

**A RESOLUTION OF THE
BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO
APPROVING AN AMENDMENT TO THE LAND USE CODE
ADOPTING HIGH ALPINE DEVELOPMENT REGULATIONS**

WHEREAS, the Board of County Commissioners of Ouray County ("Board") periodically directs the Planning Commission to make recommendations for changes and modifications to the Ouray County Land Use Code ("Code"); and

WHEREAS, at its work session on April 12, 2016, and at its regular meeting on April 19, 2016 the Board discussed the impacts that residential development on mining claims may have on Ouray County and the potential for imminent residential development of mining claims; and

WHEREAS, C.R.S. 29-20-101, et seq., the "Local Government Land Use Control Enabling Act of 1974" provides that local governments are provided broad authority to plan for and regulate the use of land within their respective jurisdictions, balancing the human needs of a changing population with legitimate environmental concerns; and

WHEREAS, C.R.S. 29-20-104 provides that a local government has the authority to plan for and regulate the use of land by regulating development and activities in hazardous areas; protecting lands from activities which would cause immediate or foreseeable material danger to significant wildlife habitat and would endanger a wildlife species; preserving areas of historical and archaeological importance; regulating the use of land on the basis of the impact thereof 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, C.R.S. 30-28-102, 30-28-111, 30-28-113 and 30-28-116 also provide broad authorization for the County to adopt a zoning plan, land use regulations, and to revise zoning and land use regulations; and

WHEREAS, Ouray County has a long history of mineral exploration, development and commercial mineral extraction and processing, which led to the patenting of numerous mining claims in Ouray County, and inherent in the patenting process under the Mining Law of 1872 is a determination that a patented mining claim contains commercially viable mineral deposits; and

WHEREAS, the economy of Ouray County has historically relied heavily on mineral extraction, the Board of County Commissioners desires to ensure that mining remains a viable component of the Ouray County economy and finds that residential development of mining claims presents potential for conflict with active, past and future mining operations ; and

WHEREAS, residential development on mining claims presents extraordinary challenges for property owners and Ouray County staff because of limited road access, potential for damage to county roads, the potential for hazards from rock slides, avalanches, moving snow, and other geo-hazards, the difficulty in constructing on-site wastewater systems or other alternate waste systems complying with County and State regulations pertaining to such, water supply availability in high alpine areas, as well as other limited or unavailable public services and facilities required for public health, safety and welfare to such properties; and

WHEREAS such development may have other significant impacts on Ouray County as a whole and its citizens and visitors, including things such as visual impacts; impacts to significant wildlife habitat and wildlife species; impacts to natural resources; impacts to areas of historical importance; impacts to the tourism economy of Ouray County; and impacts to the resources and services of the Ouray County government; and

WHEREAS, the Board has tasked the Ouray County Land Use staff, the Ouray County Attorney and the Ouray County Planning Commission to consider land use regulations of other adjoining counties with similar properties, and to consider recommendations for adopting new regulations to address residential development on mining claims in Ouray County; and

WHEREAS, Staff along with the Planning Commission held work sessions to on: May 3, May 17, June 7, June 15, June 21, and July 6 to discuss potential development impacts in the high alpine region and to develop draft Land Use Code regulations; and

WHEREAS, the Planning Commission held a properly noticed public hearing on July 19, to hear comments from the public and to make a formal recommendation to the Board on draft regulations including Sections 2, 3, 13, and 24 (*new section*) affecting future development in the high alpine region of the County; and

WHEREAS, at the conclusion of the public hearing, the Planning Commission voted unanimously to forward the drafts of Sections 2, 3, 13, and 24 to the Board with a recommendation of approval; and

WHEREAS, the Board held a properly noticed public hearing on September 13, to allow comments from the public and to make a formal determination on possible high alpine regulations amending Sections 2, 3, and 13 of the Land

RESOLUTION No. 2016-050

Use Code and creating a new Section 24 – High Alpine Development Regulations, as recommended by the Planning Commission; and

WHEREAS, the hearing on September 13 was continued to the following dates to allow for additional deliberation and to allow Staff to make changes to the drafts as directed by the Board: September 22, October 6, October 17, and October, 19; and

WHEREAS, the Board took testimony and oral comments, as well as written comments from the public, and reviewed the record of the Planning Commission proceedings and hearing, including written comments and testimony provided to the Planning Commission; and

WHEREAS, the Board finds that the regulations as adopted are in general conformity with the County's master plan; and

WHEREAS, the Board deliberated following the public comment portion of the public hearing, and made such revisions to the proposed regulations as the Board deemed to be responsive to public testimony and written comments, and made such factual determinations as were necessary to adopt the regulations, based upon information provided by staff, the public, and included within the record of the proceedings; and

WHEREAS, at the conclusion of the hearing on October 19, the Board voted unanimously to approve the amendments to Sections 2, 3, 13, of the Land Use Code and to create a new Section – 24 *High Alpine Development Regulations*, and to make the new/amended regulations effective immediately.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY, COLORADO, AS FOLLOWS:

1. The Board finds that the proposed amendments to Sections 2, 3, and 13 and the creation of a new Section – 24 High Alpine Development Regulations are necessary to protect existing and future mining activities and historical mining features from the potential impacts of residential development and the Board approves the amendments for immediate adoption into the Land Use Code.
2. The Board finds that these regulations are supported by the record, including information provided by staff, and the public in their testimony and written comments, and further finds that these regulations are in general conformance with the County Master Plan, and can be administered by the Land Use staff.
3. The Board finds that these regulations are adopted to further the public health, safety and welfare, recognizing the limitations of public services such as water, wastewater treatment systems, sheriff, firefighting and emergency responses to remote areas of the County with limited access, the limited maintenance of roads in high alpine areas during winter months, natural hazards such as avalanches, rock slides, geohazards, and other conditions common to high alpine terrain.
4. The Board finds that these regulations are adopted to protect the environmental resources of the County including, but not limited to, tundra, wildlife habitat, and watershed quality resources.
5. The Board finds that these regulations are adopted to protect the economic interests of the County in preserving and protecting mining as a viable industry in the County, and in protecting and furthering the recreational and scenic resources of the County which constitutes a significant portion of the County's economic base.

APPROVED AND ADOPTED THIS 1ST DAY OF NOVEMBER, 2016.

Voting for: COMMISSIONERS PADGETT, TISDEL + BATCHELDER
Voting against: NONE

Attest:



Michelle Nader
Michelle Nader, Clerk and Recorder
By: Hannah Hoffenbeck, Deputy Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Lynn M. Padgett
Lynn M. Padgett, Chair

Ben Tisdell
Ben Tisdell, Vice-Chair

Don Batchelder
Don Batchelder, Commissioner

SECTION 2

DEFINITIONS

Proposed additions resulting from Section 24 – High Country Development Regulations:

TUNDRA. Alpine tundra ecosystems are typically found above tree line and are characterized by scattered, stunted tree coverage, generally less than twenty (20) feet in height. Several distinct plant communities are found in the delicate high alpine tundra ecosystem, and typically include: low shrubs, cushion plants, small forbs, lichens, willows, krummholz, and lush meadows of sedges and grasses.

SECTION 3 – REDLINE VERSION

ZONING

3.1 PURPOSE AND INTENT:

- A. The zoning provisions that follow have been adopted to achieve the purposes set forth in Section 1.
- B. To allow gradual, long-term population and economic growth in Ouray County in a manner that does not harm the County’s irreplaceable scenic beauty, wildlife, air and water resources, and other environmental qualities and that does not unduly burden the County’s residents or its governments.
- C. The intent of the County zones is to achieve across the zones, the overall goal of the Master Plan. This goal includes, in alphabetical order, specific goals for agricultural lands, county/municipal relationships, economic development, housing, natural resources, rural character, tourism, transportation, utilities, visually significant areas, and wildlife and plant habitats.
- D. The specific intent of each of the zones that follow shall be read in conjunction with the combination of the Master Plan’s overall and specific goals, and provide general guidance with regard to specific uses within each zone.

3.2 ZONING DISTRICTS, MAPS AND BOUNDARIES:

- A. The zones established by the Code are identified on the basis of the physical character of the County combined with the pertinent information about existing land use and ownership patterns and the needs of a stable and growing economy.
- B. All Zones shall be designated on the “Official Zoning Map of Ouray County” which is on file in the records of the County Clerk and Recorder. A copy of the map is attached to this Code and, in the event of any conflict between the copy and the map on file in the County records, the latter shall be conclusively deemed to prevail.

3.3 USES BY RIGHT AND SPECIAL USES:

- A. In each zone there are uses permitted by right and special uses which may be allowed on a site specific basis through a permitting process. These uses have been determined in each zone according to the unique characteristics of the zone.
- B. Uses allowed by right are allowed automatically, although construction of new structures may require a Site Development Permit or High Alpine Site Development Permit and a building permit pursuant to Sections 13 and 24 of this Code.
- C. Permits for special uses may be requested according to the procedures in Section 5. The criteria for approval of a special use are more specifically explained in Section 5.2.

3.4 USES NOT LISTED:

A. Upon application, or by its own initiative, the BOCC may, in accordance with Section 14.5, by resolution add to either the uses by right or by special permit listed for a zoning district based on these criteria:

- (1) Such use is appropriate to the physiographic and general environmental character of the zone to which the use is added.
- (2) Such use is compatible with other permitted uses in the zone and does not create any more offensive noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences, or more traffic, hazards, or alterations to the zone than the minimum amount normally resulting from the other uses permitted in the zone.

3.5 ESTABLISHMENT OF ZONES:

A. The County is hereby divided into eight (8) zones, as follows:

- (1) Alpine
- (2) Colona
- (3) High Mesa
- (4) North Mesa
- (5) Public Lands
- (6) South Mesa
- (7) South Slope
- (8) Valley

3.6 RESIDENTIAL DENSITY:

A. Maximum residential densities for each Zone shall be as follows:

- | | |
|----------------------|-------------------------------|
| (1) Alpine Zone | 1 Dwelling Unit per 35 Acres* |
| (2) Colona Zone | 7 Dwelling Units per Acre |
| (3) High Mesa Zone | 1 Dwelling Unit per 35 Acres |
| (4) North Mesa Zone | 1 Dwelling Unit per 6 Acres |
| (5) South Mesa Zone | 1 Dwelling Unit per 6 Acres |
| (6) South Slope Zone | 1 Dwelling Unit per 6 Acres |
| (7) Valley Zone | 1 Dwelling Unit per 35 Acres |

* Subject to additional restrictions of Section 24 – High Alpine Development Regulations

3.7 CONSTRUCTION, MAXIMUM BUILDING AND STRUCTURE HEIGHT:

In all zones, the maximum height of a building or other structure shall not exceed thirty-five (35) feet, unless a height of less than thirty-five (35) feet is required within the High Alpine Development Regulations (See Section 24 of this Code), an approved PUD, or as otherwise provided in a special use permit. (See Definitions – Section 2 for more information)

Construction of structures in all zones may have additional requirements, including setbacks, as provided elsewhere in this Code. Property owners should consult with Land Use staff concerning applicability of other requirements before commencing design or construction.

3.8 ZONES:

A. Alpine Zone:

The intent of the Alpine Zone is to preserve the natural beauty, wildlife habitat, and recreational, historic and archeological values of high altitude areas and manage the County's natural resources in a manner that is both environmentally sound and protects private property rights, while allowing mining, agriculture, forestry, recreation, and limited low density residential and resort/conference center development.

(1) Uses Allowed by Right:

- (a) Underground mining subject to state and federal permitting
- (b) Accessory uses and structures to any other use by right and any permitted use
- (c) Farming/Ranching
- (d) Home occupation
- (e) Non-commercial camping
- (f) Non-commercial logging
- (g) Single-family dwelling unit (maximum density of one unit per 35 acres) on parcels not previously approved by the County as part of a Planned Unit Development (PUD)

NOTE: (Further requirements for non-mining development on patented mining claims and patented mill sites, at or above 9480' are located in Sections 13 and 24.

(2) Uses Allowed by Special Use Permit

- (a) Bed and breakfast
- (b) Cemetery

(3.8A2)

- (c) Church

- (d) Commercial camping
- (e) Commercial equestrian activity
- (f) Commercial logging
- (g) Commercial outdoor recreation use – day use
- (h) Governmental facility
- (i) Guest ranch
- (j) Home business
- (k) Livery or horse rental operation
- (l) All mineral extraction and processing operations except those allowed by right
- (m) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (n) Public park or wildlife preserve
- (o) Public utility
- (p) Public service facility
- (q) Sand and gravel operation
- (r) School
- (s) Temporary use
- (t) Wildlife Rehabilitation Facility

NOTE: Further requirements for non-mining development on patented mining claims and patented mill sites at or above 9480' are located in Sections 13 and 24.

(3) Planned Unit Development:

- (a) Resort/Conference Center PUD
- (b) Regular PUD – as established by Section 6 of this Code

(4) Minimum Lot Size:

- (a) All uses, except as otherwise provided for in this Code - thirty-five (35) acres
- (b) Special uses – as established by Section 5 of this Code

(3.8A4)

- (c) See Section 24 of this Code for further restrictions pertaining to development in the High Alpine Area.

(5) Required Setbacks:

- (a) All structures shall be located at least twenty-five (25) feet from any property lines unless approved otherwise in a PUD
- (b) For lots and parcels that have an area of two (2) acres or less, the minimum setback for structures shall be ten (10) feet from the side and back property lines and twenty-five (25) feet from the front property line
- (c) No structure may be closer than one hundred (100) feet from the centerline of U.S. Highway 550 or Colorado Highway 62, if visible from such highways

B. Colona Zone:

The intent of the Colona Zone is to maintain an area of high-density residential development (one unit per 6,000 square feet) and commercial activity.

(1) Uses Allowed by Right:

- (a) Single-family dwelling units
- (b) Accessory uses and structures to any other use by right and any permitted use
- (c) Home Occupation

(2) Uses Allowed by Special Use Permit:

- (a) Church
- (b) Commercial use
- (c) Government facility
- (d) Home Business
- (e) Multi-family dwelling
- (f) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (g) Public service facility
- (h) Public utility
- (i) School

(3.8B)

- (3) Planned Unit Development:** Regular PUD (maximum density of 7 units per acre).

(4) **Minimum Lot Size:** Lot size shall not be less than fifty (50) feet by one hundred twenty (120) feet. Larger lot sizes may be required to meet requirements for adequate sewage disposal.

(5) **Floor-to-Lot Ratio:** For all uses, maximum floor-to-lot ratio shall not exceed 1:1.

(6) **Required Setbacks:** All structures shall be at least twenty (20) feet from any street or highway right-of-way (except alleys) and at least ten (10) feet from all other property lines.

C. High Mesa Zone:

The intent of the High Mesa Zone is to encourage agricultural production, preserve areas for wildlife migration and habitat, and scenic, historical and archeological values, and to allow low density residential development that does not adversely impact the significant vegetative, wildlife, historic, archeological and scenic values of the Zone.

(1) Uses Allowed By Right:

- (a) Farming/ranching
- (b) Single family dwelling unit (maximum density of one unit per 35 acres) on parcels not previously approved by the County as part of a PUD
- (c) Non-commercial logging
- (d) Accessory uses and structures that are accessory to any other use by right and any permitted use
- (e) Home occupation
- (f) Non-commercial camping

(2) Uses Allowed by Special Use Permit:

- (a) Bed and breakfast
- (b) Cemetery
- (c) Church
- (d) Commercial camping
- (e) Governmental facility
- (f) Guest ranch
- (g) Home Business

(3.8C2)

- (h) Mineral Operation
- (i) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (j) Public park or wildlife preserve
- (k) Public service facility
- (l) Public utility
- (m) Sand and gravel operation
- (n) School
- (o) Temporary use
- (p) Wildlife rehabilitation facility

(3) Minimum Lot Size:

- (a) Single family dwellings – thirty-five (35) acres
- (b) Special uses – as established by Section 5 of this Code
- (c) Regular PUD – as established by Section 6 of this Code

(4) Required Setbacks: All structures shall be located at least twenty-five (25) feet from any property lines, unless a greater setback is required within an approved PUD.

D. North Mesa Zone:

The intent of the North Mesa Zone is to preserve areas for wildlife mitigation and habitat and allow up to six acre residential density (medium density) that is not impacted by geological hazards.

(1) Uses Allowed by Right:

- (a) Single family dwelling units (maximum density of 1 unit per 35 acres)
- (b) Accessory uses and structures that are accessory to any other use by right and any permitted use
- (c) Home occupations
- (d) Farming/ranching
- (e) Non-commercial camping

(3.8D1)

(2) Uses Allowed by Special Use Permit:

- (a) Bed and breakfast

- (b) Cemetery
- (c) Church
- (d) Governmental facility
- (e) Guest ranch
- (f) Home business
- (g) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (h) Public park or wildlife preserve
- (i) Public service facility
- (j) Public utility
- (k) Sand and gravel operation
- (l) School
- (m) Temporary use
- (n) Wildlife rehabilitation facility

(3) Planned Unit Development:

- (a) Limited PUD (maximum - one unit per 13 acres)
- (b) Regular PUD (maximum - one unit per 6 acres)

(4) Minimum Lot Size:

- (a) Single family dwelling (outside of a PUD) thirty-five (35) acres
- (b) Planned unit developments – as established by Section 6 of this Code
- (c) Special uses – as established by Section 5 of this Code

(5) Required Setbacks: All structures shall be located at least twenty-five (25) feet from any property lines unless a greater setback is required within an approved PUD.

E. Public Lands Zone:

Only lands that are NOT owned by Federal or State entities are subject to this Zone and regulations. The intent of the Public Lands Zone is to preserve and protect private lands that are not publicly owned and managed by Federal or State entities in the Zone from future development, thereby providing visual and recreational enjoyment for the County's present and future residents as well as for visitors.

(1) Uses Allowed by Right:

- (a) Farming/ranching
- (b) Non-commercial camping
- (c) Underground mining

(2) Uses Allowed by Special Use Permit:

- (a) Commercial camping
- (b) Commercial logging
- (c) Governmental facility.
- (d) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (e) Public park and wildlife preserve
- (f) Public service facility
- (g) Public utility
- (h) Wildlife rehabilitation facility

(3) Minimum Lot Size: Thirty-five (35) acres

(4) Required Setbacks: All structures shall be located at least twenty-five (25) feet from any property lines

F. South Mesa Zone:

The intent of the South Mesa Zone is to allow medium density and, where appropriate, high density (including commercial) development if all appropriate infrastructure is available. The purpose is to meet the overall Master Plan goal of allowing gradual, long-term population and economic growth without harming the County's irreplaceable environmental qualities and unduly burdening the County residents or governments.

(1) Uses Allowed by Right:

(3.8F1)

- (a) Single-family dwelling units (maximum density of one unit per thirty-five (35) acres)
- (b) Accessory uses and structures that are accessory to any other use by right and any permitted use
- (c) Home occupations
- (d) Non-commercial camping

(2) Uses Allowed by Special Use Permit:

- (a) Bed and breakfast
- (b) Church
- (c) Commercial uses (as allowed in approved planned unit developments)
- (d) Governmental facility
- (e) Home business
- (f) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (g) Public park
- (h) Public service facility
- (i) Public utility
- (j) Sand and gravel operation
- (k) School
- (l) Temporary use

(3) Planned Unit Development:

- (a) Limited PUD (maximum - one unit per 13 acres)
- (b) Regular PUD (maximum - one unit per six acres)

(4) Minimum Lot Size:

- (a) Single-family Dwellings (outside a PUD) – thirty-five (35) acres
- (b) Planned unit developments – as established by Section 6 of this Code
- (c) Special uses – as established by Section 5 of this Code
- (d) See Section 24 of this Code for further restrictions pertaining to development in the High Alpine Area.

(3.8F)

- (5) Required Setbacks:** All structures shall be located at least twenty-five (25) feet from any property line unless otherwise approved in a PUD or subdivision. For lots and parcels that have an area of two (2) acres or less, the minimum setback for structures shall be ten (10) feet from the side and back property lines and twenty-five (25) feet from the front property line.

G. South Slope Zone:

The intent of the South Slope Zone is to preserve areas for wildlife migration and allow up to six acre residential development (medium density) that is not impacted by geologic hazards.

(1) Uses Allowed by Right:

- (a) Single-family dwelling units (maximum density one unit per thirty-five (35) acres (Unless otherwise approved in a County PUD process)
- (b) Accessory uses and structures that are accessory to any other use by right and any permitted use
- (c) Farming/ranching
- (d) Home occupation
- (e) Non-commercial camping

(2) Uses Allowed by Special Use Permit:

- (a) Bed and breakfast
- (b) Governmental facility
- (c) Home business
- (d) Oil and gas exploration and facilities pursuant to Section 21 of this Code
- (e) Public park and wildlife preserve
- (f) Public service facility
- (g) Public utility
- (h) Temporary use

(3) Planned Unit Development:

- (a) Limited PUD (maximum - one unit per 13 acres)
- (b) Regular PUD (maximum - one unit per 6 acres)

(3.8G)

(4) Minimum Lot Size:

- (a) Single-family dwellings (outside a PUD) thirty-five (35) acres
- (b) Planned unit developments – as established by Section 6 of this Code
- (c) Special uses – as established by Section 5 of this Code

(5) Required Setbacks:

All structures shall be located at least twenty-five (25) feet from any property lines unless a greater setback is required within an approved PUD.

H. Valley Zone:

The intent of the Valley Zone is to protect and preserve visually significant and sensitive areas of the County, maintain its overall rural character, and/or encourage the continued use of the lands for agricultural productivity.

(1) Uses Allowed by Right:

- (a) Farming/ranching
- (b) Single-family dwelling units (maximum density of one unit per 35 acres)
- (c) Accessory uses and structures that are accessory to any other use by right and permitted use
- (d) Home Occupation
- (e) Non-commercial camping

(2) Uses Allowed by Special Use Permit:

- (a) Bed and breakfast
- (b) Cemetery
- (c) Church
- (d) Commercial equestrian activity
- (e) Commercial outdoor recreation – day use
- (f) Governmental facility
- (g) Guest ranch
- (h) Home business
- (i) Livery or horse rental operation
- (j) Oil and gas exploration and facilities pursuant to Section 21 of this Code

(3.8H2)

- (k) Public service facility
- (l) Public utility
- (m) Sand and gravel operation
- (n) School
- (o) Temporary use
- (p) Wildlife rehabilitation facility
- (q) Historical museum

(3) Minimum Lot Size:

- (a) Regular PUD – as established by Section 6 of this Code
- (b) All uses except as otherwise provided for in this Code – thirty-five (35 acres)
- (c) Special uses – as established by Section 5 of this Code

(4) **Required Setbacks:** All structures shall be located at least fifty (50) feet from any property lines unless otherwise approved in a PUD. For lots and parcels that have an area of two (2) acres or less, the minimum setbacks for structures shall be ten (10) feet from the side and back property lines and twenty-five (25) feet from the front property line. No structure may be closer than one hundred (100) feet from the centerline of U.S. Highway 550 or Colorado Highway 62.

3.9 OVERLAY DISTRICTS:

A. **Intent and purpose:** Due to continued growth pressures, there is an increased desire for coordination between the Municipalities and the County to promote the efficient use of services and protection of open lands, agricultural lands, alpine lands and community identities. It is therefore the intent and purpose of the Overlay Districts to establish districts and create a process to jointly review development on unincorporated property surrounding the Town of Ridgway and the City of Ouray.

B. Definitions:

(1) **Area of Influence (“AOI”).** An area of unincorporated land wherein development or use of land has an impact upon the adjoining municipality.

(2) **Urban Development.** Development that conforms to the standards of moderate and high density residential, commercial/industrial or tourist land use categories, which is typical to urbanized areas. Urban development also includes the types of services that are generally required to support that development such as central potable water, storm water systems, central sanitary sewer systems, quick-response fire and police protection, urban level street design and maintenance, parks and recreation programs, open space and undeveloped parks, urban level retail and commercial development and other similar services that are typically provided by cities and towns.

(3.9B)

(3) **Urban Growth Management Area (“UGMA”).** An area of unincorporated land adjacent to a municipality in which urban development may be allowed when annexed by the municipality. The Urban Growth Management Area includes an area sufficient to provide for ten to twenty-five years of anticipated and desirable urban growth and development for the adjacent municipality.

C. **Establishment of Overlay Districts.** The following Overlay Districts are hereby established:

- (1) The Ridgway UGMA
- (2) The Ridgway AOI
- (3) The Ouray UGMA
- (4) The Ouray AOI

D. Overlay Districts: All Overlay Districts shall be designated on the “Official Zoning Map of Ouray County” which is on file in the records of the County Clerk and Recorder. A copy of the map is attached to this Code and in the event of any conflict between the copy and the map on file in the County records, the latter shall be conclusively deemed to prevail.

E. District Uses and Requirements.

- (1) Within the Ridgway AOI and the Ouray AOI, the following uses are allowed:
 - (a) All uses allowed by right shall be permitted within the underlying Zone(s), as stated under Section 3 of this Code.
 - (b) Uses allowed by special use permit and PUD’s within the underlying Zone, as stated under Section 3 of this Code, may be permitted, upon review and approval of the BOCC. Said uses shall follow the process as contained herein.
- (2) Within the Ridgway UGMA and the Ouray UGMA, the following uses are allowed:
 - (a) All uses allowed by right shall be permitted within the underlying Zone(s), as stated under Section 3 of this Code.
 - (b) Uses allowed by special use permit within the underlying Zone, as stated under Section 3 of this Code, except Home Businesses, may be permitted, upon review and approval of the BOCC. Said uses shall follow the process as contained herein.

(3.9)

F. Development Review – Urban Growth Management Area.

Applications for planned unit developments, special use permits, exemptions from the definition of subdivision, variances and rezoning shall first be considered for annexation by the adjoining municipality prior to submittal of an application to the County Land Use Office.

- (1) The municipalities will consider all petitions for annexation of lands within the adjoining UGMA and will not decline to annex such property except for good cause. For the purposes of this Section, good cause includes, without limitation, the following:
 - (a) Extension of one or more municipal services to the area would place an unreasonable economic burden on the existing users of such service or upon the future residents or owners of property in the area itself.

- (b) The area is not contiguous to the municipality's existing boundaries.
 - (c) The development proposal fails to meet the criteria for inclusion and annexation in the initial growth boundary outlined within the municipality's master or comprehensive plan.
- (2) If the municipality declines an annexation proposal within the UGMA, the Applicant/Developer may then submit a completed application to the County Land Use Office. Depending upon the request, the application shall include all information and documentation as set forth and outlined under the various sections of this Code. In addition, the application shall also include a written denial of annexation from the respective municipality.

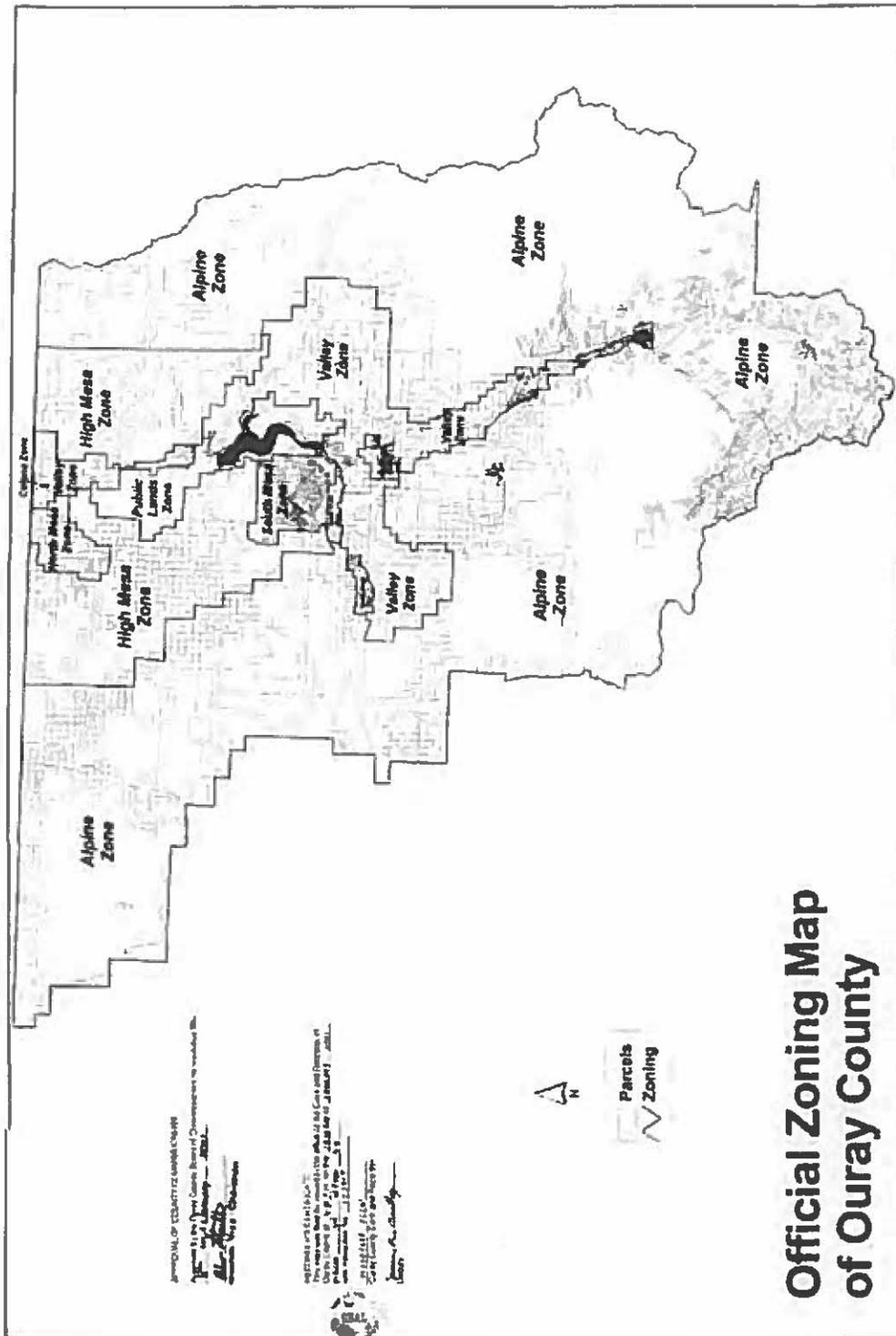
G. Development Review – Area of Influence.

Applications for planned unit developments, special use permits, exemptions from the definition of subdivision, variances and rezoning shall be submitted to the County Land Use Office and shall follow the requirements, standards and processes as set forth and outlined under the various sections of this Code.

H. Joint Planning Boards.

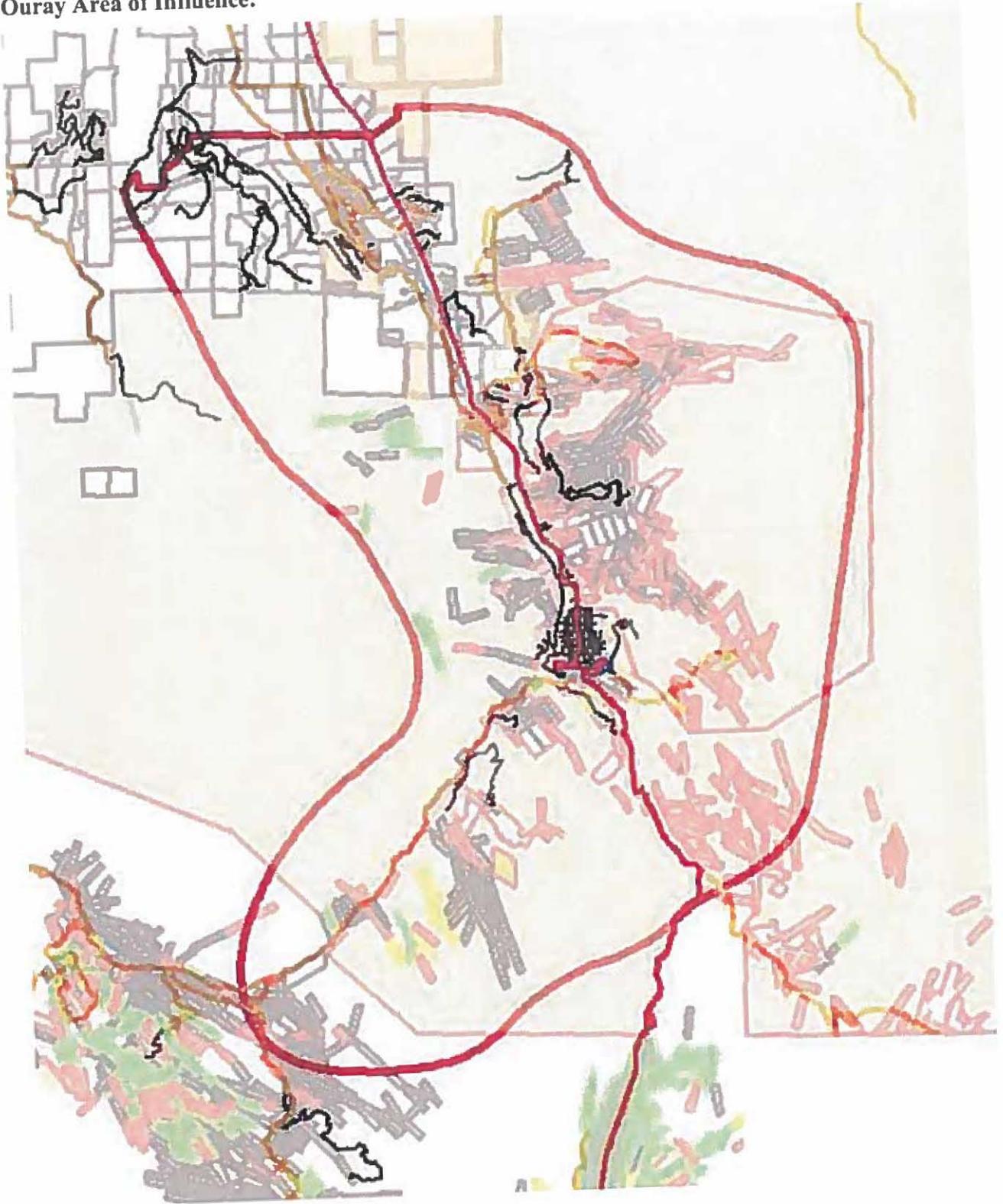
Applications for planned unit developments, special use permits, exemptions from the definition of subdivision, variances and rezoning located within an UGMA or an AOI shall be reviewed by a Joint Planning Board, rather than the Ouray County Planning Commission, and the Joint Planning Board shall make a recommendation to the BOCC.

- (1) When a request is located within the Ridgway UGMA or the Ridgway AOI, the Ridgway Area Joint Planning Board shall review the application.
- (2) When a request is located within the Ouray UGMA or the Ouray AOI, the Ouray Area Joint Planning Board shall review the application.

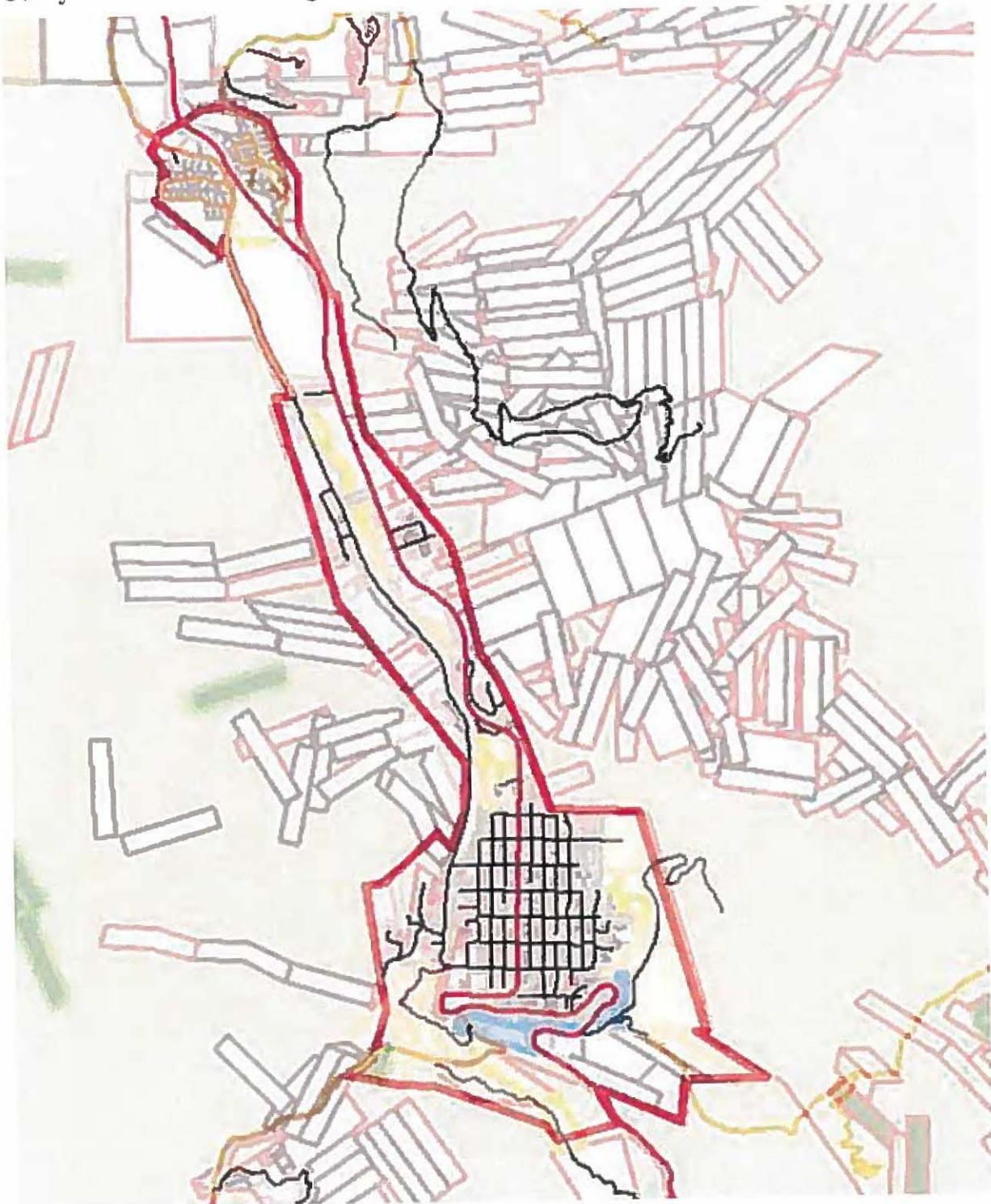


1-18-2011
L. J. ...
OFFICIAL ZONING MAP
173907

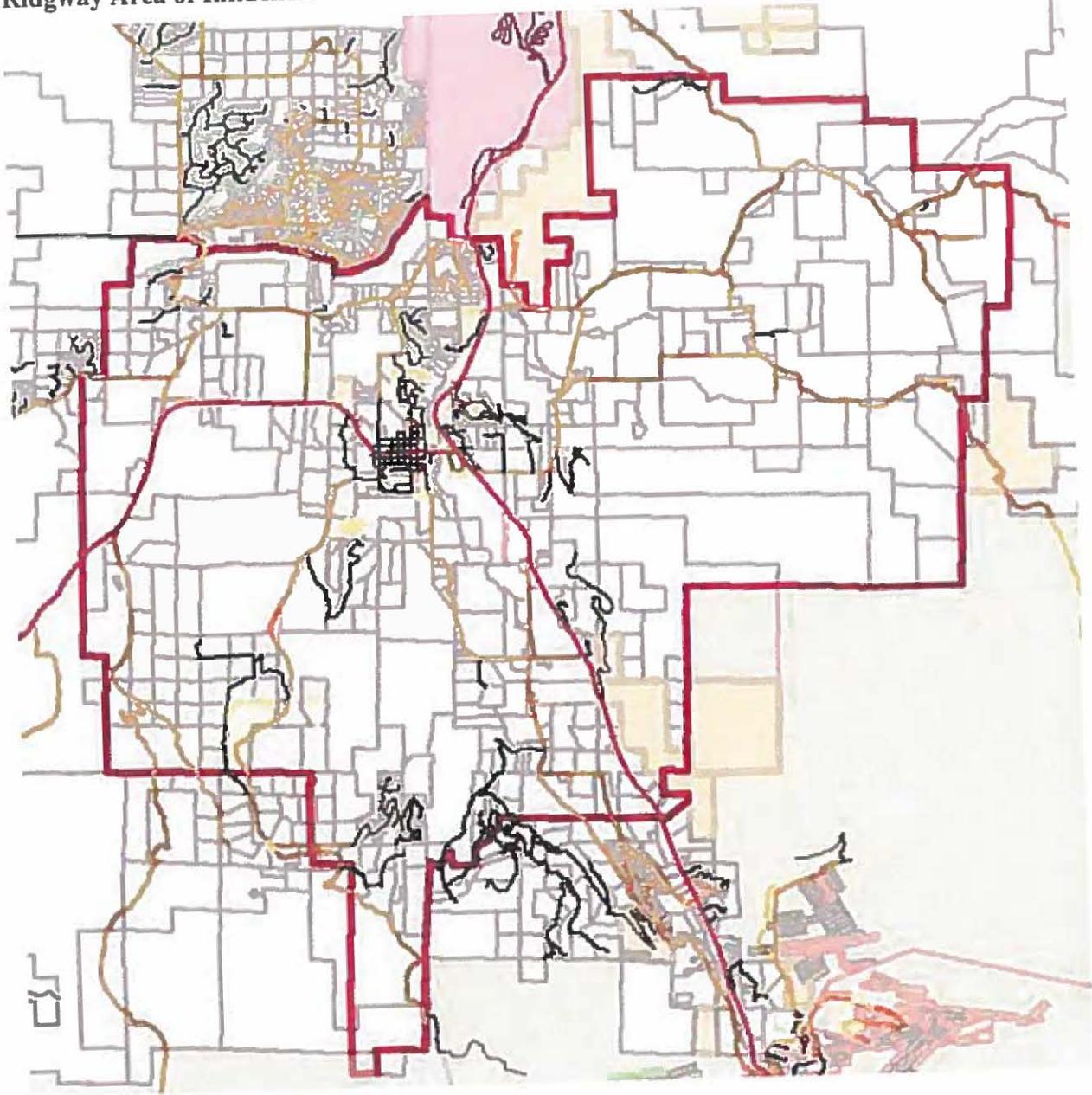
Ouray Area of Influence:



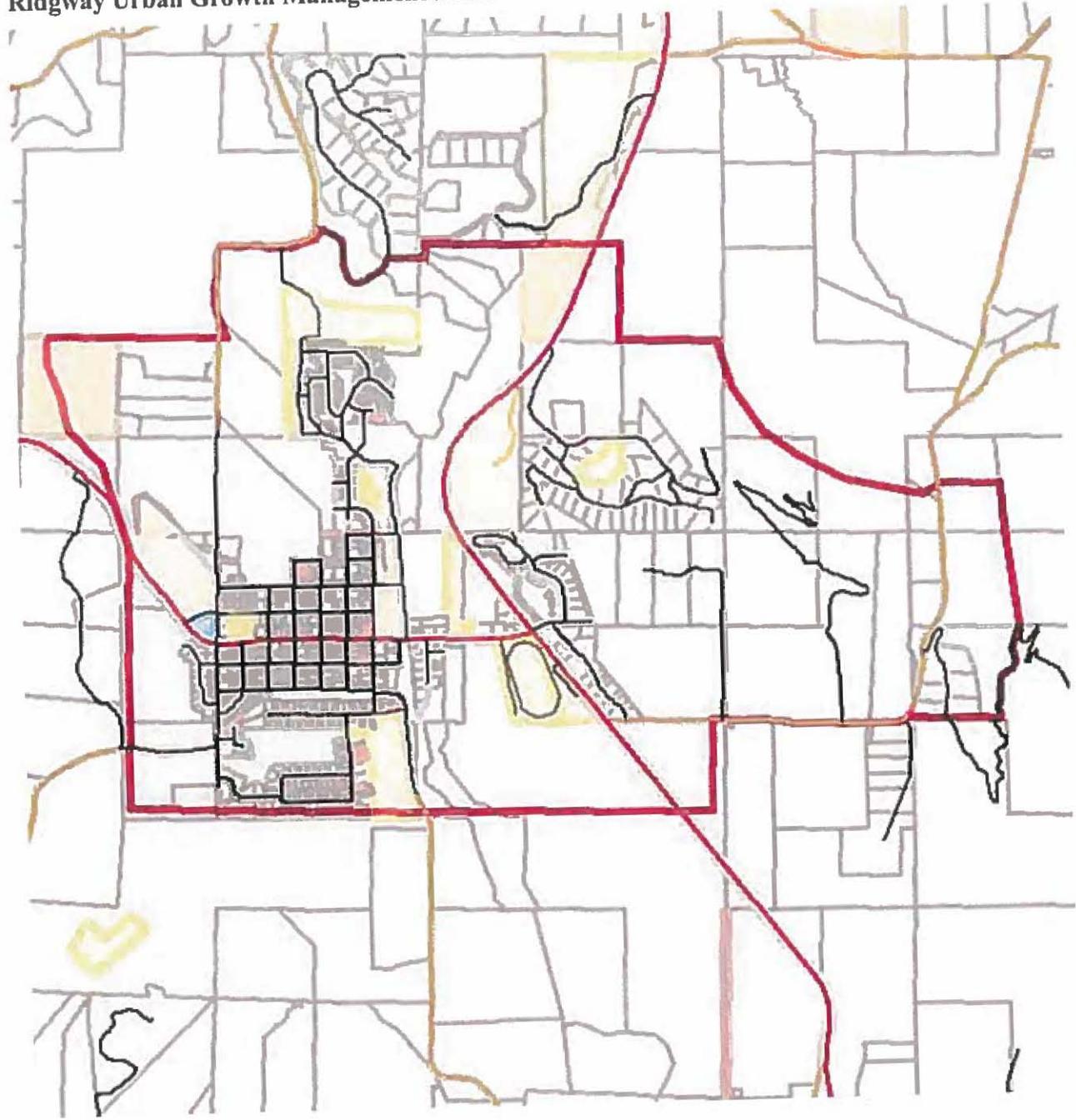
Ouray Urban Growth Management Area:



Ridgway Area of Influence:



Ridgway Urban Growth Management Area:



SECTION 13

ADMINISTRATION AND ENFORCEMENT

13.1 ENFORCEMENT:

- A. The Land Use Department shall be responsible for administration and enforcement unless otherwise designated by the BOCC.

13.2 CONSTRUCTION, ALTERATION, OR DEMOLITION OF BUILDINGS:

- A. It is unlawful to erect, construct, reconstruct, demolish, or alter any building or structure in violation of this Code, or any amendment hereto adopted or enacted by the BOCC.
- B. Any person, firm or corporation violating this Code or any amendment hereto is subject to the penalties of CRS § 30-28-124 and CRS § 30-28-124.5 as may be amended.
- C. Each day during which such illegal erection, construction, reconstruction or alteration continues shall be deemed a separate offense.

13.3 USE OF BUILDINGS, STRUCTURES OR LAND:

- A. It is unlawful to use any building, structure or land in violation of this Code, or any amendment hereto adopted or enacted by the BOCC.
 - (1) Any person, firm or corporation violating this Code or any amendment hereof is subject to the penalties of CRS § 30-28-124 and CRS § 30-28-124.5 as may be amended.
 - (2) Each day during which such illegal use of any building, structure or land continues shall be deemed a separate offense.
- B. Whenever Staff (including, but not limited to, the County Planner, Building Inspector, Zoning Enforcement Officer or County Attorney) has personal knowledge (it shall be the practice of Ouray County that “personal knowledge” shall mean formal notification) of any violation of this Section, shall give written notice to the violator to correct such violation within thirty (10) days after the date of such notice.
 - (1) If the violator fails to correct the violation within such 10 day period, the zoning official may request that the sheriff of the County issue a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of such charge to the violator.

(13.3B)

- (2) The summons and complaint shall require that the violator appear in County Court at a definite time and place stated therein to answer and defend the charge.
- (3) One copy of the summons and complaint shall be served upon the violator by the sheriff in the manner provided by law for the service of a criminal summons.
- (4) One copy each shall be retained by the sheriff and the County zoning official, and one copy shall be transmitted by the sheriff to the Clerk of the County Court.

13.4 TRANSFER OF INTERESTS:

Any person who transfers legal or equitable title or sells any subdivided land before a final plat for such subdivided land has been approved by the BOCC and recorded or filed in the office of the County Clerk and Recorder, is subject to the penalties of CRS § 30-28-124 and CRS § 30-28-124.5 as may be amended.

- A. All fines collected shall be credited to the general fund of the County.
- B. No person shall be prosecuted, tried or punished under this Section unless the indictment, information, complaint or action for the same is instituted prior to the expiration of eighteen (18) months after the recordation or filing in the office of the County Clerk and Recorder of the instrument transferring or selling such subdivided land.
- C. In addition to any other penalty specified herein, the County may bring an action to enjoin any person, firm, or corporation from selling developed land before a final plat for such developed land has been approved by the BOCC and may institute an injunction, mandamus, abatement or other appropriate action or proceeding to prevent, enjoin, abate or remove any unlawful erection, construction, reconstruction, alteration of use of any parcel of land.

13.5 WITHHOLDING OF PERMIT:

In addition to all other penalties specified for violation of this Code, the County shall withhold building permits, mobile home permits, on-site wastewater treatment system permits and any other permits which may be necessary for the habitation or development of any parcel of land which has been transferred in violation of this Code.

13.6 PRIVATE ACTION:

All provisions of the approved and recorded final development plan for a PUD shall run in favor of the residents, occupants and owners of the PUD but only to the extent expressly provided in the plan and in accordance with the terms of the plan and, to that extent, said provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by residents, occupants or owners acting individually, jointly or through an organization dedicated in the plan to act on their behalf.

13.7 NOTICE OF VIOLATION:

- A. In addition to all other penalties specified for violation of this Code, the County may record in the office of the County Clerk & Recorder, a Notice of Violation, which shall constitute constructive notice to the general public that no permit which may be necessary for habitation or development shall issue from the County on any parcel of land which has been transferred in violation of this Code.
- B. Prior to recordation of the Notice of Violation, the affected landowner(s) shall be entitled to a thirty (30) day notice of intent to record Notice of Violation sent certified mail, return receipt requested to said landowner(s)' last known address as shown by County records.
- (1) Upon written objection by the Landowner(s) filed with the County Land Use Department , within the aforementioned thirty day period, Notice of Violation shall not be recorded pending administrative review by the Land Use Department, which review shall take place within ten days of receipt of the written Objection.
 - (2) Following administrative review of the written objection and all other circumstances surrounding the alleged violation of this Code, if the Land Use Staff finds that there has been a violation of the Code, the Notice of Violation shall be recorded forthwith as provided herein.
 - (3) The affected landowner(s) may appeal the Land Use Staff's finding of violation to the BOA. Should the BOA reverse the finding of the Land Use Staff, the County shall forthwith record a revocation or withdrawal of the Notice of Violation, which was previously recorded.
- C. Compliance with the notice provisions of this Section shall not be a condition precedent to the County's enforcement of the provisions of this Code.
- D. Failure of the County to comply with the notice provisions of this Section shall not be deemed to constitute a waiver by the County of any violation of this Code.

13.8 FAILURE TO ENFORCE:

- A. Any failure by the County to enforce any provision of this Code shall not subject the County to any direct or indirect civil liability.
- B. Any failure by the County to enforce any provision of this Code shall not be construed as a waiver or forfeiture of its right to enforce.

13.9 FEES:

- A. Fees relating to this Code shall be assessed in accordance with a uniform schedule which is set by resolution of the BOCC and which shall be passed at any regular meeting of the BOCC or special meeting which is called for the specific purpose of adopting such fees.
- B. Notice that a fee schedule or amendment thereof is to be considered by the BOCC shall be published in the legal County newspaper at least fourteen (14) days prior to such consideration.
- C. The fee schedule shall be designed to fully compensate the County for all costs incurred or anticipated to be incurred in connection with the matter for which the fee is to be assessed. A current fee schedule may be requested from the Land Use Staff.

13.10 SITE DEVELOPMENT PERMITS:

- A. The provisions of this Section shall apply to the construction of single-family dwelling units on parcels located within the County, except construction proposed on lots previously approved by the County as part of a PUD, Final Development Plan or combined Preliminary/Final Development Plan approved by the BOCC in accordance with Section 6 of this Code, a Final Subdivision Plat approved as part of a Development Agreement approved pursuant to Section 17 of this Code, any subdivision filed and recorded prior to 1971, or where a High Alpine Site Development Permit is required by Section 13.11.
 - (1) In conjunction with and prior to approval and issuance of a building permit, a landowner wishing to construct a single-family dwelling unit must obtain a Site Development Permit from the County.
 - (2) The BOCC hereby delegates to the Land Use Staff the authority to review and approve or approve with conditions or deny all applications for Site Development Permits in the County.
 - (3) All decisions of the Land Use Staff shall be based upon the requirements set forth in the Land Use Code, or according to law. Any decision of the Land Use Staff pursuant to the authority delegated herein may be appealed as provided in Section 12.5 of the Code.

(13.10)

- B.** Applications for Site Development Permits shall be submitted in writing to the Land Use Office Staff, together with the applicant's acknowledgment of assessment of all processing, impact and other fees that are or may be required to be assessed by this or other Sections of this Code, as the Code may be amended from time to time. The County shall collect and the applicant shall pay all such applicable fees and assessments, at the time and in the manner that payment of those fees and assessments is required by this Code. The applicant shall use an application form approved by and provided by the County. The County shall approve, approve with conditions, or deny the application.
- C.** The County shall approve and issue a Site Development Permit upon the Applicant demonstrating to the satisfaction of the County that all of the following criteria have been met:
- (1)** Road access, potable water and sewage disposal will be available and will meet all applicable provisions of this Code.
 - (2)** The proposed site development will not unreasonably impact significant wildlife habitat, tundra, wetlands and riparian areas.
 - (3)** If the site development is proposed to be located within areas subject to the effects of any hazard, including but not necessarily limited to the following: chemical, geological, wildfire, flood, avalanche/snow slide, rockfall, landslide, potentially unstable slopes, slopes greater than 30 percent, alluvial fans, colluvial slopes, talus slopes, Mancos shale, faults, expansive soils or ground subsidence the applicant shall provide evidence demonstrating that such hazards have been avoided or otherwise mitigated. The County, where reasonably necessary, may require that recognized experts be employed and special studies be done and submitted before a site development permit can be issued affecting lands which may contain the hazards listed above, and which may affect persons using the land in question, or otherwise affected lands. The cost of employing such experts and drafting such special reports shall be paid by the applicant. The County is not required to accept the findings or conclusions of any experts or special reports.
 - (4)** All applicable impact and other fees and assessments have been assessed and paid as required by this Code.
 - (5)** If the proposed site development is located within areas where irrigation occurs or may impact any irrigation structures, including but not limited to ditches and head gates, the applicant shall demonstrate that any potential impacts have been adequately mitigated to allow historic water flow to continue.

(13.10)

- D. All applicants for a site development permit shall be required to sign a statement acknowledging that the County is overall a rural county located in rough and difficult terrain with a limited transportation network and County services may be unavailable or service may be untimely in some or all areas of the County. Approval of a site development permit or any other permit or approval does not constitute and shall not be considered as conferring any guarantee or expectation of the provision of any County service.
- E. Upon issuance of a site development permit the Land Use Staff shall submit the permit and County service statement to the Office of the County Clerk and Recorder for recordation. Any amendment to the approved site development permit shall require additional County approval.
- F. Upon demonstration that the permit is in compliance with all conditions and criteria, as set forth above, the Site Development Permit shall be approved for a period of three (3) years. Renewal of the permit may be granted for additional successive three (3) year terms providing that the permit is in compliance with all conditions and criteria, as set forth above.

13.11 HIGH ALPINE SITE DEVELOPMENT PERMITS

A. Applicability:

- (1) These regulations **shall apply** to:
 - (a) All residential, non-mining and commercial development occurring on patented mining claims and patented mill states at or above 9,480’.
- (2) These regulations **shall not** apply to:
 - (a) Any residential structures that are accessory to an active, state-permitted mine operation.
 - (b) Lots previously approved by the County as a PUD, Final Development Plan, or combined Preliminary/Final Development Plan approved by the BOCC in accordance with Section 6 of this Code, or a Final Subdivision Plat approved as part of a Development Agreement approved pursuant to Section 17 of this Code.
 - (c) Any parcel with an active Site Development Permit issued within three years prior to the date of adoption of this section of Code.
 - (d) Any proposed Public Utility or Communications Facility as provided for in the Zoning section of this Code.
 - (e) Excludes any existing historically significant structures.

(13.11A)

- B.** In conjunction with and prior to approval and issuance of a building permit, a landowner wishing to construct any structure must obtain a High Alpine Site Development Permit from the County.
- C.** The BOCC hereby delegates to the Land Use Staff the authority to review and approve or approve with conditions or deny all applications for High Alpine Site Development Permits in the County.
- D.** All decisions of the Land Use Staff shall be based upon the requirements set forth in the Land Use Code, or according to law. Any decision of the Land Use Staff pursuant to the authority delegated herein may be appealed as provided in Section 12.5 of the Code.
- E.** Applications for High Alpine Site Development Permits shall be submitted in writing to the Land Use Office Staff, together with the applicant's acknowledgment of assessment of all processing, impact and other fees that are or may be required to be assessed by this or other Sections of this Code, as the Code may be amended from time to time. The County shall collect and the applicant shall pay all such applicable fees and assessments, at the time and in the manner that payment of those fees and assessments is required by this Code. The applicant shall use an application form approved by and provided by the County. The County shall approve, approve with conditions, or deny the application.
- F.** Clearing, grading, grubbing, or other site disturbance shall occur only after a High Alpine Site Development Permit has been issued by the Land Use Department. Applicant shall provide evidence that all applicable local, state and federal permits have been obtained prior to any such work commencing. All proposed earth-disturbing work or vegetation removal shall be detailed in the Site Development Permit application and shall be completed in accordance with such plans.
- G.** Applications for High Alpine Site Development Permits shall also include a survey, prepared by a Colorado Licensed Professional Surveyor. Such survey shall include:
 - (1) Existing and proposed structures
 - (2) Existing and proposed trails as shown on the County Road Map (See resolution 2014-014, or any subsequent amendments)
 - (3) Existing and proposed roads and/or driveways
 - (4) Any other existing and proposed site improvements, including any proposed fences.

(13.11G)

- (5) Topographic data for the remaining, non-disturbed portion of the parcel using existing topographic data such as USGS Quadrangle(1-24,000 scale contour or less).
 - (6) Topographic survey data for the area of the parcel to be developed and the entire length of the driveway (if any) with no less than 5-foot contour intervals.
 - (7) The location of 2-points (on the ground and on plat) within the proposed development area.
 - (8) In addition to the survey, the Applicant shall also provide documentation that the Applicant either owns 100% of both the surface and the mineral estates, or the Applicant has provided the County with documented written consent of owner or owners of any full or fractional interests in the mineral or surface estates to develop the surface as proposed.
 - (9) Staff will conduct a site visit when the site is free of snow and can be fully assessed for all geo-hazards such as avalanche with rockslide risks, terrain, and other site specific conditions which may affect approval or disapproval of the application.
 - (10) Applicant shall provide documentation of legal access to the property.
- H.** The County may refer the site development and/or building permit to any local, state, or federal agency for the opportunity to review and comment.
- (1) If there is no response from the agency within 30-days, Staff shall assume approval from that agency and proceed with processing of the High Alpine Site Development Permit.
 - (2) If a response is received, Staff shall consider those comments in determining whether the application should be approved, denied or approved with conditions.
- I.** The County shall approve and issue a High Alpine Site Development Permit upon the Applicant demonstrating to the satisfaction of the County that all of the following criteria have been met:
- (1) The proposed construction shall comply with all provisions stated in this Section and Section 24 of this Code
 - (2) The proposed development is not within the alpine tundra ecosystem.

- (3) Potable water and sewage disposal will be available and will meet all applicable provisions of this Code, and applicable federal and state laws and regulations.
- (4) The proposed site development will not unreasonably impact significant wildlife habitat, wetlands and riparian areas.
- (5) The proposed site development will protect and minimize impacts to important historic or environmental features of the site, such as historic buildings, town sites, mining districts, cultural features (may require opinion from the Ouray County Historical Society), timber, plants, wildlife, drainages, wetlands, geologic features, trails, etc.
- (6) County designated trails will be kept in their historic alignments to the greatest extent possible. Road and driveway crossings of trails shall be avoided wherever possible. (Note: For trail and/or road information, see Resolution 2014-014, Exhibit A, or any subsequent amendments)
- (7) If the site development is proposed to be located within areas subject to the effects of any hazard, including but not necessarily limited to the following: chemical, geological, wildfire, flood, avalanche/snow slide, rockfall, landslide, potentially unstable slopes, slopes greater than 30 percent, alluvial fans, colluvial slopes, talus slopes, Mancos shale, faults, expansive soils or ground subsidence the applicant shall provide evidence demonstrating that such hazards have been avoided or otherwise mitigated. The County, where reasonably necessary, may require that recognized experts be employed and special studies be done and submitted before a site development permit can be issued affecting lands which may contain the hazards listed above, and which may affect persons using the land in question, or otherwise affected lands. The cost of employing such experts and drafting such special reports shall be paid by the applicant. The County is not required to accept the findings or conclusions of any experts or special reports.
- (8) All applicable impact and other fees and assessments, required by the development permit process have been assessed and paid as required by this Code.
- (9) If the proposed site development is located within areas where irrigation occurs or may impact any irrigation structures, including but not limited to ditches and head gates, the applicant shall demonstrate that any potential impacts have been adequately mitigated to allow historic water flow to continue.
- (10) No new roads or driveways may be built without prior issuance of a Site Development Permit by the County.

Note: New access routes that are not on the County Road Map are discouraged.

(13.11.1)

- (11) All applicants for a site development permit shall be required to sign, notarize, and record a County service statement acknowledging the following: “Ouray County is a small, rural county, and the implications of such, including; Ouray County does not have the resources (both financial and staffing) of larger, more urban counties and communities, and cannot provide the same level of services. Roads are primarily dirt and gravel, and may or may not be paved in the future, depending on future resources of the County. Some properties may not be accessible during the winter months except by snow cat, snowmobile, skis or snowshoes. I should consider year-round travel conditions when planning access to the property. Maintenance of roads, year round, has limitations based on available resources for staff and materials. Some County roads are not maintained during the winter months, and private maintenance of county roads, including snowplowing, is not permitted except by written agreement with the Board of County Commissioners, which permission may or may not be granted. My property is located in an area that has historically been mined, and an active mine may be currently operating, or may operate in the future. Operating mines may require the use of equipment, including trucks that may affect the peace and quiet of my property. By building a residential structure on my property, I assume for myself, and other occupants of the property, all health risks of high mineral content in soils and water as well as all risks inherent in the geology of the area, including avalanche, rockfall, and slides of land. The soil and water on, beneath, or near my property likely contains high mineral content which may, or may not, pose health risks. I further acknowledge that ownership of property with tailings and other remnants of historic mining activities may include financial and other legal liability related to reclamation and clean-up of mine wastes that may affect the environment. Emergency responses to medical situations, fires, and law enforcement requests may be slower than in urban areas, and may be more limited in remote parts of the County. Emergency responses may be totally unavailable during winter months. The County does not provide water, waste water, or firefighting services. These services may or may not be readily available in some parts of the County and I have inquired about the specifics of these services, as well as access to my property and understand how my property will be served.”
- (12) No application may be granted unless Applicant either owns 100% interest in both the surface and mineral estates of the parcel subject to the Site Development Permit, or has provided written consent, which shall be signed, notarized and recorded, of all other ownership interests in the property, including fractional interests, and interests in the mineral estate, to the proposed development.
- (13) Legal right of access to the property has been documented.

(13.11)

- J. Upon Issuance of a site development permit the Land Use Staff shall submit the permit and County service statement to the Office of the County Clerk and Recorder for recordation. Any amendment to the approved site development permit shall require additional County approval.
- K. Upon demonstration that the permit is in compliance with all conditions and criteria, as set forth above, the Site Development Permit shall be approved for a period of three (3) years. Renewal of the permit may be granted for additional successive three (3) year terms providing that the permit is in compliance with all conditions and criteria, as set forth above.

13.12 BUILDING PERMITS:

- A. Building permits shall be issued in accordance with procedures set forth in the Uniform Building Code, as adopted by the County.
 - (1) No building shall be erected, occupied, moved or structurally altered until a permit therefor has been issued by the County Building Inspector and no permit shall be issued unless the proposal is in full accordance with this Code, except in those instances where a lawful variance has been granted by the BOA.
 - (2) All applications for permits shall be accompanied by a drawing showing the location of all existing and proposed improvements, overhead and underground utilities, irrigation and drainage ditches, and all easements in relation to the lot and indicating the height of all structures. No building permit shall be issued within a PUD approved after the date of adoption of this Code without prior notification to the architectural control committee or other internal enforcement body approved under Section 6 of this Code.
- B. The Land Use Staff, where reasonably necessary, may require that recognized experts be employed and special studies be done and submitted before a building permit is issued affecting lands which may contain a geological, wildfire, flood or other hazard, and which may affect persons using the land in question or abutting or otherwise affected lands. The cost of employing such experts and drafting such special reports shall be paid by the applicant. The Land Use Staff is not required to accept the findings or conclusions of any experts or special reports.

13.13 CERTIFICATE OF OCCUPANCY / COMPLETION:

No new building, requiring a building permit, shall hereinafter be occupied or used without a Certificate of Occupancy or Certificate of Completion, which has been issued by the County Building Inspector. Such certificate shall be issued within five (5) days

after the Inspector has been notified of the building's completion and after a final inspection has been made to determine conformance with the provisions of this Code.

13.14 RECORDS:

All building permits, application records, records of inspection and certificate of occupancy records shall be kept on file in the office of the County Building Inspector and shall be available for inspection by the public.

13.15 PLANNING COMMISSION:

- A. Establishment: There is hereby established a planning commission which shall be known as the Ouray County Planning Commission. All further references to the Planning Commission in this Section shall be to the Commission.
- B. Appointment of Members: In accordance with the bylaws of the County, the membership of the Commission shall be seven persons, appointed by the BOCC for staggered three-year terms. The members of the Commission shall be full-time residents of the County. The BOCC may also, at its discretion, appoint any associate members to the Commission to serve in place of any member of the Commission who may be absent, or, who may have any financial or personal interest in any matter brought before the Commission or who may be otherwise unable to function or serve in his appointed capacity as a member of the Commission. Any member may resign from the Commission upon sending written notice of such resignation to the Chair of the BOCC.
- C. Powers and Duties: The Planning Commission shall have such powers and duties as prescribed by law. The Ouray County Planning Commission is an advisory body to the Board of County Commissioners.

13.16 BOARD OF ADJUSTMENT:

- A. Establishment: The Board of Adjustment consists of three members, plus two alternate members, appointed by the BOCC. All further references to the Board of Adjustment in this Section shall be to the Board.
- B. Members: Not more than one of the members and one of the associate members may also be members of the Planning Commission. The members shall serve without compensation for service on the Board. Each member shall serve for three (3) years, but may be reappointed for multiple terms. The terms of the members shall be staggered so that the term of one member will expire each year. Any member of the Board may be replaced or removed for cause by the BOCC upon written charges and after a public hearing. Vacancies shall be filled for any vacancy whether due to removal, resignation, death, or unexcused absence from three consecutive meeting by the BOCC for the remainder of the term. An alternate member may take the place of a member on a temporary basis in the event that a

regular member is temporarily unable to act due to absence from the county, illness, interest in a case before the Board, or for any other cause.

(13.16)

- C. Meetings: The Board shall be held at the call of the Chair as necessary to review and hear appeals and matters in its jurisdiction. The Chair, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses at hearings by application to the district court. At each meeting, the Board shall keep minutes, showing the votes of each member or the absence of a member from voting, and all other official actions taken.
- D. Officers: The Board shall select, at the beginning of each calendar year, a Chair who shall preside at all meetings, a Vice-Chair, who shall preside at meetings in the absence of the Chair, and a Secretary, who shall be responsible for the minutes of the meetings and completeness of the hearings records. The Secretary's duties may be delegated to a county employee.

13.17 VISUAL IMPACT REVIEW COMMITTEE:

- A. Establishment: The advisory visual impact review committee consists of five (5) members who shall be appointed by the BOCC. All further references in this Section to the Visual Impact Review Committee shall be to the Committee.
- B. Membership: Members of the Committee shall serve, without compensation, and shall be appointed for three (3) year terms, provided that the terms shall be staggered to ensure continuity on the Committee. The BOCC may adjust the term of any member when appointed for the purpose of ensuring continuity. At least three (3) of the members shall be design professionals, either actively practicing or retired. One member shall also be a member of the Planning Commission. The Planning Commission shall recommend one of its members to the BOCC for such appointment. Members serve at the pleasure of the BOCC. Vacancies may be filled as necessary and for such terms as provided above.
- C. Officers: The Committee shall, at its first regular meeting of each calendar year, elect a Chair, a Vice-Chair, and a Secretary to serve for the calendar year. The Chair shall preside at meetings, and the Vice-Chair shall perform the duties of the Chair in the absence of the Chair. The Secretary shall keep minutes of the meetings of the Committee.
- D. Appeals to the Visual Impact Review Committee:

Appeals to the VIRC may be taken by any person aggrieved by the inability to obtain a permit or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of the provisions of Section 9 of this Code. Appeals to the Board may also be taken by any officer,

department, board or bureau of the County affected by the grant or refusal of a permit or by other decision of an administrative officer or agency based on or made in the course of the administration or enforcement of the provisions of Section 9. Such appeal must be made within thirty (30) days after the occurrence of such grievance or decision, which is the subject of the appeal. Upon appeals, the Board shall have the following powers:

(13.17D)

- 1) Interpretation: To hear and decide requests for interpretation of Ouray County Visual Impact Regulations.
- 2) Variances: Where, by reason of exceptional narrowness, shallowness, shape, or other characteristic of a specific piece of property or by reason of exceptional topographic conditions or by reason of exceptional wildlife and or wildfire impact or other extraordinary and exceptional situation or condition impacting such piece of property, the strict application of Section 9 of this Code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the owner of such property, the VIRC shall recommend to the Board of County Commissioners the disposition of an appeal, so as to relieve such difficulties or hardship, based on criteria such as:
 - (a) Reflecting immediate natural forms in building mass.
 - (b) Use of natural materials to imitate the immediate surrounding area.
 - (c) Minimize long frontages on visible sides.
 - (d) Recessing and/or shading windows.
 - (e) Multiple roof lines.

Provided that such relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of Section 9 of this Code.

- E. Procedure: A meeting for the purpose of reviewing a request for interpretation of Section 9 shall be held within thirty (30) days of receipt of such request. The meetings of the Committee shall be published or publicly noticed at least two (2) days in advance of the meeting. Members of the public may be heard at any meeting at the discretion of the Chair. All comments or interpretations of the Committee shall be provided in writing to the person requesting such interpretation, as well as to the Board of Adjustment and shall be provided within ten (10) days of conclusion of the meeting to review the request for interpretation.

13.18 JOINT PLANNING BOARDS:

- A. **Establishment:** There are hereby established a Ridgway Area Joint Planning Board and an Ouray Area Joint Planning Board to act as recommending bodies to the BOCC. The Joint Planning Boards will review specific development applications for properties located within the Ridgway Area of Influence, Ridgway Urban Growth Management Area, the Ouray Area of Influence and the Ouray Urban Growth Management Area.

- B. **Appointment of Members:** The Ridgway Area Joint Planning Board and the Ouray Area Joint Planning Board shall consist of a total of eight (8) members each. Membership shall be as follows:
 - (1) The eight (8) members of the Ridgway Area Joint Planning Board shall consist of five (5) of the seven (7) members of the Ouray County Planning Commission and three (3) members selected by the Ridgway Town Council from the Ridgway Town Planning Commission or if no Planning Commissioners are available shall select three (3) persons who reside within the limits of the Town of Ridgway. The BOCC shall approve or reject any or all of the names submitted by the Ridgway Town Council.

 - (2) The eight (8) members of the Ouray Area Joint Planning Board shall consist of five (5) of the seven (7) members of the Ouray County Planning Commission and three (3) members selected by the Ouray City Council from the City of Ouray Planning Commission or if no Planning Commissioners are available shall select three (3) persons who reside within the limits of the City of Ouray. The BOCC shall approve or reject any or all of the names submitted by the Ouray City Council.

 - (3) The terms of the Joint Planning Boards' members shall be as follows:
 - (a) From the Ouray County Planning Commission, membership shall coincide with their appointed terms.

 - (b) The members appointed from each municipality shall serve for staggered three-year terms.

 - (4) The BOCC, at the request of the Ouray County Planning Commission or the Town of Ridgway or City of Ouray, may also, at its discretion, appoint any associate members to each of the Planning Boards to serve in place of any member of the Board who may be absent from the County, who is ill, who may have any financial or personal interest in any matter brought before the Commission or who may be otherwise unable to function or serve in his appointed capacity as a member of the Planning Commission.

 - (5) Any member may resign from the Planning Boards upon sending written notice

of such resignation to the Chairman of the BOCC.

(13.18)

- C. Powers and Duties: The Ridgway Area Joint Planning Board and the Ouray Area Joint Planning Board will be considered County advisory boards. The Joint Planning Boards shall review those applications for development as outlined under Section 3.9 of this Code. The Joint Planning Boards will not have the authority to adopt a master plan pursuant to Section 30-28-106(1) of the Colorado Revised Statutes.

SECTION 24

HIGH ALPINE DEVELOPMENT REGULATIONS

24.1 PURPOSE & INTENT:

The purpose and intent of these regulations is:

A. To protect and preserve:

- (1) The alpine, sub-alpine and scenic hillsides in the upper Uncompahgre River watershed for their historic and natural landscapes.
- (2) The area needed for the protection and production of a safe public water supply
- (3) The relatively undeveloped character of these backcountry areas.
- (4) The historical structures and the native flora and fauna.
- (5) The public lands from the impacts of incompatible development.

B. To protect mineral resources, and access to those resources, by regulating non-mineral development on patented mining claims. This area is comprised of public lands managed by the United States Forest Service (USFS), patented mining claims, and unpatented mining claims and mineral rights from the surface estates. Ouray County has a long history of mineral exploration, development, and commercial mineral extraction and processing, which led to the patenting of numerous mining claims. Ouray County continues to derive economic benefits from mineral extraction, and these regulations are intended to ensure that mining remains a viable component of the Ouray County economy by limiting the potential for conflicts between residential uses of patented mining claims and active, past and future mining operations.

C. To limit development activities in the High Alpine Area due to risks associated with:

- (1) Natural conditions of the area, including high elevation, environmentally sensitive and geologically hazardous areas, including areas at risk for avalanche and rock slides, steep terrain, and other site constraints.
- (2) Limited access for potential residents as well as emergency responders.
- (3) Increased demand for public services beyond what is currently provided.
- (4) Potential conflicts with past and or future mining activities
- (5) Potential degradation of environmental and watershed health.
- (6) Risks associated with wildfire hazards.
- (7) Protection of significant wildlife habitat, including wildlife dependent on tundra.
- (8) Preservation of historical and archeological resources.

D. To maintain the existing characteristics found in the High Alpine Area (such as the lack of improved or maintained roads, little or no utility or infrastructure

improvements, and very limited or sparse development other than historic mining remnants from past mining activities) by:

(24.1D)

- (1) Prohibiting both public and private improvements to existing public roads and to limit the construction of new roads within the High Alpine Area, while also preserving historic access methods.
- (2) Limiting residential development to cabins and small scale residential development consistent with the type of development that historically occurred in the High Alpine Area.

24.2 **APPLICABILITY:**

A. These regulations **shall apply** to:

- (1) All residential, non-mining, and commercial development occurring on patented mining claims and patented mill sites at, or above, 9,480’.

B. These regulations **shall not** apply to:

- (1) Any residential structures that are accessory to an active state-permitted mine operation.
- (2) Lots previously approved by the County as a PUD, Final Development Plan, or combined Preliminary/Final Development Plan approved by the BOCC in accordance with Section 6 of this Code, or Final Subdivision Plat approved as part of a Development Agreement approved pursuant to Section 17 of this Code.
- (3) An active Site Development Permit issued three years prior to the date of adoption of this section of Code.
- (4) Any proposed Public Utility or Communications Facility as provided for in the Zoning section of this Code.
- (5) Excludes any existing historically significant structures.

24.3 **HIGH COUNTRY DEVELOPMENT CRITERIA AND STANDARDS:**

- A. For proposed non-mining development on patented mining claims and patented mill sites above 9480’ in elevation, a minimum of 35-acres is required in order to be eligible for issuance of a building permit. Multiple contiguous mining claims or mill site parcels may be combined through a boundary adjustment process in order to reach the required minimum acreage. The additional process for acquiring minimum acreage through *Trade Credits* for contiguous or non-contiguous parcels is described in Section 24.7.

Any patented mining claim or mill site that contains insufficient acreage to allow development and construction of a residential structure pursuant to this Section 24

shall not be considered a legal, non-conforming parcel for the purposes of Section 4.6 of the LUC. However, a structure existing prior to the date of adoption of this Section 24 on a patented mining claim or patented mill site with insufficient acreage to allow issuance of a new building permit is subject to Section 4.4 of the Land Use Code.

(24.3)

B. Residential, Non-Mining and Commercial development is prohibited within the alpine tundra ecosystem.

C. The following additional regulations shall apply:

(1) Short Term Rentals are strictly prohibited, as defined by Ordinance 2016-002 and any subsequent amendments.

(2) Any commercial use is prohibited unless specifically allowed under the Zoning Section of this Code.

(3) Accessory dwelling units and detached employee housing structures are prohibited.

D. High Alpine Site Development Permits:

Prior to application for a building permit(s) for any residential, non-mining, or commercial structures, on patented mining claims and patented mill sites above 9480', applicants shall be required to apply for, and receive approval of, a High Alpine Site Development Permit. See Section 13.11 for submittal requirements.

E. Structure Size:

(1) The maximum accessory structure size shall be: 200 SF. The maximum number of accessory structures shall be one (1).

(2) The maximum structure size shall be: 700 SF, but may be increased pursuant to the allowances below:

(a) Excludes porches, decks, patios and terraces that do not have roofs or floors above and are open to the sky, if such improvement is equal to or less than thirty (30) inches above grade and is two hundred fifty (250) square feet or less.

(b) For porches, decks, patios, and terraces more than thirty (30) inches above grade or greater than two hundred fifty (250) square feet, then the square footage of these items is calculated as part of the dwelling floor area at fifty percent (50%) of the actual area.

(3) Additional Structure Size Allowances:

(a) An additional 500 square feet of Floor Area may be allowed for each Trade Credit dedicated, as provided in Section 24.7 below.

NOTE: 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 issuance of a High Alpine Development Permit, the owners 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.

(24.3E3)

- (b) An additional 250 square feet of Floor Area may be allowed where the owner enacts measures that preserve or enhance public trails or access. Granting of additional floor area is contingent upon the dedication of an easement to the County, and that easement shall run with the surface estate. Any such easement shall be agreed to in writing by the mineral estate holder.
- (c) 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.
- (d) In no circumstance shall a non-mining residential or commercial structure have a Floor Area larger than 2,500 square feet.

F. Structure Height:

The maximum structure height shall be twenty-five feet (25’) for structures and sixteen feet (16’) for accessory structures.

Note: Height measurement is calculated pursuant to the definition of “Building Height” in Section 2 of this Code.

G. Setbacks: All development shall comply with the setback requirements listed in the Zoning section of this Code.

H. Visual Impact:

- (1) All structures within the High Alpine Area shall mimic and blend with those found in the surrounding natural landscape. Use of wood, stone and other natural looking materials is encouraged. Colors shall be earth-tone, dark and/or subdued. The Applicant shall provide a color board to the Land Use Department showing proposed colors as part of the Site Development Permit application. At the time that a building permit application is submitted, the Applicant shall confirm the colors to be used and such colors shall be approved by the Land Use Department/Building Official prior to approval of a building permit.
- (2) Highly reflective glass or metal surfaces are prohibited and instead the use of non-reflective glass or metal surfaces is required. Fire retardant materials will be

allowed provided that the materials have a natural appearance and are approved by the Land Use Department during the Site Development Permit review process.

(24.3H)

- (3) All structures located along a ridgeline or escarpment shall be set back a minimum of fifty (50) feet from the ridgeline or edge of escarpment.
- (4) If the proposed construction is within, and visible from, a view corridor (see Section 9), the construction must also comply with all standards of the Visual Impact Regulations.

Note: Mid-summer foliage and terrain conditions shall be used when determining blending requirements.

I. Access:

- (1) Private improvements to existing county roads and any private construction of new roads within the High Alpine Area are prohibited without prior approval by the County Commissioners. Said restrictions are imposed as a means of maintaining the areas existing character and as a means of preserving historic access methods.
- (2) Existing private roads within the high country area are considered to be pre-existing driveways. Driveways may be constructed or improved to access property not within the Tundra. However, property owners are not required to improve driveways accessing their property in this area to the driveway standards that are required throughout the remainder of the County. Rather, the intent of this regulation is to minimize the number of driveways and the impacts driveways may have on the scenic and environmental character of the area.
- (3) No driveway in the High Alpine Area may be paved or otherwise improved with an impermeable surface.
- (4) Public and private access, including access for emergency response, to parcels in the High Alpine Area may be limited or non-existent.
- (5) Property owners are encouraged to review the County Winter Road Policy.
- (6) Snowplowing of roads and/or driveways is prohibited.

J. Parking:

- (1) If accessing the property by motor vehicle, adequate parking shall be provided.
- (2) At no time shall parking be allowed for the benefit of structures subject to the provisions of this Code section, within the County rights-of-way without approval of the Board of County Commissioners.

K. Driveways & Private Roads:

(1) New driveways and new private roads shall:

(24.3K1)

- (a) Not be allowed in the tundra
- (b) Be designed in a fashion that minimizes impacts to environmental and scenic qualities; and
- (c) Be aligned to minimize the amount of cut/fill necessary to install the proposed driveway; and
- (d) Be reviewed and approved by either the County Road and Bridge Department, or a consultant chosen by the County, prior to construction/installation.
- (e) Not be snowplowed at any time.

(2) If required by the County, the applicant shall be responsible for payment of any consultant review of a driveway or private road design/installation.

(3) Applications for driveways and/or private roads may be referred to any other applicable agencies (such as neighboring counties, Forest Service, BLM) for review and comment.

L. Utilities:

(1) All utility installations shall be installed in a fashion that minimizes impacts to the environment and scenic quality of the site. Staff shall make the final determination regarding proposed utilities and any potential impact.

(2) Fuel tanks, water storage, water delivery systems, and fuel powered electric generators shall be placed in a permitted garage, accessory structure, underground, or alternatively, shall be entirely screened from view. Noise levels shall not exceed the limits defined within ordinance 1992-01 and any subsequent amendments.

(3) Property owners in the High Alpine Area should be aware that solar, wind, or other alternatives to the extension of utility lines may be the only viable utility service available.

24.4 VARIANCE AND APPEALS:

A. Variances to the standards of this section may be applied for, pursuant to the standards of the Exceptions, Special Exceptions, Exemptions, and Variance Section and the Administration and Enforcement Section of this Code.

B. Any Decision or denial of any Staff member may be appealed pursuant to the standards of the Exceptions, Special Exceptions, Exemptions, and Variance Section of this Code.

24.5 LIABILITY AND DISCLOSURE

Prior to issuance of a building permit, the property owner(s) shall be required to sign, notarize, and record, a County service statement acknowledging the following: “Ouray County is a small, rural county, and the implications of such, including; Ouray County does not have the resources (both financial and staffing) of larger, more urban counties and communities, and cannot provide the same level of services. Roads are primarily dirt and gravel, and may or may not be paved in the future, depending on future resources of the County. Some properties may not be accessible during the winter months except by snow cat, snowmobile, skis or snowshoes. I should consider year-round travel conditions when planning access to the property. Maintenance of roads, year round, has limitations based on available resources for staff and materials. Some County roads are not maintained during the winter months, and private maintenance of county roads, including snowplowing, is not permitted except by written agreement with the Board of County Commissioners, which permission may or may not be granted. My property is located in an area that has historically been mined, and an active mine may be currently operating, or may operate in the future. Operating mines may require the use of equipment, including trucks that may affect the peace and quiet of my property. By building a residential structure on my property, I assume for myself, and other occupants of the property, all health risks of high mineral content in soils and water as well as all risks inherent in the geology of the area, including avalanche, rockfall, and slides of land. The soil and water on, beneath, or near my property likely contains high mineral content which may, or may not, pose health risks. I further acknowledge that ownership of property with tailings and other remnants of historic mining activities may include financial and other legal liability related to reclamation and clean-up of mine wastes that may affect the environment. Emergency responses to medical situations, fires, and law enforcement requests may be slower than in urban areas, and may be more limited in remote parts of the County. Emergency responses may be totally unavailable during winter months. The County does not provide water, waste water, or firefighting services. These services may or may not be readily available in some parts of the County and I have inquired about the specifics of these services, as well as access to my property and understand how my property will be served.”

24.6 TRADE CREDITS

- A. Surface estates of each patented mining claim or patented mill site, wholly or partially owned, shall have one (1) Trade Credit, for purposes of accumulating sufficient acreage to qualify for a development permit and/or building permit for a patented mining claim or mill site above 9480’ in the Alpine Zone, and/or for the purpose of qualifying for additional square footage in a proposed building permit as provided in Section 24. Any patented mining claim or mill site that contains insufficient acreage to allow development and construction of a residential structure pursuant to this Section 24 shall not be considered a legal non-conforming parcel for purposes of Section 4.6 of the LUC. Trade credits may be accumulated from any combination of patented mining claims or patented

mill sites in order to qualify for development and construction of a residential structure, and do not need to be contiguous to the parcel for which a development permit or building permit is being sought.

(24.6A)

- (1) An owner of a patented mining claim must own the entire patented mining claim, or if there are severed or fractional interests, must have written consent of the other owner or owners, in order to use and/or convey the Trade Credit for that patented mining claim.
- (2) At such time as the Trade Credit is used, the person using the Trade Credit must provide staff with documentation that a deed has been recorded conveying the Trade Credit from the owner of the patented mining claim or patented mill site being used as a Trade Credit to the owner of whatever patented mining claim or patented mill site is receiving the Trade Credit for purposes of a development permit or building permit.
- (3) Staff will maintain a file and index of Trade Credits which have been used for purposes of a development permit or a building permit.

B. A Trade Credit may be used only once.

C. Use of the Trade Credit does not extinguish other non-development uses of the property such as camping or other recreational use, nor does it extinguish any right to mine the patented mining claim.

GENERAL NOTE:

In addition to the requirements of this section, applicants must also comply with all applicable sections of this Code and any relevant County Resolution or Ordinances, including, but not limited to:

- Ouray County Road Map
- Ouray County Winter Maintenance Agreement
- Visual Impact Regulations
- Wildfire Mitigation Regulations
- High Alpine Site Development Permit Standards