

LINCOLN COUNTY ZONING RESOLUTION

FINAL 04/18/02

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ARTICLE 1 ADMINISTRATION AND ENFORCEMENT

DIVISION 1 ADMINISTRATION

Section 1-100 Title and Short Title

This document shall be known as the Lincoln County Zoning Resolution.

Section 1-110 Authority

It is the intention of the Board of County Commissioners in adopting this Zoning Resolution to fully exercise all relevant powers conferred by the laws of the State of Colorado, including but not limited to;

A. Colorado Constitution. All of the powers reserved to the County by the Colorado Constitution.

B. State Enabling Legislation. All powers granted to the County by:

1. Title 30, Article 28, C.R.S. The provisions of the County Planning Act.
2. Title 29, Article 20, C.R.S. The provisions of the Local Government Land Use Control Enabling Act of 1974.
3. Title 24, Article 65.1, C.R.S. The provisions of the Areas and Activities of State Interest Act.
4. Title 24, Article 67, C.R.S. The provisions of the Planned Unit Development Act of 1972.
5. Title 24, Article 68, C.R.S. The provisions of the Vested Property Rights Act.

C. All Other Powers Authorized. All other powers authorized by statute or by common law for the regulation of land uses, land development and the power to abate nuisances.

Section 1-120 Purposes

A. General Purposes. The general purposes of this Zoning Resolution are:

1. Protect Quality of Life. To provide for protection of the public health, safety and welfare of the residents of the County and to protect the environment.
2. Provide for Orderly Development of the County. To provide for balanced, orderly growth patterns and to provide efficient, phased government services to accommodate existing and future residents.
3. Preserve Property Values. To preserve and promote the value of property, to protect the tax base of Lincoln County and to respect the property rights of citizens.

4. Protect and Enhance Agriculture. To protect and enhance agricultural uses and rural characteristics of Lincoln County.

Section 1-130 Applicability

A. General Applicability. No land shall be offered for sale, exchange, lease, or development; no building, structure or land shall be used or occupied except in conformance with this Zoning Resolution. Structures and uses existing on the effective date of this Zoning Resolution shall be permitted to continue, subject to the provisions of **Article 4, Nonconformities.**

Section 1-140 Repealer; Re-Enactment; Effective Date

A. Enactment. This Zoning Resolution shall be enacted upon its approval by the Board of County Commissioners, after review and recommendation by the Land Use Board, following public hearings.

B. Effective Date. This Zoning Resolution shall become effective thirty days following the date of its adoption by the Board of County Commissioners.

Section 1-150 Severability

A. Provision Declared Invalid. If any provision of this Zoning Resolution is declared invalid by a decision of any court of competent jurisdiction then the effect of such decision shall be limited to that provision which is expressly declared invalid and shall not affect any other provision of this Zoning Resolution.

B. Application to Tract of Land Invalid. If the application of this Zoning Resolution to any tract of land is declared to be invalid by a decision of any court of competent jurisdiction, then the effect of such decision shall be limited to the tract of land involved. Such decision shall not affect this Zoning Resolution or the application of any provision thereof to any other tract of land.

Section 1-160 Definitions

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

A. The word "**PERSON**" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

B. The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

C. The word "**SHALL**" is a mandatory requirement, the word "**MAY**" is a permissive action, and the word "**SHOULD**" is a preferred action.

D. The words "**USES**" or "**OCCUPIED**" include the words "**INTENDED, DESIGNED, OR ARRANGED TO BE USED OR OCCUPIED.**"

E. The word "LOT" includes the words "PLOT", "PARCEL" and "TRACT."

F. Definitions include any definitions contained in Part 77 of the Federal Aviation Administration Regulations, not heretofore defined.

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

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

Agriculture: The use of land for farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry on parcels of land at least 160 acres in size and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities and provided further that the above uses shall not include uses that are Confined Animal Feeding Operations.

Airport: The proposed and existing Limon Municipal Airport.

Airport Area of influence: The portion of the designated area around the airport that is not part of the Noise Contour as determined by Integrated Noise Model (INM), the Clear Zones, or the Flight Hazard Zones. Such area is included in the designated area and development therein, is controlled under these regulations because of natural or manmade physical features, relationship to airport access, effects or secondary or other circumstances found by the governing body.

Airport Elevation: The established elevation of the airport above Mean Sea Level.

Airport Hazard: Any structure, tree or use of land which obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off.

Animal Unit: A unit of measure to determine a comparable number of animals. For purposes of this Zoning Resolution, an animal unit shall mean one animal, or one female animal and its offspring until weaned.

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

Board of Adjustment: The Board of Adjustment of Lincoln County. The Lincoln County Board of County Commissioners.

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

Building Permit: A permit that is issued by the County prior to the Erection, Construction, Alteration, Moving, Relocation, or Change of use of any building or structure.

Commercial Use or Activity: Any use or activity primarily devoted to business purposes such as the purchase, sale, lease or exchange of goods and/or the provision of services.

Community Solar Garden: A solar electric generation facility with a nameplate rating of two megawatts (2 MW_{DC}) or less that is located in or near a community served by a qualifying retail utility where the beneficial use of the electricity generated by the facility belongs to the subscribers to the community solar garden. There shall be at least ten subscribers. The owner of the community solar garden may be the qualifying retail utility or any other for-profit or nonprofit entity or organization, including a subscriber organization that contracts to sell the output from the community solar garden to the qualifying retail utility. A community solar garden shall be deemed to be “located on the site of customer facilities.”

Comprehensive Plan: A plan, or any portion thereof, adopted by the Lincoln County Land Use Board and/or the Lincoln County Board of County Commissioners establishing the goals, objectives and policies of the County.

Confined Animal Feeding Operations: Any animal feeding operation where animals are fed at the place of confinement for 45 days, or longer in any 12 month period, and crop or forage growth in production is not sustained in the area of confinement, and the number of animals exceeds 999.

Concentrating Solar Thermal Devices: also known as “Concentrated Solar Thermal Power (CST), are systems that use lenses or mirrors, and often tracking systems, to focus or reflect a large area of sunlight into a small area. The concentrated energy is absorbed by a transfer fluid or gas and used as a heat source for either a conventional power plant, such as a steam power plant, or a power conversion unit, such as a sterling engine. Although several concentrating solar thermal technologies exist, the most developed types are the solar trough, parabolic dish and solar power tower.

County: The County of Lincoln, State of Colorado.

CPCN: The Certificate of Public Convenience and Necessity issued to electric utilities by the Colorado Public Utilities Commission (“CPUC”).

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

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

Development: Any activity or construction, excluding agricultural activities, that changes the basic character or use of the land.

Development Permit: A permit issued by the County required for any land use activity that is not an agricultural use.

Dwelling, Manufactured Home: A structure, transportable in one or more sections, while in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or when erected on site, is three hundred twenty or more square feet, and which is built on a permanent foundation and when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

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

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

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

Dwelling, Single-Family: A building consisting of a single dwelling unit only, separated from other dwelling units by open space, excluding mobile homes manufactured prior to 1976.

Dwelling, Unrelated. Any dwelling unrelated to or not incidental to the operation of a commercial feed lot, small animal farm, kennel, veterinary hospital, or commercial riding stable.

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

Electric Transmission Line: Also, "Transmission Line" refers to any electric Transmission Line that has a designed voltage of greater than one hundred fifteen KiloVolts (115 kV).

Facility Operator: The entity responsible for the day-to-day operation and maintenance of the Wind Energy Facility.

Facility Owner: The entity or entities having controlling or majority equity interest in the Wind Energy Facility, including their respective successors and assigns.

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

Farmland: Farmland is land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and is also available for these uses (the land could be cropland, pastureland, rangeland, forest land, or other land).

Fence: An artificially constructed barrier of any material or combination of materials that encloses, screens, or separates areas, exclusive of earthen mounds or berms.

Flood Plain: Areas of land covered by flowing or stored surface water when normal channels are unable to carry increased volumes of water, and which area is so adverse to past, current or foreseeable significant construction, or significant population use as to constitute a significant hazard to public safety or to property. An intermediate regional flood plain is that area of land that would be covered by a flood statistically occurring once every 100 years.

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

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

Industrial Use or Activity: Manufacturing, fabrication storage, processing and shipping facilities; mineral extraction and production or processing; auto body repair and maintenance shops; truck stops; facilities of public utilities; solid and hazardous waste disposal sites; airports and similar activities or uses commonly known as industrial in nature.

Instrument Runway: A runway equipped with navigation aids to permit landing of aircraft by an instrument approach under restricted visibility conditions.

ISDS System: An individual sewage disposal system as defined by the State of Colorado and the County ISDS regulations.

JUNK: Old scrap copper, brass, rope, rugs, batteries, paper, trash, rubber debris and waste; or junked, dismantled, or wrecked automobiles, mobile homes, manufactured homes, appliances or parts thereof; or iron, steel and other old or scrap ferrous or nonferrous material.

Junk Yard: An area where junk is bought, sold, exchanged, stored, baled, packed or handled.

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

Landing Area: The area of the airport used for landing, taking off, or taxiing of aircraft.

Land Use Standards: The land use standards of Lincoln County.

Large Scale Solar Facility: A system with a nameplate rating of greater than two megawatts, Direct Current (2 MW_{DC}) generation capacity providing power to one or more users, which may include components for the transmission and distribution of energy.

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

Lot: A parcel, plot or tract of land which is the subject of a Development Permit application, land use activity proposal, or which is occupied by a structure, together with the yards and other open spaces required by these regulations.

Lot Area: The total horizontal area within the lot lines of a lot.

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

Lot Line: The property line bounding a lot.

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

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

Lot Line, Side: Any lot lines not a front or rear lot line.

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

Magnetic fields: The measurement of magnetic fields produced by the proposed project and, for regulated electric utilities, which are subject to state regulations pursuant to 4 CCR 723-3-3206(e)(III) are measured in milliGauss (mG).

Manufactured Home: See Dwelling, Manufactured Home.

Medium Scale Solar: Development Systems with a 50-2,000 kilowatt (50-2,000 kW_{DC}) generation capacity serving a single user. This shall include community solar gardens with up to a 2 MW_{DC} nameplate rating.

Mineral Resource (Other than Natural Gas or Oil): An inanimate constituent of the earth in a solid, liquid, or gaseous state which, when extracted from the earth is usable in its natural form or is capable of conversion into a usable form as a metal, a metallic compound, a chemical, an energy source, or a raw material for manufacturing or construction material. For the purpose of this resolution, this definition does not include water, geothermal resources, or natural gas or oil.

Mobile Home: See Dwelling, Mobile Home.

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

Natural Hazards: Mudslides, subsidence areas, floodplains, seismic faults, rockslides, erosion and other naturally occurring phenomena.

Nonconforming Structure: Any building or structure existing and lawful at the time of the adoption of this Resolution or in the case of an amendment to this Resolution, at the time of such amendment, which does not conform to the provisions of this Resolution of such amendment.

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

Non-Occupied Structure: Any manmade structure that is not used as a gathering place or residence. This would include such items as barns, storage buildings, shops, garages, corrals, and other similar accessory structures.

Non-Participating Landowner: Any landowner not under agreement with the Facility Owner or Operator.

Occupied Building: A residence, school, hospital, church, public library, or other building used for public gathering that is occupied or in use when the permit application is submitted.

Parcel: See Lot.

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

Parking Space: That part of a parking area, exclusive of drive, turning areas, or loading spaces, devoted to parking for one automobile or vehicle.

Parking Off-Street: Any parking area located wholly within the limits of one or more lots.

Participating Landowner: A landowner under lease or other property agreements with the Facility Owner or Operator pertaining to the Wind Energy Facility.

Photovoltaic (PV): A technology that converts light directly into electricity. PV solar panels have been around for several years, although concentrated photovoltaic (CPV) technologies are now being developed. Both PV systems and CPV systems are included within this definition.

Public Hearing: A meeting called by a public body for which public notice has been given and which is held in a place where the general public may attend to hear issues and express their opinions.

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

Public Road: A full passage right-of-way.

Railroad: The term "railroad" shall include all bridges used or operated in connection with any railroad; all the roads in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease; all switches, spurs, tracks, and terminal facilities of every kind used or necessary in transportation of persons or property; all freight depots, yards, and grounds used or necessary in the transportation of persons or property; and all freight depots, yards, and grounds, used or necessary in the transportation or delivery of any of said property.

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

Recreational Vehicle: Any pickup camper, motor home, travel trailer, tent trailer, or similar mobile unit not exceeding either 8' in body width or 32' in body length and designed specifically for recreational and vacation purposes.

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

Road: See Street.

Rural Design Development: A Rural Design Development is an overlay district that may be used for residential, commercial, industrial or combination of development purposes. Any residential development that would include multiple lots any of which is less than 160 acres in size, or a development that includes commercial or industrial uses must be approved as a RDD. An RDD requires a Development Permit.

Sanitary Landfill: A site for final disposal of solid wastes on the land by a method employing compaction of the refuse and covering with earth or other inert material. Such site shall comply with the health laws, standards, rules and regulations of the State of Colorado including those of the Colorado Health Department, Air Pollution Control Commission, and the Water Pollution Control Commission and Lincoln County's Solid and Liquid Waste Regulations.

Sensitive View Shed: An area that can be seen from any tourist attractions or may disrupt views from residences to mountains, valleys, or other significant views.

Setback: See Yard.

Small Scale Solar: Development systems with a 50 kW_{DC} generation capacity or less serving a single user.

Solar Energy Developer: Also "solar developer," "solar power plant developer," "solar developer," and "developer" shall all be interchangeable and refer to the applicant of the Lincoln County development permit.

Special Districts: Quasi-municipal corporations established under state statute to provide public facilities or services.

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

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

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

Structure -Airport Zone: An object constructed or installed by man, including but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

Towers: Includes any towers, poles, or other erect support structures built with the purpose or intent of holding or supporting Transmission Lines.

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

Use by Special Review: Also “Special Use Review,” “Special Use Permit” “Development Permit Process,” “Permitting Process,” and “Review Process” all refer to the Lincoln County Zoning Resolution, Article 3, Use by Special Review Procedures, Division 2, Approval Standards and Criteria for Uses by Special Review.

Utility Runway: The hard surface of the airport landing area used primarily for the landing and taking off of aircraft.

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

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

Wind Energy Facility, Medium: is a wind energy conversion system consisting of one or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 20 kW but not greater than 100 kW.

Wind Energy Facility, Large: A wind energy conversion system consisting of one or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 100 kW.

Wind Energy Facility, Small: A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A small wind energy conversion system consists of a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 20 kW or less.

Wind Power: The conversion of wind energy into another form of energy.

Wind Turbine (or windmill): A wind energy conversion system that converts wind energy into electricity through the use of a wind turbine generator, and may include a nacelle, rotor, tower, guy wires, and pad transformer.

Wind Turbine Height: The distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

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

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

Yard, Rear: That portion of a yard between the rear of a building and a rear lot line, and between two side lot lines, the depth of which shall be the least distance between the building and the rear lot line.

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

Zoning Ordinance: This Lincoln County Zoning Resolution adopted by the Board on April 18, 2002, and as amended.

DIVISION 2 PERMITS AND FEES

Section 1-200 Development Permit Required

No person shall engage in any land use that is not specifically allowed as a Non-conformity under [Article 4](#) or that is not a use by right within the unincorporated area of Lincoln County without first obtaining a Development Permit. All development shall be in compliance with a Development Permit issued pursuant to this Zoning Resolution and no building permit shall be issued unless the proposed erection, construction, alteration or use is in conformance with this Zoning Resolution. A Development Permit may be issued for a term of years subject to annual review by the Land Use Board to determine whether it should be renewed.

Section 1-210 Expiration of Permits

Unless otherwise provided, any Development Permit shall expire one (1) year after the date of issuance unless the use contemplated thereby has been fully implemented.

Section 1-220 Permit Runs with the Land

Any Development Permit shall run with the land for which the permit was issued. The rights, obligations and limitations arising from or contained within such permit shall accrue to and be binding upon the applicant and all successive owners of such land.

Section 1-230 Development Permit Fees

- A. **Purpose:** The purpose of fees is to compensate Lincoln County for the cost of reviewing and processing applications for Development Permits.
- B. **Review Agencies Fees:** Any fee assessed by any review agency required to review any Development Application shall be paid by the applicant to the County at the time the application is submitted.
- C. **Additional Costs:** If the County decides that technical or legal consultants will be necessary to determine whether an application conforms with this Zoning Resolution, the costs of such consultant(s) shall be paid by the applicant. One-half of the estimated additional fee shall be paid at the time of permit application, and the remainder of the fee shall be paid prior to final decision by the Board of County Commissioners.

D. **Fee Schedule:** In addition to the fee charged by review agencies or additional costs for consultants required, Development Permit fees shall be established by resolution of the Board of County Commissioners. The minimum application fee shall be \$250.00

DIVISION 3 ENFORCEMENT

Section 1-300 Authority to Inspect

The Board of County Commissioners or its designee is authorized to inspect any lands, buildings, or improvements to ensure compliance with the Zoning Resolution and investigate possible violations.

Section 1-310 Authority to Enforce

The Land Use Administrator is delegated with the power to enforce the Zoning Resolution. He / she shall take action to have violations of the Zoning Resolution penalized and removed.

Section 1-320 Enforcement Procedures

A. Notification of Violators

1. **Requirement of Notice.** The Land Use Administrator shall notify the occupant, developer, and owner (if not the same) of any potential violation of the Zoning Resolution by first class mail and /or posting on the site.
2. **Contents of the Notice.** The Notice shall contain the following information:
 - a. A list and description of all violations with reference to the section or sections of the Zoning Resolution violated.
 - b. An order to the occupant, developer, and/or owner to cease all unpermitted or prohibited activity.
 - c. An order to the occupant, developer, and/or owner to attain compliance within thirty (30) days.

B. **Response.** Any person who receives notice of a violation of the Zoning Resolution, shall within thirty (30) days:

1. Restore the site to compliance and request inspection of the property by the County to demonstrate that compliance has been attained
- or
2. File a written request with the Land Use Administrator for an extension of time to attain compliance, with such extensions being limited to a maximum of sixty (60) days ending with an inspection of the property by the Land Use Administrator to confirm compliance.

C. **Legal Action.** In the event of a violation, the County may in addition to any administrative remedies seek penalties and remedies through legal action against the occupant, developer or owner who fails to obtain compliance within the specified time, or to show on appeal that a violation has not occurred.

D. Public Endangerment. The enforcement procedure provided herein may be accelerated where the County finds the public health, safety, welfare, or the environment could be endangered by a continuing violation. In such cases, the County shall ask the County Attorney to take immediate action to end the danger to public health, safety, welfare, or the environment through, but not limited to ex-parte restraining orders as authorized under the Colorado Rules of Civil Procedure and /or action by local law enforcement or public safety agencies as deemed appropriate and necessary.

Section 1-330 Administrative Remedies

A. Withholding Development Permits. The County may withhold or deny future Development Permits, building permits, plat approvals or any other administrative actions on any land or structure known to be in violation of this Zoning Resolution. The County may condition any such action on the correction of the violation. This remedy shall apply regardless of whether the applicant of the subsequent permit is responsible for the uncorrected violation.

B. Withdrawing Development Permits. The County may withdraw any current Development Permits, building permits, plat approvals or any other administrative actions that have been issued for property known to be in violation of this Zoning Resolution.

C. Cease and Desist Orders. The County may halt work on any land on which there is or has been an uncorrected violation of a provision of this Zoning Resolution or of a permit issued hereunder, through issuance of a cease and desist order. All work shall immediately halt upon issuance of an order. If work continues after issuance of the order, the use shall be in violation of this Zoning Resolution.

D. Removal of Building or Structure. Following notice and failure of the property owner to take action within the time frame described under **Section 1- 320 A**, the County may remove any building or structure that presents a hazard to public health, safety or welfare and assess the cost of such removal, including incidental costs and a reasonable fee for inspection which fee shall not exceed five percent (5%) of the amount due. Any assessment pursuant to this provision shall be a lien upon the property subject to collection in the same manner that taxes are collected. For purposes of this provision, any building or structure erected or used in violation of this Zoning Resolution shall be presumed to present a hazard to public health, safety or welfare.

E. Cumulative Remedies. All remedies provided for in this section are cumulative, are not exclusive, and shall be in addition to any other remedies provided by law. To the extent that Colorado law may limit the availability of a particular remedy set forth for a particular violation or a part of a violation, such remedy shall remain available for other violations or other parts of the same violation, and all other remedies shall remain available for the same violation or part of a violation.

Section 1-340 Penalties

Whoever violates any provision of this Zoning Resolution or of a permit issued under this Zoning Resolution or does not obtain a permit when required by this Zoning Resolution shall be in violation of this Zoning Resolution. Each day's continuation of such violation shall constitute a separate offense.

- A. **Fines.** Any party in violation of this Zoning Resolution shall be fined not more than one hundred dollars (\$100) for each offense.
- B. **Criminal Penalties.** Any party in violation of this Zoning Resolution shall be guilty of a misdemeanor and subject to any resulting criminal penalties provided for by law. It is the responsibility of the County Attorney to bring any criminal enforcement action.
- C. **Civil Penalties.** The County may institute an injunction, mandamus, abatement or other appropriate action or proceeding against any party in violation of this Zoning Resolution to prevent, enjoin, abate, remove, or correct the violation. The party in violation would then be subject to any resulting civil penalties provided for by law.
- D. **Cumulative Penalties.** All penalties provided for in this section are cumulative, are not exclusive, and shall be in addition to any other remedies provided for by law.

ARTICLE 2 ZONING DISTRICT REQUIREMENTS

DIVISION 1 GENERAL

Section 2-100 Establishment of Districts

- A. The following zone districts are hereby established.
 1. Agricultural District
 2. Rural Design Development Overlay
 3. Airport Overlay District
 4. Community Overlay District

Section 2-110 Official Zoning District Map and Rezoning

- A. **Map Established.** The boundaries of zone districts are established on the map entitled Official Zoning District Map of Lincoln County.
- B. **Amendment.** If an amendment is made to the Official Zoning District Map, such amendment shall be entered on the map by the County Land Use Board.
 1. In addition to the Board of County Commissioners, only the Land Use Board or the fee owner of a property, or a person with legal interest in a property, in the unincorporated area of the County may request amendment of the Official Zoning Map of Lincoln County (a change of zone) for said property.
- C. **Procedure and Criteria for Rezoning.**
 1. The Land Use Administrator shall be responsible for processing all applications for change of zone. The Administrator shall also be responsible for ensuring that each rezoning application is complete before further processing of the application.

- 2. Within fifteen (15) days of receipt of the application, the Land Use Administrator shall determine whether the application is complete.**
- 3. Upon determination that the application submittal is complete, the Land Use Administrator shall:**
 - a. Set a Land Use Board hearing date not less than forty-five (45) days nor more than sixty (60) days after the complete application has been submitted.**
 - b. Arrange for legal notice of said hearing to be published once in the newspaper designated by the Board of County Commissioners for publication of notices, fourteen (14) days prior to the hearing.**
 - c. Give notice of the proposed change of zoning and the public hearing date to those persons listed in the rezoning application as owners of property located within five hundred (500) feet of the parcel under consideration. The Land Use Administrator may request that notice be given to other property owners if deemed necessary to adequately inform affected property owners. Such notification shall be mailed not less than ten (10) days before the public hearing.**
 - d. Give notice of the proposed change of zoning and the public hearing date to those persons listed in the application as owners and lessees of the mineral estate on or under the parcel under consideration. Such notification shall be mailed not less than thirty (30) days before the public hearing.**
 - e. Post a sign on the property under consideration for a rezoning. The sign shall be posted adjacent to and visible from a publicly maintained road right-of-way. If the property under consideration is not adjacent to a publicly maintained road right-of-way, one sign shall be posted in the most prominent place on the property and a second sign posted at the point at which the driveway (access drive) intersects a publicly maintained road right-of-way. The sign shall be posted at least ten (10) days prior to the hearing and shall provide the following information:
 - (1) Rezoning request number.**
 - (2) Date and place of public hearing.**
 - (3) Location and phone number where additional information may be obtained.**
 - (4) Applicant's name.**
 - (5) Size of the parcel of land.**
 - (6) Type of rezoning requested.****
 - f. Refer the application to the following agencies, when applicable, for review and comment. The agencies named shall respond within twenty-one (21) days after the mailing of the application by the County. The failure of any agency to respond within twenty-one (21) days may be deemed to be a favorable response to the rezoning request.
 - (1) The planning commission or governing body of any town and county whose boundaries are within a three (3) mile radius of the parcel under consideration for a change of zone.****

- (2) The planning commission or governing body of any city or town that has included the parcel in its master plan area.
- (3) Colorado Department of Public Health and Environment.
- (4) Colorado Geological Survey.
- (5) Colorado Historical Society.
- (6) Colorado Department of Transportation.
- (7) Colorado Water Conservation Board.
- (8) U.S. Army Corps of Engineers.
- (9) Natural Resources Conservation Service.
- (10) Any other agencies or individuals whose review the Land Use Administrator deems necessary.

g. Prepare staff comments addressing all aspects of the application, its conformance with the Lincoln County Comprehensive Plan, master plans of affected municipalities, sound land use planning practices, comments received from agencies to which the proposal was referred, and standards contained in this Zoning Resolution.

4. Rezoning Application Requirements. An application for rezoning shall be submitted to the Land Use Administrator.

a. The following information shall be submitted on an application form that may be obtained from the Land Use Administrator:

- (1) Name, address and telephone number of applicant.
- (2) Name and address of the fee owners of the property proposed for the change of zone if different from above.
- (3) Legal description of the property under consideration as determined from a certified boundary survey.
- (4) Current and proposed zone.
- (5) Signatures of the applicant and fee owners of the property or their authorized legal agent.
- (6) A certified list of the names and addresses of the owners of property (the surface estate) within five hundred (500) feet (or such greater distance as determined by the Land Use Administrator) of the property subject to the zoning application.
- (7) A list of the names and addresses of mineral owners and lessees of mineral owners on or under the parcel of land being considered.
- (8) Such additional information as may be required by the County.

b. Vicinity Map. A vicinity and land use map of the area, drawn to the following specifications:

- (1) The maps shall be reproducible.**
- (2) The dimensions of the land use map shall be thirty-six inches wide by twenty-four inches high (36" x 24") and prepared at a scale one inch equals one hundred feet (1" = 100') or other suitable scale when approved by the County.**
- (3) The following information, when applicable, shall be shown:**
 - (a) Outline of the perimeter of the parcel proposed for the change of zoning.**
 - (b) Title, scale, north arrow.**
 - (c) Irrigation ditches on or within two hundred (200) feet of the property.**
 - (d) Location of rivers and other drainage systems on or within two hundred (200) feet of the property.**
 - (e) Location of easements, rights-of-ways, and other similar interests of record on the parcel and within fifty (50) feet of the parcel.**
 - (f) Location of all existing utilities (electricity, telephone, gas, water, and sewer) on the parcel as well as within fifty (50) feet of the parcel.**
 - (g) Flood hazard areas on the property.**
 - (h) Areas of geologic hazard on the property.**
 - (i) Mineral resource areas on the property.**
 - (j) Vegetation and soil types.**
 - (k) Other information as may be reasonably required to determine if the application meets the County's standards and policies.**

5. Rezoning Criteria. No rezoning request shall be approved unless the following rezoning criteria are satisfied:

- a. The proposal is consistent with the Lincoln County Comprehensive Plan.**
- b. The uses that would be allowed by the change of zoning will be compatible with the surrounding land uses and will not interfere with any agricultural uses.**
- c. Adequate water and sewer service can be made available to the site prior to commencement of development to serve the uses permitted within the proposed zone district.**
- d. Street or highway facilities providing access to the property are adequate in size to meet the requirements of the proposed zone district.**

DIVISION 2 ZONING DISTRICTS DESCRIBED

Section 2-200 Agricultural District

A. Purpose. The purpose of the Agricultural District is to preserve and protect rural areas of the County where the conservation of agricultural resources and agricultural production is of major importance and where uses must be protected from uncontrolled and unmitigated residential, commercial and industrial uses.

B. Permitted Uses. Agricultural uses do not require a Development Permit and include certain uses associated with the art or science of cultivating the ground for the production of crops, the breeding and raising of livestock and similar activities. Permitted uses include:

1. Agricultural crop production including accessory uses and buildings.
2. Domestic animal husbandry including barns and shelters.
3. Animal production including grazing and accessory uses and buildings excluding commercial feedlots or confined animal feeding operations.
4. Stands for sale of agricultural products.
5. Single family dwelling, occupied by the owner, operator or manager of the agricultural operation and two auxiliary units for employee quarters or family members associated with an agricultural operation.
6. Forestry.
7. Park and/or Play Field, Roping Area.
8. Home Occupation.
9. Oil and Gas Production.
10. Wind Energy Facility, Small.
11. Solar Energy Facility, Small.

C. Agricultural District Standards

1. **Animals Per Acre.** The following table shall be used to determine the number of animals per acre that will be allowed in the Agricultural Zone. If a landowner wishes to exceed the number of animals allowed under this table, or for any land use proposal that would be a Confined Animal Feeding Operation, an application for a Development Permit must be submitted in accordance with [Article 3](#).

Species	Maximum Number Animal Units Per Acre
Cattle	1
Bison	1
Mule	1
Burro	1
Llama	1
Ostrich	1
Elk	1
Horse	1
Swine	5
Sheep	10
Goat	10
Poultry	50
Rabbit	50

2. **Minimum Setbacks.** All buildings shall be located at least sixty-five (65) feet from the property line and thirty-five (35) feet from the edge of the road easement right-of-way on the side of the property facing a county road.

3. **Minimum Lot Size:** 160 acres

4. **Maximum Height:**

a. Residential 30 feet

b. Nonresidential 80 feet

5. **Parking Requirements.** 1 space per 1,000 square feet of floor area.

6. **Loading Requirements.** 1 space per 10,000 square feet of floor area.

7. **Home Occupation Standards.** A home occupation shall be allowed as a permitted use provided that:

a. Such use is incidental and secondary to residential use of the principal dwelling or accessory structure or addition and does not change the residential character thereof.

- b. Such use must be conducted by the resident(s) of the principal dwelling and only within the principal dwelling or accessory structure or addition.
- c. Such use does not generate traffic that significantly affects the residential character of the area.
- d. Such use does not create excessive or offensive noise, vibration, smoke, dust, odors, heat, glare or light noticeable or extending beyond the property.
- e. There is no outside storage on the premises of materials or equipment used in connection with the home occupation that is not stored, screened or enclosed in accordance with the provisions of this Code, and
- f. Such use must be conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business and infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

Section 2-210 [reserved]

Section 2-220 Uses Permitted by Special Review: Development Permit.

- A. **Purpose.** Certain uses have potential impacts that require review by the County before they can be approved. The purpose of the special review is to ensure that these uses are approved pursuant to a Development Permit if they satisfy the Special Review Standards set forth in this Section.
- B. **Uses Allowed by Special Review.** Any use not specifically allowed in a zone district is a Use Allowed by Special Review and may not be permitted unless a Development Permit is issued for that use. Particularly, any and all railroad use shall be considered a Use Allowed by Special Review in all zoned districts located in Lincoln County and any proposal for railroad expansion, realignment, or development activity which may be proposed to occur in Lincoln County shall be subject to Use by Special Review.
- C. **General Special Review Standards.** No Development Permit shall be allowed unless a use is approved in accordance with the procedures and standards set forth in [Article 3](#) of this Zoning Resolution.

Section 2-230 Rural Design Development (“RDD”) Overlay

- A. **Purpose.** The purpose of Rural Design Development (RDD) is to create an overlay district designed to encourage flexibility and innovation in the development of land which:
 1. Fosters greater variety in the type, design, and layout of buildings and a more rational relationship between residential, business and industrial uses.
 2. Improves the design, character and quality of development.
 3. Promotes safe, efficient and economic use of land, public facilities, transportation and services.

4. Preserves open space to the greatest extent practicable and minimizes adverse environmental impacts of development.
5. Achieves a compatibility of land uses.
6. Improves the design and layout of development.

B. Applicability.

1. **Types of Land Uses.** A RDD designation may be used for residential, commercial, industrial or combination of development purposes. Any residential development that would include multiple lots any of which is less than 160 acres in size, or a development that includes commercial or industrial uses must be approved as a RDD. An RDD requires a Development Permit.
2. **Where Permitted.** A Development Permit for a RDD may be approved in any area of the County determined by the County Commissioners to be suitable for denser or more intensive development patterns than are allowed in the Agricultural District. The determination of suitability will be based upon a finding that the proposed RDD satisfies all relevant standards of [Article 3 Section 3-210](#), and [Article 3 Section 3-230](#).

C. Relationship to Subdivision Regulations.

Where any lot within a RDD would be less than 35 acres, then the RDD must be platted in accordance with the platting procedures contained in the Lincoln County Subdivision Regulations and also satisfy the relevant requirements of [Article 3](#).

ARTICLE 3 USE BY SPECIAL REVIEW PROCEDURES

DIVISION 1 DEVELOPMENT PERMIT APPLICATION AND REVIEW

Section 3-100 Submission of Application

- A. **Applicability.** Any use not allowed as a permitted use, must obtain a Development Permit before it can be developed.
- B. **Eligibility to Apply.** A Development Permit application may only be submitted by, or on behalf of, the owners of real property proposed for the use.
 1. **Applicant is Not the Owner.** If the applicant is not the owner of the property, or is a contract purchaser of the property, a letter signed by the owner consenting to the submission of the application shall be submitted.
 2. **Applicant is Not the Sole Owner.** If the applicant is not the sole owner of the property, a letter signed by the other owner(s) or an association representing the owner(s) consenting to or joining in the Development Permit application.
- C. **Form.** The Development Permit application shall be submitted in the form provided by the County and shall include the information and materials specified for that particular type of application.

1. **Copies.** The correct number of applications shall be submitted, as identified during the pre-application conference or by request of the County.
2. **Application Fee.** The correct processing fee for the application shall be submitted. The fees for the processing of applications are established by Resolution of the Board of County Commissioners.

D. Minimum Application Contents. All Development Permit applications shall include, at a minimum, the following information and materials. Additional materials may be required for certain proposed uses.

1. **Name, Address, Telephone Number and Power of Attorney.**
The applicant's name, address and telephone number. If the applicant is to be represented by an agent, a letter signed by the applicant granting power of attorney to the agent shall be submitted, authorizing the agent to represent the applicant and stating the representative's name, address and telephone number.
2. **Legal Description.** The legal description and street address, if such exists, of the parcel on which development is proposed to occur.
3. **Disclosure of Ownership.** A disclosure of ownership of the parcel on which the development is to occur, listing the names of all owners of the property and all mortgages, judgments, liens, easements, contracts, and agreements that run with the land.
4. **Vicinity Map.** An eight and one-half inch by eleven inch (8 1/2" x 11") vicinity map locating the subject parcel.
5. **Written Description.** A written description of the proposal and an explanation in written, graphic or model form of how the proposed development complies with the applicable approval standards.
6. **Site Plan.** A site plan of the site, showing existing and proposed features which are relevant to the review of the application, including but not limited to geologic features, waterways, aquatic and terrestrial vegetation, soils, water wells and man-made structures.
7. **Water Supply.** A description of the source and capacity of the water supply for the proposal.
8. **Wastewater Treatment.** A description of the proposed wastewater treatment system.
9. **Impact Analysis.** A description of the impacts that the proposed use may cause, described in terms of the Standards for Special Uses contained in **Section 3-200, 3-210, and 3-220**; and a complete description of how the applicant will ensure that impacts will be mitigated and each applicable standard will be satisfied.

Section 3-110

Staff Review of Application

- A. Completeness Review.** Within fifteen (15) days of receipt of the application, the County shall determine whether the application is complete.
- 1. Application is Not Complete.** If the application is not complete, the County shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied.
 - 2. Application is Complete.** If the application is complete, the County shall certify it as complete, affix the date of the application acceptance thereon, and assign the application an agenda date with the applicable review body.
 - 3. Completeness is Not a Determination of Compliance.** A determination that an application is complete shall not constitute a determination that it complies with the substantive standards of this Zoning Resolution, or those of other County regulations.
- B. Staff Review.** Within thirty (30) days from the date of the completeness determination, the County staff shall review the Development Permit application to determine its conformance with the requirements of this Zoning Resolution. The staff shall solicit the professional analysis and recommendations of any other agency, organization or technical consultant deemed appropriate and necessary to complete the review, including:
- 1. Governmental Entities.** County, State or Federal entities having an interest in or authority over the proposed development or any portion thereof.
 - 2. Utility Companies and Special Districts.** Utility companies, fire districts, special service districts serving the proposed development and the school district.
 - 3. County Staff.** Members of the County staff.
 - 4. Technical Consultants.** Engineers, designers, legal consultants and other technical consultants.
- C. Staff Report.** Prior to the date of the Land Use Board meeting, the County staff shall compile a written report that sets forth how the application complies with, or does not comply with the applicable standards of this Zoning Resolution. The staff shall distribute a copy of the report to each member of the Land Use Board and to the applicant, and shall make the report available to the public.
- D. Land Use Board Review.** The Land Use Board shall review the Development Permit application at a Public Hearing held within sixty (60) days of the completeness determination.
- 1. Public Notice.** Public Notice that the Land Use Board will conduct a hearing to consider the application shall be provided in accordance with **Section 3-120, Public Notice**, not more than thirty (30) days and not less than fourteen (14) days prior to the hearing.

2. **Hearing Procedure.** At the Public Hearing, the Land Use Board shall hear: a presentation by staff of the findings and recommendation of the staff; a presentation by the applicant; testimony from members of the public; and responses from the applicant and County staff.
 - a. The burden shall be on the applicant to demonstrate that the application will comply with this Zoning Resolution.
 - b. Cross-examination may be allowed at the discretion of the Land Use Board.
 3. **Action by Land Use Board.** After hearing the evidence and considering all of the comments, the Land Use Board may approve, approve with conditions, or deny the application. Any application that fails to satisfy all applicable criteria shall be denied.
 4. **Final Decision.** If the Board of County Commissioners does not schedule the Development Application for review pursuant to **Section 3- 110 E**, or if the applicant does not appeal the decision to the Board of County Commissioners within thirty (30) days of the Land Use Board decision, then the decision of the Land Use Board shall be deemed final.
- E. **Board of County Commissioners Review.** The Board may choose, at its next regularly scheduled meeting following the decision of the Land Use Board, to schedule the Development Permit application, together with the written staff report and the Land Use Board decision, for review within thirty (30) days following the Land Use Board meeting or upon a request by the applicant for an appeal.
1. **Action by the Board.** After hearing all the evidence and considering the Land Use Board decision, the Board may approve, approve with conditions, or deny the application.

Section 3-120 Public Notice

- A. **Hearing Notices.** A legal notice must include the following information:
1. A legal description or the address of the development, or another general description by which the public can identify the site.
 2. The present use of the site.
 3. The proposed use of the site.
 4. The body (Land Use Board or Board of County Commissioners) that will conduct the hearing.
 5. The date, time and place of the hearing.
 6. A statement of the availability of application materials for public review, and where more information can be obtained.
- B. **Notice to Adjacent Property Owners.** Notice of the Development Permit application shall be mailed by the applicant at least fourteen (14) days prior to the hearing by certified mail, return receipt requested. The notice shall be mailed to owners of adjacent property and owners of property within five hundred feet of the designated parcel (500'), or such greater distance as may be determined by the Land Use Administrator, of the property for which the application has been submitted.

- C. **Notice to Owner of Mineral Rights.** Not less than thirty days before the date scheduled for the initial public hearing by a local government on an application for development the applicant shall send notice, by first class mail, to all mineral estate owners of the land on which the surface development is to take place, if required by state statutes.

DIVISION 2 APPROVAL STANDARDS AND CRITERIA FOR USES BY SPECIAL REVIEW

Section 3-200 Standards for Uses by Special Review

- A. **Applicability.** No application for a Development Permit authorizing any Use by Special Review shall be permitted unless it satisfies all of the general standards for Uses by Special Review set forth in **Section 3-210.**
- B. **Additional Standards.** Certain uses may also be subject to the Additional Standards set forth in **Section 3-220.**

Section 3-210 General Standards and Conditions for Uses by Special Review

- A. **Zoning Requirements.** The use will comply with the minimum zoning requirements set forth in **Division 2 of Article 2**, unless the use is approved as part of a Rural Design Development or is within a Community Overlay District.
- B. **Comprehensive Plan.** The use will be consistent with the Comprehensive Plan.
- C. **Character of the Neighborhood.** The use will be compatible with the character of the surrounding neighborhood and will not have negative impacts on adjacent properties. The determination of compatibility shall be based upon a consideration of the level of traffic; hours of operation; scale and design of buildings; noise, odor or vibration and similar impacts associated with the proposed land use.
- D. **Traffic.** The use will not cause undue traffic, congestion, dangerous traffic conditions, or other vehicle-related impacts.
- E. **Community Facilities and Services.** The use will not require a level of community services or facilities that is not available, or the applicant shall provide the necessary improvements to address any deficiencies to facilities and services that the use would cause. All public roads, utilities, bridges, and sewage systems must comply with County standards.
- F. **Adequate Water Supply.** An adequate water supply must be available to provide water to the use either through a public water supply system or well or wells adequate in quality and quantity to serve the development and approved by the State Engineer. The County shall base its adequacy determination for a public water supply on the opinion of the Colorado Water Quality Control Division, and for wells, on the opinion of the State Engineer.
- G. **Nuisance.** The operating characteristics of the use shall not create a nuisance and the impacts

on neighboring property shall be minimized with respect to noise, odors, vibrations, glare, and similar conditions.

H. Water Resources. The use will not cause significant deterioration of surface or groundwater resources. The determination of the effects of the proposed land use on water resources shall include the following considerations:

1. Changes to patterns of water circulation, conditions of the substrate, extent and persistence of suspended particulates, and the clarity, odor, color, or taste of water.
2. Applicable water quality standards.
3. Levels of point and nonpoint source pollution.
4. Changes in seasonal flow rates and temperature for affected streams.
5. Changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
6. Changes in circulation patterns, seasonal water levels, and temperature of lakes or reservoirs.

I. Wetlands, Woodlands and Riparian Areas. The proposal will not significantly degrade wetlands or other aquatic habitat and riparian areas. The determination of effects of the proposal to wetlands and riparian areas shall include the following considerations:

1. Changes to the structure and function of wetlands and to unique, rare, delicate, or irreplaceable riparian areas, vegetation, forest, or woodlands.
2. Changes to the filtering and nutrient uptake capacities of wetlands, and riparian areas.
3. Changes to aerial extent of wetlands and evolution of wetland species to upland species.

J. Grasslands and Farmland. The use will not cause significant deterioration of grasslands or farmland.

K. Drainage. The use will preserve the integrity of existing and natural drainage patterns. At a minimum, a storm water retention system shall be provided to retain storm water runoff in excess of historic flows from the site and shall be designed for a 100-year flood.

L. Adequate Wastewater Treatment. The use must be served by an adequate wastewater treatment system that meets all applicable County, State and Federal standards.

M. Conditions. Where appropriate, to enable the proposed use to satisfy Standards A through L or additional applicable standards, the Board may impose such conditions as necessary

Section 3-220 Additional Standards

A. Standards for Confined Animal Feeding Operations.

1. **Purpose.** The Lincoln County Board of Commissioners finds that residents in Lincoln County rely on water resources for drinking water supply, agricultural production, recreation, aesthetic enjoyment, wastewater treatment, and other activities; and that regulation of land uses within the County is essential for the protection of these water resources from degradation. Lincoln County residents also rely on an environment that has minimal impacts related to nuisances. Lincoln County serves as an important wildlife habitat which should be maintained and enhanced to protect the diversity of wildlife species and to promote the health, welfare and prosperity of present and future inhabitants of Lincoln County.
2. **Additional Application Submittal Requirements.** In addition to those application requirements set forth in **Section 3-100 D**, the following information shall be submitted with a site plan application:
 - a. **Application Fee.** An additional application fee of \$0.25 per animal.
 - b. **Development and Design Plan.** A detailed site plan demonstrating compliance with the requirements of **Regulation No. 81, the Confined Animal Feeding Operations Control Regulation, 5 C.C.R. 1002-81.**
 - c. **Map.** A map clearly showing and identifying significant on-site features including, but not limited to: structures, roadways, landscaping, fencing, buffer zones, existing, and proposed utility lines, natural and artificial drainage ways, ditches, hydrologic features (with approximate flooding limits based on information available through the County); woodlands, aquatic habitat, wetlands, geologic features, (including slopes, alluvial fans, areas of subsidence, rockfall areas, USDA soil classification and landslide areas) vegetative cover, dams, reservoirs, excavations, wildlife habitats and migration routes, significant plant ecosystems, and mines.
 - d. **Land Survey.** Land survey data to identify the subject property including section corners and distance and bearing to these corners, quarter corners, township, and range.
 - e. **Topography.** Existing and proposed topographic contours at vertical intervals of five feet maximum. U.S.G.S topographic maps may be used for existing contours.
 - f. **Off-site Well Location.** A map clearly showing and identifying the location of domestic and agricultural water wells within a three mile radius of the proposed site.
 - g. **On-site Well and / or Water Line Location.** Location of existing and proposed wells and / or water line to serve the proposed development.
 - h. **Utilities.** Design and layout of all sewer service lines, treatment facilities and other elements of the sanitary sewer and treatment system must be supplied. Location and result of soil percolation tests (County Health Approval) where septic system or treatment system are proposed. This may include site approval and discharge permit if required as issued by the Colorado Department of Public Health and Environment.

i. **Surface Water.** A description of all surface waters to be affected by the proposed project, including:

- (1) Monthly streamflows for a typical year, wet year and dry year.
- (2) Present uses and use classifications and designations established by the Colorado Water Quality Control Commission.
- (3) Existing chemical and biological quality for all applicable water quality standards as defined in the Colorado Water Quality Control Commission Basic Standard and Methodologies.
- (4) Descriptions of the immediate and long-term impact that the proposed project will have on surface water quality and quantity.

j. **Groundwater.** A map and description of all aquifers to be affected by the proposed project including:

- (1) The surface and subsurface extent of the aquifers and well log or other data used to determine the physical extent of the aquifers.
- (2) Seasonal water levels in each subarea of the affected aquifers.
- (3) Artesian pressure.
- (4) Groundwater flow directions.
- (5) Aquifer recharge rates and the methodology used to calculate recharge to the aquifer from any recharge source.
- (6) Description of the impacts that the proposed project would have on groundwater.

k. **Wildfire Mitigation.** A wildfire mitigation plan.

l. **Weed Control.** An undesirable plant control plan.

m. **Erosion Control Plan.** An erosion control plan.

n. **Nuisance Mitigation.** A plan addressing the abatement or control of potential nuisances, including but not limited to light, noise, odor, pests, dust, and structures.

3. Development and Design Standards

- a. **Confined Animal Feeding Operation Control Regulations, 5 C.C.R. 1002-81.** All Confined Animal Feeding Operations must comply with the requirements of **Regulation No. 81, 5 C.C.R. 1002-81, Colorado Department of Public Health and the Environment. Regulation No. 81, including its appendices,** is fully incorporated herein by reference.

- b. **Buffer Zone.** Confined Animal Feeding Operations shall be located to reduce impacts from nuisances to the greatest extent practicable. A minimum 500 foot Buffer Zone must be located on the outer perimeter of the lot or parcel, extending to the lot or parcel boundary line with appropriate fencing and landscaping as shall be approved by the County. A Buffer Zone shall not be located on any portion of any existing or dedicated public or private street right-of-way and shall be privately owned and maintained. A Buffer Zone is a unit of required space and plantings and/or structures designed to reduce conflicts between adjacent land uses by eliminating or minimizing potential nuisances such as light, odor, noise, pests, dust, or unsightly buildings.
- c. **Spacing.** Confined Animal Feeding Operations shall be located a minimum of two (2) miles from any municipal boundary or dwelling unit not associated with the operations.
- d. **Maximum Lot Size.** The maximum size for any Confined Animal Feeding Operation shall be 160 acres.
- e. **Light.** Exterior lighting, except for overhead street lighting and warning and emergency traffic signals, shall be installed in such a manner that the light source will be sufficiently obscured to prevent glare on public highways and roadways or into any residential areas.
- f. **Noise.** Confined Animal Feeding Operations shall be operated such that the noise generated from such operations is controlled at its source or is so attenuated by the operations from which it radiates that it does not become objectionable outside the property boundaries.
- g. **Odors.** Confined Animal Feeding Operations shall be operated such that the malodorous air contaminants generated and emitted from such operations are controlled at their source or are so attenuated by the operations from which they emit that they do not become objectionable outside the property boundaries. Anaerobic process wastewater vessels and impoundments, including but not limited to treatment or storage lagoons used in connection with a confined feeding operation, shall be covered and lined to capture, recover, incinerate, or otherwise manage odorous gases to minimize odors.
- h. **Fugitive Dust.** No Confined Animal Feeding Operation shall produce fugitive dust in amounts which are noticeable or appreciable outside the property boundaries.
- i. **Pests.** Confined Animal Feeding Operations shall be operated such that the pests including, but not limited to, rodents and flies generated from such operations are controlled at their source or are so attenuated by the operations that they do not become objectionable outside the property boundaries.
- j. **Groundwater and Surface Water.** The construction and operation of the Confined Animal Feeding Operation shall not significantly degrade surface or groundwater quality or quantity. The determination of the impacts to water quality and quantity shall include the following considerations:
 - (1) Changes in artesian pressure and impacts to neighboring wells.
 - (2) Applicable water quality standards and classifications.
 - (3) Changes in levels of point and nonpoint source pollutants.

k. **Monitoring Wells.** The applicant shall submit a plan to the County for water quality monitoring for the life of the facility designed to measure water quality changes associated with the project.

l. **Financial Assurances.** The applicant shall provide financial assurances to the County in an amount sufficient to cover the cost of remediation of the facility.

B. **Standards for Industrial Operations.** In addition to the standards set forth at **Section 3-210**, these standards shall apply to all industrial uses or activities except where a specific standard has been adopted for a particular category of industrial use or activity, in which case the more specific standard shall apply.

1. **Setbacks.** The minimum setback for any industrial activity or structure intended for industrial purposes shall be 100 feet.
2. **Central Sewage System.** All industrial buildings must be served by a central sewage collection system and secondary sewage treatment facility or alternate facilities approved by the Colorado Department of Public Health and the Environment.
3. **Sound.** Every use shall be operated so that the volume of sound generated does not exceed 60 decibels at the boundary line of the property.
4. **Vibration.** Every use shall be operated so that the ground vibration generated is not perceptible, without instruments, at the boundary line of the property.
5. **Smoke and Particles.** Smoke and particulate emissions shall not exceed applicable air quality standards.
6. **Glare, Heat, Radiation and Fumes.** Every use shall be operated so that it does not emit heat, glare, radiation or fumes that are obnoxious beyond the boundary line of the property.
7. **Outdoor Storage and Disposal.**
 - a. All flammable or explosive materials shall be stored above ground in an engineered facility.
 - b. Outdoor storage facilities for fuel, raw materials, and products shall be enclosed by a fence or wall adequate to conceal such facilities.
 - c. No materials or wastes shall be deposited on a property such that they will migrate off the property.
8. **Dust.** Dust control mitigation measures satisfactory to the County must be implemented.
9. **Excavations.** Excavations associated with gravel pits or other mining operations shall be located at least sixty-five (65) feet from the property line and thirty-five (35) feet from the edge of the road easement right-of-way on the side of the property facing a county road.

10. **Groundwater.** Groundwater pollution control measures shall be implemented that prevent the discharge of pollutants from the activity into groundwater. The County may, at its discretion, require the installation of groundwater monitoring wells and implementation of a groundwater monitoring plan if the particular use or activity has the potential to cause groundwater pollution.
- C. **Standards for Mining Operations.** In addition to the standards of approval set forth in **Section 3-210**, an applicant for open mining or subsurface mining must meet the following standards:
1. Compliance with a plan of reclamation approved by the Colorado Mined Land Reclamation Board.
 2. Compliance with use, location, and setback regulations established by the Board for the proposed operation.
- D. **Standards for Uses in Floodplains.** In addition to the standards set forth in **Section 3-210**, any use proposed for a floodplain as designated by the County must satisfy the following standards that the County shall consider the following factors in reviewing permit applications:
1. **Floodway.** The effect of the proposal upon the efficiency or capacity of the floodway.
 2. **Lands in the Vicinity.** The effect on lands upstream, downstream and in the immediate vicinity of the development including the potential danger to persons.
 3. **Flood Profile and Flood Height.** The effect of the proposal on the flood profile and flood heights.
 4. **Surface Water Systems.** The effect of the proposal on any tributaries to the main stream, drainage ditches, water supply, and irrigation ditches, or any other drainage or irrigation facilities or systems.
 5. **Flood Management Program.** The relationship of the proposed development to the flood management program for the area in question, including whether additional public expenditures for flood protection or prevention will be necessary.
 6. **Human Occupancy.** If the proposed use is for human occupancy.
 7. **Injury to Others.** The probability that materials may be swept onto other lands or downstream to the injury of others.
 8. **Flood Damage.** The susceptibility of the proposed facility.
 9. **Access.** The safety of access to the property in times of flood for ordinary and emergency vehicles.
 10. **Watercourse.** Whether any proposed changes in a watercourse will have an environmental effect on the watercourse, including stream banks and stream side trees and vegetation.

11. **Comprehensive Plan.** The relationship of the proposed development to the Comprehensive Plan and any applicable floodplain management programs.
12. **Cumulative Effect.** Whether the cumulative effect of the proposed development with other existing and anticipated uses will increase flood heights more than one foot.
13. **Development of Surrounding Property.** If the expected heights and velocities of the floodwaters expected at the site will adversely affect the development of surrounding property, and its contents to flood damage.

E. **Standards for Junk Yards.** Any junk yard proposed in the County shall be subject to the following additional requirements.

1. **Additional Application Submittal Requirements.** In addition to the application submittal requirements set forth at **Section 3-100 D**, an applicant for a permit to operate a junk yard shall submit the following additional materials:
 - a. **Well location.** A map clearly showing and identifying the location of domestic and agricultural wells within a three mile radius of the junkyard.
 - b. **Nuisance mitigation.** A plan addressing the abatement or control of nuisances emanating from the operation of the junk yard, including but not limited to dust, light, noise and odor.
 - c. **Operational specifications.** A description of the type and amount of junk that will be handled at the site; the hours of operation of the junk yard; a description of processing, recycling, incineration or disposal techniques that may be used; and the number of vehicle trips per day to and from the junk yard.
 - d. **Site plan.** A map drawn to scale showing significant on-site manmade and natural features including but not limited to fencing, existing and proposed utility lines, roadways, parking areas, storage areas, processing facilities, aquatic habitat, vegetation, drainage systems, waterbodies, and wildlife habitat.
2. **Additional Standards and Conditions for Junk Yards.** In addition to the general standards and conditions set forth at **Section 3-210**, an applicant for a permit to operate a junkyard shall satisfy the following additional standards and conditions:
 - a. **Screening.** All facilities and operations associated with the junk yard shall be screened from view by fencing or landscaping.
 - b. **Wind and Animal Control.** All facilities and operations associated with the junk yard shall be designed to prevent wind or animals from scattering trash or rubbish.
 - c. **Lighting.** Any lighting shall be designed, located and operated so that beams or rays of light do not shine directly on adjacent properties.
 - d. **Hazardous or Solid Waste Prohibited.** The junk yard operator shall be prohibited from storing, managing processing, recycling or otherwise handling hazardous or solid waste as defined by state or federal law.

F. Standards for the Regulation of the Construction and Operation of Wind Energy Facilities.

1. Purpose: The purpose of this section is to provide for the regulation of the construction and operation of Wind Energy Facilities in Lincoln County, subject to reasonable conditions that will protect the environment, and the public health, safety, and welfare of Lincoln County residents.

2. Permit Requirement:

a. No medium or large Wind Energy Facility, or addition of a Wind Turbine to an existing Wind Energy Facility, shall be constructed unless a permit has been issued to the Facility Owner or Operator approving construction of the facility under this Ordinance. Permit application of the expansion shall be based on the total rated capacity, including existing facility but excluding like-kind replacements.

b. All medium and large wind energy facilities shall be required to obtain a development permit (Use by Special Review: Sections 3-100 through 3-210 herein) before any development of such facilities can take place.

c. Any physical modification to an existing and permitted Wind Energy Facility that materially alters the size and / or type of Wind Turbines or other equipment shall require a permit modification under this Ordinance. Like-kind replacements shall not require a permit modification.

3. Permitted Use: All small wind energy facilities shall be considered a permitted use. No building permit shall be required.

4. Additional Requirements: The following additional requirements shall apply to all medium and large wind energy facilities and shall be submitted with Use by Special review application.

a. The proposed total rated capacity of the Wind Energy Facility.

b. The proposed number, representative types and height, or range of heights of wind turbines to be constructed; including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities.

c. Legal Description of the properties on which the proposed Wind Energy Facility will be located.

d. Preliminary location of each turbine, which details the latitude and longitude in decimal degrees.

e. A site map showing the preliminary planned location of all wind turbines, property lines, setback lines, access roads and turnout locations, substation(s), electrical cabling from the Wind Energy Facility to the substation(s), ancillary equipment, building(s), and transmission and distribution lines. The site plan must also include the location of all structures and properties, demonstrating compliance of the setbacks. The map size shall be no less than 24" x 36" for medium wind energy facilities and 36" x 48" for large wind energy facilities.

- f. Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration, and the anticipated manner in which the wind power project will be decommissioned and the site restored.
- g. Documentation of agreement between Participating Landowner(s) and the Facility Owner / Operator of the Wind Energy Facility. Financial aspects of this agreement should not be submitted.
- h. A list of all landowners, adjacent landowners, and mineral rights owners in the affected area of the project shall be submitted. Proof of notification in the form of certified mail receipts shall be submitted before approval of the Use by Special Review permit can be granted. These notices must be postmarked no less than thirty (30) days prior to the Land Use Board Public Hearing date that is designated for review of the proposed wind energy project.
- i. Other relevant information as may be reasonably requested by Lincoln County to ensure compliance with the requirements of this Ordinance.

5. Notice of Change:

- a. Throughout the permit process, the Applicant shall promptly notify the Lincoln County Land Use Office of any proposed changes to the information contained in the permit application that would alter the impact of the project.
- b. Changes that materially alter the initial site plan will be subject to an additional Use By Special Review application and process.
- c. Changes to the approved application that do not materially alter the initial site plan may be adopted by the Land Use Administrator.

6. Setbacks:

- a. Setbacks for small wind energy facilities shall follow the manufacturer's installation recommendations with regard to the landowner. Setbacks from adjacent properties shall be no less than 150% of the turbine height unless an agreement between the turbine owner and the adjacent landowner has been reached.
- b. Setbacks for medium and large wind energy facilities shall be no less than 1,000 feet from any residence, and no less than 500 feet from non-occupied structures. The setback for Public Roads and the property line of non-participating landowners shall also be 500 ft. These measurements are determined from the center of the wind turbine base to the property line, public road, or nearest point on the foundation of an occupied building or structure. This provision does not apply to internal division fences of the participating landowner.
- c. Setbacks provisions may be waived if the following conditions are met:
 - i. Property owners may waive the setback requirements for property lines and / or occupied buildings on the participating landowner property and / or non-participating landowner property by signing a waiver that sets forth the applicable setback provision(s) and the proposed changes.

- ii. The written waiver shall notify applicable property owner(s) of the setback required by this ordinance, describe how the Wind Energy Facility is not in compliance, and state that consent is granted for the Wind Energy Facility to waive the setback as required by this Ordinance.
- iii. Any such waiver shall be signed by the applicant, the participating landowner(s) and / or non-participating landowner(s), and recorded in the Lincoln County Clerk and Recorder's Office.
- iv. If the minimum setback of 1,000 feet is waived, a minimum setback distance of 500 feet shall apply.

7. Noise: The following noise regulations shall apply to all wind energy facilities:

- a. Noise levels when measured at the property line of any adjacent landowner shall not exceed 60 decibels from 7:00 a.m. to 7:00 p.m.
- b. Noise levels when measured at the property line of any adjacent landowner shall not exceed 50 decibels from 7:00 p.m. to 7:00 a.m.
- c. These requirements do not apply if the minimum setback requirements have been waived as set forth in 6.C of this ordinance.
- d. Lincoln County recommends that an internal noise study be conducted but does not require a third party noise study for the Development Permit application.

8. Road Use Agreement:

- a. Before construction begins, the wind energy developer must enter into a Road Use Agreement with Lincoln County. This agreement will be a collaborative document drafted by the Wind Developer, the Commissioner(s) of the district(s) in which the wind development will take place, and the Road and Bridge Supervisor(s) of the District(s). This document may include, but is not limited to:
 - i. Designated truck routes.
 - ii. Dust abatement.
 - iii. Reclamations requirements.
 - iv. Bonding requirements.
- b. If a bond is required for a Wind Energy project, the bond will be released when reclamation of the roads has been achieved to the satisfaction of the Road and Bridge Supervisor(s).

9. Building Permit Required: A building permit will be required for medium and large Wind Energy Facilities. The Building Permit Application will be submitted to the Land Use Administrator following the approval of the Use by Special Review Permit by the Lincoln County Board of Commissioners. The applicant shall use the standard Lincoln County building permit for submission and use the following format:

- a. One permit shall be submitted for each landowner on whose property one or more turbines will be constructed. The permit will designate:
 - i. The landowner's name and address.
 - ii. The number of turbines on that specific landowner.
 - iii. The legal description of each turbine in the format: QTR Section, QTR Section, Section, Township, and Range.
 - iv. The turbine identification or name as designated by the wind developer.
- 10. Building Permit Fee (Sales and / or Use Tax):** A building permit fee (Use Tax) will be assessed and will be due at the time of submission. The fee will be based on 2% of the material cost of the turbines. This fee may be negotiated by the Applicant with the Lincoln County Board of Commissioners prior to submitting the building permit application.
- 11. Mineral Owner Objections:** Should a mineral interest owner have an objection to the proposed Wind Energy Facility, the Wind Developer shall, to the extent required by applicable Colorado law, reasonably accommodate access to and development of subsurface mineral interests with respect to their proposed use of the property for wind farm facilities. In this regard, the applicant shall, as a condition of approval prior to the final siting of any wind farm facilities and installation or construction of any such facilities, provide evidence that it has entered into, or made good faith and commercially reasonable efforts to enter into, surface use agreements or other compatible development agreements with surface owners and any mineral estate owners which have filed timely objections to the land use applications pursuant to Colorado statutes. These objections shall be filed with the Land Use Administrator before the Land Use Board public meeting held in review of the proposed Wind Energy Facility. No objections will be accepted by the Land Use Administrator after this date. The Wind Energy Developer may accept objections filed after the hearing date at their discretion.
- 12. Board of County Commissioners Approval to Grant Building Permit:** If mineral owner objections are filed with the Land Use Administrator, The Board of County Commissioner may elect to suspend issuance of building permits for the Wind Energy Facility until the Board is assured compliance with item 13. A written affidavit from the Wind Energy Developer attesting compliance will be required. Should a dispute arise between the mineral owner and the Wind Developer as to whether the Developer had complied with item 13, the issue will be taken before the Lincoln County Board of Commissioners, acting in a quasi-judicial capacity to resolve the dispute.
- 13. Property Damage:** The Wind Developer will bear sole responsibility for any damages done to federal, state, county, municipal, and private property during the construction, operations, pre-construction, and decommission phases of the Wind Energy Facility.
- 14. Decommissioning:**
 - a. The Wind Energy Facility Owner shall have 12 months to complete decommissioning of the Facility once electricity production has ceased. Time extensions may be granted if needed by the Land Use Administrator.

- b. Decommissioning shall include removal of wind turbines, buildings, electrical components, cabling, roads, and any other associated facilities down to Thirty-Six (36) inches below grade.
- c. Disturbed earth shall be graded and re-seeded unless the landowner requests in writing that the access roads or other land surface areas not be restored.

G. Standards for Regulation of the Construction and Operation of Solar Power Facilities.

2. Regulations and Design Standards for Solar Power Facilities

A. SMALL AND MEDIUM SCALE SOLAR DEVELOPMENT

1. Small Scale Solar Development

- a) The construction of small scale solar development for residences and businesses shall be considered a use by right and will not require permitting.

2. Medium Scale Solar Development

- a) Medium Scale solar development will require a county building permit and must meet manufacturers' standards for installation. This includes Community Solar Gardens with up to a 2 MW nameplate rating. Further, should the panels be mounted on the ground, a 15 foot fire separation must be maintained around the perimeter of the facility.

B. DESIGN STANDARDS FOR LARGE SCALE SOLAR FACILITIES

1. Scope

- a) All large scale solar facilities shall comply with the following minimum regulations and design standards.
- b) All large scale solar facilities will be subject to Lincoln County's Use by Special Review development process.
- c) No concentrated solar thermal power will be permitted in Lincoln County.

2. Setbacks.

- a) Large solar facilities shall be set back from all property lines, and public road rights-of-way at least one hundred feet.
- b) Setbacks from an occupied structure of a non-participating landowner shall be negotiable through public hearings and the permitting process but may not be within one thousand feet (1,000 feet) of an occupied structure unless written consent is given by the non-participating landowner and any other affected parties.

- c) **Setbacks within a participating landowner's rights shall be negotiated between the participating landowner and the developer.**
- d) **Screening of the solar facility may be required through the review process between public roadways and residences with appropriate landscaping or screening materials.**

3. Safety/Access.

- a) **An appropriate security/livestock fence (height and material to be established through the use by special review process) shall be placed around the perimeter of the solar power plant and maintained by the facility operator.**
- b) **Rapid entry systems and keys shall be provided by the facility operator at locked entrances for emergency personnel access and appropriate warning signage shall be placed at the entrance and perimeter of the solar power plant project.**

4. Noise.

- a) **No operating solar power plant shall produce noise that exceeds any of the following limitations. Adequate setbacks shall be provided to comply with these limitations:**
 - I. **Fifty A-weighted decibels (dBA), as measured at the property line of any neighboring residentially-zoned lot;**
 - II. **Forty-five dBA, as measured at any existing neighboring residence between the hours of nine p.m. and seven a.m.**
 - III. **Sixty dBA, as measured at the property lines of the project boundary, unless the owner of the affected property and the planning commission agree to a higher noise level, as follows:**

The owner of a neighboring property (non-participating landowner) that would otherwise be protected by the sixty dBA noise limitation may voluntarily agree, in writing, to a higher noise level. Any such agreement must specifically state the noise standard being modified, the extent of the modification, and be in the form of a legally binding contract or easement between the non-participating landowner (including assignees in interest) and the solar power plant developer and participating landowner, effective for the life of the project. Notwithstanding any such voluntary noise agreement between the non-participating landowner and the solar power plant developer and participating landowner, the agreement shall only be effective and reflected in the County's authorization of the project when it has been reviewed and determined acceptable to the County. The County shall consider the likely impacts and consequences of the modified noise limit requested, based on the specific circumstances of the situation, in determining whether to grant the request. Any such noise agreement must be submitted with the conditional use permit application and if authorized by the County, must be filed with the County Recorder upon issuance of the use by special review permit.

5. Visual Appearance.

- a) Solar power plant buildings and accessory structures shall, to the extent reasonably possible, use materials, colors, and textures that will blend the facility into the existing environment.
- b) No solar power plant tower or other tall structure associated with a solar power plant shall be lighted unless required by the Federal Aviation Administration (FAA). When lighting is required by FAA, it shall be the red, intermittent, glowing-style, rather than the white, strobe-style, unless disclosed and justified through the application review process.
- c) Lighting of the solar power plant and accessory structures shall be limited to the minimum necessary and full cut-off lighting (e.g. dark sky compliant) may be required when determined necessary to mitigate visual impacts.
- d) No solar power plant shall produce glare that would constitute a nuisance to occupants of neighboring properties or persons traveling neighboring public roads.

6. Electrical Interconnections.

- a) All electrical interconnection and distribution lines within the project boundary shall be underground, unless determined otherwise by the County because of severe environmental constraints (e.g. wetlands, cliffs, hard bedrock), and except for power lines that leave the project or are within the substation. All electrical interconnections and distribution components must comply with all applicable codes and public utility requirements.

7. Fire Protection.

- a) All solar power plants shall have a defensible space for fire protection in accordance with any applicable fire protection district or Lincoln County Sheriff directives.

C. AGREEMENTS/EASEMENTS.

1. If the land on which the proposed project is to be located is leased, rather than owned by the solar energy developer, all property within the project boundary must be included in a recorded easement(s), lease(s), or consent agreement(s) specifying the applicable uses for the duration of the project. All necessary leases, easements, or other agreements between the solar developer and the affected parties, including any applicable condemnation decree, must be in place prior to commencing construction of the project unless specified otherwise by the Use by Special Review permit.

3. Information Required On Permit Applications

- A. An application for a special use permit to establish a solar power plant shall include a complete description of the project, and documentation to sufficiently demonstrate the requirements set forth in this Section G will be met by the applicant. Supporting documentation for addressing the review criteria of the Zoning Ordinance concerning special use (Article 3) is also to be provided. The County may require any information reasonably necessary to determine compliance with the Zoning Ordinance.**
- B. It is preferred that any related special use permit applications for substations or transmission lines be considered in conjunction with the special use permit application for the solar power plant. However, if the details of those improvements are not available at the time of application for the solar power plant, they may be considered later through subsequent special use permit review. At a minimum, the intended route for connecting to the power grid and the alternative locations of any substation shall be disclosed with the application for the solar power plant.**

4. Provisions for Special Use Permit (In Addition to Section 3-210)

- A. Project rationale, including estimated construction schedule, project life, phasing, and likely buyers or markets for the generated energy.**
- B. Siting considerations, such as avoiding areas/locations with a high potential for biological conflict such as wilderness study areas, areas of environmental concern, county and state parks, historic trails, special management areas or important wildlife habitat or corridors; avoiding visual areas of erodible slopes and soils, where concerns for water quality, landslide, severe erosion, or high storm runoff potential have been identified; and avoiding known sensitive historical, cultural, or archeological resources.**
- C. Site and development plans, which identify and/or locate all existing and proposed structures; setbacks; access routes; proposed road improvements; any existing inhabitable structures and residentially zoned lots within one-quarter mile of a photovoltaic solar project; existing utilities, pipelines, and transmission lines; proposed utility lines; utility and maintenance structures; existing topographic contours; existing and proposed drainage ways; proposed grading; areas of natural vegetation removal; revegetation areas and methods; dust and erosion control; any flood plains or wetlands; and other relevant items identified by the county staff or Land Board. All maps and visual representations need to be drawn at an appropriate scale.**
- D. Analysis of local economic benefits, describing estimated project cost, generated taxes, percent of construction dollars to be spent locally, and the number of local construction and permanent jobs.**

- E. Visual Impacts, Appearance, and Scenic Viewsheds.** Potential visual impacts may be caused by components of the project such as solar towers, above ground electrical lines, accessory structures, access roads, utility trenches and installations, and alteration of vegetation. Those projects that are within a sensitive view shed, or that propose structures taller than thirty feet, must provide a view shed analysis of the project, including visual simulations of the planned structures and analysis of potential glare impacts. The number of visual simulations shall be sufficient to provide adequate analysis of the visual impacts of the proposal, which shall be from no less than four vantage points that together provide a view from all sides of the project. More visually sensitive proposals (e.g. solar power towers in sensitive view sheds) may require analysis from significantly more vantage points, such as different distances and sensitive locations. The Land Board / Commissioners may also require a Zone of Theoretical Visibility/Zone of Visual impact (ZVI) Analysis, which is a three hundred sixty degree computer analysis to map the lands within a defined radius of a location that would likely be able to see an object. When a dispute arises on whether or not a location is in a “sensitive view shed,” the Board shall have the final determination. Significant visual impacts that cannot be adequately mitigated are grounds for denial.
- F. Wildlife Habitat Areas and Migration Patterns** specifically include information on any use of the site by endangered or threatened species and whether the project is in biologically significant areas. If threatened or endangered species exist in the area, consultation with United States Fish and Wildlife Service will be necessary.
- G. Environmental Analysis.** In the absence of a required state or federal agency environmental review for the project (e.g., NEPA), the Land Use Board/Commissioners may require an analysis of impacts to historic, cultural and archaeological resources, soil erosion (water and wind), flora, and water quality and water supply in the area, when there is reason to believe that adverse impacts to such may occur.
- H. Solid Waste or Hazardous Waste.** As applicable, the application must include plans for the spill prevention, clean-up, and disposal of fuels, oils, and hazardous wastes, as well as collection methods for solid waste generated by the project.
- I. Height Restrictions and FAA Hazard Review.** Compliance with any applicable airport overlay zoning requirements and the ability to comply with FAA regulations pertaining to hazards to air navigation must be demonstrated.
- J. Transportation Plan for Construction and Operation Phases.** Indicate by description and map which roads the project will utilize during the construction and operation/maintenance phases of the project, along with their existing surfacing and condition. Specify any new roads and proposed upgrades or improvements needed to the existing road system to serve the project (both the construction and O&M periods) – remember to identify needed bridges, culverts, livestock fence crossings (gates and cattle guards), etc. Also identify all

areas where modification of the topography is anticipated (cutting/filling) to construct or improve the roadways. Address road improvement, restoration, or maintenance needs associated with the construction, ongoing maintenance/repair, and potential dismantling of the project. The County will require a separate Road Agreement and may require financial guarantees to ensure proper repair/restoration of roadways or other infrastructure damaged or degraded during construction or dismantling of the project. In such case, the “before” conditions of the roadways and other infrastructure must be documented through appropriate methods such as videos, photos, and written records, to provide a proper reference for restoration to pre-existing conditions. The applicant will be expected to work with the County Road Supervisor/Foreman during the construction phase. If on the basis of the information submitted by the applicant pursuant to this paragraph, the parties shall enter into a Road Agreement as set forth in Section 6 below.

- K. **Public Safety.** Identify and address any known or suspected potential hazards to adjacent properties, public roadways, communities, aviation, and topography, which may be created by the project.
- L. **Noise limitations.** Submit sufficient information regarding potential or anticipated noise, so as to demonstrate compliance with this Section G and other applicable portions of the Special Use review procedures.
- M. **Decommissioning Plan.** Describe the decommissioning and final land reclamation plan to be followed after the anticipated useful life, or abandonment, or termination of the project, including evidence of proposed commitments with affected parties (county, any lessor, or participating and nonparticipating owners) that ensure proper final reclamation of the solar energy project. Among other things, revegetation and road repair activities should be addressed in the plan, as well as the applicant’s ability to honor this provision in the event of insolvency. A bond, an irrevocable letter of credit, or cash shall be required for the decommissioning of any solar energy facilities. The amount shall be determined from a third party decommissioning evaluation made prior to construction and every five years throughout the project life at the expense of the applicant.
- N. **Other probable and significant impacts,** as identified through the review process.
- O. **Surface and Mineral Owners.** A list of all landowners, adjacent landowners, and mineral rights owners in the affected area of the project shall be submitted. Proof of notification in the form of certified mail receipts shall be submitted before approval of the Use by Special Review permit can be granted. These notices must be postmarked no less than thirty (30) days prior to the Land Use Board Public Hearing date that is designated for review of the proposed solar energy project.
- P. **Disposal of any used, damaged, or destroyed material from a solar power facility must be recycled, stored, or otherwise properly disposed of by the owner of the facility. This may**

include but not be limited to: solar panels, batteries, electronics, electrical material, or any structural material.

- Q. Other relevant information as may be reasonably requested by Lincoln County to ensure compliance with the requirements of this Resolution.

5. Notice of Change

- A. Throughout the permit process, the Applicant shall promptly notify the Lincoln County Land Use Office of any proposed changes to the information contained in the permit application that would alter the impact of the project.
- B. Changes that materially alter the initial site plan will be subject to an additional Use By Special Review application and process.
- C. Changes to the approved application that do not materially alter the initial site plan may be adopted by the Land Use Administrator.

6. Road Use Agreement.

- A. Before construction begins, the solar power developer must enter into a Road Use Agreement with Lincoln County. This agreement will be a collaborative document drafted by the Board of County Commissioners, the Road and Bridge Supervisor(s) of the District(s), and the solar power developer. This document shall include, but not be limited to:
 - 1. Designated truck routes.
 - 2. Dust abatement.
 - 3. Reclamations requirements.
 - 4. Bonding requirements.
- B. If a bond is required for a solar power project, the bond will be released when reclamation of the roads have been achieved to the satisfaction of the Road and Bridge Supervisor in which the project is being built and the Board of County Commissioners.

7. Building Permit Required

- A. A building permit will be required for solar power facilities. The building permit application shall be submitted to the Land Use Administrator following the approval of the Use by Special Review by the Lincoln County Board of County Commissioners. The permit will designate:
 - 1. The landowner's name(s) and address(es).
 - 2. The number of solar panels on each specific landowner.
 - 3. The specifications and accessories as to each solar panel.

8. Building Permit Fee (Sales and/or Use Tax)

- A. A building permit fee (Use Tax) will be assessed and will be due at the time of submission of the building permit application.
- B. The fee will be based on two percent (2%) of the material cost of the solar panels and other equipment used in the construction of the solar power plant.
- C. This fee may be negotiated by the Applicant with the Lincoln County Board of Commissioners prior to submitting the building permit application.

9. Mineral Owner Interests

- A. The Developer shall, to the extent required by applicable Colorado law, reasonably provide notice and accommodate access to and development of subsurface mineral interests with respect to their proposed use of the property for the solar power plant or facility. In this regard, the applicant shall, as a condition of approval prior to the final sitting of any solar power plant panels and equipment, and installation or construction of any such facilities, provide evidence that it has entered into, or made good faith and commercially reasonable efforts to enter into, surface use agreements or other compatible development agreements with surface owners and any mineral estate owners which have filed timely objections to the land use applications pursuant to Colorado statutes.
- B. Any objections from mineral interest owners shall be filed with the Land Use Administrator prior to the Land Use Board public meeting held in review of the proposed Solar Power Plant or Facility. No objections will be accepted by the Land Use Administrator after this date. The Developer may accept objections filed after the hearing date at their discretion.

10. Board of County Commissioners Approval to Grant Building Permit.

- A. If mineral owner objections are filed with the Land Use Administrator, The Board of County Commissioners may elect to suspend issuance of building permits for the Solar Power Plant or Facility until the Board is assured compliance with item 9. A written affidavit from the Developer attesting compliance will be required.
- B. Should a dispute arise between the mineral owner and the Developer as to whether the Developer had complied with item 9, the issue will be taken before the Lincoln County Board of Commissioners, acting in a quasi-judicial capacity to resolve the dispute.

11. Property Damage

- A. The Developer will bear sole responsibility for any unnecessary damages done to federal, state, county, municipal, and private property during the pre-construction, construction, operations, and decommissioning phases of the Solar Power Plant or Facility.

H. Standards for regulation of the construction and operation of electric Transmission Lines

2. Applicability

A. This resolution is intended for the construction of Transmission Lines. No Transmission Lines shall be constructed in Lincoln County without approval of a Special Use Review by the Board. If any Colorado State Statutes or any applicable federal laws invalidate any section or subsection of this resolution, the remaining sections and subsections shall remain valid.

3. Information Required for Use by Special Review (In Addition to Division 2, Sections 3-200 and 3-210)

A description of the proposed Transmission Line route and the following:

- A. The expected material cost of the Transmission Line, including supporting documentation for the estimate of cost.**
- B. Other considered routes and reasons for discarding them.**
- C. A copy of the stormwater management plan including information on revegetation.**
- D. The site plan for the project from Section 5 of this Resolution #948, including information on proximity to occupied structures, irrigation pivots, open surface water, existing transmission lines, and areas of energy production.**
- E. Information concerning projected audible noise levels associated with the Transmission Line and proposed cost-effective mitigation measures. If the applicant is a regulated utility, they may provide a copy of the CPUC's order approving the CPCN application that contained this information.**
- F. Information concerning projected magnetic field levels under maximum and average line loads at the project boundary, measured one meter above ground level. If the applicant is a regulated utility, they may provide a copy of the CPUC's order approving the CPCN application that contained this information.**
- G. The applicant may be required to provide depictions, through photographs, sketches, or other means, reflecting the views of the proposed Transmission Lines from at least two different directions or perspectives in the application.**
- H. A map of the proposed route, drawings of typical structure types, and summaries of cultural, historic, or wildlife data or surveys provided to state or federal agencies.**
- I. An Environmental Impact Statement.**
- J. An Emergency Response Plan, including Emergency contact information.**
- K. The applicant's proposed timeline and event sequence for each phase of the Transmission Line, to include planning, permitting, construction, and activation.**

- L. As a condition of permit approval, the applicant may be required to provide a listing and description of, or county recordation numbers, for all easements acquired by the applicant as proposed for the placement of the Transmission Line.

4. Design Standards for Transmission Lines.

- A. The following Setbacks and Locations shall be applicable as to any new construction of a Transmission Line:
 - 1. No Transmission Lines shall be constructed directly over any occupied building, non-occupied structure, or any other structure, including pools. This also includes structures permitted to be built. After the development application for a Transmission Line is received, no building permits received by the Land Use Administrator that may disrupt the approval or construction of the Transmission Line may be approved.
- B. Areas of Energy Production.
 - 1. Any Transmission Line must be set back from a wind turbine a distance of one hundred ten percent (1.1 times) of the height of the tip of the blade at the top of the turbines rotation.
 - 2. Any Transmission Line must abide by COGCC setbacks in regard to Oil and Gas well sites, if applicable.
 - 3. When a Transmission Line does not leave a large scale solar facility or is not within the substation for the solar facility, the Transmission Line shall not be constructed over any part of the solar facility.

5. Site Plan.

- A. A site plan will be included with the Development Permit Application showing the proposed Transmission Line route.
- B. The Transmission Line must not interfere with the use of public right-of-ways for vehicular or pedestrian use. The applicant must notify the County to use county road rights-of-way in its proposed Transmission Line route.
- C. The applicant shall supply the Lincoln County Land Use Administrator with a map, or maps, for the proposed route of the Transmission Line. These maps shall include substations, Operations and Maintenance Buildings, roads, and setbacks from occupied structures as well as areas of energy production.
- D. The applicant must demonstrate that Transmission Lines and other structures will be continually maintained in good condition, securing poles and / or guide / guy wires, and replacing poles or appurtenances in a deteriorated condition. The applicant shall demonstrate how erosion around the poles will be prevented, minimized, and / or repaired.

6. Notice of Change.

- A. Any significant changes to the scope of the project shall be given to the Land Use Office. The Land Use Administrator will determine if additional review is required.**
- B. When all routing changes are finalized, a final map of the exact route shall be given to the Land Use Office. This may include coordinates of substations and Operations and Maintenance Buildings.**

7. Road Use Agreement

- A. Before the application is approved, and any permit issued, the applicant must enter into a Road Use Agreement with Lincoln County, approved by the Board. The document shall include, but not be limited to the designated truck routes, dust abatement, reclamation requirements, and bonding requirements for the construction phase of the project. It shall be the duty and responsibility of the applicant to ensure minimal damage to the subject roads and it will be the financial responsibility of the applicant to keep the roads in as good of condition as existed prior to the construction.**
- B. If a bond, letter of credit, or other assurance is required for the Transmission Line, the bond will be released when reclamation of the roads have been achieved to the satisfaction of the Board and the Road and Bridge Supervisor(s) of the district(s) in which the Transmission Line is constructed.**

8. Building Permit Requirements

- A. Unless the applicant is an exempted public service agency according to the 2006 International Building Code, Section 105.2.3, adopted by Lincoln County in June 2015, a building permit will be required for Transmission Lines.**
- B. The building permit application will be submitted to the Land Use Administrator following the approval of the Use by Special Review permit by the Board.**
- C. The applicant shall use the standard Lincoln County building permit form for submission and include the following upon submittal:
 - 1. Each landowner on whose property one or more Transmission Line Towers will be constructed.**
 - 2. The landowner's names, addresses, and the number of Transmission Line Towers on each landowner's property.****

9. Building Permit Fee (Sales and/or Use Tax)

- A. A building permit fee will be assessed and will be due at the time of submission. The fee will be based on two percent (2%) of the material cost of the Transmission Lines and other equipment used in the construction of the Transmission Lines. This fee may be negotiated by the applicant with the Board prior to submitting the building permit.**

10. Decommissioning of the Project

- A. The County and the applicant both understand that in most instances, Transmission Lines are built as permanent structures and will likely never be decommissioned. When a Transmission Line project is reviewed alongside an energy generation project, decommissioning of the Transmission Line shall be considered along with the decommissioning of the generation facility. The County also recognizes that regulated electric utilities are subject to CPUC regulations related to decommissioning any Transmission Lines or electric generation projects.
- B. When a Transmission Line is decommissioned, the applicant bears the sole responsibility and financial liability of returning the area affected by the Transmission Line to a productive state and condition. The applicant shall remove all materials such as Transmission Lines, Towers, and any other foreign material installed by the applicant unless other agreements between the applicant and the landowner are made.

11. Mineral Rights.

- A. The applicant shall affirm that it has complied with state of Colorado mineral estate owner notification requirement of proposed surface development pursuant to C.R.S 24-65.5-101 et. seq.

12. Property Damage.

- A. The applicant will bear responsibility for any injury or damages done, caused, or allowed by the applicant to federal, state, county, municipal, and / or private property during the pre-construction and construction phases of the Transmission Line.
- B. The owner or operator shall accept responsibility for injuries or degradation of any property throughout the life of the Transmission Line when it is deemed that the damage occurred at the fault or neglect of the applicant.

Section 3-230 Rural Design Development (RDD) Review Standards

In addition to all other requirements applicable to a Development Permit, an application for RDD shall comply with the following review standards:

- A. **Consistent With Comprehensive Plan.** The proposed development shall be consistent with and further the policies of the County Comprehensive Plan and any other adopted plans and policies relating to land use and development.
- B. **Compatible With Surrounding Land Uses.** The proposed development shall be compatible with the character of surrounding land uses.
- C. **Land Use Intensity.** The density and type of development permitted on a given site will be determined as a result of an analysis of the opportunities and constraints provided by the site, and the impacts of the proposed land use on the land and surrounding land uses.
- D. **Permitted Uses.** Any combination of residential, commercial and industrial uses that together satisfy all applicable standards may be permitted in an RDD.

E. Open Space. A minimum of 20% open space shall be required for all RDD's.

1. The County shall designate the type and mix of open space to be provided (e.g. natural, agricultural, recreational, public, private).
2. The applicant shall demonstrate to the County adequate means of preserving, protecting and maintaining open space areas.
3. Open space corridors shall be designated to coincide with significant vegetation or wildlife areas to the extent possible.

F. Variations in Setbacks. Setback requirements may be varied at the discretion of the County, taking into consideration the purpose and review standards of the RDD.

G. Variations in Height Requirements. Height requirements may be varied at the discretion of the County, taking into consideration the purpose and review standards of the RDD.

H. Parking. The County shall designate the number of parking spaces to be required based on the following considerations:

1. Probable number of cars owned or required by occupants of the RDD.
2. Parking needs of any non-residential uses, including projected number of customers, employees, deliveries, and shipments.
3. Varying time periods of uses whenever joint use of common parking areas is proposed.

I. Site Planning Criteria. The following site planning criteria shall apply to any RDD site plan:

1. Protect ridges from development that would be visible.
2. Avoid building on areas of unstable soils, slopes and geological hazards.
3. Locate uses in the most developable and least visually sensitive portions of the site with open space separating the clusters.
4. Roads and utility lines shall be designed to avoid alterations to the existing site contours and shall be placed so that cut and fill is minimized.
5. Provide trails or sidewalks to allow efficient internal circulation as well as links to trail systems on adjacent property.
6. Preserve and maintain any open space by an irrevocable dedication, restrictive covenants or other mechanism acceptable to the County.
7. Design the internal street circulation system to accommodate the type of traffic generated and to maximize safety, separation from living areas, convenience, and access. Bicycle and pedestrian traffic shall be considered and accommodated.

8. Provide for variety in housing type and density and reflect the community character by including features such as front porches and rural character design features. Multi-family housing shall retain single family scale and form of structures.
9. Landscaping of the total site shall address concerns including screening, ornamentation, maintenance, water availability, and site suitability.
10. Locate commercial uses in areas of the RDD with easy vehicular, bicycle and pedestrian access to residential units.

J. Commercial Facilities in Residential or Agricultural Area. Where commercial uses are allowed in agricultural or residential areas of the County, the following design standards shall apply to those commercial uses:

1. Signage must be visible only from within the RDD.
2. Buildings shall appear similar in scale and design to agricultural or residential structures in the area.
3. Buildings shall be no wider than residential structures in the area.
4. Buildings shall be no taller than the tallest residential structure and flat roofs shall be avoided.
5. Building materials should appear similar to those used on agricultural or residential structures.
6. A primary entrance shall be oriented toward the street.
7. Pedestrian walkways, gathering areas, bike racks, and other similar amenities shall be provided to encourage pedestrian and bicycle activity.
8. Parking shall be located on-street or in the rear of the building.

ARTICLE 4 NONCONFORMITIES

DIVISION 1 GENERAL

Section 4-100 Purpose

Within Lincoln County there exist uses, structures and lots which were lawfully established pursuant to the zoning and building regulations in effect at the time of their development which do not now conform to the provisions of this Zoning Resolution. The purpose of this Article is to regulate and limit the continued existence of these nonconforming uses, structures and lots. It is the intent of Lincoln County to permit these Nonconformities to continue, but not to allow them to be enlarged or expanded except in conformance with these regulations. Nonconformities located within the Airport Overlay District shall be governed solely by the provisions for Nonconforming Airport Uses as set forth in [Article 6](#).

Section 4-110 Nonconforming Uses

- A. **Authority to Continue.** Nonconforming uses may continue in accordance with the provisions of this Article.
- B. **Maintenance and Reconstruction.**
1. **Normal Maintenance.** Normal maintenance, repairs or structural alterations may be performed to permit continuation of a nonconforming use.
 2. **Reconstruction.** If a nonconforming use is damaged by fire or other cause, it may be reconstructed but the use cannot be extended or enlarged.
- C. **Discontinuance.** If a nonconforming use is discontinued for a period of twelve (12) consecutive months, then such use may not be re-established or resumed, and any subsequent use must conform to the provisions of this Zoning Resolution.
- D. **Relocation.** A structure containing a nonconforming use shall not be moved to another location unless it shall thereafter conform to the provisions of the Zoning Resolution.
- E. **Change in Use.** A nonconforming use shall not be changed to another use unless the new use conforms with the provisions of this Zoning Resolution. If a nonconforming use is changed to a conforming use for any period of time, it may not thereafter be changed back to any nonconforming use.
- F. **Extensions.** A nonconforming use shall not be extended or enlarged unless or until a Development Permit is issued pursuant to these regulations. This limitation shall be construed so as to prevent:
1. **Extension of Area.** Enlargement of a nonconforming use by extension of the area.
 2. **Additional Land Area.** Expansion of the use to cover additional land area.
 3. **Exceptions.** An exception to the limitations on extension of a nonconforming use may be permitted by the Land Use Administrator to comply with the provisions of the Americans With Disabilities Act (ADA), provided it is demonstrated that the only way to comply with the Act would be through an extension which increases the use's nonconformity, and that the extension is the minimum necessary to comply with the Act.

Section 4-120 Nonconforming Structures

- A. **Authority to Continue.** Nonconforming structures may continue in accordance with the provisions of this Article.
- B. **Maintenance and Reconstruction.**
1. **Normal Maintenance.** Normal maintenance, repairs and structural alterations may be performed to permit continuation of a nonconforming structure.
 2. **Reconstruction.** If a nonconforming structure is damaged by fire or other cause, it may be reconstructed.

C. **Extensions.** A nonconforming structure shall not be extended by an enlargement or expansion that increases its nonconformity.

1. **Permitted Extensions.** A nonconforming structure may be extended or altered in a manner that does not change or that decreases its nonconformity after approval of a building permit.

2. **Americans With Disabilities Act.** An extension to a nonconforming structure may be permitted by the Zoning Administrator to comply with the provisions of the Americans With Disabilities Act (ADA), provided it is demonstrated that the only way to comply with the Act would be through an extension which increases the structure's nonconformity, and that the extension is the minimum necessary to comply with the Act.

D. **Relocation.** A nonconforming structure shall not be moved to another location unless it thereafter conforms with the Zoning Resolution.

Section 4-130 Nonconforming Lots

A. **Conforming Lots Shall Not Be Made Nonconforming.** No lot that is conforming as to minimum lot size or minimum lot frontage as of the effective date of this Zoning Resolution may be reduced in size or subdivided in such a way that it creates a nonconforming lot or lots or causes any structure or use to become nonconforming unless the size reduction or subdivision is approved as an RDD.

B. **Lot Reduction Shall Not Increase Nonconformity.** No lot that is nonconforming as to minimum lot size or minimum lot frontage as of the effective date of this Zoning Resolution may be reduced in size in such a way that its nonconformity would increase, or that causes the nonconformity of any use to increase unless the size reduction or subdivision is approved as an RDD.

C. **Nonconforming Lots Shall Not Be Subdivided.** No lot that is nonconforming as to minimum lot size or minimum lot frontage as of the effective date of this Zoning Resolution may be subdivided unless the subdivision is approved as an RDD.

ARTICLE 5 APPEALS AND VARIANCES

DIVISION 1 BOARD OF ADJUSTMENT

Section 5-100 Creation and Appointment

Pursuant to Title 30, Article 28 C.R.S., a Board of Adjustment is hereby established. The Board of Adjustment shall consist of five (5) members appointed by the Board of County Commissioners. The Board of Adjustment members shall be appointed for a three (3) year term with the initial terms to be staggered so that the term of at least one member shall expire each year. At least one (1) and not more than two (2) members shall also be a member of the Land Use Board. Two (2) alternate members shall be appointed to the Board in the manner described above: Alternate members shall be appointed for a three (3) year term. In the event of the absence of a member, the Chairman of the Board shall designate at the commencement of the meeting an alternate member to serve as, and fulfill the responsibilities of, the member during his/her absence. All members and alternate

members of the Board shall be paid a per diem compensation. A member or alternate member of the Board, once qualified, shall thereafter be removed during their term of office only for cause upon written charges, and after a hearing held before the Board of County Commissioners. The unexcused absence of three (3) consecutive meetings shall be cause for removal. In the event of the death, resignation, or removal of any member or alternate member before the expiration of his term, a successor shall be appointed in the manner described above for the unexpired portion of his term.

Section 5-110 Rules of Procedure

- A.** The Board shall annually elect its own Chairman, Vice-chairman, and Recording Secretary, at the first meeting on or after February 1. There shall be a fixed place of meeting and all meetings shall be open to the public. The presence of four (4) members shall be necessary to constitute a quorum. A vote of the majority of members seated shall be necessary to approve or deny conditional Uses and Variances.
- B.** The Board shall have the power to call on any County department for assistance in the performance of its duties, and it shall be the duty of such department to render such assistance as may reasonably be required. The Board shall also receive and consider recommendations submitted by the Land Use Board.
- C.** Any member of the Board who shall have a direct or indirect interest in any property, or in the decision relating to such property, which shall be the subject matter of, or affected by, a decision of the Board shall be disqualified from participating in the discussion, decision, or proceedings of the Board in connection therewith.

Section 5-120 Powers and Duties

- A.** To hear and decide appeals, subject to CRS §30-28-118.
- B.** To authorize variances from the terms of these regulations.
- C.** To interpret the zoning maps and pass upon disputed zoning or district boundary lines.
- D.** Such other powers and duties as may be provided by statute or these regulations.

Section 5-130 Appeals to the Board of Adjustment

- A.** The Board of Adjustment shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Land Use Administrator in the enforcement of these regulations.
- B.** Filing of Appeals. Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the County affected by any decision of the Land Use Administrator in administering these regulations. Such appeal shall be filed within ten (10) days after the date of the decision by filing with the Administrator and with the Board a written notice of appeal specifying the grounds thereof. No such appeal shall be allowed for building use violations that may be prosecuted pursuant to CRS §30-28-124(1)(b). The Administrator shall forthwith transmit to the Board copies of all the papers constituting the record of said matter, together with a copy of the ruling or order from which such appeal is taken.

- C. **Action on Appeals.** The concurring vote of four (4) members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the Land Use Administrator or to decide in favor of the applicant.

DIVISION 2 VARIANCES

Section 5-200 General

- A. **Purpose.** Variances are intended to provide relief for landowners where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property existing at the time of enactment of these regulations, or by reason of exceptional topographic conditions or other extraordinary or exceptional physical characteristics or conditions of such piece of property not created by the applicant subsequent to the adoption of these regulations, the strict application of any zoning regulation or provision therein would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property. The Board of Adjustment shall have the authority to authorize a variance from such strict and literal application so as to relieve such difficulties or hardship.
- B. **Variances Authorized.** Variances shall only be authorized from the standards of the underlying zone district for maximum height, minimum building width and minimum setbacks.
- C. **Use Variances Not Authorized.** Establishment or expansion of a use otherwise prohibited in a zone district shall be not allowed by variance.

Section 5-210 Procedure

An applicant requesting a variance shall follow the stages of the County's land development process outlined below.

- A. **Pre-Application Conference.** Attendance at a pre-application conference is optional, but recommended, for an applicant intending to submit an application for a variance.
- B. **Submit Application.** The applicant shall submit a complete application to the Land Use Administrator, containing those materials listed in **Section 5-220, Application Contents.**
- C. **Staff Review.** The Land Use Administrator shall review the application to determine whether it is complete. The Land Use Administrator shall forward a report to the Board of Adjustment, which summarizes the applications compliance with the conditions outlined in **Section 5-230, Required Showing.** The Land Use Administrator may solicit the assistance of other agencies and organizations in drafting the report.
- D. **Public Notice.** Public notice that the Board of Adjustment will conduct a hearing to consider the application for a variance shall be provided, as specified in **Section 3-120, Public Notice.**
- E. **Public Action by Board of Adjustment.** The Board of Adjustment shall hold a public hearing to review the conformance of the application with all applicable provisions of this

Zoning Resolution. The Board may approve, approve with conditions, or deny the application or remand it to the applicant with instructions for modification or additional information or action. The Board shall deny any application that does not demonstrate the required showing.

F. **Actions Following Approval.** The applicant may apply for a Development Permit and / or a building permit following approval of the variance and the filing and, if applicable, recordation of any documents required by the variance approval.

Section 5-220 Application Contents

The development application for a variance shall contain the following information:

A. **Minimum Contents.** Applications for a variance shall include, at the minimum, the following information materials:

1. **Name, Address, Telephone Number and Power of Attorney.** The applicant's name, address and telephone number. If the applicant is to be represented by an agent, a letter signed by the applicant granting power of attorney to the agent shall be submitted, authorizing the agent to represent the applicant and stating the representative's name, address and telephone number.
2. **Legal Description.** The legal description and street address, if such exists, of the parcel on which development is proposed to occur.
3. **Disclosure of Ownership.** A disclosure of ownership of the parcel on which the development is to occur, listing the names of all owners of the property, and all mortgages, judgments, liens, easements, contracts, and agreements that run with the land.
4. **Vicinity Map.** An eight and one-half inch by eleven inch (8 1/2" x 11") vicinity map locating the subject parcel within Lincoln County.
5. **Written Description.** A written description of the proposal and an explanation in written, graphic or model form of how the proposed development complies with the applicable approval standards.
6. **Site Plan.** A site plan of the site, showing existing and proposed features which are relevant to the review of the application, including but not limited to geologic features, waterways, aquatic, and terrestrial vegetation, soils and man-made structures.

B. **Sketch Plan.** A sketch plan of the site, showing existing and proposed features which are relevant to review of the variance application.

Section 5-230 Required Showing

The applicant shall demonstrate the following to the Board of Adjustment before a variance may be authorized:

A. **Special Circumstances Exist.** There are special circumstances or conditions which are peculiar to the land or building for which the variance is sought that do not apply generally to

land or buildings in the neighborhood; and

- B. Not Result of Applicant. The special circumstances and conditions have not resulted from any act of the applicant; and
- C. Strict Application Deprives Reasonable Use. The special circumstances and conditions are such that the strict application of the provisions of this Zoning Resolution would deprive the applicant of reasonable use of the land or building; and
- D. Variance is Necessary to Provide Reasonable Use. The granting of the variance is necessary to provide the applicant a reasonable use of the land or building; and
- E. Minimum Variance. The granting of the variance is the minimum necessary to make possible the reasonable use of the land or building; and
- F. Not injurious to Neighborhood. The granting of the variance will not be injurious to the neighborhood surrounding the land where the variance is proposed, and is otherwise not detrimental to the public welfare or the environment; and
- G. Consistent with Land Development Code. The granting of the variance is consistent with the general purposes and intent of this Zoning Resolution.

Section 5-240 Board of Adjustment Authorized to Impose Conditions

The Board of Adjustment, in approving the variance, may impose such restrictions and conditions on such approval, and the premises to be developed or use pursuant to such approval, as it determines are required to assure compliance with this Zoning Resolution and to prevent or minimize adverse effects from the proposed variance on other land in the neighborhood and on the general health, safety and welfare of the County. All conditions imposed upon any variance shall be set forth in writing together with the provision of this Zoning Resolution the condition is designed to address.

Section 5-250 Expiration of Approved Variance

- A. Time Limit. All variances shall expire twelve (12) months from the date of issuance if no building permit has been issued to establish the variation authorized or, if the variation does not require a building permit, unless the variation is established, ongoing, and in operation. Such time period shall not be altered by transfer of ownership.
- B. Extension. Upon written request, the Board of Adjustment may grant one (1) extension of the variance for a period not to exceed six (6) months for good cause shown. No request for an extension shall be considered unless a written application requesting the extension is submitted to the Administrator prior to the date the variance is to expire. The variance shall be deemed extended until the Board of Adjustment has acted upon the request for extension. Failure to submit an application for an extension within the time limits established by this Section shall render the variance null and void.

Section 5-260 Amendment of Approved Variance

Amendment of an approved variance shall only be approved by the “Board of Adjustment by repetition” of the procedures and required showing of this Division.

ARTICLE 6 AIRPORT OVERLAY DISTRICT

DIVISION 1 GENERAL

Section 6-100 Applicability

No Development Permit shall be issued for any land use proposed to be located within any Airport Overlay District as described in the Airport Zone Maps unless it also satisfies the requirements and standards set forth in this **Article 6**. If there is a conflict between these requirements and standards and the standards and requirements of **Article 3**, the more stringent requirements and standards shall apply.

Section 6-110 Submittal Requirements

In addition to any other application submittal requirements set forth at **Section 3-100 D**, an applicant for a permit to conduct any land use activity in the Airport Overlay District shall submit the following additional materials:

- A. A map showing the area in which the activity is proposed and showing the Clear Zone, the Approach Zone, and the Extended Approach Zone.
- B. A map showing existing and proposed runways and the Airport Reference Point, elevation and location with reference to section corners.
- C. A map showing obstructions and Approach Zones (Part 77) and identifying the Imaginary Surface.
- D. Centerline profiles of runway .
- E. Evidence that the Federal Aviation Administration has been notified regarding applications for approval of airspace.

Section 6-120 Airport Overlay District Standards

- A. **General Standards.** No building or land shall be used, and no building shall hereafter be erected, converted or altered in the Airport Overlay District, unless otherwise provided herein, except in conformance with the following requirements:
 - 1. **Noise Control Zone.** No Noise Zone is needed because the noise problem, as determined by the integrated Noise Model, does not extend for any appreciable distance from the runway.
 - 2. **Navigational Restrictions.** Notwithstanding any other provisions of this regulation, no use may be made, or activity carried on, on land located within the zone established by this regulation in such a manner as to:

- a. Create electrical interference with navigational signals or radio communications between airport and aircraft.
- b. Make it difficult for pilots to distinguish between airport lights or other lighting.
- c. Result in glare in the eyes of pilots using the airport.
- d. Impair visibility in the vicinity of the airport.
- e. Otherwise in any way create a hazard or endanger the landing, takeoff, or maneuvering of aircraft intending to use the airport.

B. Airport Zone of Influence. Within the area described on the official maps as the Airport Zone of Influence, a Development Permit may be issued only for the following types of uses:

1. Agriculture.
2. Commercial.
3. Rural Design Development.

Provided, however, that any residential or commercial activity with a proposed density in excess of one dwelling unit, commercial structure or use per thirty-five (35) acres, exclusive of accessory buildings or uses, shall not be permitted except as an approved Rural Design Development.

C. Additional Uses Permitted: A Development Permit may be issued for the following additional uses within the Airport Overlay District:

1. Aero Club facilities.
2. Aircraft maintenance facilities.
3. Hangar and tiedown facilities.
4. Navigational instruments and aids.

D. Height Restrictions: All structures and trees within the Airport Overlay District shall not exceed the height restrictions established by the Federal Aviation Administration regulations, Part 77.

Section 6-130 Nonconforming Airport Uses and Structures

A. Pre-existing Uses. Any structure or use in existence within the Airport Overlay District at the time the County first established an Airport Zone that does not conform to the Airport Overlay Zone requirements and standards shall be deemed a Nonconforming Airport Use. A Nonconforming Airport Use will be allowed to continue in accordance with the following provisions:

1. **Discontinuance of Use or Destruction of Structure.** If any Nonconforming Airport Use is discontinued for a period of six months or a non-conforming structure is destroyed or damaged to the extent of 50% of the appraised value of the non-conforming structure, any re-use, reconstruction or replacement shall be deemed a new use and shall be subject to the applicable provisions of these regulations.

2. **Marking and Lighting.** Notwithstanding the preceding provisions of this section, the owner of any non-conforming structure or trees is required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Lincoln County Land Use Board to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated, and maintained at the expense of the airport owner.

B. **Relationship to Article 4, Nonconformities.** The provisions of Article 4 Nonconformities, shall not apply to Nonconforming Airport Uses.

ARTICLE 7 COMMUNITY OVERLAY DISTRICT

DIVISION 1 GENERAL

Section 7-100 Purpose

The purpose of the Community Overlay District is:

- A. To acknowledge and identify County areas where urban densities and uses exist and are appropriate when consistent with this Development Code, and to establish development standards that promote compatible land use and growth within these areas.
- B. To provide consistent application procedures and review standards for proposed land use in existing unincorporated communities.
- C. To facilitate development activity compatible with existing land use and small lot development of unincorporated communities within the County.

Section 7-110 Designation by Board of County Commissioners

- A. **Designation of Community Overlay.** The Board of County Commissioners may by Resolution designate an area to be a Community Overlay District. Each such Resolution shall include a description of the characteristics of the district that justify its designation, and shall identify the location and boundaries of the district.
- B. **Subject to Community Overlay Standards.** The property included in any Community Overlay District shall be subject to the standards and criteria in Section 7-200. Except where specifically provided all other provisions of this Code and County, State, and Federal requirements shall continue to apply within the Community Overlay District.

Section 7-120 Permitted Uses in Community Overlay District

The following uses are permitted uses in a Community Overlay District and do not require a Development Permit. No building permit shall be issued for a Permitted Use unless it complies with the standards contained in **Section 7-200**.

A. Residential

- 1. Single Family Dwellings**
- 2. Duplex Dwelling Units**
- 3. Residential Additions and Accessory Structures**

B. Home occupations

Section 7-130 Uses by Special Review in Community Overlay District

Any use in a Community Overlay District not listed as a Permitted Use in **Section 7-120** is a Use By Special Review and requires a Development Permit. The application and review provisions of Article 3 shall apply to Uses By Special Review in Community Overlay Districts, in addition to the specific Standards Applicable to Uses By Special Review contained in **Section 7-300**.

DIVISION 2 GENERAL STANDARDS, PERMITTED USES IN COMMUNITY OVERLAY DISTRICTS

Section 7-200 Community Overlay District Standards Applicable to Permitted Uses

No buildings or land shall be used, and no buildings shall hereafter be erected, converted, or altered in the Community Overlay District except as provided for in this Code and in conformance with the standards and requirements of this Section.

A. Residential - Single Family Dwellings:

1. Minimum lot size: _____ **5,000 square feet**

2. Minimum lot width: _____ **50 feet**

3. Minimum setback requirements:

a. Front yard setback:

1) Arterial: _____ **20 feet**

2) Major collector: _____ **20 feet**

3) Local: _____ **20 feet**

b. Side yard setback: _____ **5 feet**

c. Rear yard setback:

1) Primary uses: _____ **25 feet**

- 2) Accessory uses: _____ 5 feet
- 4. Minimum dwelling size: _____ 700 square feet
- 5. Maximum building height: _____ 30 feet
 - a. Primary structure: _____ 30 feet
 - b. Accessory structure: _____ 20 feet
- 6. Parking requirements: _____ 1 space per 700 square feet of floor area

B. Residential- Duplex Dwelling Units:

- 1. Minimum lot size: _____ 6,000 square feet
- 2. Minimum lot width: _____ 50 feet
- 3. Minimum setback requirements:
 - a. Front yard setback:
 - 1) Arterial: _____ 20 feet
 - 2) Major collector: _____ 20 feet
 - 3) Local: _____ 20 feet
 - b. Side yard setback: _____ 5 feet
 - c. Rear yard setback:
 - 1) Primary uses: _____ 25 feet
 - 2) Accessory uses: _____ 5 feet
- 4. Minimum dwelling size: _____ 700 square feet
- 5. Maximum building height:
 - a. Primary structure: _____ 30 feet
 - b. Accessory structure: _____ 20 feet
- 6. Parking requirements: _____ 1 space per 700 square feet of floor area

C. Residential Additions and Accessory Structures. Accessory structures and residential additions to a use which is a Permitted Use as described in Section 7-120 which are substantially less than the square footage of the existing building and which blend with the existing structure, may be allowed to complement the existing structure, even if the existing structure does not presently meet the standards of this Section. A building permit will be required.

D. Home Occupation. A home occupation shall be allowed as a permitted use in a Community Overlay District so long as it complies with the standards for home occupations set forth in Section 2-200 C.

E. Additional Standards for Permitted Uses in Community Overlay Districts:

1. Lots existing at the time a Community Overlay District becomes effective shall not be reduced in dimension or area. Lots created after the effective date of a Community Overlay District shall meet at least the minimum requirements established by this Article and shall conform to **Section 2-230 (Rural Design Development (RDD) Overlay)**, and **Lincoln County Subdivision Regulations**.
2. Setback requirements and height limitations applicable to this Community Overlay District may be varied at the discretion of the County, taking into consideration the purpose and review standards of the Community Overlay District.
3. Parking requirements applicable to this Community Overlay District may be varied by the County, taking into consideration the purpose and review standards of the Community Overlay District and the following considerations:
 - a. Probable number of cars owned and guest parking required for proposed multi-family residential use.
 - b. Parking needs of any non-residential use, based upon projected number of customers, employees, deliveries and shipments.
 - c. Varying time periods of uses whenever joint use of common parking areas is proposed.
4. All uses constructed or expanded in the Community Overlay District must be properly served by sewer, utilities, access and municipal or central water.

DIVISION 3 STANDARDS, USES BY SPECIAL REVIEW IN COMMUNITY OVERLAY DISTRICTS

Section 7-300 Community Overlay Standards Applicable to Uses by Special Review

- A. **General Standards and Conditions.** The General Standards for Uses by Special Review set forth in **Section 3-210** shall apply to Uses By Special Review in Community Overlay Districts.
- B. **Additional Criteria and Approval Standards.** In addition to the General Standards set forth in **Section 3-210**, the following additional standards shall apply to Uses By Special Review in Community Overlay Districts. Wherever there is a conflict between these standards and other standards of this Code, the more stringent standards shall apply.
 1. **Standards for Commercial Use in Community Overlay District.** A commercial use in the Community Overlay District is intended to include commercial activities such as office and retail businesses, dine-in or take-out restaurants and public facilities including churches, community centers, emergency service facilities, and public utility facilities. For any structure constructed or altered for commercial use, in addition to the applicable provisions of this Article, the following standards shall apply:

a. Dimensional Standards:

- (1) Minimum lot size: _____ 3,125 square feet
- (2) Minimum lot width: _____ 25 feet
- (3) Minimum setback requirements: _____ none
- (4) Maximum building height: _____ 50 feet
- (5) Parking / loading requirements: _____ 1 space per 350 square feet of floor area

b. A primary entrance shall be oriented toward the street.

c. Parking shall be located on-street or in the rear of the building.

d. All roof mounted equipment shall be screened, in accordance with the provisions of this Code.

e. Loading areas and storage areas shall be screened from view.

f. The design, scale and materials used to construct the commercial use shall blend with the surrounding structures.

2. Standards for Industrial Use in Community Overlay District Operations.

An industrial use in the Community Overlay District is intended to include light industrial uses that are relatively non-polluting and have few off-site impacts as a result of the operations on-site. Industrial use in the Community Overlay District includes the construction, fabrication, assembly, storage, shipping and other general light industrial processing of goods.

a. **Setbacks.** The minimum setback for any industrial activity or structure intended for industrial purposes shall be 50 feet.

b. **Sound.** Every use shall be operated so that the volume of sound generated does not exceed 60 decibels at the boundary line of the property.

c. **Vibration.** Every use shall be operated so that the ground vibration generated is not perceptible without instruments at the boundary line of the property.

d. **Smoke and Particles.** Smoke and particulate emissions shall not exceed applicable air quality standards.

e. **Glare, Heat, Radiation and Fumes.** Every use shall be operated so that it does not emit heat, glare, radiation or fumes that are obnoxious beyond the boundary line of the property.

f. Outdoor Storage and Disposal.

- (1) All flammable or explosive materials shall be stored above ground in an engineered facility.
- (2) Outdoor storage facilities for fuel, raw materials and products shall be enclosed by a fence or wall adequate to conceal such facilities.
- (3) No materials or wastes shall be deposited on a property such that they will migrate off the property.

g. Dust. Dust control mitigation measures satisfactory to the County must be implemented.

h. Excavations. Excavations associated with gravel pits or other mining operations shall not be permitted within 30 feet of the property boundary.

i. Groundwater. Groundwater pollution control measures shall be implemented that prevent the discharge of pollutants from the activity into groundwater. The County may, at its discretion, require the installation of groundwater monitoring wells and implementation of a groundwater monitoring plan if the particular use or activity has the potential to cause groundwater pollution.

Section 7-310 Nonconformities in Community Overlay Districts

Uses, structures and lots that were lawfully established pursuant to the zoning and building regulations in effect at the time of their development which do not now conform to the provisions of this Article shall be governed by the provisions of [Article 4](#).