

# San Miguel County Regulations

## 5-321 High Country Area (HCA)

### 5-321 A. Purpose

- I. The High Country Area (HCA) Zone District is intended to protect and preserve the alpine, sub-alpine and scenic hillsides in the upper San Miguel watershed for their historic and natural landscapes and retain the relatively undeveloped character of these backcountry areas. It is the intent of this Zone district to preserve historical structures and to protect the native flora and fauna. This Zone District is comprised of public lands managed by the United States Forest Service (USFS) and patented mining claims. Much of this Zone District was once mined and may again be mined. It is the intent of this Zone District to preserve and protect public lands from the impacts of incompatible development and to protect access to the minerals that are known to be or expected to be within this Zone District. Commercial and industrial uses are not permitted within the Zone District. The size, scale, and location of Single-family Dwellings and Accessory Structures are limited to avoid conflict with past and/or future mining. The County favors preservation and protection for open space, public recreation and watershed and source water protection over the use of these properties for any development purpose.
- II. These areas are typified by a lack of improved or maintained roads, little or no utilities or infrastructure and very limited or sparse development other than historic mining remnants from past mining activities. Development activities in these areas should be limited due to high elevation, environmentally sensitive and geologically hazardous areas, steep terrain, limited access, mining remnants, and other site constraints. If residential development occurs it should be limited to cabins and small scale residential development consistent with the type of development that historically occurred in the area. Development that results in a demand for public services beyond what is currently provided should be prohibited.
- III. It is the intent of this Zone District to prohibit both public or private improvements on existing public roads and to prohibit the construction of new roads within the HCA Zone District as a means of maintaining the areas existing character and as a means of preserving historic access methods. Existing private roads within the HCA Zone District are considered to be pre-existing driveways. Driveways may be constructed or improved to access property within this Zone District. However, property owners are not required to improve driveways accessing their property in this Zone District to the driveway standards that are required throughout the remainder of the County. Rather, the intent of this Zone District is to minimize the number of driveways and the impacts driveways may have on the scenic and environmental character of the HCA Zone District.

5-321 B. Review of Allowed Uses

At a minimum, any Allowed Use is subject to an Administrative Review. The purpose of the County Planning Department Administrative Review is to provide staff an opportunity to work with the owner or developer to consolidate and minimize the impacts associated with the development of dwellings, driveways or improvements, to ensure that the proposed development is consistent with the goals and objectives of the Telluride/Ophir High Country Area Sections of the Master Plan and to avoid hazards from past mining or conflicts with potential future mining. As a part of an Administrative Review the Planning Director shall consider all relevant information and /or analysis provided by Referral Agencies concerning the potential impacts of the development proposal and may require the applicant to comply with any and all review comments deemed necessary to mitigate impacts and secure the objectives of the HCA Zone District.

5-321 C. Administrative and Land Use Approvals

I. All applications for Administrative Review or land use approvals shall include, at a minimum, the information and materials specified in Land Use Code Section 4-2 and/or as follows:

- a. If the certificate of title indicates that the mineral estate and surface estate have been severed; the applicant shall, as a part of the applicant's submittal for Administrative Review, send written notice of an application for approval of a development proposal to the owners of record of the severed mineral estate consistent with LUC Section 3-903.
- b. Written notice of an application for Administrative Review shall be sent to the owners of properties located adjacent to the property subject to the application and notice of the application shall be posted in a conspicuous place on the subject property.
- c. The mailing of the written notice and posting of the property shall be made by the applicant, within five (5) days of submitting the application. The notice shall inform the owners of severed mineral estates and/or adjacent property owners that they have thirty (30) days from the time the notice is postmarked to notify the Planning Director in writing of any issue or objection to the proposed development.

II. Referral Agencies

The application shall be referred to the State of Colorado's Division of Minerals and Geology and the State Water Quality Control Division and will be referred to the Towns of Telluride, Mountain Village or Ophir or

the County Historical Commission, the Telluride Fire District, or other referral agencies, as deemed appropriate by the Planning Department staff to determine compliance with the Land Use Code.

III. The following must be addressed as part of any application:

A site plan including:

- a. The location of all existing and proposed improvements on the property including the access to the property and driveway, if any;
- b. The size, height, number of stories and basic design of the structure(s) and including the type of materials to be used in construction;
- c. Information regarding all existing or proposed utilities or services that may or will serve the property, including the type and layout of the water supply and sewage treatment system;
- d. The location of any and all existing mines, mine remnants, mine adits or mine waste located on the property to be developed;
- e. The location of any and all historic buildings or structures or cultural resources located on the property to be developed.
- f. Identification of Areas of State and Local Interest (1041 Environmental Hazard) as set forth in Section 5-4 and Wetland Areas as set forth in Section 5-22 and Watershed Protection Areas as set forth in Section 5-25, for all areas where development activity is proposed;
- g. The location of existing roads and Trails on the property to be developed.

IV. Scenic Quality Report

An applicant shall submit a site plan and Scenic Quality Report showing how the siting, design, materials and construction of any and all structures including the driveway will minimize the visual impact of the development on the scenic quality of the HCA Zone District, the Towns of Telluride, Mountain Village and Ophir, the Ski Area, mountain passes, major historic roads, public use areas and neighboring properties.

V. The owner of a patented mining claim must submit a Mining Resource Report that addresses the following:

- a. Demonstrate compliance with all applicable state and federal requirements, if any, for reclamation, stabilization, bonding, storm water drainage and any other requirements that are deemed necessary by the State of Colorado's Division of Minerals and Geology and/or Water Quality Control Division to protect the public health, safety and welfare of the owner, occupants and neighbors of the property where the development is to occur.
- b. Provide a written report, stamped and sealed by a qualified Colorado registered professional engineer, knowledgeable of mining and mining hazards, identifying any and all surface or sub-surface mining related hazards on the entire claim where the development is proposed. If mining related hazards are identified, the engineer's report shall include recommended measures to adequately mitigate such surface or sub-surface mining related hazards.

VI. Liability and Disclosure

The owner shall execute a release of liability prepared by the County waiving any and all claims against the County for issuing a building permit on a mining claim that has been mined in the past and may be mined in the future. The release of liability and disclosure, to be executed by the owner, shall also acknowledge that there is no guarantee of fire response or emergency services to properties in the High Country Zone District.

VII. Merger of Surface and Mineral Estates

Where the applicant is the owner of both the surface and mineral estate on the property on which the development is proposed, as a condition of Administrative Review and a Development Permit, the owner shall execute a "merger covenant," or deed restriction prepared by the County to be recorded in the chain of title for the property, that provides for the merger of the surface and mineral estate in perpetuity so these estates cannot be severed into separate estates by the current owner, and/or his heirs, successors or assigns.

5-321 D. Standards for all Administrative Reviews and All Special Uses Requiring One-Step and Two-step Review

I. All uses shall be:

- a. Consistent with the Goals and Objectives of the Telluride/Ophir High Country Area Sections of the Master Plan.

- b. Consistent with the County Land Use Policies in Article 2.
- c. Consistent with the purpose of the HCA Zone District.
- d. Located, designed and operated to minimize visual impacts so as not to detract from the scenic quality of the HCA Zone District, the Towns of Telluride, Mountain Village and Ophir, the Ski Area and public use areas.
- e. In compliance with Section 5-4 Areas and Activities of Local and State Interest/“1041” Environmental Hazard Review including the Section 5-407A. General Standards for Wildlife Habitat Areas, Section 5-2203 Development in Wetland Areas, and Section 5-25 Watershed Protection Areas. If a conflict exists between the requirements of the above referenced Land Use Code provisions and the standards of the HCA Zone District, the most restrictive provisions shall apply.
- f. Located and proposed to avoid hazards from past mining or conflicts with potential future mining and include those measures recommended in the Mining Resources Report necessary to adequately mitigate surface or sub-surface mining related hazards.
- g. Compatible with and minimize adverse impacts on the surrounding area.
- h. Designed, located and proposed to be operated so that the public health, safety and welfare will be protected.

II. All Uses are subject to the following Standards:

- a. Outdoor lighting shall be limited to the minimum required to comply with the applicable provisions of the Uniform Building Code and National Electric Code. All required exterior lighting shall be fully shielded and directed toward either the ground or the surface of the building to prevent direct visibility off-site. High intensity sodium vapor, mercury vapor, and similar lighting is prohibited.
- b. All areas of surface disturbance, excluding the travel surface of driveways, shall be re-vegetated with species native to the site and/or surrounding area. Removed topsoil shall be replaced and only species native to the site and/or surrounding area may be planted. The property owner shall control and remove all noxious and invasive plant species on the property or introduced as a result of development in accordance with the Colorado Noxious Weed

Management Act. The property owner shall also control and remove all plant species on the site that are not native to the HCA.

- c. Fuel tanks, water storage units and generators shall be located within a permitted structure or placed underground. If generators or similar devices are to be used sound levels of generator noise radiating from a property line at a distance of twenty-five feet or more shall not exceed 50 dba.
- d. Demolition of national, state or locally certified County Historic Landmarks is prohibited.

5-321 E. Uses Allowed Subject to Administrative Review

- I. Single-family residential dwellings with less than 1,000 square feet of Floor Area.
  - a. An additional 500 square feet of Floor Area may be allowed for each Development Right retired in perpetuity on a developable parcel(s) within the HCA Zone District. A developable parcel is a property capable of meeting all applicable provisions of the Land Use Code necessary to obtain a Development Permit for a Single-family dwelling.
  - b. An additional 500 square feet of Floor Area may be allowed where the owner is proposing measures that preserve or enhance public recreation opportunities and/or provides an easement for public non-motorized access through their property consistent with the County Trails Master Plan.
  - c. An additional 500 square feet of Floor Area may be allowed where the owner does not construct a driveway to serve the property. This provision does not prohibit use of a temporary driveway during construction, if the use is discontinued, the driveway is restored to its natural condition, and the property is restricted in perpetuity against construction of any future driveway.
  - d. An additional 300 square feet may be allowed for an attached garage within or as a part of the single-family residential dwelling if there is no detached accessory structure. A garage as defined in Article 6, and as limited herein, is not included in the calculation of Floor Area
  - e. An additional 500 square feet may be allowed for a Basement within or as a part of the single-family residential dwelling, if the development is located and designed so that the residence would

not be visible, during summer months, from the towns of Telluride, Ophir and Mountain Village, or public roads, public trails and public use areas within the High Country Master Plan Area. If a Basement is proposed as a part of the development it is incumbent on the applicant to demonstrate this improvement can be made in a manner consistent with the HCA Master Plan and the land use standards for the HCA Zone District and Watershed Protection Areas. (such as, limiting site disturbance, avoiding or minimizing blasting, handling of excavated materials, surface drainage, etc.)

- f. In no circumstance shall a single-family residential dwelling, with a Floor Area larger than 2,500 square feet be allowed by Administrative Review.
- II. One detached Accessory Structure (shed) with 200 square feet of Floor Area or less if there is no attached garage. Where gasoline/diesel powered/electric generators are used they shall be placed in the garage, accessory shed or underground to minimize noise impacts.
- III. Electric Distribution Lines & Electric Service Lines.  
Electric Distribution Lines are prohibited except under the following limited and specific circumstances:
- a. There is an existing Electric Distribution line located on the parcel or mining claim where a Single-family residence is proposed to be developed and the applicant has obtained Administrative or Special Use Approval for a specific Single-family residential development; and
  - b. The proposed Single-family residence is to be served by an alternative energy source(s), including but not limited to solar, photovoltaic, wind, hydropower or other alternatives, that provides a substantial amount, at least 50%, of the projected power usage for the single-family residence, the alternative energy source is tied to the electrical grid system by an Electric Distribution Line or Electric Service Line and there is an approved net-metering agreement with the providing utility company; and
  - c. The Electric Distribution Line or Electric Service Line shall be placed underground where it has been determined that such undergrounding would not have significant adverse environmental impacts. Above-ground Electric Distribution Lines are prohibited; and
  - d. The maximum allowed length of the proposed extension of the Electric Distribution Line shall not be greater than one-quarter mile in length from the existing utility service line to the proposed Single-family residence. If possible the buried Electric Distribution Line or Electric Service Line should be placed within or alongside an existing access



road or the proposed driveway unless there is a more practical route that would result in less environmental impact to the property.

- e. Underground Electric Service Lines are allowed in the HCA Zone District subject to Administrative Review pursuant to LUC Section 5-321 B.
- f. Property Owners should realize that for most High Country Area properties solar, wind, hydropower, or other alternatives to the extension of an Electric Distribution Line or Electric Service Line might be the only electric service available.

IV. Development or improvement of driveways and recreational Trails.

- a. Driveways do not have to comply with the driveway standards contained in Land Use Code Section 5-502 DD. because these private driveways are not intended to provide emergency vehicle access to single-family residential dwellings. The standards for driveways in the HCA Zone District are identified in Land Use Code Section 5-321 N. II. Driveways.
- b. Trails do not have to comply with the standards contained in Land Use Code Section 5-506 Trails. The design standards for Trails in the HCA Zone District are to be determined by the Planning Department in consultation with the San Miguel Trail Council and shall be consistent with the goals and objectives of the Telluride/Ophir High Country Area Sections of the Master Plan.
- c. Helicopter Access may be allowed by Administrative Review for limited construction activities where it has been determined by clear and convincing evidence that the benefits of such access outweigh the detriments. Helicopter Access is not allowed under any other circumstances except for bona fide emergencies.

5-321 F. Uses Allowed Subject to One-step Planning Commission Review subject to Section 5-10

Public recreational structures and outdoor recreational areas, such as backcountry/ski shelters, picnic areas, educational centers, limited to 500 square feet. Such uses shall be consistent with the purpose and definition of Active Open Space in Article 6.

5-321 G. Uses Allowed Subject to One-step Board of County Commissioner Review subject to Section 5-10.

- I. Open Land Protection, subject to the standards in Section 5-1207 and the standards of the HCA Zone District.

- II. Driveways greater than one-quarter (1/4) mile and/or driveways with vehicle pullouts. A distance of one-quarter (1/4) mile was established based on a finding that the extension of further development decreases the integrity of the environment, and diminishes the historic and rural landscape.

In approving driveways greater than one-quarter (1/4) mile and/or driveways with pullouts, the Board of Commissioners shall consider visibility of the roads/driveways from all public roads in the High Country Master Plan Area, to include Tomboy Road, Imogene Pass, Black Bear Pass, Bear Creek Road, Liberty Bell Road, Boomerang Road, Gold King Basin Road, upper and lower Bridal Veil Roads, Blue Lake Road, Marshall Basin, Blix Road, Waterfall Canyon Road, Alta Lakes (east) and Ophir Pass, Lewis Mill, the Towns of Telluride, Mountain Village and Ophir, impact on recreational activities, and environmental impacts, including soil disturbance and erosion. Where access requires a driveway greater than one-quarter (1/4) mile in length alternative access should be considered (including, but not limited to, skiing, hiking, snowmobiling).

- III. Automobile parking areas that centralize parking adjacent to existing roadways in order to allow alternative access beyond that point.
- IV. Repair or restoration of damage to existing public roads, as a result of natural catastrophes or “acts of God”, that exceed routine Road Maintenance but do not constitute Road Improvements. In approving repair or restoration of existing public roads the Board of Commissioners shall consider if the proposed road repair adequately addresses public safety in a manner that does not change or alter the rough condition or historic character of the road. Board of County Commissioner review is not required for expedient repairs to provide for public safety in bona fide emergencies (such as the removal of material from rock slides) as determined by the San Miguel County Road Superintendent.
- V. Logging activities resulting in cutting down trees for use on-site and /or the hauling of up to 5,000 board feet of timber in any 12 month period beginning with the commencement of tree cutting. In approving logging activities the Board of Commissioners shall consider the availability of access from existing roads, the method of access, the potential impacts to public roads and any required mitigation thereto, and the visual impacts of such activities on the scenic quality of the property and the surrounding area. The BOCC may also consider whether the proposed activities are consistent with a forest management plan that is intended to promote forest health and reduce the risk of wildfire. It is not the intent of this section to allow commercial logging operations, or activities that encourage the construction of new roads or involve the use of heavy construction equipment in the HCA.

5-321 H. Uses Allowed Subject to Two-step Special Use Permit Review Subject to Section 5-10.

- I. Single-family residential dwellings with greater than 2,500 square feet of Floor Area or single-family residential dwellings and Accessory Structures that exceed the square footages that may be authorized by Administrative Review pursuant to Land Use Code Section 5-321 E. To authorize a larger Floor Area for a Single-family Dwelling or Accessory Structure, there must be a finding that the proposed development furthers the goals and objectives of the Telluride/Ophir High Country Area Sections of the Master Plan, shall include the retirement of additional Development Rights in a manner that results in less developed square footage than what may be authorized through an Administrative Review, is located so it does not create a visual impact or detract from the scenic quality of the basin or area in which it is located, and is in the public interest.
- II. Commencement and/or expansion of mining and mineral processing operation, or development of mining related structures or buildings, in accordance with all provisions of Section 5-10 and 5-16. This does not include sand and gravel mining or processing.
- III. Radio, microwave transmitting stations and other antennae subject to Section 5-307 K. and wind turbines for residential use over 25 feet in height.
- IV. Public utility structures, including dams, reservoirs and municipal water distribution systems (refer to Section 5-709.).

5-321 I. Area Bulk Requirements

- I. The minimum lot size for each principal use is 35 acres except for single-family residential dwellings approved pursuant to the subdivision exemption standards for Open Land Protection (see Section 5-1207).
- II. Any legally created parcel less than 35 acres in the HCA Zone District may qualify for a Building Permit for one single-family residential dwelling Unit, provided the parcel satisfies the criteria set forth in Section 5-1908 Sub-standard size parcels, except for the standards for driveways in Section 5-502 DD.

5-321 J. Minimum Setbacks

The preferred setbacks for all yards adjacent to Public Lands are 30 foot front and 20 foot side and rear. The minimum setback for all yards is 10 feet, except the 10 foot minimum setback may be further reduced by Administrative Review where the applicant has demonstrated there would be no negative impact to the adjoining

property. The intent of allowing a reduced setback is to provide maximum flexibility in siting the single-family residential dwelling and accessory structure to reduce visibility and impacts on scenic quality. The location of structures, setbacks and separation requirements for residences, mines, mine tailings, wells and septic systems, if any, will be determined during the site-specific review of the proposed development.

5-321 K. Maximum Height of Buildings

The maximum height of buildings is 20 feet for single-family residential dwelling and 16 feet for an attached Garage or 12 feet for a detached Accessory Structure: The ridge of a gable, hip, gambrel or similar pitched roof may extend up to five feet above the specified maximum height limitation. (see Height as defined in Article 6 of the LUC.)

5-321 L. Minimum Off-street Parking

All parking shall be provided on-site where vehicle access is available.

5-321 M. Water and Sewage Disposal

An adequate water supply (which may include a cistern or storage tank) and a sewage disposal system that minimizes site disturbance and complies with the State and County Sewage Disposal System requirements must be demonstrated. Depending on site conditions, the County Environmental Health Department may require an engineered system. Applicants are encouraged to meet with the Environmental Health Department to identify the type of sewage disposal system that may be best suited for the Development proposed and that minimizes site disturbance.

5-321 N. Development or Improvement of Roads, Driveways, and Recreational Trails

I. New Public Roads, Existing Private Roads, and Road Improvements

New public roads and Road Improvements to existing public roads are prohibited. This provision is not intended to prohibit Road Maintenance as defined in Article 6 of the Land Use Code. Existing private roads within the HCA Zone District are considered to be pre-existing driveways and may be improved and maintained in the same manner as driveways.

II. Driveways

New driveways shall have minimal visibility as may be viewed from the Towns of Telluride, Mountain Village or Ophir, the Ski Area and all public roads in the High Country Master Plan Area. Construction of new driveways shall be allowed only if there is no existing access determined

to be adequate by the County Road and Bridge Department or County Engineer. Landowners are required to obtain a County access permit to construct driveways off of County roads, however landowners are not required to construct driveways to County standards as required in Section 5-502 DD., except that:

- a. Driveways shall be no wider than 10 feet; but vehicle pullouts may be allowed where deemed necessary for public safety.
- b. Switchbacks and cuts and fills are minimized for roads and driveways to the fullest extent possible;
- c. Blasting shall be limited to the least extent reasonably necessary in the development of a driveway;
- d. Driveways are not limited to a specified grade. Owners are solely responsible for creating safe vehicular access to their property;
- e. Driveways may not be paved or improved with an impervious surface;
- f. Driveways greater than one-quarter (1/4) mile or driveways with vehicle pullouts must be approved subject to One-step Board of Commissioners Review; and
- g. Driveways may serve multiple Single-family Residences, if and where it has been determined by clear and convincing evidence that doing so would reduce the potential number of driveways and would minimize the overall aesthetic and environmental impacts consistent with goals and objectives of the Telluride/Ophir High Country Area Sections of Master Plan.

### III. Public Trails/Recreational Access

- a. Public access to Trails from existing public roads, as identified in the adopted County Trails Master Plan or as identified during the administrative review process, should be maintained or enhanced to the maximum extent possible for both summer and winter use. The County shall work cooperatively with landowners in the HCA Zone District to ensure that through-access on such roads is maintained.
- b. Trails shall be kept in their historic alignments to the greatest extent possible. Road and driveway crossings of Trails shall be avoided wherever possible.

### High Country Area Roads

Road	Status	Description	Comments
Alta Lakes	County Maintained	Boomerang Road east to Alta Lakes	Public
Bear Creek	Non-County Maintained	Telluride City Limits south 2.14 miles	Public
Blix Road	Non-County Maintained	Ophir Pass Road north to NE1/4, NW1/4, Section 18, 42N, 8W (La Junta Basin)	Probably public – needs research
Bridal Veil (lower)	County Maintained	Beginning .22 miles east of the Valley View Parking Area on CR K69 heading east to the intersection of Upper Bridal Veil Road & Black Bear Pass Road at Bridal Veil Falls	Public
Bridal Veil (upper)	Non-County Maintained	Black Bear Pass Rd. south to Blix Road	Probably public – needs research
Black Bear Pass	County Maintained	Bridal Veil Intersection to County line	Public
Blue Lake Road	Non-County Maintained	Upper Bridal veil Road southeast to Blue Lake	Probably public-needs research
Boomerang	County Maintained	Alta mine site north to Prospect Intersection	Public
Gold King Basin	Non-County Maintained	Alta Road southeast to NW1/4, NE ¼, Sec. 27, 42N, 9W	Public
Lewis Mill	Non-County Maintained	Upper Liberty Bell Road to Lewis Mill Site	Probably public -needs research
Liberty Bell	Non-County Maintained May be maintained by Town of Telluride to Water Plant	Tomboy Road north to SW1/4, NE1/4, Sec. 30, 43N, 8W	Probably public – needs research
Marshall Basin	Non-County Maintained	Tomboy Road northwest to NW1/4, SE1/4 Section 29, 43N, 8W	Probably public – needs research
Ophir Pass Road	County Maintained	Ophir City Limits east to County Line	Public
Tomboy Road	County Maintained	Telluride city limit east to County Line	Public
Waterfall Canyon	Non-County Maintained	Ophir City Limits south through National Forest land to private property	National Forest-Public

