

CUSTER COUNTY SUBDIVISION REGULATIONS

2004

DRAFT

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1 **SECTION 1**

2 **GENERAL PROVISIONS**

3 **1.1 Short Title**

4 Short Title - These Regulations, along with all future amendments, shall be known and may be cited
5 as “The Custer County Subdivision Regulations” and are authorized by C.R.S. § 30-28-133.

6 **1.2 Jurisdiction**

7 These Regulations, unless otherwise exempted herein, shall apply to all “Subdivision” or
8 “Subdivided Land” as defined in Section 2 herein and shall be processed for review and approval
9 or denial pursuant to the submission requirements and the procedure established in these
10 Regulations. These Regulations are declared supplemental to the current Custer County Zoning
11 Resolution, and it is the intent of the Board of County Commissioners that all applications for
12 Subdivision or Subdivided Land be considered and processed similar to Planned Unit Developments
13 (P.U.D.) as contained in the Custer County Zoning Resolution.

14 **1.3 Rules of Language Construction**

15 For the purpose of these Regulations and when not inconsistent with the context:

- 16 * Words used in the present tense include the future;
17 * Words in the singular include the plural;
18 * Words in the plural include the singular;
19 * The masculine includes the feminine;
20 * The word "shall" is mandatory;
21 * The word "may" is permissive;
22 * The particular controls the general;
23 * Where not defined, words and phrases should be given their ordinary meaning;
24 * Text shall control captions, titles and maps.

25 **1.4 Interpretation**

26 Certain words and phrases are defined and certain provisions shall be interpreted as set forth, when
27 not inconsistent with the context. The word "building" includes the word "structure"; the word
28 "person" includes a "firm", "associates", "corporation", "partnership", and "natural person"; the word
29 "used" includes the words "occupied", "arranged", "designed", or "intended to be used"; the word
30 "construct" includes the words "erect", "reconstruct", "alter", "move in", and "move upon".

31 In interpretation and application, the provision of these Regulations shall be liberally construed for
32 the promotion of the public health, safety and welfare.

33 **1.5 Transitional Provisions for New Regulations**

34 These Regulations are effective on the date of their enactment and apply to all applications
35 submitted after this enactment.

36 **1.6 Severability Clause**

37 Should any section, clause, or provision of these Regulations be declared by a court of competent
38 jurisdiction to be invalid, such decision shall not affect the validity of these Regulations as a whole,
39 or any part thereof other than the part declared to be invalid.

40 **1.7 Conflict**

41 Whenever the requirements of these Regulations are in conflict with the requirements of any other
42 County ordinance, rule, regulation, or State statute, the more restrictive or that imposing the higher
43 standards, shall govern. Private covenants and deed restrictions are not researched or enforced by
44 Custer County and recourse is a civil matter.

45 **1.8 Enforcement**

46 No permits or other county land use approvals shall be issued for the construction of any building
47 or any other improvements requiring a permit, upon any land for which a plat or Administrative
48 Review Application (as herein defined) approval is required by these Regulations, unless and until
49 the requirements have been met. Any person, or entity, who transfers or sells or agrees to sell or
50 offers to sell any parcel or lot subject to these Regulations that has not received final approval and
51 recorded the appropriate documentation shall be guilty of a misdemeanor and shall be subject to a
52 fine for each parcel or interest which is sold or offered for sale (C.R.S. § 30-28-124, and as
53 amended.) The County may enjoin such transfer, or sale, or agreement, by action for injunction
54 brought by civil action in any court of competent jurisdiction.

55 **SECTION 2**56 **DEFINITIONS**

57 Except as set forth below, terms used in these Regulations shall have the meanings set forth in the
58 Definition Section of the current Custer County Zoning Resolution.

59 **Administrative Process:** Method of processing an Administrative Review Application, as
60 delineated in Section 5 herein, which exempts certain Subdivision activities from review by
61 the Planning Commission and Board of County Commissioners.

62 **Administrative Review Application:** An application for exemption approval, as defined
63 in Section 5, related to Subdivision or Subdivided Land, including but not limited to the
64 following:

- 65 • lot line/boundary line adjustments
- 66 • minor plat amendments
- 67 • vacation of interior lot lines

68 **Aliquot Description:** A land description utilizing the partial descriptions of a congressional
69 grid-defined section of land. For example, the SE4SE4 (South East Quarter of the South East
70 Quarter) of Sec 3. is an aliquot description. Aliquot descriptions are sometimes loosely
71 called quarter-quarter calls because many land descriptions refer to 40 acre tracts.

72 **Board:** The Board of County Commissioners of Custer County, Colorado, except when
73 context indicates otherwise.

74 **Common Elements:** Land amenities, buildings or portions thereof, central services, and
75 utilities and any other interest owned and used by all property owners and designated on the
76 subdivision plat as common elements.

77 **Custer County Area Soil Survey:** A soil survey conducted by the U.S. Department of
78 Agriculture in cooperation with the State Agricultural Experiment Stations and other federal
79 and state agencies.

80 **Final Plan:** The approved plat and supporting materials to include the final engineering
81 plans, any development agreements, letters of credit, conservation easements, home owners'
82 covenants, and all other documents, reports, or studies necessary for final Subdivision
83 approval and recording with the County Clerk and Recorder.

84 **Lot Line and/or Boundary Adjustments:** The transfer of part of one lot to another for the
85 purpose of improving the lot, correcting the lot line or legal description, or settling a
86 boundary line dispute. Such adjustment cannot result in a change in the number of lots
87 affected thereby.

88 **Master Plan:** The Master Plan of Custer County, Colorado, adopted by the Custer County
89 Planning Commission pursuant to C.R.S. § 31-23-201, *et seq.*, and as amended.

90 **Minor Plat Amendments:** Minor errors or necessary minor revisions on a recorded plat,
 91 which do not affect the character of a Subdivision or Subdivided Land, including, but not
 92 limited to, the following:

- 93 • Typographical and spelling errors or transpositions;
- 94 • **Incorrect seals;**
- 95 • Incorrect dates;
- 96 • Monumentation incorrectly noted, drawn or missing;
- 97 • Incorrect or missing bearings and/or dimensions on the drawing;
- 98 • Missing or incorrectly displayed arrows or symbols;
- 99 • Street name changes or corrections;
- 100 • Vacation of, or revisions to, utility easements upon approval of all affected
 101 utility companies;
- 102 • **Any minor** additions to, or deletions from, the legal description or dedicatory
 103 language that are not typographical in nature;
- 104 • Incorrect certificates or signatures; and
- 105 • Other minor items or circumstances to be determined by the Planning
 106 Director.

107 **Permanent Monument:** Any marker of masonry and/or metal permanently placed on or
 108 in the ground, including those expressly placed for surveying reference to property lines,
 109 blocks and lots. (Refer to C.R.S. § 38-51-104 for applicable locations and physical
 110 standards.)

111 **Plat:** **A document, prepared by a Colorado registered engineer or surveyor in accordance**
 112 **with these Subdivision Regulations or the County Zoning Resolution as an instrument that**
 113 **delineates property lines and shows monuments and landmark locations for the purpose of**
 114 **identifying and recording real property interests with the County Clerk and Recorder.**

115 **Preliminary Plan:** The plat(s) of a proposed Subdivision, and specified supporting
 116 documentation, drawn and submitted in accordance with these Regulations to permit
 117 evaluation of the proposal prior to detailed engineering and design.

118 **Sketch Plan:** **A map of a proposed Subdivision and the initial supporting documentation**
 119 **drawn and submitted in accordance with these Regulations to evaluate feasibility and design**
 120 **characteristics of a proposed Subdivision at an early stage of planning.**

121 **Subdivider or Subdivider:** Any person, partnership, joint venture, association, firm or
 122 corporation who shall participate as owner, promoter, designer or sales agent in the planning,
 123 platting, development, promotion, sale or lease of real property.

124 **Subdivision; Subdivided Land:** All divisions of land into two (2) or more parcels, separate
 125 interests, or interests in common which meet the density requirements of the underlying
 126 Zoning District as defined in the Custer County Zoning Resolution. Any Subdivision
 127 resulting in parcels smaller than the minimum lot size required in the applicable Zoning
 128 District shall be subject to the requirements of a P.U.D. as provided in the Custer County
 129 Zoning Resolution. The terms “Subdivision” and “Subdivided Land” shall not apply to any

130 division of land which creates parcels of land each of which comprise thirty-five (35) or
 131 more acres of land, none of which is intended for use by multiple owners. As provided in
 132 C.R.S. § 30-28-101(10).

133 In addition, unless the method of disposition is adopted for the purpose of evading these
 134 Regulations, the terms "Subdivision" and "Subdivided land", shall not apply to any division
 135 of land:

- 136 1. Which is created by order of any court in this State or by operation of law;
- 137 2. Which is created by a lien, mortgage, deed of trust or any other security instrument;
- 138 3. Which is created by a security or unit of interest in any investment trust regulated
 139 under the laws of this state or any other interest in any investment entity;
- 140 4. Which creates cemetery lots;
- 141 5. Which creates a severable interest or interests such as oil, gas, minerals or water
 142 which are now or hereafter severed from the surface ownership of real property;
- 143 6. Which is created by the acquisition of an interest in land in the name of a husband
 144 and wife or other persons in joint tenancy, or as tenants in common and any such
 145 interest shall be deemed for the purposes of these Regulations as only one interest;
- 146 7. Which is created by the combination of contiguous parcels of land into one larger
 147 parcel; if the resulting parcel is less than thirty-five acres (35) in land area, only one
 148 interest in said land shall be allowed; if the resulting parcel is greater than thirty-five
 149 (35) acres in land area, divided by the interests in the resulting parcel, must result in
 150 thirty-five (35) acres or more per interest. Easements and right of ways shall not be
 151 considered interests for the purposes herein; and
- 152 8. Which is created by a contract concerning the sale of land which is contingent upon
 153 the purchaser's obtaining approval to subdivide pursuant to these Regulations and
 154 any applicable Custer County regulations, the land which said purchaser is to acquire
 155 pursuant to the contract.

156 The Board of County Commissioners may, on recommendation of the Planning Commission
 157 and with sufficient findings, and pursuant to these Regulations, exempt from this definition
 158 any division of land, if the Board determines that such division is not within the purposes
 159 of these Regulations, as provided in C.R.S. § 30-28-101(10)(d).

160 **Subdivision Improvements Agreement:** One or more security arrangements accepted by
 161 the Board to secure the construction within the Subdivision of those public improvements
 162 required by these Regulations, including collateral sufficient to make reasonable
 163 provision for the completion of such improvements in accordance with time and design
 164 specifications of the approved Subdivision. This Agreement(s) may include any one or a
 165 combination of the following types of collateral:

- 166 1. Restrictions on the conveyance, sale, or transfer of any lot, lots, tract or tracts of land
 167 within the Subdivision as set forth on the Final Plat documents ("Plat Restrictions");
- 168 2. Performance or property bonds;
- 169 3. Private or public escrow agreements;
- 170 4. Loan commitments;

- 171 5. Assignments of receivables;
- 172 6. Liens on property;
- 173 7. Letters of credit;
- 174 8. Deposits of certified funds or other similar surety agreements.

175 Security, other than Plat Restrictions, shall equal the value of the cost of improvements to
176 be completed, but shall not be required on the portion of the Subdivision subject to Plat
177 Restrictions. The Board of County Commissioners shall not require security with collateral
178 arrangements in excess of the actual costs of construction.

179 **Vacation of Interior Lot Line:** The removal of a boundary line between two or more lots
180 to create a single lot.

181 **Workshop:** A meeting or series of meetings designed to resolve issues and/or create
182 approval conditions between an applicant, and the board hearing the request. Workshops are
183 open to the public.

184 **SECTION 3**185 **SUBDIVISION DEVELOPMENT STANDARDS**186 **3.1 General Subdivision Design Standards**

187 The following general standards shall govern the Planning Commission and the Board of County
 188 Commissioners' consideration of any request for approval of a Subdivision:

- 189 A. Appropriateness and compatibility of the Subdivision, and any phased development
 190 thereof, to and with the surrounding area, neighborhoods, and the underlying Custer
 191 County Zone District;
- 192 B. Adequate provision of water and sewer services;
- 193 C. Adequate design features to address any onsite drainage and to mitigate any runoff,
 194 created by the development, which exceeds natural runoff;
- 195 D. Attractiveness of the plan of the Subdivision and preservation of the rural character
 196 of Custer County;
- 197 E. Avoidance of development in geologically sensitive, hazardous or wetland areas;
- 198 F. Furtherance of the protection of the health, safety of welfare of the citizens of Custer
 199 County;
- 200 G. Conformity with Custer County Zoning Resolution and Custer County Master Plan,
 201 as amended;
- 202 H. Minimization of adverse effects on community capital improvements programs,
 203 community facilities and services;
- 204 I. Mitigation of adverse impact on wildlife;
- 205 J. Mitigation of impact on air, water, noise or light pollution;
- 206 K. Minimization of potential fire hazards;
- 207 L. Mitigation of undue traffic congestion or traffic hazards;
- 208 M. Development of Subdivided Land in a manner appropriate for the site with an
 209 emphasis on correcting unsuitable land conditions prior to development;
- 210 N. Existence of, or proposed construction of, utilities and public services that are
 211 adequate to serve the proposed Subdivision and assurance that the methods of
 212 financing, constructing and maintaining such services are sufficient to insure the on-
 213 going provision to the Subdivision.

214 In addition to the other criteria contained in these Regulations, failure of the proposed Subdivision
215 to satisfy these criteria shall be an appropriate basis for denial of any application for Subdivision
216 approval.

217 **3.2 Specific Subdivision Plan Design Criteria**

218 The following specific design criteria shall govern Planning Commission and the Board of County
219 Commissioners' consideration of any request for approval of a Subdivision:

220 **A. Water Systems**

- 221 1. The Subdivider must submit engineer designed water collection and
222 distribution systems, and water treatment systems that provide for a
223 physically available and legally adequate water supply adjudicated by final
224 water decree, and meets all of the requirements contained in this
225 Subparagraph A;
- 226 2. All water systems, whether individual or central, will be metered at the
227 source. The statistical data from the meter shall be provided to the county
228 when it is provided to the state. The systems shall be subject to applicable
229 standards, technical procedures, and requirements of the Colorado
230 Department of Public Health and Environment (CDPHE) and the Colorado
231 Division of Water Resources;
- 232 3. Water lines shall be designed to connect each lot in accordance with
233 applicable engineering standards;
- 234 4. If a water distribution system is proposed, the Subdivider shall provide a
235 written estimated total number of gallons per day of water system
236 requirements;
- 237 5. Subdivider must provide adequate evidence that a potable water supply will
238 be available to serve the Subdivision that is sufficient in terms of quality,
239 quantity and dependability. Such evidence may include, but shall not be
240 limited to:
 - 241 a. evidence of ownership of water rights;
 - 242 b. historic use and estimated yield of claimed water rights;
 - 243 c. evidence that public or private water owners can or will supply water
244 to the Subdivision in the event that the decreed water is out of
245 priority; and/or
 - 246 e. evidence of the potability of the proposed water supply for the
247 Subdivision.

248 **B. Sewage Treatment**

- 249 1. **The Subdivider must submit an engineer designed collection system and**
250 **wastewater treatment system. The sewage disposal plan shall contain an**
251 **estimated total number of gallons of sewage per day to be treated and detail**
252 **whether the treatment will be preformed by a central wastewater treatment**
253 **facility or some other system which is acceptable to the regulatory**
254 **authorities.**

255 2. The Subdivider must also provide evidence that these facilities shall meet or
 256 exceed the standards set by the Colorado Department of Public Health and
 257 Environment and that such systems will comply with federal, state and local
 258 laws and regulations in effect at the time of submission of the Final Plan.

259 **C. Storm Drainage**

260 1. The Subdivider shall provide a storm drainage system of sufficient capacity,
 261 designed by a Colorado registered engineer, meeting all the requirements of
 262 this Subparagraph C and all applicable federal and state regulations.
 263 2. All existing drainage features which are to be incorporated in the design shall
 264 be identified. The drainage and flood plain systems shall be designed to
 265 allow the unimpeded flow of natural water courses and insure adequate
 266 drainage of low points.
 267 3. The storm drainage plan must include maps and plans for facilities to prevent
 268 storm waters in excess of historic run-off caused by the proposed
 269 Subdivision, from entering, damaging or being carried by conduits, water
 270 supply ditches and appurtenant structures, and other storm drainage facilities.

271 **D. Open Space**

272 1. Open Spaces within the Subdivision, including those spaces being used as
 273 public or private recreation sites, shall be protected by adequate covenants
 274 running with the land, conservation easements, or deed/plat restrictions.
 275 2. Open Space must be functional in terms of optimal preservation of natural
 276 features.
 277 3. The Subdivider shall provide a “Long Term Open Space Management Plan”,
 278 which will undergo appropriate legal review.

279 **E. Roads**

280 1. The Subdivider must submit a road plan that defines the dedicated right-of-
 281 way, ownership status and the maintenance for all roads created by the Final
 282 Plat. Ownership and maintenance statements shall be included on the Final
 283 Plat.
 284 2. Roads, bridges, culverts, traffic plans and access must meet the County Road
 285 Specifications and receive the approval of the Board of County
 286 Commissioners, Custer County Road and Bridge Department and Emergency
 287 Services.
 288 3. Access to Subdivision lots and sites will utilize Subdivision roads.
 289 4. Where roads are to be constructed through timber, the timber must be cleared
 290 from the rights-of-way by the Subdivider.
 291 5. **The Subdivider and/or Home or Property Owners Association shall provide**
 292 **and maintain street signs and traffic control devices installed in the**
 293 **Subdivision, and obtain addresses from the Assessor’s office. Street sign**
 294 **design and street names must meet the approval of Board of County**

295 **Commissioners, Emergency Services and Road and Bridge Department.**
296 **Street names shall not be duplicated within the County.**

297 6. All lots and parcels created by the Subdivision must have access to a state
298 highway system in conformance with the state highway access code as
299 required by C.R.S. § 43-2-147.

300 **F. Easements and Rights-of Way**

- 301 1. The Subdivider must dedicate public rights-of-way on the Final Plat.
- 302 2. Utility Easements shall meet the requirements of the appropriate utility.
- 303 3. When a water course, irrigation ditch, channel, or stream traverses a
- 304 Subdivision, a storm water easement or drainage right-of-way shall be
- 305 provided.

306 **G. Fire Protection**

- 307 1. The Subdivider must meet with the Fire Chief and Fire Inspector that serve
- 308 the area and develop a Fire Protection Plan which meets all the requirements
- 309 of this Subparagraph G.
- 310 2. Fire hydrants or adequate water storage supply shall be required. Hydrants
- 311 and/or water storage tanks shall be installed and located according to State
- 312 requirements and the recommendations of the local fire district.
- 313 3. The Plan should address fire hazard and wildfire hazard mitigation, including
- 314 ingress/egress.
- 315 4. A map showing the location of fire/wildfire hazards and the reason for the
- 316 hazard, such as: slope, aspect, topography, and fuel. A written report must
- 317 accompany this map. It should include information regarding specific fire
- 318 prevention and suppression plans. This information must be prepared by a
- 319 professional forester or experienced fire inspector.

320 **H. Utilities**

- 321 1. The Subdivider must submit a Utility Plan to all impacted local utilities, as
- 322 applicable, including, but not limited to: the electric company, propane
- 323 company, postal service, telephone company, water and sanitation district.
- 324 2. The Utility Plan should provide that utility lines are placed underground,
- 325 whenever feasible.
- 326 3. **The Utility Plan shall include evidence that provisions have been made for**
- 327 **facility sites, easements and rights-of-way access for all utility services**
- 328 **sufficient to ensure reliable and adequate service for the Subdivision.**
- 329 **Submission of a Letter-of-Agreement between the Subdivider and each**
- 330 **utility serving the site shall be deemed sufficient to establish adequate**
- 331 **provisions of service to the subdivision.**

332

I. Dedications

- 333 1. The purpose of land dedication, and/or payment in lieu thereof, is to provide
334 public facilities and/or services made necessary as a consequence of the
335 Subdivision. The factors considered come from both the demands of the
336 Subdivision and the burdens it places upon the County in general. The
337 dedication and/or payment shall be roughly proportional to the cost the
338 Subdivision would impose on the facilities and/or services in or outside the
339 Subdivision, and/or the increased need for them, deemed necessary by the
340 approval of the Subdivision.
- 341 2. The Board of County Commissioners, after review by the Planning
342 Commission, may require the dedication of sites and land within the
343 Subdivision, which are deemed necessary to serve the residents of the
344 Subdivision. The Board may allow payment of a sum of money in lieu of
345 dedication of sites and land, not exceeding the full market value of such sites,
346 or may allow a combination of such payment and land dedication. The
347 potential recipients of such sites or payments, shall provide input to the
348 Board of County Commissioners as part of the decision making process.
- 349 3. The County will require the dedications to be of suitable size, type and
350 location for public use as parks, open space, and necessary public facilities.
351 In those cases where the proposed dedications of land are in such locations,
352 configurations or sizes that the property required to be dedicated is
353 unacceptable to the County, the Subdivider, at the option of the Board, may
354 be required to pay the County cash-in-lieu of some or all of the required land
355 dedication. Such payment shall be based on the anticipated market value,
356 based on completion of proposed platting of the entire property as it may
357 exist when all required infrastructure is completed and functioning. In
358 determining the fair market value of land for purposes of calculating a fee-in-
359 lieu payment, the County may require that the Subdivider obtain an appraisal.
- 360 4. The Subdivider shall provide a study, from a County approved consultant,
361 to demonstrate the actual impacts of the Subdivision upon public services
362 and facilities. To the greatest extent possible, the study shall include an
363 evaluation of the County's present supply or capacity and present demand for
364 all public services required by the Subdivision. The study shall identify the
365 necessary public land and improvements required to be dedicated or
366 constructed by the Subdivider in order to serve the demand generated by the
367 proposal. The identified impacts will dictate the appropriate dedications. Any
368 cost to the County for review or consultation will be paid by the Subdivider.
- 369 5. Prior to final approval for all Subdivisions, the Subdivider shall satisfy the
370 requirements of this Section by one (1) or a combination of the following:
- 371 a. Reservation and Dedication. An area of the gross land area on each
372 final plat shall be reserved for dedication to and accepted by the
373 Board of County Commissioners for one or more essential public
374 purposes.
- 375 b. Fulfillment of such other arrangements or conditions as may be
376 desirable or necessary to alleviate the effects of, or increase the
377 benefits caused by, the Subdivision.

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6. In the event that the Subdivider disagrees with the County's determination of required dedication, the Subdivider may prepare a study evaluating the demand for public land and improvements made necessary or generated by the proposed Subdivision. Such study shall be undertaken at the Subdivider's sole cost by a licensed professional engineer or other professional approved in advance by the County. The study shall be considered by the County in determining the dedication of land.
 7. All land to be dedicated shall be designated on the final approved plat as outlots, and these outlots shall not be building lots. Such outlots shall be deeded to the County or other public entities as agreed, at the time of recording of the final plat, or by dedication on the final plat. A policy of title insurance and a certificate of representations and warranties concerning title and usability of the entire property shall be required for all lands prior to recording of the Final Plat.
 8. Should any entity to whom a dedication is made, pursuant to this requirement, request that the land or site be sold, the Subdivider shall have the right of first refusal to purchase the dedicated land as provided in C.R.S. § 30-28-133(4)(a)(II).
 9. Approval of a Subdivision shall not constitute an acceptance by the County for maintenance of the roads, streets, alleys, or other public lands as indicated for dedication on the plat. The final plat should contain a plat note irrevocably stating that the subdivider intends to convey and dedicate those areas designated for public use and dedication. The dedication of any of these lands for public use of any nature within the County shall be accepted by the County only by specific action of the Board. The final plat should contain a separate statement evidencing the Board's acceptance of dedicated property. The Board of County Commissioners shall withhold all public street improvements and public maintenance from all rights-of-way which have not been officially accepted for such purposes.
 10. If any governmental or quasi-governmental agency (e.g. school or fire district) requires the Subdivider to dedicate facilities for a non-residential purpose, such requirement shall not alter the residential nature of the Subdivision.

411 **J. Wildlife Impacts**

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1. The subdivider shall submit the Subdivision proposal to the Planning and Zoning Office, who will forward it to the Colorado Division of Wildlife (DOW) for their review and recommendations. Any Subdivision approval must adequately mitigate, to the extent feasible, significant wildlife impacts created by the proposed Subdivision.
 2. The Subdivider shall comply with the requirements of Appendix F in the Custer County Zoning Resolution for the Wildlife Review Standards which are incorporated and made applicable herein by reference and shall include the information outlined therein as part of any application for Subdivision Approval.

422 **K. Home Owner's Associations and Private Covenants**

- 423 1. The Subdivider shall institute a home owner's association (HOA) or property
 424 owner's association (POA), which among other duties, may be responsible
 425 for maintaining and managing: water augmentation plans, open space,
 426 common elements (ie. mailboxes, bus stops, dumpsters), roads, signs and
 427 traffic control devices. The HOA/POA shall be responsible for enacting and
 428 enforcing private covenants.
- 429 2. The Subdivider shall submit to the Planning Commission and the Board of
 430 County Commissioners the proposed private covenants, easements and/or
 431 deed restrictions for appropriate review. These shall include the ownership
 432 and maintenance of all open space, common elements and roads. There may
 433 be additional cost to the Subdivider for appropriate review by the county's
 434 attorney.
- 435 3. Private Covenants cannot be less restrictive than current County Regulations.
- 436 4. The County will require notification of major changes to the covenants which
 437 affects land use.

438 **L. Landscaping**

- 439 1. The Subdivider shall provide appropriate landscaping guidelines, which will
 440 be dependent on availability of water and should reflect water conservation
 441 practices. These guidelines will be incorporated in the private subdivision
 442 covenants enacted pursuant to these Regulations.
- 443 2. The private covenants will contain, at a minimum, the following restrictions:
 444 (a) trees and shrubs shall be planted within property lines; and (b) trees and
 445 shrubs are prohibited within street right-of-way sight lines except upon
 446 recorded approval by the Board of County Commissioners.
- 447 3. Noxious weed abatement requirements in the State Statutes and County weed
 448 policy, as administrated by the County Extension Agent and County Weed
 449 Control Board, shall be observed.

450 **M. Signage**

451 All Subdivision entries must have identifying placards, which shall display the
 452 Subdivision name and a map showing lot configuration, lot numbers and addresses.
 453 The HOA shall be responsible for maintaining this sign. The sign shall meet the
 454 Custer County Zoning Resolution general sign requirements.

455 **N. Refuse/Trash Disposal**

456 The Subdivider shall submit a Refuse/Trash Disposal Plan for approval. This Plan
 457 must include, but may not be limited to, waste disposal container locations and proof
 458 of service from a provider.

- 459 **O. Guaranty of Improvements**
- 460 1. The Subdivider must submit **in the Preliminary and Final Phases:** a summary
- 461 of estimated construction costs; proposed method of financing the streets,
- 462 related facilities, water distribution system, sewage collection system, storm
- 463 drainage facilities; and such other utilities as may be required by the County.
- 464 2. **No Final Plat shall be recorded until it has been reviewed by the County**
- 465 **Attorney and approved by the Board of County Commissioners, who have**
- 466 **agreed upon one or a combination of the following:**
- 467 a. **A Subdivision Improvements Agreement under which the Subdivider**
- 468 **agrees to construct any required improvements shown on the Final**
- 469 **Plat documents, together with collateral which is sufficient in the**
- 470 **Board’s judgment to make reasonable provision for the completion**
- 471 **of said improvements in accordance with design and time**
- 472 **specifications; or**
- 473 b. **Any other negotiated agreement or contracts, setting forth the plan,**
- 474 **method and parties responsible for the construction of any required**
- 475 **public improvements shown on the Final Plat which are sufficient, in**
- 476 **the Board’s judgment, to make reasonable provision for the**
- 477 **completion of said improvements in accordance with design and time**
- 478 **specifications.**
- 479 3. Any improvements constructed pursuant to these Regulations shall be
- 480 accomplished in a professional manner, in accordance with the specifications
- 481 and construction schedules established by the Subdivider and approved by
- 482 the County.
- 483 4. As improvements are completed, the Subdivider may apply to the Board of
- 484 County Commissioners for a release of part or all of the collateral deposited.
- 485 If the Board determines that any of the improvements are not constructed in
- 486 substantial compliance with the specifications, it shall furnish the Subdivider
- 487 a list of specific deficiencies and shall be entitled to withhold collateral
- 488 sufficient to ensure such substantial compliance. If the Board of County
- 489 Commissioners determines that the Subdivider will not construct any or all
- 490 of the improvements in accordance with all of the specifications, the Board
- 491 may withdraw and employ from the deposit of collateral such funds as may
- 492 be necessary to construct the improvements as required by the Final Plat
- 493 documents.
- 494 a. If the required improvements are not completed within three (3) years
- 495 of the approval date for the Final Plat, or by the time required in any
- 496 Subdivision Improvements Agreement or other Final Plat approval
- 497 document, the Final Plat authorization shall be deemed null and void.
- 498 The Board of County Commissioners may extend the time frame for
- 499 completion of improvements upon written request from the
- 500 Subdivider.
- 501 b. Unless the Final Plat approval contains a phasing plan, lots in the
- 502 Subdivision may not be sold prior to the completion of
- 503 improvements.

504 **P. Hazardous Site Conditions**

505 The Subdivider shall provide evidence that all soil or topographical and geological
506 conditions presenting hazards or conditions requiring special precautions in the
507 Subdivision have been identified and that the use of such areas are compatible with
508 such hazards or conditions.

509 **Q. Mineral Estates**

510 It is the purpose of the county to insure that owners of mineral estates be informed
511 of any impending land use change. Prior to any public hearing on any application for
512 Preliminary Plan or Final Plat approval, Subdivider must certify compliance with the
513 notice requirements to mineral rights owners as detailed in C.R.S. § 24-65.5-101, *et.*
514 *seq.*

515 **R. Additional Requirements**

516 All applicable federal, state, and local regulations must be adhered to.

517 In addition to the other criteria contained in these Regulations, failure of the Subdivision to satisfy
518 these criteria shall be an appropriate basis for denial of any application for Subdivision approval.

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519 **SECTION 4**520 **SUBDIVISION APPROVAL PROCESS**521 **4.1 Sketch Plan**

522 The Sketch Plan is the first phase in the three phase Subdivision Approval Process. It is an advisory
 523 proceeding in which the Planning Commission and the Board of County Commissioners provide
 524 input and comment on the proposal. The Subdivider must receive approval of the Sketch Plan in
 525 order to proceed to the second phase, the Preliminary Plan. The approval of which leads to the
 526 submission of the third phase, the Final Plan. The Sketch Plan process allows the Planning
 527 Commission and the Board of County Commissioners to review the feasibility of the proposed
 528 Subdivision on a conceptual design level with the understanding that additional detailed design
 529 materials will be provided during the later approval processes.

530 The Sketch Plan phase will consist of a pre-application conference; appearance at a regularly
 531 scheduled public hearing; presentation of the plan with appropriate documentation to enable the
 532 Planning Commission and Board of County Commissioners to review the plan for general scope and
 533 compliance with these Regulations. Planning Commission or Board approval during the Sketch Plan
 534 process does not guarantee approval at subsequent stages of the subdivision review process. Upon
 535 completion of the Sketch Plan process, the applicant will have one-hundred and eighty days (180)
 536 days to submit all data for the Preliminary Plan phase, unless an extension is granted at a regularly
 537 scheduled Joint Meeting.

538 **4.2 Sketch Plan Requirements**

539 The Sketch Plan shall include, at a minimum:

- 540 A. The name of the Subdivision. No Subdivision in the County shall bear the same
541 name as another Subdivision unless adjoining and using consecutive filing numbers;
- 542 B. The name, address, and contact information of the landowner(s) and the
543 Subdivider(s), as well as any planners, consultants or other experts used;
- 544 C. Proposed water system and evidence that a water supply will be available that is
545 sufficient in terms of quality, quantity and dependability for the Subdivision;
- 546 D. Suitability of the land for the proposed Subdivision in terms of slope, flood plain,
547 soil erosion, drainage and vegetation;
- 548 E. Evidence of compatibility of the Subdivision with surrounding land uses;
- 549 F. The location of the Subdivision and its property boundaries and significant natural
550 and man-made features on the site and within one-half mile of any portion of the site,
551 which can be obtained from existing identified sources;

- 552 G. Existing topographic contours at ten (10) foot intervals drawn from available data,
553 such as United States Geological Survey (USGS) maps;
- 554 H. Evidence of title of ownership of the Subdivided Land;
- 555 I. Reports on the potential impacts on streams, lakes, topography, vegetation, and
556 wildlife habitat, **which can be obtained from existing identified sources**;
- 557 J. Wildlife impact designation;
- 558 K. Geologic characteristics and hazards of the area significantly affecting the land use,
559 such as, but not limited to, radiation hazards and steep slopes;
- 560 L. Potential impact on public facilities and services, including schools;
- 561 M. Proposed sewage system;
- 562 N. Proposed land use arrangement: road alignment, lot configuration, easements, etc.
563 showing area and dimensions to the nearest five (5) feet;
- 564 O. The acreage of the entire tract and the area, to the nearest half (1/2) acre and percent
565 of total area to be allocated to streets and to each other type of use;
- 566 P. Soil types and their boundaries, as shown on soil survey maps, such as the original
567 Custer County Area Soil Survey prepared by the U.S. Department of Agriculture,
568 Natural Resource Conservation Service, and also a table of interpretations for the soil
569 types shown on the soil map prepared by the Soil Conservation Service;
- 570 Q. The applicable Zone District(s);
- 571 R. Wildfire hazard/mitigation report;
- 572 S. Names and addresses of property owners within two hundred (200) feet of the
573 boundary line of the subdivision.

574 The dimensions of each Sketch Plan submitted for public presentation shall be no smaller than
575 twenty-four (24) inches by thirty-six (36) inches **and a copy shall be submitted in a reproducible size**
576 **and/or electronic format.** In the case of multiple sheets, a key map showing the relationship of the
577 individual sheets shall be provided.

578 **4.3 Preliminary Plan**

579 The Preliminary Plan is the second phase in the Subdivision Approval Process. The Subdivider must
580 have received approval of a Sketch Plan in order to proceed with the Preliminary Plan application.
581 The Preliminary Plan process will review the feasibility of the proposed design of the Subdivision
582 pursuant to these Regulations and will contain more engineering detail than the Sketch Plan. The

583 Subdivider must receive Preliminary Plan approval before proceeding to the Final Plan process.

584 The Preliminary Plan phase involves a detailed review of the entire concept of the Subdivision. It
 585 requires the preliminary engineering reports including: hydrology report, hazard maps, development
 586 guide, and evidence that a water supply will be available that is sufficient in terms of quality,
 587 quantity and dependability for the Subdivision. The purpose of this phase is to negotiate all the
 588 potential problems of the Subdivision. The Planning Commission and Board of County
 589 Commissioners may have several workshops, meetings, or hearings with the Subdivider before a
 590 decision on the Preliminary Plan is made. Approval of the Preliminary Plan does not guarantee
 591 approval of the Final Plan. Upon approval of the Preliminary Plan, the Subdivider will have one
 592 hundred and eighty (180) days to submit all data for the Final Plan phase, unless an extension is
 593 granted at a regularly scheduled Joint Meeting.

594 4.4 Preliminary Plan Requirements

595 The Preliminary Plan shall contain the following:

- 596 A. Boundary survey that meets State statutory requirements for a surveyor's plat. **The**
 597 **property survey must comply with the Plat Standards. (See Appendix A);**
- 598 B. Evidence of the following:
- 599 1. Legal proof of ownership, based on the boundary survey, for all severable
 600 rights such as: land, mineral, water, with a full disclosure of all mortgages,
 601 liens and encumbrance against said property;
 - 602 2. Final water decree;
 - 603 3. Name of the Subdivision;
 - 604 4. Total acres to be subdivided;
 - 605 5. The name, address, and contact information of the landowner(s) and the
 606 Subdivider(s), as well as any planners, consultants or other experts used;
 - 607 6. Location of the Subdivision;
 - 608 7. Approximate location and principal dimensions for all existing and proposed
 609 streets, alleys, easements, rights-of-way, lot lines, areas to be reserved for
 610 public use, recreation areas, open space and other important features within
 611 and adjacent to the tract to be developed;
 - 612 8. Lot and street layout including:
 - 613 a) Dimensions of all lots to the nearest foot;
 - 614 b) Lots and blocks numbered consecutively;
 - 615 c) Location and identification of all existing and proposed public and
 616 private easements;
 - 617 d) Existing and proposed street names;
 - 618 e) Sites to be reserved or dedicated for parks, playgrounds, schools, or
 619 other public uses;
 - 620 f) Sites, if any, for community facilities;
 - 621 g) Location of open space; and
 - 622 h) Calculations of the area devoted to each type of use to an accuracy
 623 based on 8.a) above.

- 624 9. Topography at vertical intervals of two (2) feet where the average slope of
625 the Subdivision is less than ten (10) percent and at vertical intervals of five
626 (5) feet where the average slope of the Subdivision is ten (10) percent or
627 greater.
- 628 10. Location of streams, washes, canals, irrigation laterals, private ditches,
629 culverts, lakes or other water features, including direction of flow, water
630 level elevations and typical depths and location and extent of areas subject
631 to inundation, whether such inundation is frequent, periodic or occasional.
- 632 C. Relevant environmental characteristics and analysis applicable to the Subdivision
633 including the following:
- 634 1. Preliminary Flood Hazard Storm Drainage Plan: A map showing the
635 boundaries of a hundred (100)-year flood, delineating the possible depth of
636 flood waters in the proposed Subdivision, and provisions for addressing the
637 hazards of construction in the flood plain. **Recognized published sources may
638 be used. If this information is not available publically, the information must
639 be certified by a Colorado Professional Engineer. (See Section 3.2.C);**
- 640 2. **Geologic Survey:**
- 641 a. **A report prepared by a professional geologist, including map(s)
642 relative to the lot layout, concerning geological characteristics,
643 radiological hazards and a hydrology study. Any hazardous
644 conditions should be expounded upon, and any mitigation measures
645 explained;**
- 646 b. **The Subdivider must submit a check or money order, payable to the
647 Colorado Geological Survey, in the amount necessary to cover fees
648 charged for the Preliminary Plan review.**
- 649 3. Soil Suitability: Maps and tables concerning suitability of types of soil in the
650 proposed Subdivision in accordance with the National Soil Survey;
- 651 4. **Identify Important Resource Areas including: potential mineral resources,
652 historical, archeological, Significant Wildlife Habitat (See DOW overlay
653 map), and agricultural land;**
- 654 5. **Preliminary Fire/Wildfire Hazard Plan. (See Section 3.2.G);**
- 655 6. **Wildlife Review. (See Section 3.2.J);**
- 656 7. **Preliminary Long Term Open Space Management Plan. (See Section 3.2.D);**
- 657 8. **Preliminary Road Plan. (See Section 3.2.E);**
- 658 9. **Public Services and Facilities Impact Study (i.e. School, Clinic, Sheriff's
659 Office). (See Section 3.2.I.4);**
- 660 10. **Management of Common Subdivision Elements Plan, which could include
661 trash disposal, trailhead, bus stop, signage, open space and weed control.**
- 662 11. Map of utilities, both existing and proposed, including preliminaries of: the
663 Sewage Treatment Facility Plan, the Water System Plan, Easements and
664 Rights-of-Way Plan, and the Utilities Plan. (See Section 3.2);
- 665 12. A Subdivision development guide that addresses the following:
- 666 a) **Evidence that a water supply, adjudicated/procured by final water
667 decree, will be available, sufficient in terms of quality, quantity and
668 dependability, for the subdivision. This is part of the Water System
669 Plan required in Section 3.2.A;**

- 670 b) Preliminary copy of any proposed covenants and restrictions to the
671 properties, including the Landscaping Design guidelines as detailed
672 in Section 3.2.L;
- 673 c) Names, addresses, **and contact information** of Subdivider, designer
674 of the Subdivision, surveyor (who shall be licensed by the Colorado
675 State Board of Examiners for land surveyors), and consultants used
676 along with their qualifications;
- 677 d) Evidence that the development plan will present no obstacle to
678 extraction of mineral resources on or under the subject property if the
679 mineral interests are severed;
- 680 e) The estimated quantity of domestic solid waste to be generated, the
681 types of waste involved and proposed disposal as detailed in Section
682 3.2.B;
- 683 f) Build out and growth projections for 2, 5, 10 and 20 years;
- 684 g) Vicinity map drawn to scale showing the relationship of the proposed
685 Subdivision to the nearest towns, and direct routes via county roads
686 to the Subdivision from such towns;
- 687 **h) Subdivision Improvement Agreement. (See Section 3.2.O);**
- 688 i) Proposed method of meeting financial responsibility in relation to
689 proposed development costs, **including the guaranty of**
690 **improvements;**
- 691 j) Weed Management Plan. Plan must be in accordance with the Custer
692 County Weed Management Plan and approved by the Weed Advisory
693 Board.
- 694 D. Any additional evidence required to be in compliance with the Subdivision
695 Development Standards contained in Section 3 above.
- 696 E. Any additional documentation required by the Planning Commission, Board of
697 County Commissioners or the Planning and Zoning Office.

698 **4.5 Final Plan**

699 The submission of the Final Plan is the last step in the Subdivision Approval Process. The
700 Subdivider must have received Preliminary Plan approval in order to proceed with the Final Plan
701 process. The Final Plan process will review all of the required Subdivision Approval documents for
702 compliance with these Regulations.

703 The Final Plan phase consists of final engineering and completed professional design of the
704 Subdivision. The Final Plan requires road plans, final plat of the Subdivision, cost estimates, final
705 copy of the covenants and/or deed restrictions and other specified documents. The Planning
706 Commission and Board of County Commissioners may have several meetings with the Subdivider
707 before a decision on the Final Plan is made. The County Commissioners may impose additional
708 conditions or approve incentives as agreed upon by all parties involved before the Final Plat is
709 approved. The Planning Commission and Board of County Commissioners will hold a hearing
710 within ninety (90) days of the complete application for Final Plan approval, unless a longer time
711 frame is agreed to by the Subdivider in writing.

712 **4.6 Final Plan Requirements**

713 The Final Plan consists of the following:

- 714 A. Preliminary Plan approval from the Board of County Commissioners;
- 715 B. Final copy of the Water Supply Plan approved by the Division of Water Resources
716 and State Engineer.
- 717 **C. Final documentation complying with specific design criteria detailed in Section 3.2,
718 A-R, including a copy of any covenants and restrictions and the guaranty of
719 improvements for the Subdivision;**
- 720 D. Plan and profiles for the following:
721 1. All street and roads;
722 2. Sanitary and storm sewer systems;
723 3. Water distribution system.
- 724 E. Construction timeline detailing all construction phases and proposed completion
725 dates;
- 726 **F. As-Built Drawings for all constructed improvements must be provided after
727 construction is completed;**
- 728 G. Final Plat Requirements:
729 1. Must adhere to Plat Standards, **as detailed in Appendix A of this document.**
730 2. Monumentation:
731 a) Must be placed as follows:
732 1) At all boundary corners;
733 2) At a minimum of every 1400' along all boundary lines;
734 3) At all changes in direction and the beginning and end of all
735 curved boundaries and radial changes of all lot and roads
736 within the subdivision;
737 4) At all controlling corners referenced in the legal description
738 or as required by aliquot description.
739 b) Must meet the physical standards as required by BLM regulations
740 and State Statute C.R.S. 38-51 et al.
741 c) Lot corners, with exception of intermediate points of deflection, will
742 be stamped with line markings and lot numbers.
- 743 3. Drawing Specifications:
744 a) All drawings must be drawn at a legible, graphically-defined scale to
745 be determined by the Planning and Zoning Office;
746 b) Drawn in permanent black ink or reproduced in a fixed black ink on
747 dimensionally stable Mylar or polyester film of a minimum 4 mil
748 thickness;

- 749 c) All signatures and seals must be original and permanent on the Final
- 750 Plat to be recorded;
- 751 d) Must have borders to margins as follows:
- 752 1) 36" side, a minimum width of ½";
- 753 2) 24" side, a minimum width of 1" on left-hand side and a
- 754 minimum width of ½" on the right-hand side.
- 755 4. Plat Contents:
- 756 a) Must meet statute requirements of C.R.S. 38-51-106;
- 757 b) Show Section Lines and all boundaries of the Subdivision lots and
- 758 other land entities with accompanying annotation and corner
- 759 references to legend by symbol or text description;
- 760 c) Delineate the acreage for the following: total, lots, roads, other land
- 761 entities;
- 762 d) Identify all controlling monumentation, including aliquot lines, with
- 763 annotated ties and references to legend by symbol or text description;
- 764 e) All elements shown will be dimensioned and distance-related to the
- 765 boundaries. Any elements shown graphically and by scale only will
- 766 be so labeled;
- 767 f) Text, at a minimum, will be comprised of the following:
- 768 1) Legal description of the subdivision boundary;
- 769 2) Signature of owner(s) acknowledging execution of the Final
- 770 Plat.
- 771 3) Notary statement to owner(s) signature;
- 772 4) Dedication indicating intentions and specifics of the owner(s)
- 773 request for acceptance and dedication of public elements of
- 774 the plat;
- 775 5) Surveyor's statement and signature/seal per statute;
- 776 6) Statement and signature of acceptance/approval by the
- 777 appropriate government agencies, such as:
- 778 Board of Zoning Adjustment
- 779 Planning Commission
- 780 County Commissioners
- 781 Special District Board(s)
- 782 Standard wording used in the signature blocks must be
- 783 approved by the County Attorney;
- 784 7) Filing statement and signature by the County Clerk &
- 785 Recorder's office;
- 786 8) Legend and notes by the surveyor describing lines, symbols,
- 787 monumentation and defining other depicted plat elements
- 788 including: title, graphic bar type scale and north arrow;
- 789 9) Tract boundary lines, all rights-of-way including easements,
- 790 and property lines of all lots must have accurate dimensions,
- 791 bearings or angles, and radii, arcs or chords, and central
- 792 angles of all curves;
- 793 10) Name of each street, and width of all rights-of-way;
- 794 11) Any easement, including those indicating perpetual open

- 795 space, required by the Planning Commission or Board of
- 796 County Commissioners or granted to public utility companies
- 797 shall be included, and the location, dimension, and purpose of
- 798 such easement shall be given;
- 799 12) Any recorded deed restrictions referred to on the Final Plat.
- 800 13) Addresses for all lots must be shown and approved by the
- 801 appropriate county entity.
- 802 g) Coordinates:
- 803 1) The Plat must show coordinates for 3 monumented locations
- 804 at boundary extremities; and,
- 805 2) They must be defined in 3-dimensions based on an accepted
- 806 Datum. Basis, datum, and method and date of observations
- 807 shall be included as a notation in the legend, or alongside the
- 808 actual position.
- 809 h) Annotation:
- 810 1) All bearings or angles in degrees, minutes, and seconds;
- 811 2) Distances in feet to two decimal places;
- 812 3) Acreage to two decimal places;
- 813 4) Elevation in feet to two decimal places;
- 814 5) Coordinates dictated by other accuracy levels on the Plat and
- 815 Datum used.
- 816 i) Electronic Submittal of the Final Plat
- 817 A copy of the Final Plat, as approved and prior to recording, must be
- 818 submitted to the Planning and Zoning Office in an agreed upon
- 819 format, software and media.

820 I. Any documentation required by the Planning Commission, Board of County
821 Commissioners or the Planning and Zoning Office;

822 J. All recorded documents must be cross referenced;

823 K. Permits for construction on individual lots will not be issued until the Final Plat has
824 been approved and recorded.

825 **4.7 Final Plat Recording**

826 A. All subdivision plats must be recorded in the Office of the County Clerk and
827 Recorder. After approval has been given by all parties, appropriate signatures made
828 on the plat, and recording fees collected from the applicant, the plat will remain in
829 the possession of the Planning and Zoning Office. Once the surveyor has completed
830 all monumentation requirements and at a time arranged in advance, the surveyor will
831 accompany a Planning and Zoning Office representative to the Office of the Clerk
832 and Recorder and recording can then take place.

833 B. Recording will take place within 90 days of Final Plat approval unless a written
834 request of time extension is approved by the County Commissioners.

835 C. All recording fees are the responsibility of the applicant and all recorded documents
836 will take place in the cross referenced order.

837 4.8 Procedure for Processing Subdivision Applications

838 The general requirements to be followed for each phase of the Subdivision Approval Process are
839 listed below. The consequences of non-compliance with these procedures shall be postponement on
840 the agenda until the next regularly scheduled meeting.

- 841 A. The Subdivider shall:
- 842 1. Schedule and attend a non-binding pre-application conference with the
843 Planning and Zoning Office, to which the Chairman of the Planning
844 Commission, or his representative, will be invited. Other individuals may
845 attend and a site evaluation may be included;
 - 846 2. Submit a complete written application, and all additional required
847 documentation, for each Subdivision phase, to the Planning and Zoning
848 Office as required under these Regulations. The Subdivider shall provide
849 applicable fees, and such evidence as may be necessary to demonstrate
850 compliance with the conditions and requirements set forth for the particular
851 use according to these Regulations, along with sufficient color copies of
852 information to be sent to interested parties;
 - 853 3. Appear in person, or by authorized representative, at a regularly scheduled
854 public meeting of the Planning Commission to present each phase of the plan
855 and appear at any associated workshops deemed necessary;
 - 856 4. Appear in person, or by authorized representative, before the Custer County
857 Regional Planning Commission to present the sketch plan phase and other
858 phases as required by the Planning Commission. If the Regional Planning
859 Commission does not have a quorum, the applicant shall attend the next
860 scheduled regional meeting. If Regional can not seat a quorum at two
861 successive meetings, the obligation to present at Regional is voided;
 - 862 5. Appear in person, or by authorized representative, at the designated site tour,
863 if deemed necessary by the Planning Commission or the Board of County
864 Commissioners;
 - 865 6. Appear in person, or by authorized representative, at a Public Hearing of the
866 Planning Commission and Board of County Commissioners to present each
867 phase of the plan.

- 868 B. The Planning and Zoning Office shall:
- 869 1. Meet with the Subdivider for the pre-application conference, which may
870 include a site tour. Notify the Planning Commission;
 - 871 2. Review the application and associated documentation to determine if the
872 application is sufficiently complete;
 - 873 3. Process the submitted fees;
 - 874 4. Schedule the application as an agenda item for a regularly scheduled
875 Planning Commission meeting;
 - 876 5. Prepare and mail a public notice of each first preliminary plan and final plat

- 877 hearing to each landowner identified by the Subdivider at the Sketch Plan
878 phase;
- 879 6. Research and verify the Subdivider's request and documentation;
- 880 7. Prepare, before each phase, a report for the Planning Commission that
881 includes the background information concerning the application, a list of
882 suggested conditions and areas of concern prior to the Planning Commission
883 meeting at which the application is presented;
- 884 8. Schedule a Public Hearing and ensure a Public Notice appears in a
885 newspaper of general circulation within Custer County at least thirty (30)
886 days prior to hearing date;
- 887 9. Review the above documentation for completeness and prepare the packets
888 for dissemination to the following interested parties:
- 889 a. Planning Commission members and associates;
- 890 b. Board of County Commissioners;
- 891 c. Regional Planning Commission;
- 892 d. Adjoining property owners and applicable home owners association.
- 893 10. Schedule **workshop(s)** and site tour(s), if deemed necessary;
- 894 11. Send packets, including information from applicant, to the following
895 interested parties, as applicable, for both the Preliminary Plan and Final Plan
896 reviews, in addition to the parties listed above:
- 897 a. County Engineer
- 898 b. County Surveyor
- 899 c. County Cartographer
- 900 d. County Attorney (Bond issues and Guaranty of Improvements)
- 901 e. Colorado Department of Public Health and Environment, State
902 Engineer, Colorado Division of Water Resources
- 903 f. Colorado Land Use Commission
- 904 g. Mineral rights owners
- 905 h. Propane/gas companies
- 906 i. Electrical companies
- 907 j. Each municipality within a two mile radius of the proposed
908 Subdivision
- 909 k. Area school district
- 910 l. Area Soil Conservation District
- 911 m. Colorado Geological Survey
- 912 n. Appropriate governmental agencies including, but not limited to, the
913 following: US Forest Service, State Forest Service, Bureau of Land
914 Management, State Highway Department, State Land Board, area
915 ditch companies, County Road & Bridge, County Sheriff's Office,
916 and County Hospital District
- 917 o. Fire protection district
- 918 p. Colorado Division of Wildlife District Manager
- 919 q. State Historical Society
- 920 r. Any other agency deemed necessary by the Planning Commission.
- 921 Failure of any of these referral agencies to respond to any request for

922 recommendation within twenty-one (21) days after the mailing by the County
 923 or its authorized representative (unless a necessary extension of not more
 924 than thirty (30) days has been consented to by the Subdivider and the Board
 925 of County Commissioners) shall be deemed an approval of the proposed
 926 Subdivision plan as provided in C.R.S. § 30-28-136(2). Where such plan
 927 involves twenty or more dwelling units, it will be necessary for the impacted
 928 school district to submit recommendations with respect to adequacy of school
 929 sites and the adequacy of school structures within the twenty-one (21) days
 930 or any extension thereof.

931 12. Send a letter of notification to the applicant detailing the actions,
 932 recommendations, and conditions evolving from each phase.

933 C. The Custer County Planning Commission shall:
 934 1. Review each phase of the application and accompanying evidence at a public
 935 meeting prior to publishing notice of a Public Hearing on the application.
 936 Included in the review process shall be:
 937 a. The report prepared by the Planning and Zoning Office;
 938 b. Information ascertained from the site tour, if necessary;
 939 c. Additional expert advice, if deemed necessary;
 940 d. Any recommendations or questions by the Regional Planning
 941 Commission.
 942 2. On each phase of the Subdivision Approval Process:
 943 a. Negotiate and list alterations and conditions pertinent to the
 944 application;
 945 b. Direct the Planning and Zoning Office to schedule and publish notice
 946 of the Public Hearing on the application;
 947 c. Hold workshops, as necessary, from which all input and results will
 948 be formalized at the next Public Hearing. Obtain public input on the
 949 application and accompanying conditions;
 950 d. Make a recommendation to the Board of County Commissioners,
 951 including pertinent findings supporting the recommended action and
 952 conditions. The Planning Commission shall only recommend for
 953 approval, those plans which it finds to be developed in accordance
 954 with the intent, standards and criteria specified in these Regulations
 955 and in conformity to the Zoning Resolution.

956 D. County Attorney shall:
 957 1. Review each phase and accompanying evidence of the application, as well
 958 as the Planning Commission recommendations. Review any additional
 959 conditions or changes in any phase of the plan for compliance with these
 960 Regulations;
 961 2. Review the agreement of the Subdivider in complying with the subdivision
 962 improvements security requirements of Section 3.2.O and make any
 963 recommendations to the County Commissioners;
 964 3. Provide legal advice, as necessary or when called upon, during the Public
 965 Hearing.

- 966 E. The Board of County Commissioners shall:
- 967 1. Review each phase of the application and accompanying evidence before
- 968 taking action on the application. Such evidence will include all items
- 969 included in the review and study by the Planning Commission, as well as
- 970 their recommendations. The County Commissioners may impose additional
- 971 conditions or changes in any phase of the plan in order to comply with the
- 972 purposes of these Regulations;
- 973 2. Require that the Subdivider comply with the subdivision improvements
- 974 security requirements of Section 3.2.O before granting final approval of the
- 975 Subdivision;
- 976 3. Act on each phase of the Subdivision Application Process.

- 977 F. The Public may:
- 978 1. Provide input during the Public Hearings when called upon in a courteous
- 979 and orderly manner;
- 980 2. Speaker will address the assemblage from the podium after stating their name
- 981 for the record.

982 **4.9 Requests for Modification or Redesign**

983 The Planning Commission or the Board of County Commissioners may request redesign on all or

984 any portion of any plan for subdivision approval submitted pursuant to these Regulations. Such

985 request shall be based on specific criteria. If the Subdivider redesigns a plat or plan in accordance

986 with any such request, no further redesign shall be required, unless such redesign is agreed to by the

987 Subdivider in writing or unless such redesign is necessary to comply with these Regulations or any

988 other County resolution, ordinance or regulation.

989 **4.10 Subdivision Application Denials**

990 The denial by the Planning Commission or the Board of County Commissioners of any application

991 for subdivision approval submitted pursuant to these Regulations shall be in writing and shall

992 specify the provisions of these Regulations that the application failed to address or satisfy, unless

993 the Subdivider waives the necessity for such findings in writing. Any technical dispute between a

994 licensed or registered professional consultant of the Subdivider and that of the County may be

995 referred, at the Subdivider's request and expense, to the appropriate state agency for a

996 recommendation to facilitate resolution of the dispute.

997 **4.11 Hearing Timeframes**

998 Any required Public Hearing pursuant to these Regulations shall be conducted expeditiously and

999 concluded when all those present and wishing to testify have been offered an opportunity to do so.

1000 **No Public Hearing pursuant to these Regulations shall be continued for more than forty (40) days**

1001 **from the date of commencement, unless such hearing would happen in January, without the written**

1002 **consent of the Subdivider.** Any continuation of a Public Hearing shall be to a certain date. The

1003 failure of an adjoining property owner to receive mailed notice of a Preliminary Plan or Final Plan

1004 Hearing shall not affect the jurisdiction of the Planning Commission and/or the Board of County

1005 Commissioners in the subdivision process or their decisions. Such notices are merely advisory and
1006 are not a precondition for a subdivision approval or denial.

1007 **4.12 Timeframe for Decision on Applications for Subdivision Approval**

1008 Unless withdrawn by the Subdivider, any phase of any application for subdivision approval
1009 submitted pursuant to these Regulations that has been neither approved nor denied within a time
1010 mutually agreed to by the County and the Subdivider at the time of filing such application shall be
1011 deemed approved. The Subdivider may waive this requirement in writing. In addition, such period
1012 may be extended by the County to receive a recommendation by any referral agency referenced in
1013 these Regulations, but such extension shall not exceed thirty (30) days unless the agency has notified
1014 the County that it will need additional time to complete its recommendation.

1015 **4.13 Modification of a Final Plat Approval**

1016 Any proposed modifications, which do not increase density to a Final Plat that has received final
1017 approval from the Board of County Commissioners, must follow Final Plat approval procedures as
1018 outlined in Section 4 of these Regulations.

1019 Any modification that would increase density or change an approved use in the approved Final Plat
1020 must follow the approval requirements for Preliminary and Final Plat review as outlined Section 4
1021 of these Regulations.

1022 **4.14 Combined Submissions**

1023 The Preliminary Plan may be combined with the Sketch Plan submission, if the Planning and Zoning
1024 Director, in consultation with the Chairman of the Planning Commission or his representative,
1025 determines after a review of the Subdivision Application, that such combined submissions is
1026 appropriate due to the nature of the proposed Subdivision.

1027 **4.15 Plat Monumentation**

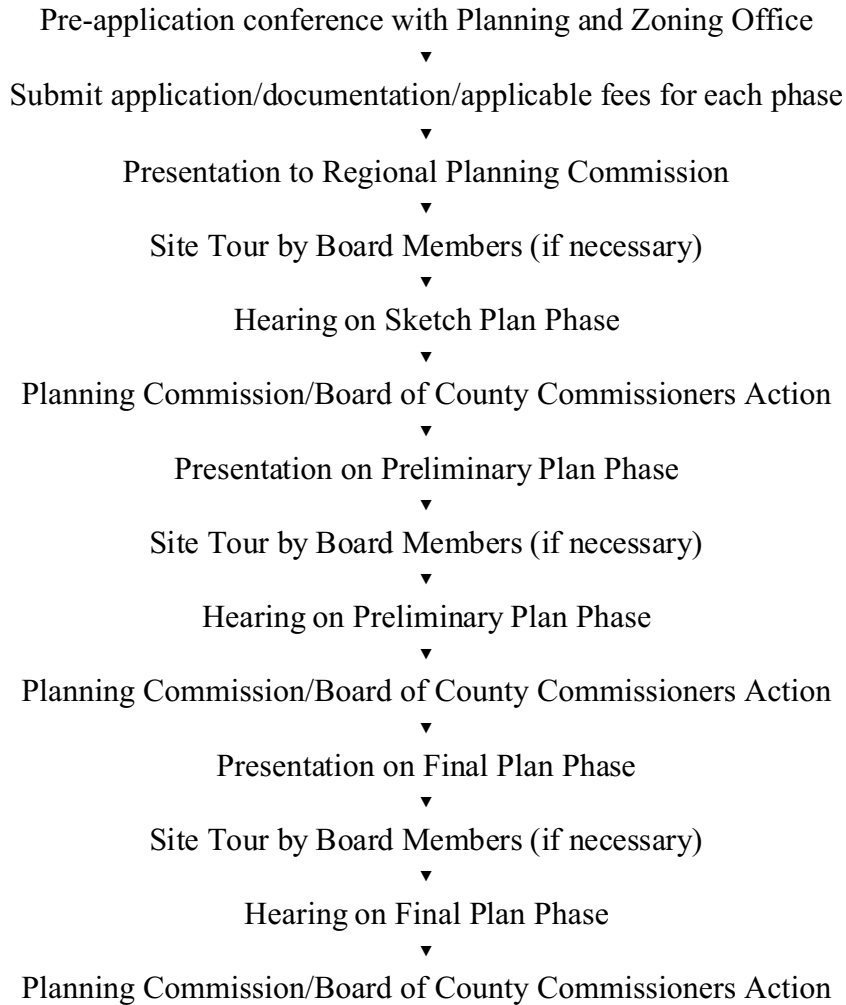
1028 A. Must meet all applicable statute requirements including:
1029 C.R.S. § 38-51-104
1030 C.R.S. § 38-51-105
1031 C.R.S. § 24-4-103

1032 B. Aliquot monuments must be upgraded, and monument records prepared and
1033 submitted at the state level, as per applicable provisions of the Colorado Revised
1034 Statutes, and as amended.

1035 C. All vertical control will be physically described, elevation noted and datum
1036 referenced.

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SUBDIVISION APPLICATION FLOW CHART



1065 The Flow Chart presupposes acceptance or approval of a given phase prior to advancing to the next
 1066 phase. In the event that acceptance or approval is not received, the process will not continue.
 1067 Acceptance or approval of the Sketch Plan or Preliminary Plan does not guarantee approval of the
 1068 Final Plan. Workshops may be required, at any phase, to allow the Planning Commission, Board of
 1069 County Commissioners and the Subdivider to reach agreement on specific actions or requirements.
 1070 Site tours may be required at the Preliminary or Final Plan phase.

1071 **SECTION 5**1072 **ADMINISTRATIVE PROCESS**1073 **5.1 Eligibility for Administrative Review**

1074 The following actions, as defined in Section 2 herein, may be processed using an Administrative
1075 Review Application:

- 1076 A. Lot Line and/or Boundary Adjustments;
- 1077 B. Minor Plat Amendments; and
- 1078 C. Vacation of Interior Lot Lines.

1079 In order to qualify for the Administrative Process, the Administrative Review Application must meet
1080 the following conditions:

- 1081 A. The proposal does not increase net density of the Subdivided Land;
- 1082 B. The proposal does not substantially impact neighboring properties or other property
1083 rights, including easements; and
- 1084 C. The proposal is not contested by any person directly impacted by the proposal.

1085 **5.2 Procedure**

1086 Upon receipt of an Administrative Review Application and the required documentation, the
1087 Planning Director or his staff, in consultation with the Chairman of the Planning Commission or his
1088 representative, shall review the Application to determine whether it qualifies for Administrative
1089 Review. Once eligibility has been determined, the request shall be processed.

1090 The Planning and Zoning Office shall consider the following criteria in reviewing the application:

- 1091 A. The degree to which the application decreases net density, and whether such
1092 alteration increases or decreases the amount of nonconformance with the Zoning
1093 Resolution and the Master Plan;
- 1094 B. The impact from the change in traffic expected as a result of the Application;
- 1095 C. The impact on adjacent property owners, neighbors and interested parties, as well as
1096 the County;
- 1097 D. The Applicant's purpose in submitting the application;
- 1098 E. The impact on easements and any other property interest; and

1099 F. Extenuating circumstances affecting the property(ies) subject to the Application.

1100 **5.3 Additional Provisions**

1101 Where lots are increased in size as a result of any action requested in an Administrative Review
1102 Application, well and dwelling permits will be restricted to one (1) per **reconfigured** lot and shall
1103 not exceed the original number of permits allowed under the original Subdivision approval.

1104 In the case of lot line or boundary line adjustments, the Administrative Review Application must
1105 contain the signatures of the affected parties.

1106 In the case of minor plat amendments, the Administrative Review Application and any plat must
1107 contain the signatures of all original plat signatories or their representatives.

1108 **5.4 Final Documentation**

1109 After final approval has been granted through the Administrative Review Process, **pertinent**
1110 documentation shall be recorded with the County Clerk and Recorder. In all instances a letter
1111 describing the action shall be recorded by the Planning and Zoning Office. The applicant shall
1112 record the approved plat with all appropriate signatures, except in the case of a Vacation of Interior
1113 Lot Lines approval, in which case a deed with the new legal description for the lot shall be recorded.

1114 **SECTION 6**1115 **VACATION OF A PLAT OF RECORD**1116 **6.1 Vacation Standards**

1117 A land owner may submit an application to vacate any previously approved subdivision plat or
1118 portion of a plat of record under the following conditions:

- 1119 A. The plat to be vacated is a legal plat of record;
- 1120 B. Affected property is all in the same ownership;
- 1121 C. Vacation of the plat will not interfere with development of, nor deny access via
1122 public thoroughfare to, adjoining properties, utility services or other improvements;
- 1123 D. Vacation of the plat will not be contrary to the Custer County Zoning Resolution or
1124 Master Plan;
- 1125 E. All parties, or their representatives, affected by the original plat, (i.e. utilities, roads),
1126 shall be signatories on any documentation vacating the original plat; and
- 1127 F. No development of subdivision's infrastructure, roads and utilities has occurred.

1128 **6.2 General Procedures**

1129 The land owner shall present his application to vacate the plat and a copy of the plat containing the
1130 legal description that created the Subdivision to the Planning and Zoning Office. The staff shall
1131 study the proposal and shall submit recommendations to the Planning Commission and Board of
1132 County Commissioners for a decision at a properly noticed Public Meeting. The Board of County
1133 Commissioners has final authority to approve or deny the proposal. If the Board of County
1134 Commissioners votes to approve the application to vacate the plat, the Board will pass a Resolution
1135 authorizing the same. If the proposal is approved by Resolution, it shall then be recorded in the
1136 Office of the County Clerk and Recorder. All fees for the recording of such vacation shall be paid
1137 by the land owner/applicant proposing the plat vacation.

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1138 **SECTION 7**1139 **FEES**1140 **7.1. Fee Requirements**

- 1141 A. Fees for the Subdivision process or modification shall be established by the Board
1142 of County Commissioners and published in the Planning and Zoning Fee Schedule.
1143 Recording fees, as determined at the time of approval, will be due and collected from
1144 the applicant.
- 1145 B. The Subdivider shall pay all legal and professional fees incurred by the County in
1146 connection with reviewing the application submitted pursuant to these Regulations.
1147 Pre-payment of sufficient funds to cover required review by experts may be required
1148 upon submission of any request for approval submitted under these Regulations.
1149 Subdivider will be required to pay additional postage if postage for all applicable
1150 hearings exceeds twenty percent (20%) of each phase's application fee.
- 1151 C. Before any Final Plat approval shall be issued for a Subdivision, the County
1152 Commissioners shall require that the Subdivider furnish collateral as **detailed in**
1153 **Section 3.2.O and Section 4.8.E.** Such collateral shall be payable to and held in
1154 escrow by: Custer County.

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APPENDIX A

1155

1156 PLAT STANDARDS

1157 Plats submitted to the Planning and Zoning Office for approval of the Planning Commission
1158 and/or Board of County Commissioners must meet both parts A.1 and A.2 as stated below:

1159 **A.1 Minimum State Requirements set by C.R.S. § 38-51-106** (quoted below)

1160 C.R.S. § 38-51-106. “ Land survey plats. (1) All land survey plats shall include but shall not
1161 be limited to the following:

- 1162 1. A scale drawing of the boundaries of the land parcel;
- 1163 2. (I) All recorded and apparent rights-of-way and easements, and, if research for
1164 recorded rights-of-way and easement is done by someone other than the professional
1165 land surveyor who prepares the plat, the source from which such recorded rights-of-
1166 way and easements were obtained; or
1167 (II) If the client wishes not to show rights-of-way and easements on the land
1168 survey plat, a statement that the client did not want such rights-of-way and easements
1169 shown;
- 1170 3. All dimensions necessary to establish the boundaries in the field;
- 1171 4. A statement by the professional land surveyor that the survey was performed by such
1172 surveyor or under such surveyor’s responsible charge;
- 1173 5. A statement by the professional land surveyor explaining how bearings, if used, were
1174 determined;
- 1175 6. A description of all monuments, both found and set, which mark the boundaries of
1176 the property and of all control monuments used in conducting the survey;
- 1177 7. A statement of the scale or representative fraction of the drawing and a bar-type or
1178 graphical scale;
- 1179 8. A north arrow;
- 1180 9. A written property description, which shall include, but shall not be limited to a
1181 reference, to the county and state together with the section, township, range and
1182 principal meridian or established subdivision, block and lot number, or any other
1183 method describing the land as established by the general land office or bureau of land
1184 management;
- 1185 10. The signature and seal of the professional surveyor;
- 1186 11. Any conflicting boundary evidence.”

1187 A.2 County Requirements

1188 In addition to the above State Statute the following requirements are set forth by the Custer
1189 County Zoning Resolution:

- 1190 1. The survey must include language that explains the intent of the survey, and
1191 dedications of any road, right-of-way or property to the county, as applicable;
- 1192 2. The plat must include appropriate signature blocks for county authorities indicating
1193 that the plat is approved and that any dedicated property is accepted;
- 1194 3. The plat must contain provisions for signatures of all property owners within the
1195 platted area. Proof of ownership shall be evidenced by a Title Commitment or Policy
1196 that is not older than sixty (60) days from the date of application or submission;
- 1197 4. The survey must be submitted thirty (30) days before the Joint Meeting of the Board
1198 of County Commissioners, Planning Commission, and Board of Zoning Adjustment,
1199 so the County Surveyor and/or County Cartographer has adequate time to review the
1200 submittal;
- 1201 5. The plat must show compliance with the provisions of the Wildlife Review Process
1202 and Department of Wildlife (DOW) Provisions as authorized by C.R.S. § 24-65.1-
1203 101, et seq., 1973, and H.B. 1041;
- 1204 6. The plat must show all easements and rights-of-way contained within the Title
1205 Commitment or Policy. It must also show any physical evidence of easements or
1206 rights-of-way burdening the property which were discovered during the course of the
1207 survey, such as, but not limited to, irrigation and drainage ditches, roads serving
1208 other properties, and utilities. Lot line vacations do not necessarily eradicate
1209 easements.