown of operations.
- c. Written Training Plan. The owner or operator shall develop a written training plan which must include the following documents and records:
  - i. For each position related to dangerous waste management at the facility, the job title, the job description, and the name of the employee filling each job. The job description must include the requisite skills, education, other qualifications and duties for each position.
    - a. A written description of the type and amount of both introductory and continuing training required for each position; and
    - b. Records documenting that facility personnel have received and completed the training required by this section.
- d. Training Records. Training records on current personnel must be kept until closure of the facility. Training records on former employees must be kept for at least three years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

6.1.4 Preparedness and Prevention. Facilities shall be designed, constructed, maintained, and operated to minimize the possibility of fire, explosion, or any unplanned release of hazardous waste to air, soil, or surface or groundwater which could threaten human or animal health or the environment. This section describes preparations and preventative measures which help avoid or mitigate such situations.

- a. Required Equipment. All facilities must be equipped with the following, unless it can be demonstrated to the county that none of the hazards posed by waste

handled at the facility could require a particular kind of equipment specified below:

- i. An internal communications or alarm system capable of providing immediate emergency instruction to facility personnel;
  - ii. A device, such as a telephone or a handheld, two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams;
  - iii. Portable fire extinguisher, fire control equipment, spill control equipment, and decontamination equipment; and
  - iv. Water at adequate volume and pressure to supply fire and water hose streams, foam producing equipment, automatic sprinklers, or water spray systems.
- b. All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.
- c. Access to communications or alarms. Personnel must have immediate access to the signaling devices described in the situations below:
  - i. Whatever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved must have immediate access to an internal alarm or emergency communications device, either directly or through visual or voice contact with another employee;
  - ii. If there is just one employee on the premises while the facility is in operation, he must have immediate access to a device, such as a telephone, or a handheld two-way radio, capable of summoning external emergency assistance.
- d. Arrangements with local authorities. The owner or operator shall make the following arrangements, as appropriate for the type of waste handled at his facility and the potential need for the services of the organizations;
  - i. Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility, and associated hazards, places where facility personnel would normally be working, entrance to and roads inside the facility, and possible evacuation routes;
  - ii. Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the type of injuries or illnesses which could result from fires, explosions, or releases at the facility;

- iii. Agreements with state emergency response teams, emergency response contractors, and equipment suppliers; and
- iv. Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police department and a specific fire department, and agreements with any others to provide support to the primary emergency authority.

#### 6.1.5 Contingency Plan and Emergency Procedures

- a. Purpose. The purpose of this section is to lessen the potential impact on the human and animal health and the environment in the event of a fire, explosion, or unplanned release of hazardous waste to air, soil, surface water, or groundwater by a facility. A contingency plan must be developed, and the plan shall be implemented immediately in such emergency circumstances.
- b. Contingency Plan. Each owner or operator must have a contingency plan at his facility for use in emergencies which threaten human or animal health and the environment. If the owner or operator has already prepared a Spill Prevention Control and Countermeasure (SPCC) Plan in accordance with Part 112 of Title 40 CFR or Part 1510 of chapter V, or some other emergency or contingency plan, he need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of 6.1.5 and 6.1.6.
- c. The contingency plan must contain the following:
  - i. A description of the actions which facility personnel must take to comply with 6.1.5 and 6.1.6;
  - ii. A description of the action which will be taken in the event that a hazardous waste shipment, which if damaged or otherwise presents a hazard to human or animal health and the environment, arrives at the facility, and is not acceptable to the owner or operator, but cannot be transported, pursuant to the requirements of the manifest system.
  - iii. A description of the arrangements agreed to by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services;
  - iv. A current list of names, addresses, and phone numbers (office and home) of all persons qualified to act as the emergency coordinator required under 6.1.6 (a). Where more than one person is listed, one must be named as primary emergency coordinator, and the others must be listed in the order in which they will assume responsibility as alternates;
  - v. A list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment), where this equipment is required. This list must be kept up to date. In addition, the plan must include the location

and a physical description of each item on the list, and a brief outline of its capabilities; and

- vi. An evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan must describe the signal(s) to be used to begin, evacuation routes, and alternate evacuation routes.
- d. Copies of contingency plan. A copy of the contingency plan and all revisions to the plan shall be:
  - i. Maintained at the facility; and
  - ii. Submitted to all local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.
- e. Amendments. The owner or operator shall review and immediately amend the contingency plan, if necessary, whenever:
  - i. The plan fails in an emergency;
  - ii. Applicable regulations or the facility permit are revised;
  - iii. The facility changes (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions; or release of hazardous waste, or in a way that changes the response necessary in an emergency;
  - iv. The list of emergency coordinators change; or
  - v. The list of emergency equipment changes.

#### 6.1.6 Emergencies

- a. Emergency coordinator. At all times, there must be at least one employee either on the facility premises or on call with the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facilities contingency plan, required-by section 6.1.5, all operations and activities at the facility, the location of all records with the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.
- b. Emergency procedures. The following procedures shall be implemented in the event of an emergency:
  - i. Whenever there is an imminent or actual emergency situation the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:



- a. Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and
  - b. Notify appropriate state or local agencies with designated response roles if their help is needed (subject to (n) below).
- c. Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and the real extent of any released materials.
- d. Concurrently, the emergency coordinator shall assess possible hazards to human and animal health and the environment {considering direct, indirect, immediate, and long-term effects) that may result from the release, fire, or explosion.
- e. If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human or animal health or the environment outside the facility, he must report his finding as follows:
  - i. If his assessment indicates that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and
  - ii. He must immediately notify the county and either the government official designated as the on-scene coordinator, or the National Response Center (using their 24 hour toll free number (800) 424 3302).
- f. His assessment report must include:
  - i. Name and telephone number of reporter;
  - ii. Name and address of facility;
  - iii. Time and type of incident {e.g., release, fire);
  - iv. Name and quantity of material(s) involved, to the extent known;
  - v. The extent of injuries, if any; and
  - vi. The possible hazards to human and animal health or the environment outside the facility.
- g. During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous wastes at the facility.
- h. If the facility stops operations in response to a fire, explosion, or release, the emergency coordinator must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes or other equipment, wherever this is appropriate.

- i. Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil, or surface water, or any other material that results from a release, fire, or explosion at the facility.
- j. The emergency coordinator must ensure that, in the affected area(s) of the facility:
  - i. No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed; and
  - ii. All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.
- k. The owner or operator must notify the county, and other appropriate local authorities, that the facility is in compliance with 6. 1. 6 (j) above, before operations are resumed in the affected area(s) of the facility.
- l. The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within fifteen days after the incident, he must submit a written report on the incident to the county. The report must include:
  - i. Name, address, and telephone number of the owner or operator;
  - ii. Name, address, and telephone number of the facility;
  - iii. Date, time, and type of incident (e.g., fire, explosion);
  - iv. Name and quantity of materials involved;
  - v. The extent of injuries, if any;
  - vi. An assessment of actual or potential hazards to human or animal health or the environment, where this is applicable; and
  - vii. Estimated quantity and disposition of recovered material that resulted from the incident.
- m. In planning an adequate emergency response and control system, consideration must be given to the fact that no professional, full-time salaried fire departments or ambulance and emergency response teams exist in Cheyenne County.

#### 6.1.7 General Waste Analysis

- a. Purpose. This section requires the facility owner or operator to confirm his knowledge to the county authority about a hazardous waste before he stores, treats, or disposes of it. The purpose for the analysis is to ensure that a hazardous waste is managed properly.

- b. The owner or operator shall obtain a detailed chemical, physical, and/or biological analysis of a hazardous waste before he stores, treats, or disposes of it. This analysis must contain the information necessary to manage the waste in accordance with the requirements of these regulations. The analysis may include or consist of existing published or documented data on the hazardous waste, or on waste generated from similar processes, or data obtained by testing, if necessary.
- c. The owner or operator of an off-site facility shall confirm, by analysis if necessary, that each hazardous waste received at the facility matches the identity of the waste specified on the accompanying manifest or shipping paper.
- d. Analysis shall be repeated as necessary, to ensure that it is accurate and current. At a minimum, analysis must be repeated;
  - i. When the process or operation generating the hazardous waste has significantly changed; and
  - ii. When a hazardous waste received at an off-site facility does not match the identity of the waste specified on the manifest or the shipping paper.
- e. Waste analysis plan. The owner or operator shall develop and follow a written waste analysis plan which describes the procedures he will use to comply with the waste analysis requirements. He must keep this plan at the facility, and the plan must contain at least:
  - i. The parameters for which each hazardous waste will be analyzed, and the rationale for selecting these parameters;
  - ii. The methods for obtaining or testing these parameters;
  - iii. The methods for obtaining representative samples of wastes for analysis;
  - iv. The frequency with which analysis of a waste will be reviewed or repeated to ensure that the analysis is accurate and current;
  - v. The waste analysis which generators have agreed to supply;
  - vi. For off-site facilities, the procedures for confirming that each hazardous waste received matches the identity of the waste specified on the accompanying manifest or shipping paper. This includes at least:
    - a. The procedures for identifying each waste movement at the facility;
    - b. The method for obtaining a representative sample of the waste to be identified, if the identification method includes sampling.

#### 6.1.8 Spills and Discharges into the Environment

- a. Purpose and applicability. This section sets forth the requirements for any person responsible for a spill or discharge into the environment. This applies to transporters traveling through Cheyenne County and owner/operators of hazardous waste treatment facilities in the county. This section shall apply when any hazardous waste or when any material having the properties of a hazardous waste is intentionally or accidentally spilled or discharged into the environment such that human or animal health or the environment are threatened, regardless of the quantity of material or the quantity exclusion limits for hazardous waste.
- b. Notification. Any person who is responsible for a spill or discharge shall immediately notify the individuals and authorities described for the following situations.
  - i. For spills or discharges onto the ground or into groundwater or surface water, notify all local authorities in accordance with the emergency plan. If necessary, check with the emergency service coordinator and the fire department to determine all notification responsibilities under the emergency plan; and
  - ii. For spills or discharges which result in emissions to the air, notify all local authorities in accordance with the emergency plan. If necessary check with the emergency service coordinator and the fire department to determine all notification responsibilities under the emergency plan. Also, notify the state air pollution control authority.
- c. Mitigation and Control. The person responsible for a non-permitted spill or discharge shall take appropriate immediate action to protect human and animal health and the environment (e.g., diking to prevent contamination of state waters, shutting off open valves).
- d. In addition, the county may require the person responsible for a spill or discharge to:
  - i. Clean up all released substances (hazardous wastes, or materials having the properties of hazardous waste).
  - ii. Designate and treat, store or dispose of all soils, waters, or other materials contaminated by the spill or discharge. The county will require testing in order to determine the amount or extent of contaminated materials, and the appropriate designation, treatment, storage, or disposal for any substance resulting from clean-up; and
  - iii. If the property on which the spill or discharge occurred is not owned or controlled by the person responsible for the incident, restore the area impacted by the spill or discharge, and replenish resources (e.g., fish, plants) in a manner acceptable to the county.

- e. Where immediate removal or temporary storage of spilled or discharged substances is necessary to protect human and animal health or the environment, the county may direct that removal be accomplished without a manifest, by transporters who do not have EPA/State Identification Numbers, or that the substances be temporarily stored at facilities which do not have permits issued under these regulations.
- f. Nothing in this section shall eliminate any obligations to comply with reporting requirements which may exist in a permit or under other state or federal regulations.

#### 6.1.9 Tanks

- a. **Applicability.** The regulations in this section apply to owners and operators of facilities that use tanks to treat or store hazardous waste, except as 6.1.9 (b) and 6.1.9 (c) otherwise provide.
- b. The regulations in this section prohibit facilities that treat or store hazardous waste in covered underground tanks that cannot be entered for inspection, unless such tanks can be externally inspected or they have secondary containment structures that allow for monitoring, containment and removal of leaks or such tanks can be tested for leakage using methods of testing frequencies approved by the county.
- c. The regulation in this section does not apply to owners and operators of an elementary neutralization unit or a wastewater treatment unit.
- d. **Design of tanks.** The owner or operator shall design tanks including, the foundation, structural support, seams, and pressure controls to assure sufficient shell strength, pressure controls for closed tanks, earthquake resistance, etc. The owner/operator shall submit a statement with his permit application stating the basis for selecting minimum shell thickness, such as:
  - i. Underwriters Laboratories Inc. standards;
  - ii. American Petroleum Institute standards;
  - iii. American Concrete Institute standards;
  - iv. American Society of Mechanical Engineers standards.
- e. The statement shall be certified by an independent professional engineer.
- f. All tanks holding hazardous waste which is acutely or chronically toxic by inhalation must be designed to prevent escape of vapors, fumes, or other emissions into the air. New tanks holding hazardous waste shall be constructed above ground and have an impervious base underlying the tanks in the storage area.

- g. The containment system shall have adequate capacity to contain 110 percent of the volume of the largest tank in the storage area and, for uncovered areas, have sufficient capacity to contain the precipitation of a storm yielding 22-24 inches in 24 hours.
- h. All tanks holding hazardous waste shall be marked with labels or signs to identify the waste contained in the tank. The label or sign shall be legible at a distance of at least twenty-five feet and shall bear a legend which identifies the waste in a manner consistent with United States Department of Transportation regulations in 49 CFR 172. In lieu of this requirement, an owner/operator may demonstrate to the county that he uses an identification system for the tanks which adequately warns employees and the public of the hazards associated with the waste being treated or stored in the tanks.
- i. General operating requirements. Wastes and other materials (e.g., treatment reagents) which are incompatible with the material of construction of the tank must not be placed in the tank unless the tank is protected from accelerated corrosion, erosion, or abrasion, through the use of:
  - i. An inner liner or coating which is compatible with the waste or material, and which is free of leak, cracks, holes, or other deterioration; or
  - ii. Alternative means of protection (e.g., cathodic protection or corrosion inhibitors).
- j. The owner or operator must use appropriate controls and practices to prevent overfilling. These must include:
  - i. Controls to prevent overfilling (e.g., waste feed cut-off systems or by-pass systems to a standby tank); and
  - ii. For uncovered tanks, maintenance of sufficient freeboard to prevent overtopping by a wave or wind action or precipitation.
- k. The owner or operator must inspect:
  - i. Overfilling control equipment (e.g., waste feed cut-off systems and by-pass systems) at least once each operating day to ensure that it is in good working order
  - ii. Data gathered from monitoring equipment (e.g., pressure, level, volume, and temperature gauges) where present, at least once each operating day to ensure that the tank is being operated according to its design;
  - iii. For uncovered tanks, the level of waste in the tank, at least once each operating day or before each filling to ensure compliance with 6.L.9 (j);

- iv. The construction materials of the above ground portions of the tank, at least weekly to detect corrosion or erosion and leaking of fixtures and seams; and
  - v. The area immediately surrounding the tank, at least weekly to detect obvious signs of leakage (e.g., wet spots or dead vegetation).
- l. The owner or operator must develop a schedule and procedure for assessing the condition of the tank. The schedule and procedure must be adequate to detect cracks, leaks, corrosion, or erosion which may lead to cracks or leaks, or wall thinning to less than the thickness specified in 6.1.9 (d). Procedures for emptying a tank to allow entry and inspection of the interior must be established when necessary to detect corrosion or erosion of the tank sides and bottom. The frequency of these assessments must be based on the material of construction of the tank, type of corrosion or erosion protection used, rate of corrosion or erosion observed during previous inspection, and the characteristics of the waste being treated or stored.
  - m. As a part of the contingency plan required under 6.1.5, the owner or operator must specify the procedures he intends to use to respond to tank spills or leakage, including procedures and timing for expeditious removal of leaked or spilled waste and repair of the tank.
  - n. Closure. At closure, all hazardous waste and hazardous waste residues must be removed from tanks, discharge control equipment, and discharge confinement structures.
  - o. Special requirements for ignitable or reactive waste.
    - i. Ignitable or reactive waste must not be placed in a tank unless:
      - a. The waste is treated, rendered or mixed before or immediately after placement in the tank so that the resulting waste, mixture or dissolution of material no longer meets the definition of ignitable or reactive waste; or
      - b. The waste is stored or treated in such a way that it is protected from any material or conditions which may cause the waste to ignite or react; or
      - c. The tank is used solely for emergencies.
  - p. The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must locate the tanks in a manner equivalent to the National Fire Protection Association's buffer zone requirements for tanks, contained in Tables 2-1 through 2-6 of the "Flammable and Combustible Liquids Code - 1981", or as required by state and local fire codes.

- q. Special requirements for incompatible wastes. In compatible wastes, or incompatible wastes and materials, must not be placed in the same tank.
- r. Hazardous waste must not be placed in an unwashed tank which previously held an incompatible waste or material.

#### 6.1.10 Closure and Post Closure

- a. This section applies to the owners and operators of all hazardous waste disposal facilities.
- b. Closure performance standard. The owner or operator must close the facility in a manner that:
  - i. Minimizes the need for further maintenance; and
  - ii. Controls, minimizes, or eliminates to the extent necessary to prevent threats to human and animal health and the environment, post-closure escape of hazardous waste, hazardous waste constituents, leachate, contaminated rainfall, or waste decomposition products to the ground surface water, or the atmosphere.
- c. Returns the land to the appearance and use of surrounding land areas to the degree possible given the nature of the previous hazardous waste activity.
- d. Closure plan; amendment of plan. The owner or operator of a hazardous waste management facility must have a written closure plan. The plan must be submitted with the permit application, and approved by the county as part of the permit issuance proceedings. The approved closure plan will become a condition of any permit. The county's decision must assure that the approved closure plan is consistent with these regulations. A copy of the approved plan and all revisions to the plan must be kept at the facility until closure is completed and certified in accordance with 6.1.10 (i). The plan must identify steps necessary to completely or partially close the facility at any point during its intended operating life and to completely close the facility at the end of its intended operating life. The closure plan must include at least:
  - i. A description of how and when the facility will be partially closed, if applicable, and finally closed. The descriptions must identify the maximum extent of the operations which will be unclosed during the life of the facility and how the requirements of 6.1.10 (b) through 6.1.10 (g), and the applicable closure requirements of 6.1.9 (n) will be met;
  - ii. An estimate of the maximum inventory of wastes in storage and in treatment at any time during the life of the facility;
  - iii. A description of the steps needed to decontaminate facility equipment during closure; and



- iv. An estimate of the expected year of closure and a schedule for final closure. The schedule must include, at a minimum, the total time required for intervening closure activities which will allow tracking of the progress of closure. (For example, in the case of a landfill, estimates of the time required to treat and dispose of all waste inventory and of the time required to place a final cover must be included.
- e. The owner or operator may amend his closure plan at any time during the active life of the facility. (The active life of the facility is that period during which wastes are periodically received). The owner or operator must amend the plan whenever changes in operating plans or facility design affect the closure plan, or whenever there is a change in the expected year of closure. Then the owner or operator requests a permit modification to authorize a change in operating plans or facility design, he must request a modification of the closure plan at the same time. If a permit modification is not needed to authorize the change in operating plans or facility design, the request for modification of the closure plan must be made within sixty days after the change in plans or design occurs.
- f. The owner or operator must notify the county at least one hundred eighty days prior to the date he expects to begin closure.
- g. Time allowed for closure. Within ninety days after receiving the final volume of hazardous wastes, the owner or operator must treat, remove from the site, or dispose of on site, all hazardous wastes in accordance with the approved closure plan. The county may approve a longer period if the owner or operator demonstrates that;
  - i. The activities required to comply within this paragraph will, of necessity, take longer than ninety days to complete; or
  - ii. The facility has the capacity to receive additional wastes; and
    - a. There is a reasonable likelihood that a person other than the owner or operator will recommence operation of the site; and
    - b. Closure of the facility would be incomplete with continued operation of the site; and
    - c. He has taken and will continue to take all steps to prevent threats to human or animal health and the environment.
  - iii. The owner or operator must complete closure activities in accordance with the approved closure plan within one hundred eighty days after receiving the final volume of wastes. The county may approve a longer closure period if the owner or operator demonstrates that:
    - a. The closure activities will, of necessity, take longer than one hundred eighty days to complete; or

- b. The facility has the capacity to receive additional wastes;
  - c. There is reasonable likelihood that a person other than the owner or operator will recommence operation of the site; and
  - d. Closure of the facility would be incompatible with continued operation of the site;
  - e. And he has taken and will continue to take all steps to prevent threats to human and animal health and the environment from the unclosed but inactive facility.
- h. Disposal or decontamination of equipment. When closure is completed, all facility equipment and structures must have been properly disposed of, or decontaminated by removing all waste and residues.
- i. Certification of closure. When closure is completed, the owner or operator must submit to the county certification both by owner or operator and by an independent registered professional engineer that the facility has been closed in accordance with the specifications in the approved closure plan.
- j. Post-closure care must continue for thirty years after the date of completing closure and must consist of at least the following:
  - i. Ground water monitoring and reporting as applicable; and
  - ii. Maintenance of monitoring and waste containment systems as applicable.
- k. Prior to the time that the post-closure care period is due to expire the county may extend the post-closure care period if it finds that the extended period is necessary to protect human and animal health and the environment (e.g., leachate or ground water monitoring results indicate a potential for migration of waste at levels which may be harmful to human and animal health and the environment).
- l. The county may require, at closure, continuation of any of the security requirements of 6.1.2 during part or all of the post-closure period after the date of completing closure when:
  - i. Wastes may remain subject to release by acts of vandalism or sabotage after completion of closure; and
  - ii. Access by the public or domestic livestock may pose a hazard to human or animal health or may disturb the post-closure monitoring or waste containment system.
- m. Post-closure use of property on or in which hazardous wastes remain after closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's

monitoring system, unless the county finds that the disturbance is necessary to reduce a threat to human or animal health or the environment.

- n. All post-closure care activities must be in accordance with the provisions of the approved post-closure plan.
- o. The owner or operator of a disposal facility must have a written post-closure plan. The plan must be submitted with the permit application and approved by the county as part of the permit issuance proceeding. The approved post-closure plan will become a condition of any permit issued. A copy of the approved plan and all revisions to the plan must be kept at the facility until the post-closure care period begins. This plan must identify the activities which will be carried on after closure and the frequency of these activities, and include at least:
  - i. A description of the planned ground water monitoring activities and frequencies at which they will be performed;
  - ii. A description of the planned maintenance activities and frequencies at which they will be performed to ensure:
    - a. The integrity of the cap and final cover or other containment structures where applicable; and
    - b. The function of the facility monitoring equipment.
  - iii. The name, address, and phone number of the person or office to contact about the disposal facility during the post-closure period. The person or office must keep an updated post-closure plan during the post-closure period.
- p. The owner or operator may amend his post-closure plan at any time during the active life of the disposal facility or during the post-closure period. The owner or operator must amend his plan whenever changes in operation plans or facility design, or events which occur during the active life of the facility or during the post-closure period, affect his post-closure plan. He must also amend his plan whenever there is a change in the expected year of closure.
- q. When a permit modification is requested during the active life of the facility to authorize a change in operating plans or facility design which affects the post-closure plan, modification of the post-closure plan must be requested at the same time. In all other cases the request for modification of the post-closure plan must be made within sixty days before the change in operating plans or facility design or the events which affect his post-closure plan occur.

- r. Notice to local land authority. Within ninety days after closure is completed, the owner or operator of a disposal facility must submit to the local zoning authority or the authority with jurisdiction over land use and to the county a survey plat indicating the location and dimensions of landfill cells or other disposal areas with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the site. In addition, the owner or operator must submit to the local zoning authority or the authority with jurisdiction over local land use and to the county, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility. Any changes in the type, location, or quantity of hazardous wastes disposed of within each cell or area of the facility that occur after the survey plan and record of wastes have been filed must be reported to the local zoning authority or the authority with jurisdiction over local land use and to the county.
- s. Notice in deed to property. The owner of the property on which a disposal facility is located must record, in accordance with state law, a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:
  - i. The land has been used to manage hazardous wastes;
  - ii. Its use is restricted in 6.1.10(m); and
  - iii. The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or area of the facility have been filed with the local zoning authority, or the authority with jurisdiction over local land use, and with the county.
- t. If at any time the owner or operator or any subsequent owner of the land upon which a hazardous waste facility was located removes the waste and waste residues, the liner, and all contaminated underlying and surrounding soil, he may remove the notation on the deed to the facility property or other instrument normally examined during title search, or he may add a notation to the deed or instrument indicating the removal of the waste.

## **7.1 Administrative Regulations**

### **7.1.1 County Monitoring Office**

- a. There shall be established a county office responsible for the monitoring and overseeing of any hazardous waste disposal site or hazardous waste incinerator in Cheyenne County at the time a permit is granted. Duties of the office shall include monitoring of the facility operation, receiving and filing of all manifests, checking for compliance with safety, security, and training requirements at the facility and tracking of compliance by the owner or operator with all other requirements in these regulations. All manifests of hazardous waste shipments to be delivered to a disposal site in Cheyenne County shall be received by the county monitoring office not less than 48 hours before the hazardous waste shipment enters Cheyenne County. The county monitoring office shall provide emergency information in case of an accident or spill while a shipment is enroute to the facility to assist in minimizing danger to emergency personnel and to the public.

7.1.2 Manifest. Before transporting hazardous waste off the site of generation, the generator shall prepare a typed or printed manifest, containing the information required below, and shall follow all applicable procedures described below:

- a. Required information for manifests. The manifest shall contain at least the following information:
  - i. A manifest document number;
  - ii. The generator's name, address, telephone number, and EPA/State Identification number;
  - iii. The name, address, telephone number, and EPA/State Identification Number of the origin of the hazardous waste, if the origin is different from the generator;
  - iv. The transporter's name, address, telephone number, and EPA/State Identification Number;
  - v. The name, address, and EPA/State Identification Number of the designated receiving facility, and of one alternative facility;
  - vi. The total quantity of each hazardous waste, and the type and number of containers to be received by the transporter;
  - vii. The description of the waste(s) as required by the United States Department of Transportation (DOT) regulations, 49 CFR 172.101, 172.202, and 172.203, and when such information would be useful in the event of a spill or discharge during transport, the approximate percentage of each waste component;

- viii. Measures to be taken in case of accident, the National Response Center phone number, 1-800- 424-8802, and the CHEM-TREC phone number, 1- 800-424-9300.
  - ix. The following certification, or an equivalent certification, on the manifest;
    - “This is to certify that the above-named materials are properly designated, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the United States Department of Transportation.”
  - b. The manifest shall consist of enough copies to provide the generator, transporter(s), facility owner\operator, and the county monitoring office with a copy, and a copy for return to the generator.
  - c. Manifest procedures. The generator shall:
    - i. Sign and date the manifest certification by hand;
    - ii. Obtain the signature of the initial transporter and date of acceptance on the manifest;
    - iii. Retain one copy; and
    - iv. Notify the county office not less than 48 hours before entering Cheyenne County. Also notify the disposal site not less than 48 hours in advance of arrival. Manifest information shall be furnished at this time.
  - d. The generator shall give the remaining manifest copies to the transporter.
  - e. For rail shipments of hazardous waste within the United States which originate at the site of generation, the generator must send at least three copies of the manifest dated and signed in accordance with this section, to:
    - i. The next non-rail transporter, if any; and
    - ii. The designated facility if transported solely by rail; or
    - iii. The last rail transporter to handle the waste in the United States if exported by rail.
- 7.1.3 Manifest system applicability. The requirements of this section apply to owners and operators who receive hazardous waste from off-site sources. Upon receiving notice at least 48 hours in advance of a shipment of hazardous waste into Cheyenne County for disposal the owner or operator shall notify the county office.
- a. The facility must receive only waste accompanied by a manifest, and at the time of delivery, the owner or operator, or his agent, must:

- i. Sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received.
  - ii. Note any discrepancies in the manifest, as described in the section below, on each copy of the manifest;
  - iii. Immediately give the transporter at least one copy of the signed manifest;
  - iv. Within thirty days after the delivery, send a copy of the manifest to the generator, and to the county office; and
  - v. Retain at the facility a copy of each manifest.
- b. If a facility receives, from a rail transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA/State Identification Numbers, generator's certification, and signature), the owner or operator, or his agent, must:
  - i. Sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;
  - ii. Note any discrepancies in the manifest, as described in the section below, on each copy of the manifest;
  - iii. Immediately give the rail transporter at least one copy of the signed manifest;
  - iv. Within thirty days after the delivery, send a copy of the manifest to the generator, and to the county office; and
  - v. Retain at the facility a copy of each manifest.
- c. Manifest discrepancies. Manifest discrepancies are discrepancies between the quantity or type of hazardous waste designated on the manifest or shipping paper and the quantity or type of hazardous waste a facility actually receives. Discrepancies in quantity are variations greater than ten percent in weight, or variations in piece count. Discrepancies in type are obvious physical or chemical differences which can be discovered by inspection or waste analysis (e.g., waste solvent substituted for waste acid).
- d. Upon discovering a discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter. If the discrepancy is not resolved within fifteen days after receiving the waste, the owner or operator must immediately submit to the county a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.
- e. Reasons for not accepting hazardous waste shipments. The owner or operator may decide that a hazardous shipment should not be accepted by his facility. The

following shall be acceptable reasons for denying receipt of a hazardous waste shipment:

- i. The facility is not capable of properly managing the type(s) of hazardous waste in the shipment;
  - ii. There is a discrepancy (as described in 7.1.3(c), above) between the shipment and the wastes listed on the manifest or shipping paper; or
  - iii. The shipment has arrived in a condition which the owner or operator believed would present an unreasonable hazard to facility operations, or to facility personnel handling the hazardous waste(s) (including, but not limited to, leaking or damaged containers, and improperly labeled containers).
- f. The owner or operator may return the shipment to the generator or send it on to the alternate facility designated on the manifest or shipping paper, unless, the containers are damaged to such an extent or the hazardous waste is in such a condition as to present a hazard to human and animal health or the environment in the process of further transportation.

#### 7.1.4 Required Notices

- a. The facility owner or operator who is receiving hazardous waste from a foreign source shall comply with Title 40 CFR 265.12 (a). The facility owner or operator shall also send a copy of the required notification to the county at least four weeks in advance of the date the waste is expected to arrive at the facility.
- b. Before transferring ownership or operation of a facility during its active life or post-closure care period, the owner or operator shall notify the new owner or operator; in writing of the requirements of these regulations.
- c. The owner or operator of a facility that receives hazardous waste from an off-site source, (except where the owner or operator is also the generator) must inform the generator in writing that he has the appropriate permit(s) for, and will accept, the waste the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record required under these regulations.

7.1.5 Operating record. The owner or operator of a facility shall keep a written operating record at his facility.

- a. The following information shall be recorded, as it becomes available, and maintained in the operating record until closure of the facility:
  - i. A description of and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or disposal at the facility is required.



- ii. The location of each dangerous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross references to specific manifest document numbers, if the waste was accompanied by a manifest.
- iii. Records and results of waste analysis required by 6.1.7, General Waste Analysis;
- iv. Summary reports and details of all incidents that require implementing the contingency plan, as specified in 6.1.5;
- v. Monitoring, testing, or analytical data where required;
- vi. For off-site facilities, copies of notices to generator informing them that the facility has all appropriate permits, as required by 7.1.4 (c), required notices.

7.1.6 Facility Reporting. The owner or operator of a facility is responsible for preparing and submitting the reports described in this section.

- a. Unmanifested waste reports. If a facility accepts any hazardous waste from an off-site source without an accompanying manifest or shipping paper, and if the waste is not excluded from the manifest requirements of this chapter, then the owner or operator must prepare and submit a single copy of a report to the county within 24 hours after receiving the waste. The report form and instructions in facilities report form - Part C (which may be obtained from the county) must be used for this report. The report must include the following information:
  - i. The EPA/State Identification Number, name, address of the facility;
  - ii. The date the facility received the waste;
  - iii. The EPA/State Identification Number, name, address of the transporter, if available.
  - iv. A description and the quantity of each unmanifested hazardous waste the facility received;
  - v. The method of management for each hazardous waste;
  - vi. The certification signed by the owner or operator of the facility or his authorized representative; and
  - vii. A brief explanation of why the waste was unmanifested, if known.
- b. Annual reports. The owner or operator shall prepare and submit a single copy of an annual report to the county by March 1 of each year. The report form and instructions in the facilities report form - Part B (which may be obtained from the

county) must be used for this report. The annual report must cover facility activities during the previous year and must include the following information:

- i. The EPA/State Identification Number, name, and address of the facility;
  - ii. The calendar year covered by the report;
  - iii. For off-site facilities, the EPA/State Identification Number of each hazardous waste generator from which the facility received a hazardous waste during the year. For imported shipments, the report must give the name and address of the foreign generator;
  - iv. A description and the quantity of each hazardous waste the facility received during the year for off-site facilities (this information must be listed by EPA/State Identification Number of each generator);
  - v. The method of treatment, storage, or disposal for each hazardous waste;
  - vi. The most recent closure cost estimate, and for disposal facilities, the most recent post-closure cost estimate; and
  - vii. The certification signed by the owner or operator of the facility or his authorized representative.
- c. Additional reports. The owner or operator shall also report to the county releases of hazardous wastes, fires, and explosions.
  - d. In addition, the owner or operator shall submit reports as required by the county.

7.1.7 County Disposal Fee. Each hazardous waste site permitted to operate in Cheyenne County shall pay an annual operating fee equal to one percent of the annual gross revenue received by the hazardous waste disposal site or hazardous waste incinerator. The collection and use of such fee shall be established in an agreement between Cheyenne County and the owner or operator of the hazardous waste site as provided in CRS 25-15-214.

## 8.1 AMENDMENTS

8.1.1 Amendments to this regulation may be made from time to time after consideration at a public hearing held by the Board of County Commissioners. Hearings to consider any proposed amendments to the regulation shall note the time, place, and location of the hearing and the place where the proposed amendment may be viewed beforehand. Notice shall be given at least 30 days prior to the holding of such hearing in a local newspaper of general circulation in the county.

## 9.1 Enactment Clause

9.1.1 Upon approval and adoption of the Board of County Commissioners of Cheyenne County, a certified copy of this Regulation shall be filed, according to law, in the office of the County Clerk and Recorder of the County of Cheyenne. This Regulation shall become of full force and effective as of the date of its adoption, this being the 29th day of October 1993.

**RESOLUTION #147**

**Application of Domestic Sludge Regulation**

**Five Year Moratorium**

**Cheyenne County, Colorado**

[Intentionally Omitted, please see PDF]

**RESOLUTION TO DEFINE DOMESTIC SLUDGE AS USED IN THE DOMESTIC  
SLUDGE REGULATION 5 YEAR MORATORIUM**

**CHEYENNE COUNTY, COLORADO**

[Intentionally Omitted, please see PDF]

## **Part VI**

### **Wind and Solar Power Information**

## **Solar and Wind Regulations**

All requirements in this section are in addition to others required in the Land Use Regulations, specifically those enumerated in Part II, Section 4.

### **1-101: Building Permit Required for Construction of Any Wind or Solar Energy Facility.**

An Building Permit shall be obtained for all new buildings and structures comprising the Wind or Solar Energy System and BESS, including each Wind Turbine, prior to beginning construction. The Building Permit will be processed only if the Administrator determines that the proposed activity is not a material change from the project approved under the Land Use Permit.

### **1-102: Residential Wind Requirements and Standards**

Residential Wind Energy Systems are exempt from land use permit requirements but shall require a Building Permit, under 13-101, 13-102, and any additional requirements pursuant to this section.

#### **A. Additional Standards for Building Permit-Residential Wind Energy System.**

##### **1. Setbacks.**

- a. Minimum Setback.** The Residential Wind Energy System shall be set back from any property boundary and ROW a minimum of 110% of the maximum height of the system.
- b. Guy-Wire Anchor Setback.** Guy wire anchors shall be setback from any property boundary a minimum of ten (10) feet.
- c. Waiver or Reduction of Setback.** The Applicant may request a waiver from the setback requirements at the time of the Land Use Permit application. The Board at its discretion may consider an applicant's proposal for waiver or reduction of setback in a regular meeting for which the request appears on the agenda. If the Land Use Permit application is approved with a setback waiver or reduction, the approved setback shall be specified in the Land Use Permit approval. The burden is upon the applicant to demonstrate with clear and convincing evidence that:
  - The proposed waiver or reduction of setback is necessary to accommodate the Residential Wind Energy System; and
  - The public health, safety, welfare and the environment will not be harmed by the proposed waiver or reduction of setback; and
  - The proposed Residential Wind Energy System

otherwise complies with the relevant standards.

## **2. System Height.**

### **a. Located Within Airport Flight Path or Airport Influence Zone.**

Residential Wind Energy System located on property within an airport flight path or airport influence zone shall comply with applicable FAA safety height requirements. The Residential Wind Energy System shall not interfere with established airport flight paths or structural height restrictions within the airport influence zones.

**b. Waiver from Height Restrictions.** The Applicant may request a waiver from maximum height restriction at the time of the Land Use Permit application. The Board at its discretion may consider an applicant's proposal for waiver from maximum height restriction in a regular meeting for which the request appears on the agenda. If the Land Use Permit application is approved with a waiver from maximum height restriction, the approved height shall be specified in the Land Use Permit approval. The burden is upon the applicant to demonstrate with clear and convincing evidence that:

- The proposed site provides sufficient wind potential to justify a taller system, based on competent information such as anemometer data or National Renewable Energy Laboratory mapping; and
- The proposed Residential Wind Energy System otherwise complies with the relevant standards.

## **3. Visual Impacts.**

- a.** Colors and surface treatment of the Residential Wind Energy System shall be neutral and non-reflective.
- b.** Residential Wind Energy System shall not be located where it would substantially obstruct views from adjacent property.
- c.** Owner shall locate utility connections underground whenever practicable.

**4. Signs.** The Residential Wind Energy System shall not be used to display graphics and signs.

**5. Lighting.** The Residential Wind Energy System shall not be artificially lit except to the extent required by the FAA or other applicable authority.

6. **Safety Shutdown.** Wind Turbine shall have an automatic braking, furling, or feathering system to prevent uncontrolled rotation, over-speeding and excessive pressure on the tower structure, rotor blades and turbine components. Owner shall maintain the ability to shut down turbines in an emergency.
7. **Physical and Electromagnetic Interference.** The Residential Wind Energy System shall not interfere with any microwave communication link or remote telemetry.
8. **Certification.**
  - a. All equipment and appurtenant facilities shall be certified by a registered structural engineer to be compliant with the applicable industry, state, federal and local regulations.
  - b. The electrical system shall be certified by a registered electrical engineer to be compliant with the applicable industry, state, federal and local regulations.
  - c. Prior to operation, the applicant shall provide the County with the required certifications.
9. **Removal of Discontinued Residential Wind Energy System.** If the Residential Wind Energy System ceases to perform its originally intended function for more than eighteen (18) consecutive months, the owner shall remove the Residential Wind Energy System and complete adequate site restoration no later than ninety (90) days after the end of the 18-month period. Adequate site restoration shall include removal of foundations and electrical equipment to below grade.

### **1-103: Residential Solar Requirements and Standards**

Residential Solar Energy Systems are exempt from land use permit requirements but shall require an Building Permit Building Permit, under 11-101, 11-103, and any additional requirements pursuant to this section.

#### **A. Additional Standards for Building Permit-Residential Solar Energy System.**

##### **1. Setbacks.**

###### **a. Minimum Setback**

- i. Residential solar collection panels and equipment shall comply with the Residential Setbacks as follows:



1. Residential Setbacks—Minimum requirements:

- a. Front Yard Setback:
  - i. Arterial: 20 feet
  - ii. Major Collector: 20 feet
  - iii. Local: 20 Feet
- b. Side Yard Setback: 10 feet
- c. Rear Yard Setback:
  - i. Principal Uses: 25 feet
  - ii. Accessory Uses: 5 feet

**b. Waiver or Reduction of Setback.** The Applicant may request a waiver from the setback requirements at the time of the Land Use Permit application. The Board at its discretion may consider an applicant's proposal for waiver or reduction of setback in a regular meeting for which the request appears on the agenda. If the Land Use Permit application is approved with a setback waiver or reduction, the approved setback shall be specified in the Land Use Permit approval. The burden is upon the applicant to demonstrate with clear and convincing evidence that:

- i. The proposed waiver or reduction of setback is necessary to accommodate the Residential Solar Energy System; and
- ii. The public health, safety, welfare and the environment will not be harmed by the proposed waiver or reduction of setback; and
- iii. The proposed Residential Solar Energy System otherwise complies with the relevant standards.

**2. Maximum System Height.** Roof-mounted systems shall be mounted as flush as possible to the roof. In order to achieve proper solar orientation, panels may exceed the roofline by up to five (5) feet.

**3. Visual Impacts.** The Residential Solar Energy System shall not have an adverse visual impact on the natural features or character of the surrounding area and shall be located to minimize glare on adjacent properties and roadways.

**4. Location Restrictions.**

- a. Ground-mounted solar energy collectors may not be located within utility easements or ditch easements unless authorized in writing by the easement holder.
- b. Residential Solar Energy Systems with a rated capacity of more than 100 kW shall not be located in areas of critical wildlife habitat.

## 5. Certification.

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

- 6. Removal Of Discontinued Residential Solar Energy System.** If the Residential Solar Energy System ceases to perform its originally intended function for more than eighteen (18) consecutive months, the owner shall remove the Small Solar Energy System and complete adequate site restoration no later than ninety (90) days after the end of the 18-month period. Adequate site restoration shall include removal of foundations and electrical equipment to below grade.

## **1-104: Distributed Wind and Solar Requirements and Standards**

- A. Application Materials Required for Distributed Wind And Solar Energy System.** The application for an Building Permit for a Distributed Wind or Solar Energy System shall include the following information. The Administrator may request additional information that may be necessary to evaluate the application. The Administrator may waive any part of the application material requirements when the information would not be as determined by the Administrator.
- 1. Written Description.** A written description of the proposed Distributed Wind Energy System including the manufacturer and model, rated kW capacity, overall height of the turbine (grade level to highest tip extension), total blade diameter, and rated maximum rotor RPM. A written description of the proposed Distributed Solar Energy System including the manufacturer and model of the system to be installed.
  - 2. Site Plan.** The site plan for applications for a Distributed Wind or Solar Energy System shall include the following elements:
    - a. Date of preparation, revision box, written scale, graphic scale, and north arrow (designated as true north).
    - b. Clearly identified boundary lines, corner pins, and dimensions of the site.
    - c. Location of lot lines.

- d. Size of the site, in acres or square feet.
  - e. Existing uses of the site and the adjacent properties.
  - f. Existing structures shown by location and dimension.
  - g. Location and dimensions of proposed Distributed Wind Energy System and distance from the boundaries of the site.
  - h. Location and dimensions of proposed ground-mounted solar collection panels, associated control and conversion electronics and distance from the boundaries of the site.
  - i. Dimensional drawing of roof-mounted solar collection panels showing height and orientation, and distance of structure housing the panels from the boundaries of the site.
  - j. Existing roads, railroads, utility lines, and easements and rights-of-way on the site, shown by location and dimension.
3. **Detailed Drawing or Photograph.** Detailed drawing of the Distributed Wind or Solar Energy System to be installed. The drawing shall include dimensions for wind tower footprint, tower height, hub height and blade tip height.
  4. **Notice to FAA.** If the Distributed Wind Energy System is located within twenty thousand feet (20,000') of the runway of an airport, the application shall be accompanied by a copy of the written notification to the Federal Aviation Administration (FAA).
  5. **Notice to Operation of Communication Link.** If the Distributed Wind Energy System is located within two (2) miles of any microwave communications link and/or remote telemetry, the application shall be accompanied by a copy of the written notification to the operator of the communication link.

**B. Additional Standards for Distributed Wind Energy System Land Use Permits.**

1. **Industry Standards, and State and Federal Requirements.** Wind turbines, their components and appurtenant facilities shall conform to applicable industry standards, including those of the American National Standards Institute and National Electrical Commission, and shall comply with all relevant state and federal requirements.
2. **Artificial Lighting.** Wind turbines and appurtenant structures shall not

be artificially lit except to the extent required by the FAA or other applicable authority.

### **3. Setbacks for Distributed Wind Energy Systems.**

#### **a. Minimum Setback.**

- Distributed Wind turbines shall be set back from any property boundary or public road, highway or railroad right-of-way a minimum of 110% of the maximum height of the system.
- Distributed Wind turbines shall be set back from above ground public electric power lines or communication lines a minimum of 110% of the maximum height of the system.
- Distributed Wind turbines shall be set back from inhabited structures located outside of the site boundary a minimum of 110% of the maximum height of the system.

#### **b. Scenic Resource Setback.**

- The Distributed Wind Energy System shall be setback a minimum of ¼ mile from any highway eligible or designated to be a scenic highway or roadway by the Cheyenne County Land Use Regulations or by the state.
- A scenic resource protection setback requirement may be reduced if the Board determines that the characteristics of the surrounding property eliminate or substantially reduce considerations of scenic value.

**c. Waiver or Reduction of Setback.** The Applicant may request a waiver from the setback requirements at the time of the Land Use Permit application. The Board at its discretion may consider an applicant's proposal for waiver or reduction of setback in a regular meeting for which the request appears on the agenda. If the Land Use Permit application is approved with a setback waiver or reduction, the approved setback shall be specified in the Land Use Permit approval. The burden is upon the applicant to demonstrate with clear and convincing evidence that:

- The proposed waiver or reduction of setback is necessary to accommodate the Distributed Wind Energy System; and

- The public health, safety, welfare and the environment will not be harmed by the proposed waiver or reduction of setback; and
- The proposed Distributed Wind Energy System otherwise complies with the relevant standards.

#### **4. Safety and Security.**

- a. Fencing, or other barriers acceptable to the County, shall be installed to prevent unauthorized access to the Distributed Wind Energy Facility electrical interconnection facilities.
- b. All wiring between Wind Turbines and the Distributed Wind Energy Facility substation shall be underground.
- c. Guy wires shall be distinctly marked and fenced on all permanent towers.
- d. All access doors to Wind Turbine towers and electrical equipment shall be lockable and remain locked when unattended.
- e. Signs warning of the electrical hazard and other hazards associated with the Wind Energy Facility shall be posted at the base of each Wind Turbine tower, electrical equipment, and at the entrance of the Wind Energy Facility.
- f. A security patrol or other security measure may be required if it is determined to be necessary and appropriate to ensure public safety.

**5. Fire Protection.** The Wind Energy Facility shall have adequate fire control and prevention measures.

**6. Underground Location of Powerlines.** Unless geologic conditions prevent underground installation, electrical collection system wiring, and powerlines shall be installed underground except where the Wind Energy Facility collector wiring is brought together for connection to the transmission or distribution network. All underground installations located within the public road easement or right-of-way shall comply with the applicable permit and design requirements of Cheyenne County Road and Bridge and should include the following elements:

- a. **Restoration.** Any disturbed portion of the right of way shall be restored as nearly as possible to its condition immediately prior to

construction, improvements, location or relocation, and to the satisfaction of Cheyenne County Road and Bridge. Backfilling shall be made in six (6) inch lifts, mechanically tamped and packed, and the last twelve (12) inches shall be crushed rock or gravel.

- b. **Safety.** Safety measures shall be implemented to the satisfaction of Cheyenne County Road and Bridge and in accordance with state and federal requirements to protect the public from harm during construction, improvements, location or relocation.
- c. **Roadway Crossing.** When the installation crosses a roadway, it shall be located as perpendicular to the roadway as physically practical and installed in compliance with the requirements of Cheyenne County Road and Bridge.
- d. **As-built drawings.** Certified as-built drawings shall be provided to the County once the construction, improvements, location or relocation has been completed.
- e. **Permit and Notice to Proceed.** No work associated with construction, improvements, location or relocation shall commence until the required permit(s) and notice to proceed have been issued by the County.

**7. Interconnection and Electrical Distribution Facilities.**

- a. All distribution lines, electrical substations, and other interconnection facilities shall be constructed to the specifications of the American National Standard Institute (ANSI), National Electrical Code (NEC), Institute of Electrical and Electronic Engineers (IEEE), and National Utility Standards.
- b. Interconnection shall conform to the requirements of the electric utility company, and applicable state and federal regulatory requirements.

**8. Interference with Navigational Systems.** The Applicant shall minimize or mitigate any interference with electromagnetic communications caused by the Wind Energy Facility, including radio, telephone or television signals.

- a. Every Wind Turbine shall comply with Federal Aviation Administration regulations for sighting structures near an airport or VORTAC installation.

**9. Certification of Equipment and Appurtenant Facilities.**

- a. All equipment and appurtenant facilities shall be certified by a registered structural engineer to be compliant with the applicable state, federal and local regulations and to conform with good engineering practices.
  - b. The electrical system shall be certified by a registered electrical engineer to be compliant with the applicable state, federal and local regulations, and to conform with good engineering practices.
- 10. **Signs.** Wind Turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Wind Energy facility.
- 11. **Color and Finish.**
  - a. All Wind Turbines shall be painted a non-reflective, non-obtrusive color.
  - b. Design of accessory buildings and related structures shall, to the extent practicable, use materials, colors, textures, screening and landscaping that will blend the Wind Energy Facility to the natural setting and existing environment.
- 12. **Preservation of Land Use under Decommissioning Plan.**  
Decommissioning of the Wind Energy Facility shall not interfere with surrounding land use.
- 13. **Dimension and Location of Each Wind Turbine.** Applicant has submitted a site plan that designates the location and dimensions of each Wind Turbine to be authorized by the final Land Use Permit.

**C. Additional Standards for Distributed Solar Energy System Land Use Permits.**

**1. Setbacks for Distributed Solar Energy System.**

**a. Minimum Setback.**

- Distributed solar collection panels and equipment shall comply with the Industrial/Commercial Setbacks as follows:
  - Minimum Setback Requirements:
    - Front Setback: 30 feet from the road ROW
    - Side Yard Setback: 25 feet from adjacent residential/agricultural

- property
- Side Yard Setback: 10 feet from adjacent commercial/industrial property.
- Rear Yard Setback: 25 feet from adjacent residential/agricultural property.

**b.Scenic Resource Setback.**

- The Distributed Solar Energy System shall be setback a minimum of ¼ mile from any highway eligible or designated to be a scenic highway or roadway by the Cheyenne County Land Use Regulations or by the state.
- A scenic resource protection setback requirement may be reduced if the Board determines that the characteristics of the surrounding property eliminate or substantially reduce considerations of scenic value.

**c. Waiver or Reduction of Setback.** The Applicant may request a waiver from the setback requirements at the time of the Land Use Permit application. The Board at its discretion may consider an applicant's proposal for waiver or reduction of setback in a regular meeting for which the request appears on the agenda. If the Land Use Permit application is approved with a setback waiver or reduction, the approved setback shall be specified in the Land Use Permit approval. The burden is upon the applicant to demonstrate with clear and convincing evidence that:

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

**2. Maximum System Height.** Roof-mounted systems shall be mounted as flush as possible to the roof. In order to achieve proper solar orientation, panels may exceed the roofline by up to five feet.

**3. Visual Impacts.** The Distributed Solar Energy System shall not have an



adverse visual impact on the natural features or character of the surrounding area and shall be located to minimize glare on adjacent properties and roadways.

#### **4. Location Restrictions.**

- a. Ground-mounted solar energy collectors may not be located within utility easements or ditch easements unless authorized in writing by the easement holder.
- b. Distributed Solar Energy Systems shall not be located in areas of critical wildlife habitat.
- c. Distributed Solar Energy Systems are encouraged to be located on predominately (more than 60 %) non-prime farmland.

#### **5. Certification.**

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

### **1-105: Utility Wind Scale, Solar, and BESS Requirements and Standards**

#### **A. Additional Utility Wind and Solar Requirements and Standards.**

- 1. **Additional Materials Required for Utility Scale Wind, Solar, and BESS Requirements System.** A Utility Scale Wind, Solar Energy System, and/or BESS application shall include the following information:

- a. **Facility Owner/Operator Information and Written Description.** Contact information for facility owners and operators, and all other pertinent party associated with the Utility Scale Wind or Solar Energy System or BESS. The written description of the proposed Utility Scale Wind, Solar Energy System or BESS shall include the manufacturer and model of the solar panels, wind turbines and batteries to be installed which information must be updated pre-construction with final manufactures and models included.
- b. **Location Map.** In lieu of a vicinity map, the Applicant shall submit a

location map, to scale, that illustrates the following:

- i. Location of the proposed Utility Scale Wind, Solar Energy System, or BESS in the County.
  - ii. Location of all property for which a permit is being requested and of property within 500 feet of the exterior boundary of the site of the proposed Utility Scale Wind, Solar Energy System or BESS.
- c. **Site Plan.** The site plan for applications for Utility Scale Wind, Solar Energy System, or BESS shall include the following elements:
  - i. Distance of proposed ground-mounted solar collection panels and/or BESS battery enclosures from the boundaries of the site. Final locations shall be provided pre-construction.
  - ii. Dimensional drawing of roof-mounted solar collection panels showing height and orientation, and distance of structure housing the panels from the boundaries of the site.
  - iii. Locations and dimensions for each Wind Turbine in the proposed Wind Energy System, to the extent known. Prior to final approval of the Land Use Permit by the Board and prior to pre-construction, Applicant shall designate the location and dimensions of each Wind Turbine.
    1. Setbacks of the Wind Turbines from boundaries of the site and the distance between each Wind Turbine.
    2. Location and dimensions of the associated control or conversion electronics, accessory buildings and structures, and distance from the boundaries of the site.
- d. **Detailed Drawing or Photograph.** Detailed drawing or a photograph of the Solar Energy System or Wind Turbine or BESS model to be installed as part of the Utility Scale Wind or Solar Energy System.
- e. **Phasing of Development.** An application proposing to phase development shall provide a description of each phase of development including the number of Wind Turbines, Solar Panels, batteries and the accessory structures, infrastructure, and interconnection requirements for each phase
- f. **Utility and/or Transmission Interconnection.**

- i. Description of utility interconnection or electric transmission system interconnection.
  - ii. Copy of feasibility study request to applicable electric utility or electric transmission entity of intent to interconnect the Utility Scale Wind or Solar Energy System or BESS to the electric utility or electric transmission entity, or preliminary information available at the time of application with request provided no later than pre-construction.
- g. **Geotechnical Report.** A Geotechnical Report shall be provided pre-construction and such report shall include the following:
  - i. Soils engineering and engineering geologic characteristics of the site based upon on-sitesampling and testing.
  - ii. Foundation design criteria for all proposed structures.
  - iii. Slope stability analysis.
  - iv. Grading criteria for ground preparation, cuts and fills, and soil compaction.
- h. **Notice to FAA.** If any Wind Turbine included in the proposed Utility Scale Wind Energy system has a system height over two hundred (200) feet or is located within twenty thousand (20,000) feet of the runway of an airport, the application shall be accompanied by a copy of the written notification to the Federal Aviation Administration (FAA).
- i. **Notice to Operation of Communication Link.** If any Wind Turbine included within the proposed Utility Scale Wind Energy System is located within two (2) miles of any microwave communications link, and/or remote telemetry the application shall be accompanied by a copy of the written notification to the operator of the communication link.
- j. **Notice to Mineral Estate Owners.** Evidence that mineral estate owners have been provided with notice of the proposed development in compliance with C.R.S. § 24-65.5-103(1). Additional notice may be required by the Board of County Commissioners at the recommendation of the Administrator or Planning and Zoning Board.
- k. **Decommissioning Plan.** A Decommissioning Plan that includes the following information and elements:

- i. Anticipated life of the project.
- ii. An estimate of the decommissioning costs certified by a Professional Engineer, to be updated every five (5) years following year fifteen (15) of operation.
- iii. Description of financial security provisions relative to decommissioning process, in compliance with the requirements stated herein, Section 11-103(b), Utility Scale Wind and Solar Financial Security Requirements.
- iv. Anticipated manner in which the project will be decommissioned, and the site restored.
- v. Description of triggering events for decommissioning the Utility Scale Wind or Solar Energy System, or BESS, or any aspect of the facility, upon eighteen (18) months of continuous non-operation of the facility or of any aspect of any facility, unless by force majeure.
- vi. Provisions for the removal of structures, debris and cabling, including those below the soil surface down to twenty-four (24) inches.
- vii. Provisions for the restoration of the soil and vegetation.
- viii. A provision that decommissioning of the Utility Scale Wind or Solar Energy System, or BESS will not materially interfere with surrounding land use.
- ix. A provision that the terms of the Decommissioning Plan shall be binding upon the Owner or Operator and any of their successors, assigns, or heirs.
- x. A provision that the County shall have the right to review and reconsider the Utility Scale Wind or Solar Energy System, or BESS Decommissioning Plan at the time of decommissioning.
- xi. A provision that the County shall have the right to review final decommissioning and reclamation to confirm it is consistent with the Decommissioning Plan.
- xii. A provision that the County shall have access to the site, pursuant to reasonable notice, to effect or complete decommissioning if decommissioning does not proceed in compliance with the Decommissioning Plan or landowner

agreement(s).

- l. Proof of Liability Insurance.** Proof of liability insurance in the form of a current general liability policy covering bodily injury and property damage with limits of at least \$1million per occurrence and \$1 million in the aggregate and shall be provided to the County thirty (30) days prior to construction commencing.
- m. Third Party Certifications.** Certificates of design compliance with applicable industry standards obtained by the equipment manufacturers from Underwriters Laboratories, Det Norske Veritas, Germanischer Lloyd Wind Energy, or an equivalent third-party certification body with expertise in the wind energy field.

**B. Utility Scale Wind and Solar BESS Financial Security Requirements.**

The applicant may be required to provide financial security as the Board determines necessary to guaranty completion of Public Improvements, compliance with permit conditions, or completion of decommissioning of a Wind Energy Facility.

**1. Form of Financial Security.**

- a.** The applicant shall provide financial security in any form and combination acceptable to the Board of County Commissioners. Evidence of the selected form(s) of financial security shall be included with the application materials.
- b.** The Board may reject the proposed forms of financial security if the evidence submitted does not adequately assure that the required funds will be available. The applicant shall be notified in writing within sixty (60) days of receipt of the evidence of financial security of the decision to accept or reject the proposed form(s) of financial security.

- 2. Public Improvements.** Where Public Improvements will be required to serve a Major Land Use, no Major Land Use Permit shall be issued until the applicant has submitted adequate financial security to guaranty completion of the Public Improvements. However, if a Major Land Use Permit holder must obtain an Building Permit before commencing construction related activities, the posting of adequate financial security is not required until the Building Permit is issued.

- a. Improvements Agreement and Financial Security.** The applicant shall provide an improvements agreement, agreeing to construct any Public Improvements required by the land use, together with financial security in an amount not less than 125

percent (125%) of the estimated cost of the required Public Improvements. The financial security shall be sufficient, in the judgment of the Board, to make reasonable provisions for completion of the Public Improvements in compliance with the plans and specifications and with the terms of the improvements agreement.

**b.Request for Inspection.**

- (1) The County shall inspect completed Public Improvements following receipt of the permittee's request for inspection pursuant to terms of the improvements agreement.
- (2) If the County determines that any of the Public Improvements are not constructed in compliance with the plans and specifications or with terms of the improvements agreement, the County shall provide the permittee with a written explanation of the noncompliance and a deadline for coming into compliance. Failure to comply with the plans and specifications or with the terms of the improvements agreement shall be a violation of this Land Use Code and may be subject to any and enforcement provisions in the Cheyenne County Land Use Regulations and/or State laws.

**c. Release of Financial Security for Public Improvements.** The permittee may apply to the Board for release of the financial security following inspection of completed Public Improvements.

- (1) The request for release of the financial security must be submitted in writing to the Board a minimum of ten (10) working days before the next regularly scheduled meeting at which the Board may consider the request.
- (2) The Board shall release the financial security once the Public Improvements have been accepted by the County.
- (3) If the Board determines that any of the Public Improvements are not constructed in substantial compliance with plans and specifications or with terms of the improvements agreement, it shall withhold financial security to guaranty substantial compliance.

**3. Permit Conditions.** Where permit conditions have been imposed to ensure compliance with this Code, the Board at its discretion may require the applicant to provide financial security to guaranty performance of the permit condition(s), and no Permit shall be issued until the applicant has submitted

the required guaranty.

- a. **Financial Security.** The amount of the financial security shall be sufficient, in the judgment of the Board, to ensure performance of the permit condition(s).

**b. Request for Inspection.**

- (1) At any time, the permittee believes that a permit condition(s) has been satisfied, the permittee may request that the County perform an inspection. The County shall conduct an inspection following receipt of the permittee's written request for inspection.
- (2) If the County determines that the permit condition(s) has not been satisfied, the County shall provide the permittee with a written explanation of the noncompliance and a deadline for coming into compliance with the permit condition(s). Failure to comply with the permit condition(s) shall be a violation of this Land Use Code and may be subject to the enforcement provisions of Article 9 of this Code.

- c. **Release of Financial Security for Permit Condition(s).** The permittee may apply to the Board for release of the financial security for the permit condition(s) as the permit condition(s) is satisfied.

- (1) The request for release of the financial security must be submitted in writing to the Board a minimum of ten (10) working days before the next regularly scheduled meeting at which the Board may consider the request.
- (2) Upon inspection and determination that the permit condition(s) has been satisfied the Board may release the financial security for the permit condition(s).
- (3) If the Board determines that the permit condition(s) has not been satisfied, it shall withhold financial security to guaranty the permit condition(s) is satisfied.

- 4. **Decommissioning of a Utility Scale Wind or Solar Energy System or BESS.** The applicant shall provide adequate financial security to guaranty decommissioning of a Utility Scale Wind, Solar Energy System, or BESS in compliance with the Decommissioning Plan and these regulations. Unless otherwise established by the Board as a condition of the Permit, no Permit shall be issued until the applicant has submitted the required

financial security that must be posted prior to beginning of year fifteen (15) of operation.

**a. Financial Security.**

- (1) Financial security shall be in an amount equal to the decommissioning costs, based upon an estimate of the decommissioning costs certified by a professional Engineer and updated every five (5) years following year fifteen (15) of operation.
- (2) The Board, at its discretion, may waive its requirement for financial security if the applicant demonstrates to the Board's satisfaction that:
  - The landowner agreement(s) includes provisions that ensure decommissioning of the Utility Scale Wind, Solar Energy System, or BESS in compliance with the Decommissioning Plan; and
  - The landowner has consented to a waiver of the financial security that would be required by the Board.

**b. Request Inspection.**

- (1) Following written request of the Owner or Operator, or at the Board's discretion the County shall review final decommissioning of a Utility Scale Wind, Solar Energy System, or BESS to confirm compliance with the Decommissioning Plan and these regulations.
- (2) If the County determines that the decommissioning is not in compliance, the County shall furnish the Owner or Operator with a written explanation of the noncompliance and a deadline for coming into compliance.
  - Failure to decommission the Utility Scale Wind, Solar Energy System, or BESS in compliance with the Decommissioning Plan and these regulations shall be a violation of this Land Use Code and may be subject to the enforcement provisions of Article 9 of this Code.
  - If decommissioning does not proceed in accordance with the Decommissioning Plan and these regulations, the County shall have the right to enter the property at the Board's discretion and cause the appropriate abandonment and decommissioning



measures to be completed.

- c. **Release of Financial Security for Decommissioning Utility Scale Wind, Solar Energy System, or BESS.** The Owner or Operator may apply to the Board for release of financial security once the decommissioning of the Utility Scale Wind, Solar Energy System, or BESS has been completed.

- (1) The request for release of the financial security must be submitted in writing to the Board a minimum of ten (10) working days before the next regularly scheduled meeting at which the Board may consider the request.
- (2) Financial security for decommissioning of a Wind or Solar Energy Facility or BESS may be released under any of the following conditions.
  - Decommissioning of the Utility Scale Wind or Solar Energy System has been satisfactorily completed and accepted; or
  - The permit has been surrendered to the County before commencement of any physical activity on the site of the Utility Scale Wind, Solar Energy System or BESS; or
  - The land use has been abandoned and the site returned to its original condition or to a condition acceptable to the County.

5. **Cancellation of Bond After Board Consent.** Any bond or other form of financial security may be canceled by a surety upon consent of the Board of County Commissioners, after ninety (90) days written notice to the Board, when such cancellation will not detract from or otherwise diminish the purpose of the financial security.

- C. **Additional Standards for Utility Scale Wind Energy.** The following standards shall apply to Utility Scale Wind Energy System:

1. **Industry Standards, and State and Federal Requirements.** Wind turbines, their components and appurtenant facilities shall conform to applicable industry standards, including those of the American National Standards Institute and National Electrical Commission, and shall comply with all relevant state and federal requirements.

2. **Artificial Lighting.** Wind turbines and appurtenant structures shall not be artificially lit except to the extent required by the FAA or other applicable authority or reasonably required for safety, security or operations and maintenance.
3. **Setbacks.**
  - a. **Measurement.** Front, rear, and side setbacks shall be measured as the distance between the nearest lot line and center of the foundation of a structure, along a line at right angles to the lot line.
  - b. **Safety Setbacks.** Unless otherwise required by federal or state regulations, the following minimum setbacks shall apply to each Wind Turbine comprising the Utility Scale Wind Energy System.

	MINIMUM SETBACK
Setback of Wind Turbine from above-ground public electric power lines or communication lines <sup>1</sup>	1.1 times system height
Setback of Wind Turbine from public road or highway or railroad <sup>2</sup>	1.1 times system height
Setback of Wind Turbine from public road or highway with ADT of 7,000 or more <sup>3</sup>	1.1 times system height or 420 feet, whichever is greater
Setback of Wind Turbine from an inhabited structure located on-site, including residence, school, hospital, church or public library, unless waivers are secured from all property owners and/or other acceptable mitigation is approved by the Board	1.5 times system height, or 1000 feet, whichever is greater
Setback of Wind Turbine from an inhabited structure <sup>4</sup> located outside the site boundary, including residence, school, hospital, church or public library.	1.1 times the system height or 1500 feet from the property line, whichever is greater

<sup>1</sup> Measured from the outer boundary of the public utility right-of-way or easement [or from existing power line or telephone line]

<sup>2</sup> Measured from the outer boundary of the public road/highway right-of-way or railroad right of way

<sup>3</sup> Average daily trips, based on traffic field measurements [determined by Colorado Department of Transportation or County]

<sup>3</sup> Average daily trips, based on traffic field measurements [determined by Colorado Department of Transportation or County]

<sup>4</sup> Inhabited structures of the type listed that are existing and occupied at the time of the submission of the application for the project conditional use permit.

Setback from all other property lines, unless appropriate easements are secured from adjacent property owners or other acceptable mitigation is approved by the Board	1.1 times system height or 500 feet, whichever is greater.
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- c. **Scenic Resource Setback.** Wind Turbines comprising the Utility Scale Wind Energy System shall be setback a minimum of ¼ mile from any highway eligible or designated to be a scenic highway or roadway by the Cheyenne County Land Use Regulations or by the state.
      - (1) A scenic resource protection setback requirement may be reduced to 2 times the total Wind Turbine height if the Board determines that the characteristics of the surrounding property eliminate or substantially reduce considerations of scenic value.
    - d. **Waiver or Reduction of Setback.** The applicant may request a waiver from the setback requirements at the time of the Land Use Permit application. The Board at its discretion may consider an applicant's proposal for waiver or reduction of setback in a regular meeting for which the request appears on the agenda. If the Land Use Permit application is approved with a setback waiver or reduction, the approved setback shall be specified in the Land Use Permit approval. The burden is upon the applicant to demonstrate with clear and convincing evidence that:
      - (1) The proposed waiver or reduction of setback is justified; and
      - (2) The public health, safety, welfare, and the environment will not be harmed by the proposed waiver or reduction of setback; and
      - (3) The proposed Utility Scale Wind Energy System otherwise complies with the relevant standards.
  4. **Minimum Ground Clearance.** The blade tip of any Wind Turbine shall, at its lowest point, have ground clearance of no less than seventy-five (75) feet; however, the Board may grant a waiver for a lower ground clearance with a showing that the technology is industry standard, and the system will be protective of public safety.
  5. **Safety and Security.**
    - a. Fencing, or other barriers acceptable to the County, shall be installed to prevent unauthorized access to the Utility Scale Wind Energy System electrical interconnection facilities.

- b. All wiring between Wind Turbines and the Utility Scale Wind Energy System substation shall be underground except as provided herein.
  - c. Guy wires shall be distinctly marked and fenced on all permanent towers.
  - d. All access doors to Wind Turbine towers and electrical equipment shall be lockable and remain locked when unattended.
  - e. Signs warning of the electrical hazard and other hazards associated with the Utility Scale Wind Energy System shall be posted at the base of each Wind Turbine tower, electrical equipment, and at the entrance of the Utility Scale Wind Energy System.
  - f. A security patrol or other security measure may be required if it is determined to be necessary and appropriate to ensure public safety.
6. **Fire Protection.** The Utility Scale Wind Energy System shall have adequate fire control and prevention measures.
7. **Underground Location of Powerlines.** Unless geologic conditions prevent underground installation, electrical collection system wiring, and powerlines shall be installed underground except where the Utility Scale Wind Energy System collector wiring is brought together for connection to the transmission or distribution network. All underground installations located within the public road easement or right-of-way shall comply with the applicable permit and design requirements of Cheyenne County Road and Bridge and should include the following elements:
- a. **Restoration.** Any disturbed portion of the right of way shall be restored as nearly as possible to its condition immediately prior to construction, improvements, location or relocation, and to the satisfaction of Cheyenne County Road and Bridge. Backfilling shall be made in six (6) inch lifts, mechanically tamped and packed, and the last twelve (12) inches shall be crushed rock or gravel.
  - b. **Safety.** Safety measures shall be implemented to the satisfaction of Cheyenne County Road and Bridge and in accordance with state and federal requirements to protect the public from harm during construction, improvements,

location or relocation.

- c. **Roadway Crossing.** When the installation crosses a roadway, it shall be located as perpendicular to the roadway as physically practical and installed in compliance with the requirements of Cheyenne County Road and Bridge.
- d. **As-built drawings.** Certified as-built drawings shall be provided to the County once the construction, improvements, location or relocation has been completed.
- e. **Permit and Notice to Proceed.** No work associated with construction, improvements, location or relocation shall commence until the required permit(s) and notice to proceed have been issued by the County.

**8. Interconnection and Electrical Distribution Facilities.**

- a. All distribution lines, electrical substations, and other interconnection facilities shall be constructed to the specifications of the American National Standard Institute (ANSI), National Electrical Code (NEC), Institute of Electrical and Electronic Engineers (IEEE), and National Utility Standards.
- b. Interconnection shall conform to the requirements of the electric utility company, and applicable state and federal regulatory requirements.

**9. Interference with Navigational Systems.** The Applicant shall minimize or mitigate any interference with electromagnetic communications caused by the Utility Scale Wind Energy System, including radio, telephone or television signals.

- a. Every Wind Turbine shall comply with Federal Aviation Administration regulations for sighting structures near an airport or VORTAC installation.

**10. Certification of Equipment and Appurtenant Facilities.**

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

state, federal and local regulations, and to conform with good engineering practices.

11. **Signs.** Wind Turbines shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the Utility Scale Wind Energy System.
12. **Color and Finish.**
  - a. All Wind Turbines shall be painted a non-reflective, non-obtrusive color.
  - b. Design of accessory buildings and related structures shall, to the extent practicable, use materials, colors, textures, screening and landscaping that will blend the Utility Scale Wind Energy System to the natural setting and existing environment.
13. **Preservation of Land Use under Decommissioning Plan.** Decommissioning of the Utility Scale Wind Energy System shall not materially interfere with surrounding land use.
14. **Dimension and Location of Each Wind Turbine.** Applicant has submitted a site plan that designates the location and dimensions of each Wind Turbine to be authorized by the final Land Use Permit.

**D. Additional Standards for Utility Scale Solar Energy System and BESS.**

**1. Setbacks.**

**a. Minimum Setback.**

- (1) Utility Scale solar collection panels and equipment and BESS shall comply with the Industrial/Commercial Setbacks in Section 11-104(C).

**(2) Scenic Resource Setback.**

- i. The Utility Scale Solar Energy System and BESS shall be setback a minimum of ¼ mile from any highway eligible or designated to be a scenic highway or roadway by the Cheyenne County Land Use Regulations or by the state.
- ii. A scenic resource protection setback requirement may be reduced if the Board

determines that the characteristics of the surrounding property eliminate or substantially reduce considerations of scenic value.

**(3) Waiver or Reduction of Setback.** The Applicant may request a waiver from the setback requirements at the time of the Land Use Permit application. The Board at its discretion may consider an applicant's proposal for waiver or reduction of setback in a regular meeting for which the request appears on the agenda. If the Land Use Permit application is approved with a setback waiver or reduction, the approved setback shall be specified in the Land Use Permit approval. The burden is upon the applicant to demonstrate with clear and convincing evidence that:

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

**b. Maximum System Height.** Roof-mounted systems shall be mounted as flush as possible to the roof. In order to achieve proper solar orientation, panels may exceed the roofline by up to five feet.

**c. Visual Impacts.** The Utility Scale Solar Energy System or BESS shall not have a material adverse visual impact on the natural features or character of the surrounding area and shall be located to minimize glare on adjacent properties and roadways. Appropriate mitigation measures shall be implemented if necessary to address any such material adverse impacts as reasonably determined by the Board.

**d. Safety and Security.**

- (1) Fencing.** Fencing or other barriers acceptable to the County shall be installed to prevent unauthorized access to solar collectors and equipment and BESS battery enclosures.

- (2) **Fire Protection.** The Utility Scale Solar Energy System and BESS shall have adequate fire control and prevention measure.

**e. Location Restrictions.**

- (1) Ground-mounted solar energy collectors and BESS battery enclosures may not be located within utility easements or ditch easements unless authorized in writing by the easement holder.
- (2) Utility Scale Solar Energy Systems and BESS shall not be located in areas of critical wildlife habitat unless such location or appropriate mitigation is approved by the relevant State and/or Federal authorities.
- (3) Utility Scale Solar Energy Systems and BESS are encouraged to locate on predominately (more than 60%) non-prime farmland.

**f. Certification.**

- (1) All equipment and appurtenant facilities shall be certified by a registered structural engineer to be compliant with the applicable industry, state, federal and local regulations.
- (2) The electrical system shall be certified by a registered electrical engineer to be compliant with the applicable industry, state, federal, and local requirements.
- (3) Prior to operation, the applicant shall provide the County with the required certification.

**g. Removal of Discontinued Utility Scale Solar Energy Systems and BESS.** If the Utility Scale Solar System or BESS ceases to perform its originally intended function for more than eighteen (18) consecutive months, the system shall be removed and adequate site restoration performed no later than ninety (90) days after the end of the 18-month period. See the steps to decommissioning a Utility Scale Energy System or BESS in Section 11-105(B)(4).

**h. Dimension and Location of Solar Energy Facility Structures and BESS.** Applicant has submitted a site plan that designates the location



and dimensions of each Solar Energy Facility or BESS structure to be authorized by the final Land Use Permit.

**E. Additional Enforcement Regulations Applicable to Wind Energy Facilities:**

- 1. Monitoring.** Upon twenty-four hours' notice, the Board or its official representative may enter the property on which a Utility Scale Wind Energy System has been permitted, for the purpose of ensuring compliance with the terms of permit approval and applicable County regulations, and of monitoring noise, environmental impacts and other impacts which may arise.
- 2. Removal Of Unsafe And Inoperable Wind Turbines**
  - a.** Any unsafe structure or inoperable Wind Turbine and Wind Turbines for which the Land Use Permit has expired shall be removed by the owner. All safety hazards created by the installment and operation of the Wind Turbine shall be eliminated and the site shall be restored to its natural condition to the extent feasible. A bond or other appropriate form of security may be required to cover the cost of removal and site restoration.
  - b.** Any unsafe or inoperable Wind Turbine deemed an unsafe structure, by the Land Use Regulations, law or the Administrator shall be considered a public nuisance subject to abatement by repair, rehabilitation, demolition or removal. A Wind Turbine shall not be considered unsafe or abandoned if the owner can demonstrate to the Board's satisfaction that modernization, rebuilding or repairs are in progress or are planned and will be completed within six months of the date of notice of violation issued by the County.