

**CUSTER COUNTY
SUBDIVISION
REGULATIONS**

2004

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1 **SECTION 1**

2 **GENERAL PROVISIONS**

3 **1.1 Title and Authorization**

4 These Regulations as adopted, 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, shall apply to all “Subdivision” or “Subdivided
8 Land” as defined in Section 2 herein. All requests shall be processed for review and approval or
9 denial pursuant to the submission requirements and the procedure established in these Regulations.
10 These Regulations are declared supplemental to the current Custer County Zoning Resolution. It is
11 the intent of the Board of County Commissioners that any subdivision request be considered and
12 processed similar to Planned Unit Development (P.U.D.) as contained in the Custer County Zoning
13 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 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. Covenants and deed restrictions are required to be included in the Final Plan.
44 It is not the County's responsibility to enforce covenants. Covenants and deed restrictions are
45 enforced by the land owners involved, usually a home owner's association, through civil court
46 action.

47 **1.8 Enforcement**

48 All requirements of these Regulations shall be met before any permit or county land use approval
49 shall be issued. Any person or entity, who transfers, leases, sells or agrees to sell or offers to sell any
50 parcel or lot subject to these Regulations who has not received final approval and recorded the
51 appropriate documentation shall be guilty of a misdemeanor and shall be subject to a fine for each
52 parcel or interest which is sold or offered for sale. (C.R.S. § 30-28-124, and as amended) The
53 County may enjoin such transfer, lease, sale or agreement, by action for injunction brought by civil
54 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 Review Process:** A process by which eligible lands may not require review
60 by the Planning Commission and Board of County Commissioners. See Section 5.

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

65 **Colorado Revised Statutes (C.R.S.):** The C.R.S. is amended from time to time and it is the
66 responsibility of the user of this document to ensure that they are using the most current
67 version.

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

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

74 **Engineer:** A person licensed as a Registered Professional Engineer by the State of
75 Colorado.

76 **Final Plan:** The approved plat and supporting materials, including the final engineering
77 plans, any development agreements, letters of credit, conservation easements, covenants, and
78 all other documents, reports, or studies necessary for final Subdivision approval and
79 recording with the County Clerk and Recorder.

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

83 **Master Plan:** The Master Plan of Custer County, Colorado, **dated 2002**, adopted by the
84 Custer County Planning Commission pursuant to C.R.S. § 31-23-201, *et seq.*, and as
85 amended.

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

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

103 **Open Space:** Area of land or water which is essentially unimproved and devoted to
 104 preservation or management of natural resources and/or for use as active or passive outdoor
 105 recreation areas. The term shall not include space devoted to streets, or parking and loading
 106 areas.

107 **Parcel:** Fee simple property, such as: lot, parcel, aliquot description, government lot, tract
 108 or metes and bounds.

109 **Parcel Consolidation:** The removal of a boundary line between two or more parcels to
 110 create a single parcel.

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

115 **Plat:** A document prepared by a Colorado registered surveyor in accordance with these
 116 Subdivision Regulations and/or the County Zoning Resolution as an instrument that
 117 delineates property lines and shows monuments and landmark locations for the purpose of
 118 identifying and recording real property interests with the County Clerk and Recorder. See
 119 Appendix A for Plat Standards.

120 **Preliminary Plan:** The plat(s) of a proposed Subdivision, and specified supporting
 121 documentation, drawn and submitted in accordance with these Regulations to enable
 122 evaluation of the proposal.

123 **Sketch Plan:** A map of a proposed Subdivision and the supporting documentation drawn
 124 and submitted in accordance with these Regulations, at the initial stage of planning, to
 125 evaluate the feasibility and design characteristics of a proposed Subdivision.

126 **Subdivider:** Any person, partnership, joint venture, association, firm or corporation who

127 shall participate as owner, promoter, designer or sales agent in the planning, platting,
128 development, promotion, sale or lease of real property.

129 **Subdivision or Subdivided Land:** All divisions of land into two (2) or more parcels,
130 separate interests, or interests in common which meet the density requirements of the
131 underlying Zoning District as defined in the Custer County Zoning Resolution. Any
132 Subdivision resulting in parcels smaller than the minimum lot size required in the applicable
133 Zoning District shall be subject to the requirements of a P.U.D. as provided in the Custer
134 County Zoning Resolution. The terms "Subdivision" and "Subdivided Land" shall not apply
135 to any division of land which creates parcels of land, each of which comprise thirty-five (35)
136 or more acres of land, none of which is intended for use by multiple owners. As provided
137 in C.R.S. § 30-28-101(10).

138 In addition, unless the method of disposition is adopted for the purpose of evading these
139 Regulations, the terms "Subdivision" or "Subdivided land", shall not apply to any division
140 of land:

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

161 The Board of County Commissioners may, on recommendation of the Planning Commission
162 along with sufficient findings in accordance with these Regulations, exempt from this
163 definition any division of land, if the Board determines that such division is not within the
164 purposes of these Regulations, as provided in C.R.S. § 30-28-101(10)(d).

165 **Subdivision Improvements Agreement:** One or more security arrangements accepted by
166 the Board to secure the construction within the Subdivision of those public improvements
167 required by these Regulations. The arrangements shall include collateral sufficient to make

168 reasonable provision for the completion of such improvements in accordance with time and
169 design specifications of the approved Subdivision. Agreement(s) may include any one or a
170 combination of the following types of collateral:

- 171 1. Restrictions on the conveyance, sale, or transfer of any lot, lots, tract or tracts of land
172 within the Subdivision as set forth on the Final Plat documents (“Plat Restrictions”);
- 173 2. Performance or property bonds;
- 174 3. Private or public escrow agreements;
- 175 4. Loan commitments;
- 176 5. Assignments of receivables;
- 177 6. Liens on property;
- 178 7. Letters of credit;
- 179 8. Deposits of certified funds or other similar surety agreements.

180 Security, other than Plat Restrictions, shall equal the estimated cost of improvements to be
181 completed. The Board of County Commissioners shall not require security with collateral
182 arrangements in excess of the estimated costs of construction.

183 **Workshop:** A meeting or series of meetings designed to address issues between an
184 applicant and the board hearing the request. Workshops are open to the public.

185 **SECTION 3**

186 **SUBDIVISION DEVELOPMENT STANDARDS**

187 **3.1 General Subdivision Design Objectives**

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

- 190 A. Appropriateness and compatibility with the goals of the Master Plan, the surrounding
191 area in respect to preservation of the rural lifestyle, adjoining neighborhoods and the
192 underlying Custer County Zone District;
- 193 B. Provision for adequate water and sewer services;
- 194 C. Design system to address drainage and to mitigate any runoff created by the
195 development;
- 196 D. Avoid development in hazardous, geologically sensitive or riparian areas;
- 197 E. Protect the health, safety and welfare of the citizens of Custer County;
- 198 F. Conform with Custer County Zoning Resolution;
- 199 G. Minimization of adverse effects on community capital improvements programs,
200 community facilities and services;
- 201 H. Mitigation of adverse impacts on wildlife;
- 202 I. Mitigation of air, water, noise and light pollution;
- 203 J. Minimization of potential fire hazards;
- 204 K. Mitigation of traffic congestion or traffic hazards;
- 205 L. Development of subdivided land in a manner appropriate for the site with an
206 emphasis on correcting unsuitable land conditions prior to development;
- 207 M. Provision for utilities and public services, whether existing or proposed, that are
208 adequate to serve the subdivision and give assurance that the methods of financing,
209 constructing and maintaining these utilities and public services are sufficient to
210 ensure such services to the Subdivision.

211 Failure to address these objectives shall be an appropriate basis for denial of any application for
212 Subdivision approval.

213 **3.2 Specific Subdivision Plan Design Criteria**

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

216 **A. Water Systems**

- 217 1. The Subdivider must submit engineer designed water source, distribution,
218 and treatment systems which provide for a physically available and legally
219 adequate water supply adjudicated by final water decree and meet all of the
220 requirements contained in this Subparagraph A.
- 221 2. Subdivider must provide evidence that a potable water supply will be
222 available to serve the Subdivision that is sufficient in terms of quality,
223 quantity and dependability. Such written evidence may include, but shall not
224 be limited to:
- 225 a. ownership of water rights;
 - 226 b. historic use and estimated yield of claimed water rights;
 - 227 c. public or private water owners can and will supply water to the
228 Subdivision in the event that the decreed water is out of priority;
229 and/or
 - 230 d. potability of the proposed water supply for the Subdivision.
- 231 3. If a water distribution system is proposed, the Subdivider must provide a
232 written estimate of total usage in number of gallons per day including the
233 method of calculating that estimate. Central water systems will include fire
234 hydrants.
- 235 4. All water systems, whether individual or central, are to be metered at the
236 source. Data from the meter shall be provided to the County at the same time
237 it is provided to the State.
- 238 5. All water systems shall be subject to applicable standards, technical
239 procedures, and requirements of the Colorado Department of Public Health
240 and Environment (CDPHE) and the Colorado Division of Water Resources.

241 **B. Sewage Treatment**

- 242 1. The Subdivider must submit a collection and wastewater treatment system
243 designed by an engineer. The sewage disposal plan shall contain a calculation
244 of the total number of gallons of sewage to be treated per day and detail
245 whether the treatment will be performed by a central wastewater treatment
246 facility or some other system acceptable to the regulatory authorities.
- 247 2. The Subdivider must provide evidence that the sewage treatment will comply
248 with the terms of the water augmentation decree.
- 249 3. The Subdivider must also provide evidence that these facilities shall meet or
250 exceed the standards set by the CDPHE. All systems must comply with
251 federal, state and local laws and regulations in effect at the time of
252 submission of the Final Plan.

- 253 **C. Storm Drainage**
- 254 1. The Subdivider must provide a storm drainage system designed by an
255 engineer which meets all the requirements of this Subparagraph C and all
256 applicable federal, state, county and local regulations.
- 257 2. The storm drainage system must include maps and plans that provide for
258 storm water drainage to prevent or mitigate excess of historic run-off.
- 259 3. All existing **or planned** drainage features which are incorporated in the
260 design shall be identified on the plat by easements or dedications.

- 261 **D. Open Space**
- 262 1. Open Space within the Subdivision, including any area being used as a public
263 or private recreation site, shall be protected by covenants running with the
264 land, conservation easements, and/or deed/plat restrictions.
- 265 2. The Subdivider shall provide a long term open space management plan,
266 which addresses ownership, maintenance, succession and wildfire mitigation.
267 This plan will undergo appropriate legal review.

- 268 **E. Roads**
- 269 1. The Subdivider must submit a road plan that defines and specifies the
270 dimensions of the dedicated rights-of-way, ownership status and a
271 maintenance plan for all roads created by the Final Plat. Ownership and
272 maintenance statements shall be included on the Final Plat.
- 273 2. The Subdivider must provide engineered construction, traffic and access
274 plans. These plans must meet the County Road Specifications and receive the
275 approval of the Board of County Commissioners, the Custer County Road
276 and Bridge Department and the appropriate emergency services authority.
- 277 3. Access to Subdivision lots and sites will utilize Subdivision roads.
- 278 4. Where roads are to be constructed through timber, all road sight lines must
279 be kept clear and the timber removed from the rights-of-way by the
280 Subdivider.
- 281 5. **The Subdivider and/or Home Owners Association (HOA) or Property
282 Owners Association (POA) shall provide and maintain reflective street signs
283 and traffic control devices installed in the Subdivision, and obtain addresses
284 from the appropriate County authority. Street sign design and street names
285 must meet the approval of Board of County Commissioners, appropriate
286 emergency services authority and the Road and Bridge Department. Street
287 names shall not be duplicated within the County.**
- 288 6. The Subdivision road plan must conform with the state highway access code
289 as required by C.R.S. § 43-2-147.

- 290 **F. Easements and Rights-of Way**
- 291 1. The Subdivider must dedicate public rights-of-way on the Final Plat.

- 292 2. Utility easements shall meet the requirements of all appropriate utilities.
293 3. When a water course, irrigation ditch, channel, or stream traverses a
294 Subdivision, a storm water easement or drainage right-of-way shall be
295 provided.

296 **G. Fire Protection**

- 297 1. The Subdivider must meet with the Fire Chief and/or Fire Inspector that
298 serve the area and develop a fire protection plan which meets all the
299 requirements of this Subparagraph G.
300 2. Fire hydrants and/or a water storage supply are required. If a central water
301 system is used, it will include fire hydrants. Hydrants and/or water storage
302 tanks shall be installed and located according to the engineer's design and the
303 recommendations of the recognized local fire authority.
304 3. The plan must address issues of fire hazard and wildland/urban interface
305 mitigation.
306 4. The plan must include a map which shows the location of fire/wildfire
307 hazards and the reason for the hazard, such as: slope, aspect, topography,
308 and fuel. A written report must accompany this map. It should include
309 information regarding specific fire prevention and suppression plans. This
310 information must be prepared by a professional forester or independent fire
311 inspector.
312 5. Slash from road construction must be addressed in the fire plan.

313 **H. Utilities**

- 314 1. The Subdivider must submit a utility plan to all impacted local utilities, as
315 applicable, including, but not limited to: the electric company, propane
316 company, postal service, telephone company, water and sanitation district.
317 2. The utility plan will provide that utility lines are placed underground,
318 whenever feasible.
319 3. The utility plan must indicate provisions have been made to ensure reliable
320 and adequate utility services for the Subdivision. Submission of a Letter-of-
321 Agreement between the Subdivider and each utility serving the site shall be
322 deemed sufficient to establish adequate provisions of service to each property
323 within the subdivision.
324 4. The County Road and Bridge Department has the authority to inspect
325 plowed-in utility work performed in the Subdivision roadways and easements
326 and to collect applicable fees.

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I. Dedications (DOLA will present and educate on topic)

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

406 **J. Wildlife Impacts**

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1. The Planning and Zoning Office will forward a copy of the Subdivision proposal to the Colorado Division of Wildlife (CDOW) for their review and recommendations. Any Subdivision approval must adequately mitigate, to the extent feasible, significant wildlife impacts as identified by the CDOW review.
 2. The Subdivider shall comply with the Wildlife Review Procedures. See **Appendix B**.

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K. Home Owner’s Associations and Covenants

1. The Subdivider shall institute a HOA or POA, or other comparable association, which among other duties, may be responsible for maintaining and managing: water augmentation plans, open space, common elements, roads, signs and traffic control devices. This organization shall be responsible for enforcing and modifying covenants.
2. The Subdivider shall submit the proposed covenants, easements and/or deed restrictions for review. These shall include the ownership and maintenance of all open space, common elements and roads. There may be additional cost to the Subdivider for review by the county attorney.
3. Covenants cannot be less restrictive than current County Regulations.
4. The County will require prior notification of changes to the covenants which affect land use.

L. Landscaping

1. The Subdivider shall incorporate appropriate landscaping guidelines in the subdivision covenants. These guidelines should reflect water conservation practices and will be dependent on availability of water.
2. Trees, shrubs and all other landscape objects shall be placed within property lines.
3. Noxious weed abatement requirements in the state statutes and county weed policy, as administrated by the County Extension Agent and County Weed Control Board, shall be observed.

M. Signage

1. All Subdivision entries must have identifying placards, which shall display the Subdivision name and a map showing lot configuration, lot numbers, and addresses as assigned. The HOA/POA or designated organization shall be responsible for maintaining this sign.
2. The sign shall meet the Custer County Zoning Resolution sign requirements and not block traffic sight lines.
3. Individual address signs must conform to County specifications.

N. Refuse/Trash Disposal

The Subdivider must submit a refuse/trash disposal plan. See Appendix B for wildlife considerations.

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O. Guaranty of Improvements

1. The Subdivider must submit **in the Preliminary and Final Plan Phases:** a summary of estimated construction costs and the proposed method of financing the streets and related facilities, water distribution system, sewage collection system, storm drainage facilities and such other utilities as may be required by the County.
A performance bond shall be required in the amount of 120% of estimated construction costs. Other surety as specified in the Custer County Zoning Resolution (Section 11.7.C) may be considered by the Board of County Commissioners. Bonding or surety must be submitted to the County within 5 business days after Preliminary Plan approval.
2. **No Final Plat shall be recorded until it has been reviewed by the County Attorney, all improvements have been completed and accepted, and it has been signed by the Board of County Commissioners.**
3. Any improvements constructed pursuant to these Regulations shall be accomplished in a professional manner, in accordance with the design and time specifications and construction schedules established by the Subdivider and approved by the County.
4. As improvements are completed and accepted, the Subdivider may apply to the Board of County Commissioners for a release of part or all of the collateral deposited. If the Board determines that any of the improvements are not constructed in substantial compliance with the design specifications, it shall furnish the Subdivider a list of specific deficiencies and shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the Board of County Commissioners determines that the Subdivider will not construct any or all of the improvements in accordance with all of the specifications, the Board may withdraw and employ from the deposit of collateral such funds as may be necessary to construct the improvements as required by the Final Plan documents.

Lots in the Subdivision may not be sold prior to the completion of improvements unless the Final Plat approval contains a phasing plan.

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P. Hazardous Site Conditions

The Subdivider must provide evidence that all hazards or special concerns stemming from soil, topographical or geological conditions have been identified and adequately addressed.

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Q. Mineral Estates

Owners of record of mineral estates will be informed of any impending land use change, prior to public hearing on any application for Preliminary Plan or Final Plat approval. The Subdivider must certify compliance with the notice requirements to mineral rights owners. See C.R.S. § 24-65.5-101, 31-23-215 and 34-60-106(14), et. seq, and as amended.

489 **R. Other Requirements**

490 **All applicable federal, state, and local regulations must be adhered too.**

491 Failure of the Subdivision proposal to satisfy these criteria shall be an appropriate basis for denial
492 of any application for Subdivision approval.

493 **SECTION 4**

494 **SUBDIVISION APPROVAL PROCESS**

495 The subdivision approval process consists of three phases: the sketch plan, the preliminary plan and
496 the final plan. Each phase must be approved by the Planning Commission and the Board of County
497 Commissioners prior to advancing to the next phase. Approval of a phase does not guarantee
498 approval of subsequent phases. A presentation of a phase may not over-lap or be done during a
499 meeting for a previous phase, it must done at a separate meeting.

500 **4.1 Sketch Plan**

501 The Sketch Plan allows the Planning Commission and the Board of County Commissioners to
502 review and comment on the concept of the proposed Subdivision with the understanding that
503 additional detailed design materials will be provided during the later approval processes.

504 The Sketch Plan phase will consist of pre-application conferences; staff reviews; presentation at
505 Regional Planning Commission; and appearance at a public hearing to present the plan with its
506 documentation. The Planning Commission and Board of County Commissioners will review the
507 plan for general scope and compliance with these regulations and rule on the proposal. Upon
508 completion of the Sketch Plan process, the applicant will have one-hundred and eighty days (180)
509 days to submit all data for the Preliminary Plan phase, unless an extension is granted at a regularly
scheduled Joint Meeting.

APPENDIX A

1128

1129 PLAT STANDARDS

1130 Plats submitted to the Planning and Zoning Office for approval of the Planning Commission
1131 and/or Board of County Commissioners must meet both parts A.1 and A.2 as stated below:

1132 **A.1 Minimum State Requirements set by C.R.S. § 38-51-106** (quoted below)

1133 C.R.S. § 38-51-106. "Land survey plats. (1) All land survey plats shall include but shall not
1134 be limited to the following:

- 1135 1. A scale drawing of the boundaries of the land parcel;
- 1136 2. (I) All recorded and apparent rights-of-way and easements, and, if research for
1137 recorded rights-of-way and easement is done by someone other than the professional
1138 land surveyor who prepares the plat, the source from which such recorded rights-of-
1139 way and easements were obtained; or
1140 (II) If the client wishes not to show rights-of-way and easements on the land
1141 survey plat, a statement that the client did not want such rights-of-way and easements
1142 shown;
- 1143 3. All dimensions necessary to establish the boundaries in the field;
- 1144 4. A statement by the professional land surveyor that the survey was performed by such
1145 surveyor or under such surveyor's responsible charge;
- 1146 5. A statement by the professional land surveyor explaining how bearings, if used, were
1147 determined;
- 1148 6. A description of all monuments, both found and set, which mark the boundaries of
1149 the property and of all control monuments used in conducting the survey;
- 1150 7. A statement of the scale or representative fraction of the drawing and a bar-type or
1151 graphical scale;
- 1152 8. A north arrow;
- 1153 9. A written property description, which shall include, but shall not be limited to a
1154 reference, to the county and state together with the section, township, range and
1155 principal meridian or established subdivision, block and lot number, or any other
1156 method describing the land as established by the general land office or bureau of land
1157 management;
- 1158 10. The signature and seal of the professional surveyor;
- 1159 11. Any conflicting boundary evidence."

1160 **A.2 County Requirements**

1161 In addition to the above State Statute the following requirements are set forth by the Custer
1162 County Zoning Resolution:

- 1163 1. The survey must include language that explains the intent of the survey, and
1164 dedications of any road, right-of-way or property to the county, as applicable;
- 1165 2. The plat must include appropriate signature blocks for county authorities indicating
1166 that the plat is approved and that any dedicated property is accepted;
- 1167 3. The plat must contain provisions for signatures of all property owners within the
1168 platted area. Proof of ownership shall be evidenced by a Title Commitment or Policy
1169 that is not older than sixty (60) days from the date of application or submission;
- 1170 4. The survey must be submitted thirty (30) days before the Joint Meeting of the Board
1171 of County Commissioners, Planning Commission, and Board of Zoning Adjustment,
1172 so the County Surveyor and/or County Cartographer has adequate time to review the
1173 submittal;
- 1174 5. The plat must show compliance with the provisions of the Wildlife Review Process
1175 and Department of Wildlife (DOW) Provisions as authorized by C.R.S. § 24-65.1-
1176 101, et seq., 1973, and H.B. 1041;
- 1177 6. The plat must show all easements and rights-of-way contained within the Title
1178 Commitment or Policy. It must also show any physical evidence of easements or
1179 rights-of-way burdening the property which were discovered during the course of the
1180 survey, such as, but not limited to, irrigation and drainage ditches, roads serving
1181 other properties, and utilities. Lot line vacations do not necessarily eradicate
1182 easements.

APPENDIX B

1183

1184 Detailed explanations of the Wildlife Review as referred to in Custer County Zoning Resolution:
1185 **Section 6.7 and Section 8.7.**

1186 WILDLIFE REVIEW PROCEDURE

1187 B.1 Application Procedure

1188 A. Applicants for a Wildlife Review shall:
1189 1. Submit a written application and preliminary plat to Planning and Zoning
1190 Office at least 60 days prior to the hearing date, along with proper fees;
1191 2. Appear in person, or by authorized representative, at the designated site
1192 tour with the Planning Commission;
1193 3. Appear in person, or by authorized representative, before the Planning
1194 Commission in a public hearing to present the application.
1195 Applicant may be required to appear in person, or by authorized representative
1196 before the County Regional Planning Commission to present the plan.
1197 (Arrangements may be made through the Planning and Zoning Office.)

1198 B. The Planning and Zoning Office shall:
1199 1. Review the application and associated plat for completeness;
1200 2. Process the submitted fees;
1201 3. Submit the plat to the DOW District Manager for review and
1202 recommendations;
1203 4. Inform the applicant of DOW's recommendations;
1204 5. Schedule the public hearing on the application;
1205 6. Schedule the site tour;
1206 7. Prepare a report for the Planning Commission and Board of County
1207 Commissioners that includes a list of areas of concern.

1208 C. The Planning Commission shall:
1209 1. Review the application and accompanying plat before taking action on the
1210 application. Included in the review shall be:
1211 a. Any recommendations or questions by the DOW, Regional
1212 Planning Commission, or the Planning and Zoning Office;
1213 b. Public input on the application;
1214 c. Any additional qualified opinions or questions.
1215 2. Make a recommendation of action to the Board of County Commissioners,
1216 including pertinent background information supporting the recommended
1217 action or conditions pertinent to approval. If approval is recommended,
1218 the Planning Commission's Chairman shall sign the submitted plat.

- 1219 D. The Board of County Commissioners shall:
1220 1. Review or study the application and accompanying plat before taking
1221 action on the application. Such evidence will include all items included in
1222 the review and study by the Planning Commission, as well as their
1223 recommendation;.
1224 2. Rule on the application. If approved, the Board of County Commissioners'
1225 Chairman shall sign the submitted plat.

1226 **B.2 Submission Requirements for a Wildlife Review**

1227 The wildlife review, which is required for development in unincorporated County areas,
1228 will require the following submissions with the application.

1229 A. Plat and documentation standards

- 1230 Plats and maps must be prepared in a workman-like manner. Poorly drawn or illegible
1231 maps are unacceptable. They must be drawn to an identified scale. For smaller
1232 properties, a scale of 1" = 50' is appropriate. The maps must show the following:
- 1233 1. The location of the proposed development site. For development of
1234 multiple lots, include a boundary survey prepared, signed, and sealed by a
1235 registered Colorado land surveyor;
 - 1236 2. The relationship of the site to surrounding topographic features, such as
1237 roads, streams, and location of existing structures, to the nearest public
1238 road;
 - 1239 3. The nature and density of the proposed development or land use change;
 - 1240 4. Proposed building, improvement, and infrastructure locations related to
1241 common users;
 - 1242 5. A legend which includes:
 - 1243 a. complete and accurate legal description, including total acreage of
1244 the parcel;
 - 1245 b. title, scale and North arrow;
 - 1246 c. date, including revision dates, if applicable;
 - 1247 d. a "prepared by" signature block.
 - 1248 6. Existing structures, infrastructure, and significant landscape features
1249 including the name and location of water courses, ponds, and other bodies
1250 of water;
 - 1251 7. Accessory documentation:
 - 1252 a. Proof of Ownership in the form of a current Ownership &
1253 Encumbrances certificate, or commitment for a policy of Title
1254 Insurance;
 - 1255 b. Authorization to act on behalf of a land owner.
 - 1256 8. Such additional information as may be required by the Board of County
1257 Commissioners in order to determine if the intent and purpose of the
1258 Wildlife Habitat Review have been fulfilled.

1259 B. Guidelines common to all properties

1260 The following should be incorporated on development plats and recorded protective
1261 covenants by the developer:

- 1262 1. Because removing garbage from close proximity to homes greatly
1263 increases the safety of homeowners, a garbage location should be
1264 provided.
 - 1265 a. Garbage sites should be located as far from houses as is practical
1266 and should serve as many home sites as is reasonable.
 - 1267 b. The garbage site should be located with the assistance of the
1268 Division of Wildlife Manager prior to preparation of plats.
- 1269 2. All edibles, including pet food and bird feeders, should not be left outside
1270 at night.
- 1271 3. Dogs should be physically restrained or under the direct control of a
1272 person.
- 1273 4. Designated "no build areas" could be open space to serve a development,
1274 or could be parts of parcels controlled by the discretion of a developer's
1275 covenants.
- 1276 5. It is recommended that a wildlife friendly fence be used in or around
1277 wildlife corridors and habitat areas:
 - 1278 a. Wildlife friendly fence - barbed wire: build the fence with top
1279 wire no more than 40" high, leave a minimum of 12" between the
1280 top two wires, and 16" between the ground and bottom smooth
1281 wire strand.
 - 1282 b. Wildlife friendly fence - electric wire: top wire 40" or lower, at
1283 least 12" between the top two wires, and grounded bottom wire at
1284 least 16" above the ground.
 - 1285 c. Wildlife friendly fence - smooth wire: use dimensions in 5a.
1286 (above).

1287 **B.3 Mitigation Standards**

1288 To meet the intent of the Wildlife Review, mitigation measures must be in-kind, that is,
1289 targeted to the specific species or habitat impact brought about by a particular
1290 development. Multiple mitigation steps maybe necessary to mitigate all potential
1291 impacts to wildlife and habitat.

1292 The following criteria should be followed if impacts to wildlife and wildlife habitats are
1293 identified:

- 1294 1. All measures should first be considered that would avoid or minimize
1295 potential impacts to wildlife and wildlife habitat. If not deemed feasible
1296 and practical, then;
- 1297 2. Compensation measures for the impacts to wildlife and habitat may be
1298 made by replacing or providing substitute resources and environments as
1299 recommended by the Division of Wildlife.