

**GRAND COUNTY
RURAL LAND USE PROCESS**



**LAST AMENDED
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ARTICLE I

APPLICATION OF A CLUSTER DEVELOPMENT

1.1 TITLE

This alternative process to the subdivision regulations and current thirty-five acre law shall be known as the "Grand County Rural Land Use Process".

1.2 AUTHORITY

The Grand County Rural Land Use Process (the "Rural Land Use Process") recognizes the current thirty-five (35) acre law and implements the provisions of 30-28-401, et. seq., C.R.S., and amendments to 37-92-602, C.R.S., concerning cluster developments and domestic water permits for cluster developments, and is authorized by Article 28, Title 30, of the Colorado Revised Statutes, and is hereby declared to be in accordance with all provisions of these Statutes.

1.3 DECLARATION

- (1) It is in the interest of the citizens of Grand County to encourage clustering of residential dwellings on tracts of lands that are exempt from the subdivision regulations of Grand County pursuant to Section 30-28-101 (10) (c) (X), C.R.S., thereby providing a means of preserving open space, of reducing the extension of roads and utilities to serve the residential development, and of allowing landowners to implement smart growth on land that is exempt from subdivision regulations.
- (2) Landowners should have the option to consider cluster development when subdividing land into parcels in a manner that constitutes an alternative to the traditional thirty-five acre interests described in C.R.S. Section 30-28-101 (10) (c) (I).
- (3) Thereby, the Rural Land Use Process is available for the development of parcels of land for residential purposes that will authorize the use of clustering, water well permits, density bonuses, not to exceed two units for each thirty-five (35) acre increment, or other incentives, and fulfill the goals of the county to preserve open space, protect wildlife habitat and critical areas, and enhance and maintain the rural character of lands with contiguity to forest lands and agricultural lands suitable for long-range farming and ranching operations.

1.4 CONTROL OVER PLATTING

- (1) All plans of roads or streets for public use, and all plans, plats, plots and re-plots of land laid out in a cluster development, and the roads, streets or other portions of the same intended to be dedicated to a public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall be submitted to the Board of County Commissioners for approval before they are recorded. Acceptance of all proposed dedications shall be given by action of the Board of County Commissioners.
- (2) No lands shall be subdivided or divided as set forth in Section 1.5 hereof and no cluster development plan shall be approved unless and until one (1) or more streets or roads providing access to the tract of land to be subdivided or divided is either:
 - (a) Dedicated to the public and the dedication accepted, and constructed to County road standards, and accepted for maintenance by Resolution of the Board of County Commissioners; or
 - (b) Recognized as a public right-of-way by deed, dedication or prescriptive use, and is a part of the designated County road system provided for by Article 2, Title 43, Colorado Revised Statutes, 1973, amended, and is regularly maintained by the County; or
 - (c) Dedicated or conveyed to the owners of the cluster development and their successors in title, and constructed to County road standards, and a property owners' association or other legal entity acceptable to the Board of County Commissioners is legally obligated to maintain such road to County standards; or

- (d) As an alternative to the completion of said road prior to the time of filing the final plat, the developer may submit one of the guarantees set forth in Section 3.4 of the Rural Land Use Process to the Board of County Commissioners to guarantee the completion of said road within one (1) year from the date the final plan is recorded.
- (3) No final plan of a cluster development shall be approved by the Board of County Commissioners unless it conforms to the provisions of this Resolution.
- (4) The Board of County Commissioners shall withhold all public road improvements and public maintenance from all rights-of-way which have not been dedicated to the public and accepted for such purposes by the Board of County Commissioners, or, if dedicated to the public, which have not been constructed to Grand County Road and Bridge Standards and Grand County Storm Drainage Design and Criteria Manual County Road Standards and accepted as such by Resolution of the Board of County Commissioners.
- (5) Once submittal of a sketch plan has been made to the Grand County Department of Planning and Zoning for review of a cluster development, no disturbance of the site, nor installation of any improvements associated with the proposed subdivision is allowed until after approval of the final plan by the Board of County Commissioners, or prior approval of any site disturbance or installation of required improvements has been authorized by the Board of County Commissioners. The developer will be allowed to do any soils and geologic testing, soils borings, surveying, etc. that are needed to provide the technical reports required for review of the cluster development.

1.5 JURISDICTION

The Rural Land Use Process shall apply to and may be used for any parcel in unincorporated Grand County that:

- (1) Is at least seventy (70) acres in size; and
- (2) Is located outside a town's urban growth area unless a specific rural land plan is recommended for approval by that municipality.

1.6 DEFINITIONS

(1) Rules of Construction of Language:

- (a) The particular controls the general.
 - (b) In case of any difference of meaning or implication between the text of these Regulations and the captions for each section, the text shall control.
 - (c) The word "shall" is always mandatory and not directory. The word "may" is permissive.
 - (d) Words used in the present tense include the future, unless the context clearly indicates the contrary.
 - (e) Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.
- (2) Rural Land Use Process**
 A planning process designed to offer a land use option for single family residential purposes that differs from traditional thirty-five (35) acre divisions of land, as described in Section 30-28-101 (10) (c) (I), C.R.S.

- (3) **Cluster Development**
- (a) A cluster development is any division of land, containing seventy (70) or more acres, that creates parcels containing less than thirty-five (35) acres each, for single family residential purposes only, where the tract is being divided pursuant to the rural land use process and reserves at least two-thirds (2/3) of the total area of the tract for the preservation of contiguous open space. The rural land use process shall not approve a cluster development that would exceed two (2) residential units for each thirty-five (35) acre increment.
 - (b) As a condition of approving a cluster development, the rural land use process shall require that the cluster development plan set aside land to preserve open space or to protect wildlife habitat or critical areas in perpetuity.
- (4) **Roads and Streets**
- (a) The terms "road" and "street" mean a way for vehicular traffic, whether designated as a road, street, highway, thoroughfare, parkway, thorough way, avenue, boulevard, lane, place or however otherwise designated.
 - (b) "Arterial Road" are those roads which are used primarily for fast or heavy traffic volumes for long distances and usually are or would be designated as State Highways.
 - (c) "Collector Roads" are those roads which link arterial and local roads and therefore serve travel of primarily intra county rather than statewide and constitute those routes on which travel distances are shorter than on arterial routes. Consequently, more moderate speeds may be typical.
 - (d) "Local/Access Roads" are those roads which are used primarily for access to land adjacent to the collector roads and serve travel over relatively short distances.
 - (e) "Drives" are minor ways used primarily for vehicular access to residential properties not otherwise abutting on a publicly dedicated or traveled street or road, and may be private easements or rights-of-way.
 - (f) Refer to, Road Classifications, of the Grand County Road and Bridge Design Standards for definitions of roads.
- (5) **Developer**
Any person, partnership, joint venture, association, trust, syndicate or corporation who shall participate as owner, promoter, developer, sales agent or leasing agent in the planning, platting, development, promotion, sale or lease of a cluster development.
- (6) **Board of Commissioners**
The Board of County Commissioners, County of Grand.
- (7) **Planning Commission**
The Grand County Planning Commission.
- (8) **County**
Grand County.
- (9) **Clerk and Recorder**
The office of the Grand County Clerk and Recorder.
- (10) **Treasurer**
The Grand County Treasurer.

- (11) **Improvements Agreement**
One (1) or more security arrangements which the county shall accept to secure the actual cost of construction of such public improvements as are required by the rural land use process within the cluster development. The "Improvements Agreement" may include any one or a combination of the types of security or collateral listed in this sub-section (11) and the developer may substitute security in order to release portions of the cluster development for sale. The types of collateral which may be used as security under the "Improvements Agreement" are as follows: restrictions on the conveyance, sale, or transfer of any parcels of land within the cluster development as set forth on the plan or as recorded by separate instrument; performance or property bond; private or public escrow agreements; loan commitments; assignments of receivables; liens on property; letters of credit; deposit of certified funds; or other similar surety agreements. Security other than plan restrictions, required under the "Improvements Agreement" shall equal in value the cost of improvements to be completed but shall not be required on the portion of the subdivision subject to plan restriction. The county shall not require security arrangements with collateral arrangements in excess of the actual cost of construction of the public improvements. The amount of security may be incrementally reduced as cluster development improvements are completed.
- (12) **Sketch Cluster Development Plan (the "Sketch Plan")**
Map of the proposed cluster development drawn and submitted in accordance with the requirements of adopted rural land use process, to evaluate feasibility and design characteristics at an early stage in the planning.
- (13) **Preliminary Cluster Development Plan (the "Preliminary Plan")**
The map or maps of a proposed cluster development and specified supporting materials drawn and submitted in accordance with the requirements of adopted rural land use process, to permit the evaluation of the proposal with detailed engineering and design.
- (14) **Final Cluster Development Plan (the "Final Plan")**
A map and supporting materials of certain described cluster development prepared in accordance with the rural land use process as an instrument for recording of real estate interests with the Clerk and Recorder.
- (15) **Evidence**
Any map, table, chart, contract, or any other document or testimony prepared or certified by a qualified person to attest to a specific claim or condition, which evidence must be relevant and competent and must support the position maintained by the developer.
- (16) **Disposition**
A contract of sale resulting in the transfer of equitable title to an interest in land of a cluster development; an option to purchase an interest in land of a cluster development; a lease or any assignment of an interest in land of a cluster development; or any other conveyance of an interest in land of a cluster development which is not made pursuant to one of the foregoing.
- (17) **Contiguous Open Space (the "Open Space")**
A passive network of land dedicated to the common good of all residents of a cluster development which is intended to preserve visual openness, protection of wildlife habitat or critical areas (i.e., agricultural lands, parks and trails, distinct landscapes, forest land, ecosystems, water-sheds, ridge lines, wetlands, hazardous areas, view corridors, and historic and archeological sites), and to encourage development that will respect these critical areas.
- (18) **Solid Fuel Burning Device**
Is any fireplace, stove, firebox, or other device intended and/or used for the purpose of burning wood, coal, pulp, paper, pellets or other non-liquid or non-gaseous fuel.
- (19) **Approved Solid Fuel Burning Device**
Is an appliance or device which is designed or intended to burn solid fuel and which is certified by the

air pollution control division of the State Department of Health to meet the emission standards set forth in the Colorado State Air Pollution Control Regulation No. 4.

(20) **Approved Non-Solid Fuel Burning Device**

Is an appliance or device which burns a non-solid fuel such as natural gas, liquefied petroleum (LP), fuel oil, recycled motor oil or similar fuel in an appliance or device which has been approved by Underwriter's Laboratory, American Gas Associates, other approved laboratories or the Grand County Building Official.

1.7 INTERPRETATION

In the interpretation and application of the provisions of this process, the following criteria shall govern:

(1) **Provisions are Minimum Requirements**

In their interpretation and application, the provisions of the rural land use process shall be regarded as the public health, safety, comfort, morals, convenience, prosperity and welfare, and shall therefore be regarded as remedial, and shall be liberally construed to further their underlying purposes.

(2) **Application of Overlapping Regulations**

Whenever both a provision of the rural land use process and any other provisions of the rural land use process, or any provision in any other law, ordinance, resolution, rule or regulation of any kind, contain any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.

(3) **Existing Permits and Private Agreements**

The rural land use process is not intended to abrogate or annul any permits issued before the effective date of the rural land use process or any applicable amendment thereto, or any easement, covenant or other private agreement.

(4) **Grand County Road and Bridge Standards and Grand County Storm Drainage Design and Criteria Manual**

These standards have been integrated into the rural land use process wherever applicable.

1.8 VIOLATIONS, PENALTIES AND ENFORCEMENT

(1) Any developer who transfers legal or equitable title or sells any land of a cluster development before a final cluster development plan for such land has been approved by the Board of Commissioners and recorded or filed in the office of the Clerk and Recorder is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than One Thousand Dollars (\$1,000.00) nor less than Five Hundred Dollars (\$500.00) for each parcel of or interest in land which is sold. All fines collected under this paragraph shall be credited to the general fund of the County. No person shall be prosecuted, tried, or punished under this paragraph unless indictment, information, complaint, or action for the same is instituted prior to the expiration of eighteen (18) months after the recordation or filing in the office of the Clerk and Recorder of the instrument transferring or selling such land. The Board of County Commissioners may provide for the enforcement of the rural land use process by means of withholding Building Permits. No final plan shall be approved by the Board of County Commissioners unless at the time of the approval of platting the developer provides the certification of the Treasurer's office that all ad Val Orem taxes applicable to such land, for years prior to that year in which approval is granted, have been paid.

(2) The Board of County Commissioners of the county in which the land of the cluster development is located has the power to bring an action to enjoin any developer from selling land before a final plan has been approved by the Board of County Commissioners. In addition, the Board of Commissioners may take such other legal action as may be authorized by the laws of the State of Colorado.

(3) Any violation of paragraph (1) of this sub-section (1.8) is prima facie evidence of fraudulent land transaction and shall be grounds for the purchaser to void the transfer or sale.

ARTICLE II

DESIGN STANDARDS

Each new cluster development platted in Grand County will, to some degree affect the character and environmental appeal of the land, the cost of services and maintenance to the purchasers and the county government, and the interests of investors in the land and surrounding areas. The intent of the rural land use process is to provide a means of minimizing the affect of development on rural character, protecting critical areas, preserving open space, and of reducing extension of roads and utilities to service residential development. New cluster developments shall provide safe, convenient travel routes to and from and within the subdivision. Each parcel shall provide a desirable setting for construction so that open space, wildlife habitat, natural features of the land may be preserved, views protected, privacy permitted and screening from traffic ways made possible. The following design standards shall be followed with each cluster development plan under the rural land use process.

2.1 SPECIAL SITE CONSIDERATIONS

- (1) Steep (30% slope and greater), unstable or swampy land, and land subject to inadequate drainage, avalanche or rock slides, and geological hazards shall not be designated for residential purposes. Land not usable for residential purposes shall be set aside as open space.

Cluster developments in suspected geological hazard areas will be designed or reviewed by a qualified professional geologist.

- (2) Any land subject to flooding or located in a natural drainage channel shall not be designated for residential purposes. Areas subject to flooding shall be set aside as open space.
- (3) Where a cluster development borders a railroad or highway right-of-way, the Planning Commission may require a buffer strip of such an extent and type as may be practical, or other adequate protection against the hazards and undesirable effects of the railroad or highway.
- (4) Provision shall be made to preserve natural features of the site which would enhance the cluster development, such as unusual rock formations, lakes, rivers, streams and trees, and the developer may be required to dedicate such features to the common good of parcel owners for the preservation thereof.
- (5) Long term health of forest lands is significant to the preservation of the rural landscape of Grand County and also has the potential to enhance the value of the cluster development. Forest lands that are set aside as open space within cluster developments are required to have a natural resources professional or the Colorado State Forest Service develop a Forest Stewardship Plan/Wildfire Hazards Mitigation Plan. The Forest Stewardship Plan/Wildfire Hazards Mitigation Plan should contain an element which provides for the means of implementation by the developer.

2.2 ROADS, STREETS AND EASEMENTS

- (1) Roads shall be aligned to join with planned or existing roads adjacent to the cluster development. The Planning Commission may require roads to provide direct, continuous routes to all adjacent lands, whether such adjacent lands have been subdivided or not, where no other legal access exists. The location of roads providing access to adjacent lands shall be selected by the developer's planner provided such location shall be reasonably calculated to provide usable access to the adjacent lands. Temporary cul-de-sacs shall be provided at the end of any roads giving access to adjacent lands until connecting roads on the adjacent lands have been constructed.
- (2) Roads shall be designed to minimize length (and cost), bear a logical relationship to the topography, avoid wetlands, other critical areas and every effort should be made to connect each road with another so that dead ends will be minimized.
- (3) Whenever roads are not aligned, off-sets shall be at least one hundred thirty-five feet (135'), centerline to centerline.

- (4) Intersections shall be as nearly at right angles as possible. Where this is not possible, see the Grand County Road and Bridge Standards, Intersections.
- (5) Cul-de-sacs: Refer to the Grand County Road and Bridge Standards, Cul-De-Sacs/Turnarounds. Cul-de-sacs are required to have stub street extensions, if applicable.
- (6) Dead-end streets, with the exceptions of cul-de-sacs, shall be prohibited unless they are designed to connect with future roads on adjacent lands.
- (7) Restriction of access shall be required when a cluster development or portion thereof adjoins an arterial highway. Marginal access streets, reverse frontage with screen planting contained in a non-access reservation, deep lots or similar treatment shall be required to reduce the impact of the traffic on residential properties and to avoid interference with the movement of the traffic on arterial highways.
- (8) Half streets shall be prohibited. When a half street is proposed and adjacent to another property, the approval of the adjacent owner shall be obtained and the entire street shall be platted and dedicated by the owners. The responsibility for acquiring the additional right-of-way shall be with the developer.
- (9) Reverse Curves: Refer to the Grand County Road and Bridge Design Standards, Horizontal Alignment.
- (10) Reserve strips, controlling access to streets, are permitted only when the control of such strips is given to the county under conditions approved by the Planning Commission.
- (11) Street Classification and Design Standards: Refer to the Grand County Road and Bridge Standards, Road Classifications.
- (12) Radius of Curvature: Refer to the Grand County Road and Bridge Standards, Horizontal Alignment.
- (13) Cluster Development road systems shall be designed with two (2) or more dedicated access roads for separate, multiple ingress and egress, if and when possible.

2.3 LOTS

- (1) Lot dimensions and sizes shall conform to applicable zoning or other land use requirements.
- (2) Each lot shall have access to a dedicated street.
- (3) Lots with double frontage shall be avoided, except where essential to provide separation from major arterial or incompatible land uses.
- (4) Lot configuration should be secondary in design to open space areas, critical areas, hazard areas, home site locations and location of the road system for the cluster development.

2.4 DEDICATIONS AND PUBLIC LAND PRIVATE RESERVATIONS

- (1) Dedication and rights-of-way for streets giving access to adjacent lands and adjoining dedicated streets, and drainage and utility easements, shall be required.
- (2) The Planning Commission shall require the dedication, reservation or conveyance of open space of two-thirds (2/3) (approximately 67%) the total area of the cluster development. The location of the open space areas shall be mutually agreed upon by the developer and the Planning Commission. Said areas are required to be contiguous and should attempt to interconnect with adjacent lands open space or critical areas, if applicable. Open space shall be considered contiguous when intersected, within reason, by a cluster developments road system. The Planning Commission may consider recommendations from other public agencies which would be directly involved in the review of the cluster development. The type of dedication, reservation or conveyance required will be determined

by the Planning Commission. A reservation or dedication of open spaces for the sole benefit of owners of parcels within the cluster development shall be acceptable. In the event of a reservation or dedication of any open spaces or roads for the benefit or use of the owners of parcels within the cluster development, the developer shall provide for the creation of an owners' association with powers of assessment for maintenance, improvements and upkeep of such open spaces and roads.

- (3) Approval of a cluster development shall not constitute an acceptance by the county of the roads, streets, or other public lands as indicated for dedication on the final plan. The dedication of any of these lands for public use of any nature within the county shall be accepted by the county only by specific action of the Board of Commissioners.

2.5 SCHOOL LANDS

- (1) All cluster developments shall provide for public school sites to serve the proposed development and the future residents thereof and in accordance with the rural land use process.
- (2) Provision of land areas for schools shall be at the rate of .0346 acres per single family dwelling unit. Such provision may include, subject to the Board of County Commissioners' approval:
 - (a) Reservation of such sites and land areas, for acquisition by the County.
 - (b) Dedication of such sites and land areas to the County, or in lieu thereof, payment of a sum of money not exceeding the fair market value of such sites and land areas. Any such sums, when required, shall be held by the Board of County Commissioners for the acquisition of such sites and land areas. Dedication of such sites and land areas shall be made at the time of final platting in one (1) or any combination of the following ways:
 - (i) By dedicating to the County of Grand, body politic incorporate, in fee simple, on the final plan.
 - (ii) By granting the land areas in fee simple on General Warranty Deeds to the County.
- (3) In lieu of dedication of land areas for public school sites, the County may require the payment of a sum of money not to exceed the fair market value of such sites and land areas at the time of final plat submittal.
 - (a) Fair market value shall be determined by mutual agreement between the developer and the Board of County Commissioners. In the event of inability of any of the above parties to agree on the fair market of the sites, an independent party, being a qualified appraiser in the County of Grand, shall be selected by mutual agreement of the disagreeing parties. Said independent party's findings on fair market value of the site shall be final and binding on all parties. A qualified appraiser shall be a member of the Appraisal Institute (MAI) or a member of the Society of Real Estate Appraisers (SRA). The developer shall pay the costs of said appraiser.
 - (b) Payments made under the requirements of this Section shall be made payable to the County of Grand. The Board of County Commissioners shall receive such funds at the time of the final plat approval and deposit them with the County Treasurer who may in turn deposit such funds in any County approved and designated financial institution.
 - (i) Such funds shall be deposited to special interest bearing escrow accounts, one such account for each school district within Grand County. Each deposit shall be credited to the name of the subdivision for which the payment was made and shall be deposited in the account of the school district in which the subdivision is located. The status of these accounts shall be reported annually to the Board of County Commissioners and shall be made available to the school districts and the general public.

- (ii) Funds may be withdrawn from the special escrow accounts as provided by Statute.
 - (c) The Board of County Commissioners shall, from time to time, adopt a Resolution setting forth the formula to be used to determine the sums of money to be paid in lieu of dedication of land areas.
- (4) Land conveyed to the County for public school sites shall be transferred and conveyed to the appropriate school district upon written request by the District. Funds paid to County in lieu of dedication of land areas for public school sites shall be made available to the appropriate school district for use in acquisition of specific property for school sites upon written request by the school district. Prior to the conveyance of land previously dedicated for school site purposes or the transfer of funds from Grand County to the District, all requests shall be referred to the Grand County Planning Commission for its recommendations. Said recommendations shall be advisory only and shall not restrict the right of the school district to require the transfer of lands or the transfer of funds by the Board of County Commissioners of Grand County upon request.
- (5) Land areas that shall not be acceptable in determining the fulfillment of the requirements for the provision of land areas for public school sites shall include the following:
- (a) Natural drainage ways, streams, gulleys, and rivers including all lands within the one hundred (100) year flood plain. (Note, unless the school district specifically accepts a certain portion for a reasonable use and it is approved by the Board of County Commissioners.)
 - (b) Rights-of-way and/or easements for irrigation ditches and aqueducts.
 - (c) Steep or rugged land areas, hazardous geological land areas, hazardous wildfire land areas and such other areas as are not conducive for use as school sites.
- (6) Improvements that shall be constructed or installed on or adjacent to designated school sites shall be as follows:
- (a) Curb, gutter, and pavements, in accordance with the Grand County standards in those subdivisions requiring same.
 - (b) Utilities shall be extended to the property line.
 - (c) All drainage structures and facilities.
- (7) The following formula is to be used to calculate school fees in lieu of dedication of land areas:
- (a) The determined unit value for the purpose of the dedication of school sites for money in lieu of school sites for Grand County is determined and established through educational criterion in both East Grand School District and West Grand School District.
 - (b) When money in lieu of land is recommended by the appropriate Board of Education, the following formula shall be applied:
 - (i) Dwelling units or lots up to and including four (4) units: 50% per unit/lot of the fixed rate of .0691.
 - (ii) Dwelling units or lots 5 or more: 20% per unit/lot of the affixed .0691 rate.
 - (c) To determine the cost per unit/lot, multiply the dedication percentage (50% or 20% of the total units/lots from 2 above) times the determined unit/lot value (.0691) times the fair market value per acre of the developed land.

Example: 4 lots/units
4 x .50 = 2
2 x .0691 = .138
.138 x \$4,000/acre = \$552.00 school fees

Example: 100 lots/units
100 x .20 = 20
20 x .0691 = 1.382
1.382 x \$4,000/acre = \$5528.00 school fees

(\$4,000/acre is an arbitrary number used for this example. When calculating this formula on a specific project, the fair market value per acre of the developed land would be used in place of the \$4,000/acre shown above.)

2.6 DESIGN STANDARDS FOR DRAINAGE, SEWER AND WATER

(1) Storm Drainage

- (a) Land within an existing one hundred (100) year flood plain or land which is subject to inundation shall not be platted for residential purposes.

(2) Sewer Plans and Designs

- (a) On-lot sewage disposal systems shall comply with the current Grand County Individual Sewage Disposal Regulations (under separate cover) adopted by the Grand County Board of Health and shall be designed and located so as to minimize or eliminate infiltration, avoid their impairment, or their contamination to surrounding areas during or subsequent to flooding.

(3) Water Supply

- (a) In an effort to preserve open space and water resources, a cluster development may obtain only one well permit for each single-family residential lot pursuant to Section 30-28-404, C.R.S. Nothing in this section shall be construed to preclude the use of treated domestic water by any public or private entity or central water system, if available.
- (b) Each well on a cluster development lot is required to have a totalizing flow meter, will be the only well on a cluster development lot, serving one single family residence, where the ratio of water usage in the cluster development does not exceed one acre foot of annual withdrawals for each thirty-five (35) acres within the cluster development or no more than a half (1/2) acre foot of annual withdrawal for each lot within the cluster development.

2.7 DESIGN STANDARDS FOR FLOOD HAZARD, FIRE HAZARD AND GEOLOGICAL HAZARD AREAS

In areas determined to have significant flood, fire or geological hazards the Planning Commission shall require developer to eliminate or reduce hazards to a reasonable level. Such plans may include, but are not limited to engineering designs, fuel modification, emergency water systems, etc. Areas determined to be located in any of the above hazard areas shall not be platted for residential purposes.

2.8 DESIGN STANDARDS FOR MINERAL RESOURCE AREAS

Mineral extraction and exploration are prohibited to protect public health and safety, and also it contradicts the purpose of the rural land use process.

2.9 ADDRESSING REQUIREMENTS FOR ENHANCEMENT OF 911 EMERGENCY SYSTEM

Prior to approval of the final plan:

- (1) The developer will provide, at his expense, a black line mylar(s) 14" x 18", depicting each lot number

along with addresses for each lot created according to a formula provided by the Planning Commission. The Planning Commission may require the developer to consult with a specific engineering firm to determine proper addresses. The cost of said consultation will be the responsibility of the developer. The mylar(s) will also contain the name of the cluster development and the section(s), township(s) and range(s) in which the cluster development is located.

- (2) Named streets will also be assigned a County Road number. The developer will be required to meet with the Grand County Department of Planning and Zoning to determine appropriate road numbers. The developer will be required to install road signs of the size required by the Grand County Road and Bridge Supervisor and in the location required by the Grand County Road and Bridge Supervisor. The developer will be required to install these signs at his expense.

2.10 SLASH REMOVAL/DISPOSAL

- (1) The preferred method for removal of excess forest materials (slash) in cluster developments requiring the clearing of forested areas for lots, roads, utilities, etc., is mulching and chipping. Supplemental methods for slash removal are to separate for firewood collection, remove all saleable lumber or use other methods which do not involve burning of slash from subject property. Excess slash may not be disposed of at any Grand County landfill. All stumps shall be buried. Cost estimates for mulching and chipping or other slash removal methods, whether used or not, are required at preliminary plan submittal of the cluster development.
- (2) If burning methods are used to dispose of slash materials from subject property, the developer of said property must contact the Colorado State Forest Service and the local fire protection district, if any, to receive guidelines and technical direction on burning methods before recording of the final plan.

2.11 SOLID FUEL BURNING DEVICES

- (1) Single family residences located within cluster developments for which a building permit is issued may have no more than one (1) approved solid fuel burning appliance or device per dwelling.
- (2) Pre-existing buildings within cluster development recorded before effective date of this Resolution shall be exempt from the provisions set forth in this Resolution. However, if said burning device is replaced, it must be replaced with an approved non-solid fuel or approved solid-fuel burning device.

2.12 DITCH CROSSINGS

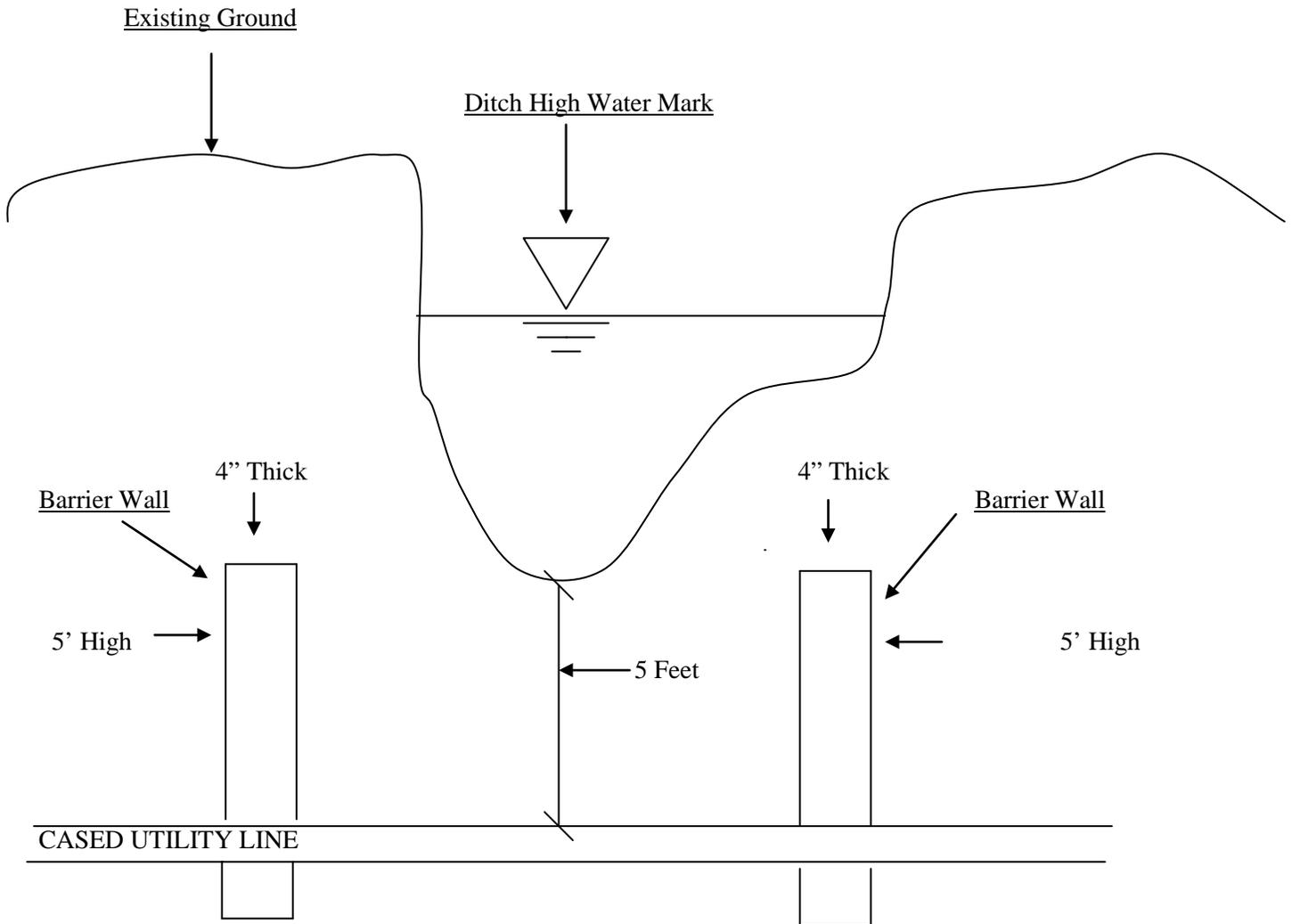
Development of land that contains irrigation ditches requires that the developer and all future land owners respect the rights of the ditch owner(s) to access and maintain the ditch without any increased burden of maintenance or liability due to the development of the land. Subdivision plans shall minimize ditch crossings. If crossing are necessary, at a minimum, the following rules shall apply:

- (1) Crossing shall be at roads or driveways whenever possible.

The crossing shall be sized so as to not interfere with the ditch operation or alter the existing flow characteristics. (i.e. width, depth, slope, velocity or pattern)
- (2) Provide access to the ditch from all roads that allows vehicles and maintenance equipment access to the ditch, on both sides.
- (3) Approval from the ditch owner or ditch company to cross the ditch easement prior to any disturbance of the ditch shall be required. The developer shall be required to provide the ditch easement owner with design drawings and hydraulic analysis of the proposed crossing. The developer or owner is responsible for all costs associated with any review of plans or specifications for ditch crossings by the ditch company.
- (4) An executed agreement binding the property owner and all successor property owners to accept all liability for damage caused by any improvements installed within the ditch or ditch easement.

- (5) An executed agreement that requires current and successor property owners to maintain the ditch crossing and to keep it and the ditch access easement safe and clean at all times. Maintenance shall include but not be limited to trash removal as well as repair or replacement of the crossing when necessary. Ditch owners or easement owners shall be notified in writing by certified mail prior to any disturbance within the ditch easement.
- (6) The Board of County Commissioners, through the Planning and Zoning Department, may require specific improvements to the ditch crossings in order to limit the liability of ditch owners or ditch easement owners caused by any approved ditch crossings or improvements. These improvements may be required in order to minimize the possibility of flooding or to protect downstream water rights. The cost of these improvements shall be paid by the developer.
- (7) All utilities crossing the ditch must be cased, at as near a right angle as feasible and installed at a minimum of five (5) feet from the bottom of the ditch to the top of the casing. This is to allow for future cleaning and ditch maintenance.
- (8) Any approved ditch crossing by any utility company shall be cased so future maintenance of the carrier pipe will not interfere with the operation of the ditch. Additionally, the location of any crossing shall be clearly marked on each side of the irrigation ditch.
- (9) All open cuts across any irrigation ditch are only allowed during the off season while the ditch is dry and shall be replaced with a four (4) inch thick impermeable soil barrier placed on the ditch bottom and banks. The barrier walls shall meet soil classification CL or ML-CL and shall be compacted to 95 percent of the standard proctor density.
- (10) Utilities installed during the irrigation season while the ditch is in operation must be bored as to not interrupt the operation of the ditch.

IRRIGATION DITCH UTILITY CROSSING



ARTICLE III

IMPROVEMENTS REQUIRED

In each new cluster development the developer and the Planning Commission shall agree on the type, location and extent of necessary public improvements depending on the characteristics of the proposed development and its relationships to surrounding areas. Improvements shall be made by the developer at his expense according to standard specifications prepared by a qualified professional engineer and approved by the Planning Commission. Security for improvements must be approved by the County Attorney. Letter of Credit must be secured by a Colorado Bank. The Applicant(s)/Developer(s) shall be responsible for paying all engineering fees associated with any new rural land use process. In addition to the initial costs associated with the development the Applicant/Developer shall be responsible for ongoing engineering fees throughout the project (i.e. traffic study reviews, subdivision improvement inspections, etc.) These fees will be billed at cost plus 10% and must be paid within thirty (30) days.

3.1 SURFACE IMPROVEMENTS

- (1) Permanent survey monuments shall be set as required by Colorado Revised Statutes, 1973, Title 38, Article 51. In addition, half inch (1/2") steel pins (or larger) shall be set at all lot corners. Affixed securely to the top of each such monument shall be the Colorado Registration number of the land surveyor responsible for the establishment of said monument.
- (2) County Road number signs shall be installed at all intersections in the cluster development according to the County Road numbers assigned by the Grand County Department of Planning and Zoning. Street name signs may also be installed, as approved by the Planning Commission, but must be placed under the road number designation sign required. The developer will be required to install road signs of the size required by the Grand County Road and Bridge Supervisor and in the location required by the Grand County Road and Bridge Supervisor. The developer will be required to install these signs at his expense.
- (3) Native trees and shrubs may be planted and are encouraged in all new cluster developments in open areas. All road cuts and fills shall be re-planted or seeded to native grasses and monitored for invasive noxious weeds by the developer.
- (4) All combustible materials and other debris, including fallen trees and stumps removed from the cluster development roads shall be removed from the cluster development to avoid disease and fire hazards.

3.2 UTILITIES

- (1) A water supply shall be provided as per Article II, Section 2.6 (3) and 30-28-401, C.R.S.
- (2) Fire Protection: Cluster Developments shall be served with fire protection facilities which at least meet the following:
 - (a) Such water shall be available and accessible for fire protection use on a year-round basis. Each facility shall be marked with a posted sign stating "Fire Department Use No Parking".
 - (b) The storage facility shall be separate from the structure at an accessible location and shall have a valve on the line that fills the water storage tank.
 - (c) The storage facility shall be underground at sufficient depth or within the confines of a separate building to prevent freezing.
- (3) Storm drainage provisions shall be accomplished according to the conditions stated on the preliminary plan for easements, culverts, check dams, etc.
- (4) Underground Utility Lines

- (a) Underground placement of utility lines is required in order to preserve the natural environmental character of the rural landscape in cluster development.

3.3 **EMERGENCY SERVICE IMPACT FEES**

Sections:

- (1) Purpose
- (2) Definitions
- (3) Imposition of Impact Fees
- (4) Impact Fee Amount
- (5) Alternative Calculation Study
- (6) Time for Payment of Impact Fee
- (7) Use of Impact Fees
- (8) Credit for Improvements
- (9) Unpaid Impact Fees
- (10) Adjustment and Review of Impact Fees
- (11) Application

(1) **Purpose**

The purpose of this Section is to:

- (a) Provide a rational system for identifying and mitigating growth-related costs associated with growth and development and the expansion of emergency services and facilities made necessary by land development activities, a growing population and economic activity levels.
- (b) Ensure that the impact fees established by this Section are based on, and do not exceed, the cost of providing additional Capital Improvements necessitated by new development.
- (c) Regulate the use and development of land to ensure that new development bears a roughly proportionate share of the cost of capital expenditures necessary to provide adequate emergency services within Grand County.
- (d) Assure that the system of impact fees implemented in this Section is linked to a Capital Improvements program designed to provide the facilities and equipment for which the impact fees are imposed.

(2) **Definitions**

(a) **Capital Improvement**

Includes

- (1) Fire Protection or emergency medical, rescue and ambulance service planning, preliminary architectural and engineering services, architectural and engineering design studies, land surveys, land acquisition, site improvements and off-site improvements associated with new or expanded facilities used for fire protection or emergency medical, rescue and ambulance service;
- (2) Construction of buildings and facilities used for fire protection or emergency medical, rescue and ambulance services;
- (3) Purchase of fire suppression or emergency medical, rescue and ambulance apparatus and equipment, including communications equipment, with an average useful life of at least five years, necessary to adequately protect and defend new development and its inhabitants.

Excludes

- (1) **Periodic or routine maintenance of facilities and equipment, personnel costs or operational expenses.**

- (b) **Developer**
A person or entity that commences a Land Development Activity Requiring Additional Emergency Services and Development Approval.

- (c) **Development Approval**
The approval of any final planned unit development or subdivision plat following the effective date of this Section. Development Approval also included the approval of any building permit for building activities for which an Impact Fee has not been previously paid.

- (d) **Impact Fee**
A fee for fire protection or emergency medical, rescue and ambulance service established by this Section.

- (e) **Emergency Services Provider**
A governmental entity providing public fire protection, emergency medical, rescue and ambulance services or any combination of such services.

- (f) **Fire Protection**
The prevention and extinguishment of fire, protection of life and property from fire, and enforcement of municipal, county, district, and state fire protection codes.

- (g) **Fiscal Impact Fee Study**
A study prepared by an outside engineer or consultant that mathematically calculates the fiscal impact of future demand for services on existing facilities of the applicable Emergency Service Provider, as approved by resolutions of the Board of County Commissioners.

- (h) **Land Development Activity Requiring Additional Emergency Services**
Any activity requiring a Development Approval that requires additional Capital Improvements as identified in the Fiscal Impact Study. When a change of use, redevelopment or modification of an existing use requires Development Approval, the Impact Fee shall be based upon the net increase in the Impact Fee for the new use as compared to the previous use.

- (3) **Imposition of Impact Fees**
Any Developer who seeks a Development Approval for a Land Development Activity Requiring Additional Emergency Services is required to pay an Impact Fee in the manner and amount set forth in this Section.

- (4) **Impact Fee Amount**
The amount of any Impact Fee to be charged shall be set and revised from time to time by resolution of the Board of County Commissioners.

- (5) **Alternative Calculation Study**
In lieu of computation of the Impact Fee in accordance with Section (4) above, the Developer may prepare and submit, to the applicable Emergency Service Provider for review and recommendation to the County, a site-specific fiscal impact and Impact Fee calculation study for the Development Approval requested. The site-specific fiscal impact and Impact Fee calculation study shall follow the prescribed methodologies and formats established by the applicable Emergency Service Provider.

The fiscal impact fee study submitted shall show the basis upon which the site-specific Impact Fee calculation was made, and such calculation shall reflect the same level of service and standards contemplated by the Fiscal Impact Fee Study. The site-specific fiscal impact and Impact Fee calculation study shall be prepared and presented by professionals qualified in their respective fields. The County Planner shall consider the documentation submitted by the Developer and recommendation of the Emergency Service Provider, but is not required to accept such documentation or recommendation. If the County Planner determines that an acceptable site-specific fiscal impact and Impact Fee calculation study has not been presented, the Developer shall pay the Impact Fee based upon the amount set pursuant to Section (4) above. Determinations made by the County Planner pursuant to this paragraph may be appealed to the Board of County Commissioners by filing a written request with the Clerk to the Board of County Commissioners within ten (10) days of the County Planner's determination. Following the submittal of such request, the Board of County Commissioners shall hold a public hearing to determine the amount of the Impact Fee that shall be paid prior to the Development Approval.

(6) **Time for Payment of Impact Fee**

A Developer requesting approval of a Land Development Activity Requiring Additional Emergency Services shall pay the Impact Fee according to the following timeline, except as otherwise provided in this Section when the total Impact Fee cannot be calculated:

- (a) In the case of a planned unit development, subdivision, subdivision exemption or rural land use process approval, at the time of recording of a final plat or plan.
- (b) In the case of a building permit for which an Impact Fee has not previously been paid, prior to issuance of the building permit.

(7) **Use of Impact Fees**

- (a) All Impact Fees collected pursuant to this Section shall, within sixty days following payment to the County, be transferred to the applicable Emergency Service Provider for which the Impact Fee was established by the resolution adopted pursuant to Section (4) above.
- (b) All Impact Fees collected pursuant to this Section shall be deposited by the applicable Emergency Service Provider, in an interest-bearing account which clearly identifies the category, account, or fund of capital expenditure for which such charge was imposed. Each such category, account, or fund shall be accounted for separately. The Emergency Service Provider shall determine whether the accounting requirement shall be by category, account, or fund and by aggregate or individual land development. Any interest or other income earned on moneys deposited in said interest-bearing account shall be credited to the account.
- (c) Impact Fees shall be used exclusively for Capital Improvements.
- (d) No Impact Fees shall be used for periodic or routine maintenance, personnel costs, or operational expenses.
- (e) In the event bonds or similar debt instruments are used to fund Capital Improvements prior to collecting the necessary Impact Fees, once collected, Impact fees may be used to pay debt service on such bonds or similar debt instruments.
- (f) The County may enter into an intergovernmental agreement with the applicable Emergency Service Providers regarding the method of collection and administration of the Impact Fee program.

- (8) **Credit for Improvements**
Upon approval by the Board of County Commissioners, the applicable Emergency Service Provider shall calculate the amount of any credit that shall be granted to any Developer for the amounts due or to become due for Capital Improvements installed, purchased, and paid for by such Developer when such Capital Improvements offset the need or amount of the Impact Fee that would otherwise be required.
- (9) **Unpaid Impact Fees**
The Board of County Commissioners reserves the right to withhold or revoke any permits, certificates, or other approvals for any land or building for which the payment of Impact Fees is delinquent.
- (10) **Adjustment and Review of Impact Fees**
The amount of the Impact Fee shall be reviewed and adjusted as follows:
- (a) The Impact Fee shall be adjusted annually for inflation, effective January 15 of each year. The adjustment shall be based upon the percentage change in the United States Bureau of Labor Statistics Consumer Price Index for Denver-Boulder, all items, all urban consumers, or its successor index, or an equivalent index applicable to Grand County.
 - (b) The Board of County Commissioners shall, annually, in conjunction with the presentation of the County's proposed budget, recommend any further adjustments to the Impact Fee, following consultation with the applicable Emergency Service Provider.
 - (c) No less frequently than every five (5) years, the applicable Emergency Service Provider shall provide an updated Fiscal Impact Fee Study.
- (11) **Application**
The requirements of this Section shall apply only within the jurisdiction and boundaries of an Emergency Service Provider for which a resolution setting an Impact Fee has been adopted pursuant to Section (4), above.

3.4 OTHER IMPROVEMENTS

Other improvements not specifically mentioned herein but found appropriate and necessary due to unusual conditions found on the site shall be constructed at the Developer's expense within such time and in conformance with such specifications as deemed necessary and appropriate by the Planning Commission.

3.5 GUARANTEE OF COMPLETION

No final plan shall be signed by the Board of County Commissioners until the improvements required by the rural land use process have been constructed and approved by the appropriate county officials having jurisdiction over such improvements, or, until one (1) of the following assurances is given to the Board of County Commissioners for the completion of the required improvements:

- (1) An Improvements Agreement agreeing to construct any required public improvements shown in the final plan documents together with collateral which is sufficient, in the judgment of said Board of County Commissioners, to make reasonable provision for the completion of said improvements in accordance with design and time specifications.
- (2) Other agreements or contracts setting forth the plan, method and parties responsible for the construction of any required public improvements shown in the final plan documents which, in the judgment of said Board of County Commissioners, will make reasonable provision for completion of said improvements in accordance with design and time specifications.
- (3) As improvements are completed, the developer may apply to the Board of County Commissioners for

a release of part or all of the collateral deposited with said Board of County Commissioners. Upon on-site inspection and approval, the Board shall release said collateral. If the Board of County Commissioners determines that any such improvements are not constructed in substantial compliance with specifications, it shall furnish the developer a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the Board of County Commissioners determines that the developer will not construct any or all of the improvements in accordance with all of the specifications, the Board of County Commissioners may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvement or improvements in accordance with such specifications.

3.6 POST CONSTRUCTION

The County shall review and compare all construction with the Construction Plans approved at Final Plat and any design revisions made during construction. A request for construction review shall not be submitted between October 1st and April 1st due to variable weather conditions in Grand County, Colorado. A request for review may be denied if snow accumulation is present.

PRELIMINARY ACCEPTANCE

Prior to Preliminary Acceptance the following items shall be supplied to the County:

- (1) Record Drawings for the improvements shall be submitted at the time the letter requesting monies release is submitted. Release of monies shall not occur if the County determines deviations are present which have not received prior approval.
- (2) A letter or letters of acceptance and responsibility for maintenance of the improvements by the appropriate utility company, special district, or town for all utilities and roads.
- (3) A letter from the appropriate fire authority stating that fire hydrants are in place, in accordance with the approved plans. The letter shall also state that the fire hydrants are operational and provide the results of the fire flow tests.
- (4) Certifications.
- (5) Quality control test results shall be submitted for all phases of the project in accordance with the schedule for minimum materials sampling, testing, and inspection as found in CDOT's Materials Test Procedure Module.
- (6) Photos (if applicable).
- (7) Field Notes (if applicable).
- (8) Any addendums/changes to the Final Plat Submittal.
- (9) Any other pertinent information associated with the Construction.

If any substantial variations or discrepancies are discovered between the approved construction plans and the improvements actually constructed, the Engineer shall propose and recommend a solution or alternative solutions to the County for review and approval. If no proposed alternative will satisfy the requirements of these Standards, the Engineer shall submit a variance request or the Applicant shall reconstruct the deficient public improvements to comply with the approved construction plans.

Findings of Preliminary Acceptance may influence security release, as found in the Subdivision Improvements Agreement.

CERTIFICATIONS

The following certifications shall be required on letterhead with stamp, seal, date and shall address the appropriate construction plans/ documents that the professional is approving.

ENGINEER

The licensed engineer of record shall review the information required in Section 2.6.1 to state that the actual construction and materials used are in substantial compliance with the county accepted construction design plans.

"I, _____, A DULY LICENSED PROFESSIONAL ENGINEER IN THE STATE OF COLORADO, STATE THAT CONSTRUCTION HAS BEEN COMPLETED IN SUBSTANTIAL COMPLIANCE WITH THE CONSTRUCTION PLANS APPROVED BY GRAND COUNTY, AS DETERMINED BY REVIEW OF THE RECORD DRAWINGS AND DURING PERIODIC ON-SITE OBSERVATIONS DURING AND AFTER THE COURSE OF CONSTRUCTION AS DETERMINED BY ME OR UNDER MY DIRECT SUPERVISION. DATE:_____."

GEOTECHNICAL ENGINEER

THE GEOTECHNICAL ENGINEER OF RECORD SHALL SUPPLY GRAND COUNTY WITH A LETTER STATING THAT, BASED ON THE RESULTS OF THE QUALITY CONTROL TEST RESULTS, CONSTRUCTION WAS COMPLETED IN SUBSTANTIAL COMPLIANCE WITH THE PAVEMENT DESIGN AND GEOTECHNICAL RECOMMENDATIONS APPROVED BY GRAND COUNTY.

"I, _____, A DULY LICENSED PROFESSIONAL ENGINEER IN THE STATE OF COLORADO, STATE THAT CONSTRUCTION HAS BEEN COMPLETED IN SUBSTANTIAL COMPLIANCE WITH THE FINAL GEOTECHNICAL REPORT APPROVED BY GRAND COUNTY, AS DETERMINED BY COMPLETION AND REVIEW OF THE QUALITY CONTROL TEST RESULTS AND DURING PERIODIC ON-SITE OBSERVATIONS DURING AND AFTER THE COURSE OF CONSTRUCTION AS DETERMINED BY ME OR UNDER MY DIRECT SUPERVISION. DATE:_____."

LANDSCAPE ARCHITECT

The Landscape Architect of record will supply Grand County with a letter stating that, based on the actual landscaped place on site, the landscape was in substantial compliance with the county accepted construction design plans.

"I, _____, A DULY LICENSED LANDSCAPE ARCHITECT IN THE STATE OF COLORADO, STATE THAT CONSTRUCTION HAS BEEN COMPLETED IN SUBSTANTIAL COMPLIANCE WITH THE LANDSCAPE PLANS APPROVED BY GRAND COUNTY, AS DETERMINED BY PERIODIC ON-SITE OBSERVATIONS DURING AND AFTER THE COURSE OF CONSTRUCTION AS DETERMINED BY ME OR UNDER MY DIRECT SUPERVISION. DATE:_____."

FINAL ACCEPTANCE

Consideration for Final Acceptance shall be no less than two (2) years from Preliminary Acceptance. If upon final inspection of the Subdivision Improvements, the County finds the Subdivision Improvements are not substantially free of defects in materials and workmanship or have not been repaired or maintained as required under the Subdivision Improvements Agreement, the County shall

issue a written notice of noncompliance within 14 days after the final inspection specifying the respects in which the Subdivision Improvements are not substantially free of defects in materials and workmanship or have not been repaired and maintained as required under the Subdivision Improvements Agreement. The Applicant shall thereupon take such action as is necessary to cure any noncompliance and, upon curing the same, shall request a new Final Re-inspection from the County. The release of monies shall be contingent on County review and acceptance. A letter requesting final acceptance from engineer/landscape architect/geotechnical engineer shall be signed, stamped and sealed.

ARTICLE IV

PROCEDURE

After the developer has reached preliminary conclusions concerning the feasibility and design of his proposed cluster development, he shall prepare and submit a sketch plan as provided in Section 4.1 below for the approval of the Planning Commission as to general layout of open space, critical areas, home sites, lot lines and roads for his proposed cluster development. A beneficial reference regarding design conception and process for a developer using the county's rural land use process is Randall G. Arendt's, Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks.¹ The purpose of this review is to insure that the proposed development is in accordance with the Grand County Master Plan and the rural land use process, that adequate utilities and access are available, and to insure that the property on which the cluster development is proposed is at least apparently suitable for development in the manner contemplated by the developer.

After the approval, conditional approval, or disapproval of the Planning Commission has been received, the developer shall, if he wishes to subdivide his land, prepare a preliminary plan and required supplemental material for presentation to and approval by the Planning Commission and Board of Commissioners. The purpose of this preliminary review is to check the proposed subdivision against the design standards and improvement requirements and to be sure that the zoning standards have been met. Thorough analysis at this stage and the sketch plan stage will expedite approval of the final plan and will prevent the repeating of extensive calculations and drafting required for the final plan. The preliminary plan shall include all land intended for subdivision.

The final plan together with required supplemental material shall represent the cluster development actually to be developed. Guarantees of completion of required improvements will be necessary before the plan will receive final approval and be recorded, and before any lots may be sold.

4.1 CLUSTER DEVELOPMENT SKETCH PLAN

- (1) A developer shall consult with the Director of the Department of Planning and Zoning regarding the proposed cluster development and shall submit a sketch plan of his cluster development prior to submission of the materials required for preliminary plan approval; the following items shall be submitted by the developer with the sketch plan:
 - (a) Relevant site characteristics and existing features analyses applicable to the proposed cluster development.
 - (b) Reports concerning streams, lakes, topography, geology, soils and vegetation.
 - (c) Reports concerning geologic characteristics of the area significantly affecting the land use and determining the impact of such characteristics on the proposed cluster development.
 - (d) In the areas of potential radiation hazard to the proposed future land use, these potential

¹Arendt, Randall, 1989. *Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks*, Washington, D.C.: Island Press.

radiation hazards shall be evaluated.

- (e) A sketch drawing and other documentation showing the proposed layout or plan of the cluster development, including the total development area, the total area of open space or critical areas to be preserved and their location, the total number of home sites and other buildings and their location, and the location of roads and lot lines.

(2) A sketch plan shall be processed as follows:

- (a) Fifteen (15) copies of sketch plan, together with required supplemental material, shall be presented by the developer to the Secretary of the Planning Commission and shall be accompanied by a processing fee required per the current Grand County Department of Planning and Zoning Fee Schedule.
- (b) The Planning Commission and its staff shall complete its review of the proposed cluster development within thirty (30) days of the receipt of the sketch plan. At the next regular meeting following completion of its review, that is the first regular meeting following completion of its review, that is the first regular meeting thirty (30) days after submittal of the sketch plan, the Planning Commission shall discuss with the developer any changes deemed advisable in the proposed plan and shall approve, conditionally approve, or disapprove the proposed plan. Specific findings shall be made regarding the cluster development's compliance with the master plan, the availability of utilities and access, and the apparent suitability of the site for development. The Planning Commission shall specify the required review agencies to whom the preliminary plan shall be submitted as said agencies are identified in Section 4.2 (3) (c) of these Regulations. If the Planning Commission fails to designate the review agencies, the Director of the Department of Planning and Zoning or his authorized representative may specify said agencies. A decision by the Planning Commission may be delayed until a subsequent meeting date only with the consent of the developer. Approval or conditional approval of the sketch plan shall be valid for one (1) year and if no preliminary plan in conformance with the sketch plan is submitted to the Secretary of the Planning Commission, with all required accompanying material, within one (1) year, a new sketch plan shall be submitted.
- (c) After submission and review of the sketch plan by the Planning Commission the developer shall, if he wishes to subdivide his property, submit a preliminary plan in conformance with the rural land use process.

4.2 CLUSTER DEVELOPMENT PRELIMINARY PLAN

(1) The preliminary plan shall be prepared as follows:

- (a) The design shall conform to the approved sketch plan, be in accord with the developer's plans for actual development and therefore shall be a true representation of the cluster development which may eventually be recorded.
- (b) The drawing shall be made at a scale of not less than one inch (1") equals one hundred feet (100'), on a reproducible medium with outer dimensions of not more than twenty-four inches (24") by thirty-six inches (36"), and shall be accompanied by one (1) overall map showing the entire development at a legible scale.
- (c) A vicinity map shall accompany the preliminary plat. The vicinity map shall be at a scale of not less than one inch (1") equals two thousand feet (2000'), extending at least two (2) miles beyond the proposed cluster development, showing existing roads, natural drainage courses, municipal and special district boundaries, sites for existing or proposed water and sewage treatment facilities and similar major natural or man-made features of the area. U.S. Geological Survey Topographical maps are acceptable vicinity maps.

- (2) The preliminary plan shall contain or be accompanied by the following information:
- (a) Proposed name of the cluster development.
 - (b) Location of the cluster development as part of some larger tract of land and by reference to permanent survey monuments with a tie to a section corner or a quarter-section corner.
 - (c) Names and addresses of the developer, the engineer, designer and/or planner of the cluster development, and land surveyor (who shall be licensed by the Colorado State Board of Examiners for Engineers and Land Surveyors).
 - (d) Total acreage of the cluster development and tabulation of acreage in open spaces, single-family residential lots, roads and all other uses of the land with their respective percentages of the total area.
 - (e) Date of preparation, scale and north sign (designated as true North).
 - (f) Topography at five foot (5') intervals where the average slope is less than fifteen percent (15%) provided the same interval is used throughout the subdivision (interval used to be clearly indicated on plat).
 - (g) Designation of areas subject to periodic flooding and the volume of water during such floods.
 - (h) Evidence to establish that on-site sewage disposal systems will comply with State and local laws and regulations which are in effect at the time of submission of the preliminary plan; where septic tanks and drain fields are used, percolation tests or soil profile holes will be taken as specified by the County Engineer and Director of the Department of Planning and Zoning lot; the developer is required to contact the County Engineer and Director of the Department of Planning and Zoning regarding aforementioned requirement prior submittal of any preliminary plan.
 - (i) The names of abutting developments and the names of the owners of abutting un-platted property.
 - (j) Location and principal dimensions for all existing streets (including their names), easements, water courses, and other important features within and adjacent to the tract to be subdivided.
 - (k) Location and principal dimensions for all proposed streets (including their names), easements, lot lines and areas to be reserved or dedicated for open space or critical areas.
 - (l) The location and size of existing and proposed utilities within or adjacent to the tract.
 - (m) Site data, including the number of residential lots and typical lot sizes.
 - (n) Proof of availability of adequate physical water supply to service the proposed development. A registered geologist's report (hydrology study with water balance) confirming the adequacy of the supply and stating the expected aquifer depths shall be furnished, such report to be sufficiently comprehensive as to be appropriate for all lots in the cluster development and in compliance with 30-28-404, C.R.S.
 - (o) Such additional preliminary information as may be required by the Planning Commission in order to adequately describe proposed utility systems, surface improvements or other construction projects contemplated within the area to be subdivided.

- (p) A copy of any proposed Restrictive Covenants for the cluster development, and a copy of proposed Articles of Incorporation and any Bylaws of any lot owners' association.
 - (q) Estimated construction cost and proposed method of financing of the roads and related facilities, storm drainage facilities, and such other utilities as may be required of the developer by the county.
 - (r) Maps and tables concerning suitability of types of soil in the proposed cluster development, in accordance with the National Cooperative Soil Survey as prepared by a qualified geologist.
 - (s) Proof of Compliance with Colorado Common Interest Ownership Act, if applicable.
 - (t) A title insurance commitment or attorney's title opinion showing that the developer is the owner of all land to be platted and that all roads, streets, easements and other rights-of-way and all lots, tracts or sites dedicated or to be conveyed for public use, or for common use by all lot owners are free and clear from all liens and encumbrances except patent reservations and except liens and encumbrances which cannot be extinguished, released, or purchased by the developer, it shall be sufficient if the mortgage joins in the dedication.
- (3) The preliminary plat shall be processed as follows:
- (a) Thirty-five (35) copies of the preliminary plan together with any required supplemental material, and a processing fee required per the current Grand County Department of Planning and Zoning Fee Schedule, to cover the cost of county review, shall be presented by the developer to the Secretary of the Planning Commission at least fifty-five (55) days prior to the Planning Commission meeting at which the developer wishes his preliminary plan to be considered. In addition, sufficient copies of the preliminary plan and supplemental material shall be delivered to the Secretary of the Planning Commission so as to provide all necessary material for the review agencies as specified by the Planning Commission at the time of the approval of the sketch plan, or if not so specified, as specified by the Director of the Department of Planning and Zoning. The developer shall be responsible for all review fees. Said fees shall be provided to the Department of Planning and Zoning prior to the Planning Commission review of the preliminary plat.
 - (b) The developer shall obtain Letters of Evidence from his engineer, attorney, and one from himself, testifying that his cluster development meets all requirements.
 - (i) The developer shall certify that notice has been provided to the mineral estate owner pursuant to C.R.S. §24-65.5-101 et al., which includes time and place of the preliminary plat hearing before the Planning Commission, nature of the hearing, location of the property that is the subject of the hearing, and name of the applicant. The name and address of the mineral estate owner are required to be provided within said certification of notice. Grand County shall, pursuant to C.R.S. §24-6-402(7) et al., provide notice of subsequent hearings to Mineral Estate Owners who register for such notification of the rural land use process.
 - (c) Referral and review requirements. Upon receipt of a complete preliminary plan for submission, the Secretary of the Planning Commission or his authorized representative shall distribute copies of the preliminary plan to the agencies specified by the Planning Commission at the time of the sketch plan approval or if none were specified by the Planning Commission, as the Director of the Department of Planning and Zoning may specify. Said agencies may include the following:
 - (i) Cities, towns, or adjoining counties located within two (2) miles of the area to be subdivided.

- (ii) School district serving the area.
- (iii) Private utility companies (such as electric, gas, ditch companies and telephone companies) serving the area.
- (iv) Special districts (such as water, sanitation and fire districts) serving the area.
- (v) When appropriate, to the Colorado State Highway Department, U.S. Forest Service, Bureau of Land Management and other State and Federal agencies to be designated by the Planning Commission.
- (vi) To the Colorado State Forest Service, when applicable
- (vii) To the local soil conservation district board or boards within the county for explicit review and recommendations regarding soil suitability and flooding problems. Such referral should be made even though all or part of a proposed cluster development is not located within the boundaries of a conservation district.
- (viii) When applicable, to the County, District, Regional, or State Department of Health, for their review of the on-lot sewage disposal reports, for review of the adequacy of existing or proposed sewage treatment works to handle the estimated effluent, and for a report on the water quality of the proposed water supply to serve the cluster development
- (ix) When applicable, to the State engineer for an opinion regarding material injury to decreed water rights, historic use of and estimated water yield to supply the proposed development, and conditions associated with said water supply evidence the State engineer shall consider the cumulative effect of on-lot wells on water rights and existing wells
- (x) To the Colorado Geological Society for an evaluation of those geologic factors which would have a significant impact on the proposed use of the land.

The agencies named in this Section shall make recommendations within thirty-five (35) days after the mailing by the County or its authorized representative of such plans unless a necessary extension of not more than thirty (30) days has been consented to by the developer and the Board of County Commissioners of the County in which the cluster development is located. The failure of any agency to respond within thirty-five (35) days or within the period of an extension shall, for the purposes of the hearing on the preliminary plan, be deemed an approval of such preliminary plan.

- (d) Along with the review by the interested agencies, the Planning Commission and its staff shall proceed with its own review. The Planning Commission shall endeavor to conclude its review prior to the meeting at which the developer wishes to have his development considered. Failure of the Planning Commission to approve, conditionally approve or disapprove the preliminary plan within two (2) successive regularly scheduled meetings at which the preliminary plan is considered shall constitute automatic approval, provided the developer or his authorized representative and the engineer or person who designed the preliminary plan shall have attended such regular meetings to discuss the preliminary plan. Provided, however, the Planning Commission may withhold approval of the preliminary plan for a longer period in order to await any other essential requirements.
- (e) At the Planning Commission meetings following completion of the review provided for in the foregoing paragraphs, the Planning Commission shall discuss with the developer any changes deemed advisable and the kind and extent of improvements to be made by him. At such meeting the Planning Commission shall approve as submitted, disapprove, or approve with

conditions, the preliminary plan, and shall provide the developer with a written statement of requirements to be met before final approval of the preliminary plan will be granted. Regardless of the type of approval, such approval of a preliminary plan shall be conditional for purposes of guidance and the preparation of a final plan which shall be submitted to the Board of County Commissioners for final approval prior to recording. Approval of the preliminary plan shall be valid for no longer than one (1) year except in the case of an extension granted upon application and for a good cause shown.

- (f) Any conditions of approval of the preliminary plan or a copy of the statement of requirements shall be noted in the minutes of the meeting of the Planning Commission. Within thirty (30) days after the approval, conditional approval or disapproval of the preliminary plan by the Planning Commission, it shall be presented to the Board of County Commissioners for their approval, conditional approval or disapproval. The developer shall be advised of the date when the preliminary plan shall be presented to the Board of County Commissioners and a decision by the Board of County Commissioners shall not be delayed for more than thirty (30) days without the developer's consent. An approval or conditional approval of a preliminary plan by the Board of County Commissioners shall be valid for the same period as the approval or conditional approval of the Planning Commission.

4.3 POSTING AND MAILING NOTIFICATION REQUIREMENTS

- (1) Mailing: Written notice shall be mailed, first-class postage to adjacent property owners of the proposed development at least fifteen (15) days prior to the Planning Commission Meeting for sketch plan.
 - (a) All fees and costs will be the responsibility of the applicant. The applicant will be billed and the payment must be received prior to the Sketch Plan Planning Commission meeting.
- (2) Posting: A sign shall be posted on the property using signs furnished by the Applicant at least fifteen (15) days prior to the Planning Commission Meeting for the sketch plan. The sign shall remain on the property for the duration of the project until Final Plat is recorded. Signs shall be set back no more than 25 feet from the street and shall be erected in full view of the public on each street side of the land subject to the application. Once posted, if anything would happen to the sign, (ex. large amounts of snow), the occurrence shall not be deemed a failure to comply with the standards or be grounds to challenge the validity of any decisions made on the application.
- (3) Sign Size:
 - (a) The size of the sign shall be 24"x 30". Proof of sign placement by way of photograph will be delivered to staff electronically or service mail.
 - (b) All costs and placement of the signs will be the responsibility of the applicant.
- (4) Sign Format: The Sign shall follow the format below:

NOTICE OF (DEVELOPMENT NAME, DATE)

APPLICANT NAME: _____
APPLICANT PHONE: _____
APPLICANT EMAIL: _____
PROPOSED PROJECT: _____

LEGAL DESCRIPTION AND ADDRESS

Contact the Department of Planning and Zoning at 970-725-3347 x 140 or email planning@co.grand.co.us with questions or concerns. The Planning Commission Agenda's and Board of County Commissioner Agenda's are available online at www.co.grand.co.us

4.4 CLUSTER DEVELOPMENT FINAL PLAN

- (1) The final plan shall be prepared as follows:
 - (a) The design shall conform to the preliminary plan and the statement of requirements
 - (b) The drawing shall be made at a scale of one inch (1") equals one hundred feet (100'), by the use of Indian ink or other equally substantial solution, on tracing cloth or mylar with other dimensions of twenty-four inches (24") by thirty-six inches (36"). It shall be accompanied by one (1) overall map showing the entire development at a legible scale. Good draftsmanship will be required in order for all information to be accurate and legible. Any improvements needing engineering design, such as drainage requirements, and requirements for stabilizing unstable land, shall be designed by a duly licensed engineer hired by the developer, and such design shall be submitted with the final plan.
- (2) The final plan shall contain or be accompanied by the following information, and shall be submitted to the Department of Planning and Zoning at least four (4) weeks prior to the Board of County Commissioners meeting at which the developer wishes his cluster development considered:
 - (a) Title, scale, North arrow, and date.
 - (b) Legal description of property, together with a complete reference to the book and page of records of the County Clerk and Recorder where the conveyance to the developer is recorded.
 - (c) Primary control points, or description and ties to such control points, to which all dimensions, angles, bearings, and similar data on the final plan shall be referred.
 - (d) Tract boundary lines, rights-of-way lines of streets, easements and other rights-of-way, and property lines of residential lot, with accurate dimensions, bearings or deflection angles, and radii, arcs, and central angles of all curves with long chord bearings and distances.
 - (e) Names and right-of-way width of each street or other rights-of-way.
 - (f) Location, dimensions and purpose of any easement, including reference by book and page to any pre-existing recorded easements.
 - (g) Number to identify each lot or site and acreage of each site to nearest 1/100th of an acre.
 - (h) Purpose for which sites, other than residential lots, are dedicated or reserved.
 - (i) Location and description of monuments.
 - (j) An updated title commitment within the last six (6) months shall be provided.
 - (k) Statement by developer platting the property and dedicating the streets, rights-of-way, easements and any sites for public uses, to be in substantially the following form:

of-way meet county specifications and are specifically accepted for maintenance by Resolution of the Board of County Commissioners of Grand County, the maintenance, construction, and all other matters pertaining to or affecting said roads and rights-of-way are the sole responsibility of the owners of the land embraced within the cluster development. This approval does not guarantee that the size or soil conditions of any lot shown herein are such that a Building Permit may be issued.

(Chairman)
Board of Commissioners
Grand County, Colorado

- (n) Certification by a qualified professional engineering, designing or planning firm, insuring compliance with the design standards and all other requirements of the Grand County Rural Land Use Process, as follows:

PLANNER'S CERTIFICATE

I, (we), (Firm or Individual's Name), being a qualified professional engineer, or engineering, designing or planning firm, certify that this plat of (Cluster Development Name) has been engineered, designed and planned in accordance with all applicable design standards and other requirements of the Grand County Rural Land Use Process.

(Authorized Signature)
(Title)

- (o) A two and one-half by three inch (2-1/2" x 3") vertical box in the lower right hand corner shall be provided for use by the County Clerk and Recorder.
- (p) The executed original of the Restrictive Covenants and Articles of Incorporation and Bylaws of any owners' association showing filing of the Articles in the office of the Secretary of State of the State of Colorado.
- (q) A vicinity map.
- (r) The developer shall provide:
- (i) Storm drainage plans and related designs, in order to insure proper drainage ways.
 - (ii) Property survey and proof of ownership.
- (s) No cluster development shall be approved until such data, surveys, analyses, studies, plans, and designs as may be required by this section and by the Planning Commission or the Board of Commissioners have been submitted, reviewed and found to meet all sound planning and engineering requirements of the county contained in the rural land use process.
- (t) A Forest Stewardship Plan/Wildfire Hazards Mitigation Plan developed by a natural resources professional or the Colorado State Forest Service, accompanied by the means for implementation.
- (u) A 14" x 18" black-line mylar(s) with approved addresses and road numbers as required
- (v) Updated Tax Statements.

- (w) An electronic copy of the Final Plat in AutoCAD.dwg or AutoCAD.dxf format shall be provided prior to any recording of any Final Plat. The drawing shall be based or transformed to a known coordinate system, not an assumed local coordinate system. If GPS Lat/Long is not used for this reference, the Geographic Coordinate Data Base should be used to obtain relative coordinates available from the BLM at www.blm.gov/gcdb. The drawing shall include either a data dictionary to explain the layers, or a self-explanatory layering system.

(3) The final plan shall be processed as follows:

- (a) Within the period of time set forth after approval of the preliminary plan, the original and eight (8) prints of a proposed final plan, together with the original and three (3) copies of any Restrictive Covenants and any required supplemental materials, shall be filed by the developer with the Secretary of the Planning Commission. Such filing shall be at least four (4) weeks in advance of a regular Board of Commissioners meeting at which the developer wishes his cluster development considered. The final plan and accompanying documents shall be accompanied by a processing fee identified in the current Grand County Department of Planning and Zoning Fee Schedule.
- (b) The Board shall check the final plan, especially with regard to required improvements and the acceptance of areas dedicated for public use and shall approve or disapprove the final plan. At such meeting the required guarantees of completion of the roads and improvements shall be provided by the developer. Approval of any Final Plat shall expire after one (1) year if not recorded in the Office of the Grand County Clerk and Recorder following the date of the Board of County Commissioners Final Plat approval. One (1) year extensions may be requested in writing by the developer and will be considered by the Board of County Commissioners.
- (c) If all required improvements have not been completed or guarantees of completion submitted and approved by the Board of Commissioners, the plat shall be retained by the Secretary of the Planning Commission pending such completion of guarantees.
- (d) Following approval of the final plan by the Board of County Commissioners and the completion of the required improvements, the Secretary of the Planning Commission shall record the final plan, Restrictive Covenants and Articles of Incorporation and Bylaws of any owners' association in the office of the Clerk and Recorder. The developer shall advance all recording fees and the cost of obtaining two (2) copies of all documents to the Secretary of the Planning Commission before the final plan is recorded.

Immediately upon recording the final plan, the Director of the Department of Planning and Zoning shall obtain two (2) copies of the final plan and other documents showing all signatures and recording information.

- (e) Upon final approval, the County shall require the payment of \$1,000.00 per lot if served by Individual Sewage Disposal Systems, and \$500.00 per lot if served by central wastewater treatment, for water quality impact fees to be used by the County as follows:
 - (i) Compliance with C.R.S. 30-28-136(1)(g), as now enacted or hereinafter amended.
 - (ii) Studies to establish need for new water or wastewater treatment facilities.
 - (iii) Studies for expansion and upgrades to existing water and wastewater treatment facilities.

- (iv) Studies to establish impacts and causes of no-point source pollution to surface and ground water.
- (v) Purchase of water to help dilute surface or ground water pollution caused by either point or non-point source pollution.
- (xi) Studies to establish the impact of individual sewage disposal systems on ground and surface water.
- (vii) Purchase of property needed to accommodate new wastewater treatment facilities.
- (viii) Purchase of property to accommodate expansion of wastewater treatment facilities.
- (ix) Partial or total funding for expansion of wastewater main lines into areas deemed to significantly contribute to point or non-point source pollution when outside of approved special district boundaries.
- (x) Studies to determine impact of point or non-point source pollution on fish and aquatic invertebrate.
- (xi) 201 Facilities Plans or updates.
- (xii) Any other item that would address water quality impacts, as deemed to be necessary, in the sole discretion of the Board of Commissioners.

Contribution of these funds will be set forth in a Water Quality/Wastewater Agreement. Payment will be as set forth in this agreement.

- (f) Upon final approval of the Final Cluster Development Plan, the County shall require the payment of an emergency services impact fee, pursuant to Article III, Section 3.3.4 of the Subdivision Regulations of Grand County.
- (g) No later than ten (10) days after approval of a cluster development pursuant to the Rural Land Use Process, the Board of Commissioners shall notify the State Engineer of such approval and shall provide the State Engineer a copy of the approved cluster development.

4.5 AMENDED FINAL PLAT

The amended final plat process allows for changes to the boundary of the previous approved final plat. No exterior boundary changes are allowed. Amended Final Plats shall be reviewed under the Final Plat provisions unless the Board of County Commissioners determines that additional criterion is required. All requests shall be brought before the Board of County Commissioners to determine land use impacts and the procedure to be followed.

ARTICLE V

ADMINISTRATIVE PROVISIONS

5.1 VARIANCES

- (1) The Planning Commission may authorize variances from the rural land use process in cases where, due to exceptional topographical conditions or other unusual conditions peculiar to the site, an unnecessary hardship is placed on the developer. Such variance shall not be granted if it would be detrimental to the public good or impair the intent and purposes of the rural land use process. The conditions of any variance authorized shall be stated in writing in the minutes of the Planning Commission, with the justifications set forth.

- (2) Variances may be authorized only after due notice has been given and acknowledged by adjacent property owners.

5.2 AMENDMENT

The Planning Commission and Board of Commissioners may amend the requirements of the rural land use process after giving public notice of any such proposed amendment and after holding a public hearing thereon.

5.3 SEVERABILITY

It is hereby declared to be the legislative intent that the several provisions of the rural land use process shall be severable, in accordance with the provisions set forth below:

- (1) If any provision of the rural land use process is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that:
 - (a) The effect of such decision shall be limited to that provision or provisions which are expressly stated in the decision to be invalid; and
 - (b) Such decision shall not affect, impair or nullify the rural land use process as a whole or the application thereof, but the rest of the rural land use process shall continue in full force and effect.
- (2) If the application of any provision of the rural land use process 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:
 - (a) 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
 - (b) Such decision shall not affect, impair or nullify the rural land use process as a whole or the application of any provision thereof, to any other tract of land.

5.4 REPEALS, EFFECTIVE DATE

All Resolutions or Regulations of the Board of County Commissioners inconsistent herewith, to the extent of such inconsistency, and no further, are hereby repealed. The rural land use process and any amendments thereto shall be effective from the date of adoption or approval by the Planning Commission and the Board of County Commissioners.

RURAL LAND USE PROCESS
RESOLUTIONS

ADOPTED by the Grand County Board of Commissioners on May 19, 1998, Resolution No. 1998-5-11.

AMENDED AND READOPTED by the Grand County Board of County Commissioners on March 16, 1999 (Effective Date – March 2, 1999), Resolution No. 1999-3-7 (School fees in Lieu of Land Dedication).

AMENDED AND READOPTED by the Grand County Board of County Commissioners on October 2, 2001, Resolution No. 2001-10-2 (East Grand Impact Fees).

AMENDED AND READOPTED by the Grand County Board of County Commissioners on August 3, 2002, Resolution No. 2002-7-45.

AMENDED AND READOPTED by the Grand County Board of County Commissioners on September 20, 2005, Resolution No. 2005-9-19.

AMENDED AND READOPTED by the Grand County Board of County Commissioners on August 21, 2007, Resolution No. 2007-8-20.

AMENDED AND READOPTED by the Grand County Board of County Commissioners on November 3, 2008, Resolution No. 2008-11-12

At a REGULAR meeting of the Board of County Commissioners for Grand County, Colorado, held at the Court House in Hot Sulphur Springs on Thursday, the 21st day of December, A.D. 1999, there were present:

<u>David L. Newberry</u>	Commissioner Chairman
<u>Robert E. Anderson</u>	Commissioner
<u>Edward R. Halley</u>	Commissioner
<u>Anthony J. D. Cola</u>	County Attorney
<u>Lurline Maderholm Curran</u>	County Manager
<u>Sara L. Roseau</u>	Clerk of the Board

with the following proceedings, among others were had and done, to wit:

RESOLUTION NO. 1999-12-3

A RESOLUTION PURSUANT TO C.R.S. § 24-68-102(4) SPECIFICALLY IDENTIFYING THE TYPE OR TYPES OF SITE SPECIFIC DEVELOPMENT PLAN APPROVALS WITHIN GRAND COUNTY'S JURISDICTION THAT WILL CAUSE PROPERTY RIGHTS TO VEST AS PROVIDED IN ARTICLE 68 TITLE 24 C.R.S.

WHEREAS, in light of amendments made to the existing vested rights statutes by HB99-1280, this resolution is adopted to establish a vested property right for a subdivision final plat, subdivision exemption final plat, outright exemption final plat, final cluster development plan or as otherwise agreed between the Board of County Commissioners and the landowners for a specific project or development:

DEFINITIONS

"Site Specific Development Plan"

A final plat which has been submitted to the county as part of a subdivision final plat, subdivision exemption final plat, outright exemption final plat, final cluster development plan or as otherwise agreed between the Planning Commission, Board of County Commissioners and the landowner(s) for a specific project or development, to establish a vested right pursuant to Article 68 of Title 24, C.R.S., and which describes with reasonable certainty the type and intensity of the proposed land use for a specific parcel or parcels of property.

"Development Agreement"

The agreement between the owner and county which specifies the terms and conditions of approval. This agreement implements the site specific development plan which establishes vested rights under Article 68 of Title 24, C.R.S.

VESTED RIGHTS

- (A) A vested property right may be established pursuant to Article 68 of Title 24, C.R.S., as amended, after the following events occur:
- (1) A site specific development plan is reviewed by the Planning Commission and approved by the Board of County Commissioners as part of a subdivision final plat (or amended final plat), subdivision exemption final plat (or amended final plat), outright exemption final plat (or amended final plat), final cluster development plan (or amended final cluster development plan) or as otherwise agreed between the Board of County Commissioners and the landowners for a specific project or development
 - (B) The Board of County Commissioners shall sign a resolution approving the final plat or final cluster development (or amended final plat or amended final cluster development plan) and associated site specific development plan request, and the Chairman of the Board shall sign a development agreement in a form acceptable to the County or a development agreement where warranted in light of all relevant circumstances is entered into by the Board of County Commissioners with the landowner, which by its terms

specifically grants a vested property right. Those circumstances may include but are not limited to the type and intensity of use, the size and phasing of the development, economic cycles, and market conditions. If these documents are signed on different dates, the date of the later signature shall be the date of establishment of the vested rights.

- (C) Once established, the vested right shall remain in effect for three years, unless the Board of County Commissioners determines, as part of the site specific development plan approval, that a longer period is warranted in light of relevant circumstances. Those circumstances may include but are not limited to the type and intensity of use, the size and phasing of the development, economic cycles, and market conditions. Any amendment to an approved site specific development plan shall not extend the three year vesting period unless the Board of County Commissioners expressly authorizes an extension based on the foregoing criteria.
- (D) No activity or use authorized by an approval granted under this resolution shall be allowed to commence unless a vested right is first established as required in this resolution, and all other post-approval requirements have been met.

A notice shall be published in a local newspaper of general circulation no later than 14 days after the Board of County Commissioners approve and sign the resolution (Development Agreement).

- (B) This notice shall advise the general public that a development agreement has been approved and that a vested property right has been created pursuant to this resolution.
- (C) The notice shall read as follows:

NOTICE

Notice is hereby given that on the _____ day of _____, 20____, the Grand County Board of County Commissioners approved by Resolution No. _____ a site specific development plan for the property and purpose described below, which approval may have created a vested property right pursuant to C.R.S. 24-68-101, et. seq.

Owner: _____

Legal Description: _____

Type and intensity of proposed use: _____

Published in (newspaper) (date) _____

The effective date of this Resolution is December 31, 1999.

Upon motion duly made and seconded the foregoing Resolution was adopted by the following vote:

James L. Newberry Aye

Robert L. Gault Aye

Dwaine E. Darby Aye

Commissioners

STATE OF COLORADO } ss.
 County of Grand

I, _____, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Order is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Grand County, now in my office.

IN WITNESS WHEREOF, I have hereto set my hand and affixed the seal of said County, at (at Sulphur

Springs, this _____ day of _____, A.D. 19_____.

County Clerk and ex-officio Clerk of the Board of County Commissioners.

STATE OF COLORADO

County of Grand

At a regular meeting of the Board of County Commissioners for Grand County, Colorado, held at the Court House in Hot Sulphur Springs on Tuesday, the 17th day of August, A.D. 1999.

Those present: James L. Newberry (Absent) Commissioner Chairman, Robert F. Anderson Commissioner, Duane E. Bailey Commissioner, Anthony J. DiCola County Attorney, Lurline Underbrink Curran County Manager, Sara L. Rosene Clerk of the Board

when the following proceedings, among others were had and done, to wit:

RESOLUTION NO. 1999-8- 5

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF GRAND COUNTY, COLORADO ESTABLISHING A "RIGHT TO FARM AND RANCH" POLICY.

WHEREAS, Production Agriculture in Grand County is defined as property that has produced not less than \$5,000.00 of gross market value agricultural product (food and/or fiber) in four of the past five years. Property that has been deemed to be in production agriculture will no longer be considered as such, if sold for development of any kind. Family transfers for estate purposes, etc., that continue to function as an integral part of the property deemed to be in Production Agriculture, will continue to be defined as Production Agriculture; and

WHEREAS, pursuant to Article 3.5, Title 35, C.R.S., it is declared policy of the State of Colorado to conserve, protect, and encourage the development and improvement of its agricultural land for the production of food and other agricultural products; and further that the general assembly recognizes that when nonagricultural land uses extend into agricultural areas, agricultural operations are forced to cease operations and many others are discouraged from making investments in farm improvements; and that it is the purpose of the Article to reduce the loss to the State of Colorado of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed to be a nuisance. It is further recognized that units of local government may adopt ordinances or pass resolutions that provide additional protection for agricultural operations consistent with the interests of the affected agricultural community, without diminishing the rights of any real property interest; and

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

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

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

- 1. Policy Statement. It is the policy of the Board of County Commissioners of Grand County, as set forth herein that: Ranching, farming and all manner of agricultural activities and operations within and throughout Grand County are integral elements of and necessary for the continued vitality of the County's history, economy, landscape, open space, lifestyle and culture. Given their importance to Grand County, Northwestern Colorado, and the State, agricultural land and operations are worthy of recognition and protection. Notice is hereby given as follows:
a. Colorado is a "Right to Farm" State pursuant to C.R.S. 35-3.5-101, et. seq. Landowners, residents and visitors must be prepared to accept the activities, sights, sounds, and smells of Grand County's agricultural operations as a normal necessary aspect of living in a County with a strong

rural character and a healthy ranching sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells only as inconvenience, eyesore, noise and odor. However, State law and County policy provide that ranching, farming and other agricultural activities and operations within Grand County shall not be considered to be nuisances so long as operated in conformance with law and in a non-negligent manner. Therefore, all must be prepared to accept noises odors, lights, mud, dust, smoke, chemicals, machinery on public roads, livestock on public roads storage and disposal of manure predator control, on site storage and marketing of crops or livestock, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides, pursuant to C.R.S. 35-5.5-101 and C.R.S. 35-5.5-104, any one or more of which may naturally occur as a part of a legal and non-negligent agricultural operations.

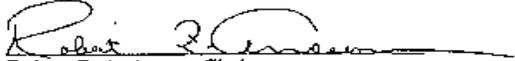
- b. In addition, all owners of land, whether Agricultural Business, Farm, Ranch or Residence, have obligations under State law and County regulation with regard to the maintenance of fences, livestock must be fenced out (open range) as pursuant to C.R.S. 35-46-106, et. seq. Irrigators have the right to maintain ditches through established easements that transports water for their use and said irrigation ditches are not to be used for the dumping of refuse. Landowners are responsible for controlling weeds, keeping pets under control, using property in accordance with zoning, and maintenance of resources of the property wisely (water, soil, animals, plants, air and human resources). Residents and landowners are encourage to learn about these rights and responsibilities and act as good neighbors and citizens of the County. It is not the intent of this policy to require Production Agriculture to be "open space."
2. The Board of County Commissioners hereby establishes a dispute resolution procedure with mediators to informally resolve breach of property right conflicts that may arise between landowners or residents relating to agricultural operations or activities.
 - a. Breach of property rights include, but are not limited to: trespass; harassment of livestock and livestock losses due to free roaming dogs, pursuant to C.R.S. 35-43-126; trespass by livestock and pets; penalties for disrespect of water rights, pursuant to C.R.S. 37-89-101; and open gates or breaking fences, pursuant to C.R.S. 36-46-107.
 - b. Mediators must be knowledgeable with regard to land use conflicts. The Board of County Commissioners will maintain a list of qualified mediators.
 - c. No attorney shall be present at a mediation unless such attorney is the mediator or a party directly involved with the mediation.
 3. **Public Education and Information Campaign.** The Board of County Commissioners, with the primary assistance of the Colorado State University Cooperative Extension, Grand County Office(s) and through the use of County Staff as needed, shall support efforts to educate and inform the public of the "Right to Farm and Ranch" Policy
 4. **Property Owner Notification:** The Board of County Commissioners shall notify the owners of land within the County by the following means:
 - a. Whenever, a building permit is issued for new construction in the unincorporated area of Grand County, the Building Department shall provide owner educational material.

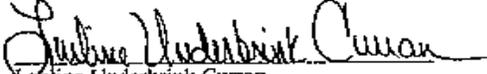
b. The Board of County Commissioners shall initiate amendments to the County subdivision regulations to provide that notification of the Policy and the Policy Statement shall be made at the time of subdivision or related land use approval and note to the effect shall appear on any Plat outside municipalities urban growth areas so approved.

5. This resolution may be amended from time to time by the Board of County Commissioners, Grand County, Colorado.

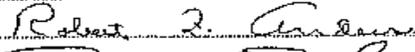
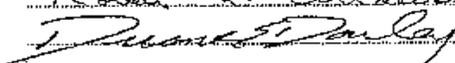
ADOPTED this 17th day of August, 1999.

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


Robert F. Anderson, Chairman


Lorine Underbrink Curran
County Manager
frr@cohrns.wpl.no.l

(Upon motion duly made and recorded the foregoing Resolution was adopted by the following vote:

James L. Newberry (Absent)	Aye	
	Aye	
	Aye	
			Commissioners

STATE OF COLORADO }
County of Grand } ss.

I, _____, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Order is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Grand County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Hot Sulphur Springs, this _____ day of _____ A.D. 19____
County Clerk and ex-officio Clerk of the Board of County Commissioners.