

RESOLUTION 98-14 ESTABLISHING A RIGHT TO RANCH AND FARM POLICY

WHEREAS, the Board of County Commissioners of Custer County, Colorado (Board) recognizes the importance of ranching, farming and other agricultural activities and operations in Custer County, including the protection of the viability of such activities; and

WHEREAS, the combination of mountains and the unspoiled rural landscape has been a significant factor in the current growth in population and resulting changes in land use in Custer County; and

WHEREAS, to maintain the quality of life and the value of property of all citizens of Custer County, as well as the economic viability of those engaged in ranching and farming, it is important that the agricultural operations in the County be permitted to continue as they have as unaffected as possible by the pressures of growth and land use; and

WHEREAS, the changing nature of land use and demography in Custer County has increased the potential of conflicts between agricultural operators, county visitors and residents of rural Custer County, which may threaten the continued economic viability of agricultural operations in the county; and

WHEREAS, sources of such conflicts include but are not limited to: harassment of livestock and livestock losses due to free roaming dogs; trespass by livestock; movement of livestock on highways and county roads; gates inappropriately left open or shut; fence construction and maintenance; chemical applications; maintenance of ditches across private property and burning ditches; complaints regarding water seepage, noise, dust and odor; disposal of dead animals; weed and pest control; trespass; movement of machinery on highways and county roads; and

WHEREAS, it is desirable to protect agricultural operators from complaints about legal and non-negligent agricultural operations and activities; and

WHEREAS, it is desirable to educate the public and non-agricultural residents and visitors to Custer County about the existence, value and importance of the county's agricultural operations and activities; and

WHEREAS, the Board shall attempt and aspire to;

- a. Conserve, enhance and encourage ranching, farming and all manner of traditional agricultural activities and operations within and throughout Custer County;
- b. Minimize potential conflicts between agricultural and non-agricultural users of land in the County;
- c. Educate and notify new rural residents and long-time agricultural operators alike of their rights and obligations relating to agricultural activities;

d. Integrate planning efforts to provide for the retention of traditional and prime agricultural lands in agricultural production, as well as the opportunity for reasonable residential and other development; and

WHEREAS, the Board of County Commissioners, pursuant to Colorado statute, has the power to provide for the preservation of cultural, historic and architectural history in the county and to regulate the use of land therein; and

WHEREAS, the Board pursuant to Section 29-20-104, Colorado Revised Statutes (sic), has the authority to plan for and regulate the use of land by regulating the use of land on the basis of its impact on the community or surrounding areas and otherwise planning for and regulating the use of land so as to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights; and

WHEREAS, pursuant to Article 3.5, Title 35, Colorado Revised Statutes, it is the declared policy of the State of Colorado to conserve, protect, and encourage the development and improvement of agricultural lands of the production of food and other agricultural products. The Colorado General Assembly has also recognized that when non-agricultural land uses extend into agricultural areas, agricultural operations often become the subject of nuisance litigations; and further, that a number of agricultural operations have been forced to cease operations and many others are discouraged from making investments in farm operation as the result of such lawsuits. The State has also stated that the purpose of Article 3.5 is to reduce the loss to the State of Colorado of its agricultural resources by limiting the circumstances under which agricultural operations may be deemed a nuisance; and

WHEREAS, pursuant to Section 35-3.5-102(1), Colorado Revised Statutes, an agricultural operation is neither, nor shall it become, a public or private nuisance by any change in conditions in or about the locality of such operation after it has been in operation for more than one year, provided that it was not a nuisance at the time the operation began, and also provided that it is not a negligent operation and that a change in an operation or substantial increase in the size of operation does not result in a private or public nuisance; and

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

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

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

1. Policy Statement: It is the policy of the Board of County Commissioners of Custer County that ranching, farming, and all manner of traditional agricultural activities and operations throughout Custer County are integral elements of and necessary for the continued vitality of the county's history, economy, landscape, lifestyle and culture. Given their importance to Custer County and Colorado, agricultural lands and operations are worthy of recognition and protection.

Colorado is a "Right to Farm State" pursuant to Section 35-3.5-101, et seq., Colorado Revised Statutes. Landowners, residents, and visitors must be prepared to accept the activities, sights, sounds and smells of Custer County's agricultural operations as a normal and necessary aspect of living in a county with a strong rural character and a healthy ranching and farming sector. Those with an urban sensitivity may perceive such activities, sights, sounds and smells as inconveniences, eyesores, noises and odors. However, state law and county policy provide that ranching or other agricultural activities and operations within Custer County shall not be considered to be a nuisances as long as they are operated in conformance with the law and in a non-negligent manner. Therefore, all must be prepared to encounter noises, odors, lights, mud, dust, smoke, chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides according to applicable law; any one or more of which may naturally occur as a part of legal and non-negligent agricultural operations. In addition, all owners of land, whether ranch or residence, have obligations under state law and county regulation with regard to the maintaining of fences and irrigation ditches, controlling weeds, keeping livestock and pets under control, and other aspects of using and maintaining property. Residents and landowners are encouraged to learn about these rights and responsibilities and to act as good neighbors and citizens of the county.

2. Public Education and Information Campaign. The Board shall use county staff to support efforts to educate and inform the public of the Right to Farm Policy. Such efforts shall include dissemination of written information and oral presentations to community associations and organizations; creation of signs for roadways in Custer County; preparation and distribution of press releases relating to the Right to Ranch and Farm Policy; sponsoring tours and events; supporting the publication and distribution of "A Guide to Rural Living in Custer County" to be prepared by Custer County; and other similar activities.

3. Property owner notification. The Board shall notify owners of land within the County concerning the Right to Ranch and Farm Policy by the following means:

- a. A one-time mailing to owners of record of land within Custer County of the above policy statement. The copy of the policy statement shall accompany the Tax Notices mailed to the owners of record of all real property (sic) in Custer County for the 1998 tax year.
- b. Whenever a subdivision, subdivision exemption, variance, or other official action of the Board of County Commissioners or the Custer County Board of Zoning Adjustment, which will result in additional residential lots being created, the applicant shall be required to provide purchasers of such lots a copy of the above policy.
- c. Whenever a building/zoning permit is issued for new construction in the unincorporated area of Custer County, the Zoning Office shall provide copies of the policy and "A Guide to Rural Living in Custer County" to the applicant.
- d. The Board shall encourage real estate brokers doing business in Custer County to voluntarily disclose the policy to purchasers of real property within the county. To that effect, the Board shall provide information to Realtors and other professionals to explain the policy , and distribute copies of the policy and "A Guide to Rural Living in Custer County".