

**Proposed amendments to zoning code.**

The following proposed updates to the Huerfano County Land Use Code are aimed at achieving the following goals:

1. Creating a new zone, The Homesteading Zone. This zone is needed to differentiate between agricultural land and large-lot residential subdivisions. Adjust Rural Residential and Agricultural zones to distinguish the character of these zones from the Homesteading Zone.
  1. The use table in Section 1.05 is updated to show uses in the new zone as well as adjustments to distinguish it from Rural Residential and Agriculture.
2. The Rural Residential, as it is currently applied, pertains to neighborhoods with an average lot size of 2-acres. In a 2024 update to the zoning code, a second residence was made a use by right in this zone. In this update, this is qualified by requiring proof of water availability as a condition for a building permit. For neighborhoods served with a communal water supply, this means a letter of approval from the water utility, for other properties, this may include a letter from DWR or other documentation of sufficient existing water rights.
3. Change how Development rights are created to separate the creation of new parcels from the creation of new development rights. In the Agricultural zone, new development rights are not conferred upon newly created parcels. The minimum lot size to build a residence is increased to 170 acres, and on agriculturally zoned parcels less than 170 acres, a residence is made a use accessory to agriculture.
4. Address non-conforming parcels by establishing a new date by which lot-size conformity shall be determined.
5. Sunset PUD zoning conditions.
6. Update use table to incorporate new zone and differentiate from other zones.
7. Incremental development rights in Agricultural and Homesteading.

**ORDINANCE NO.**

**AN ORDINANCE AMENDING THE HUERFANO COUNTY LAND USE CODE TO CREATE THE HOMESTEADING ZONE DISTRICT, AND TO AFFECT THE CREATION OF DEVELOPMENT RIGHTS, PLANNED UNIT DEVELOPMENTS, NON-CONFORMING LOTS AND THE USE TABLE**

**WHEREAS**, C.R.S. §30-28, et.seq. of the Colorado Revised Statutes grants authority to the Board of County Commissioners of Huerfano County, Colorado to adopt land use codes to provide for the physical development of the unincorporated territory of said County; and

WHEREAS, C.R.S. §29-20-104 specifically provides that local governments have the authority to plan for and regulate the use of land in their respective jurisdictions; and,

WHEREAS, C.R.S. §29-20-101, et. seq. empowers the Board to plan for and regulate the use of land within the unincorporated County, including but not limited to, regulating the use of land on the basis of the impact thereof on the community or surrounding areas; regulating the location of activities and developments which may result in significant changes to population density; and otherwise planning for and regulating the use of land so as to provide for planned and orderly use of the land; and,

**WHEREAS**, the Huerfano County Board of County Commissioners (the “Board”) is authorized by C.R.S. §30-11-101(2) to adopt and enforce ordinances and resolutions regarding health, safety, and welfare issues as otherwise prescribed by law, and provide for the enforcement thereof; and

**WHEREAS**, counties possess those powers expressly enumerated by the Colorado Constitution and Colorado Revised Statutes and such further incidental implied powers as are reasonably necessary to carry out the express powers; and,

**WHEREAS**, the Board of County Commissioners of Huerfano County, Colorado (“Board”) finds that certain changes to the Land Use Code will help to facilitate development and improve the processes for obtaining land use permits,

**WHEREAS**, CRS 30-28-106 (III) requires master plans to include strategies to promote strategic growth and prevent rural sprawl and to limit the need to develop natural and agricultural lands for residential uses and the following updates help to bring the land use code into alignment with the recent update to the Comprehensive Plan

**WHEREAS**, existing land use patterns in Huerfano County require the creation of the Homesteading Zone to recognize the residential nature of certain large-acre subdivisions and protect and distinguish these areas from the agricultural nature of the Agricultural Zone and from the residential character of the Rural Residential Zone.

**WHEREAS**, the purpose of Planned Unit Developments (PUDs) is to allow a developer flexibility to carry out development that would otherwise conflict with existing zoning, the sunseting of unique zoning provisions applied to each PUD removes an unnecessary administrative burden and challenge for future owners or prospective owners to be able to access and understand the regulations unique to each PUD,

**WHEREAS**, it is in the public interest to recognize all existing parcels in the County as conforming based on their acreage, regardless of their zoning district.

**WHEREAS**, the Board finds it is in the interest of public health, safety and welfare that the Board adopt these amendments to the Huerfano County Land Use Regulations.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Huerfano County, Colorado, that the amendments to the Huerfano County Land Use Regulations are hereby amended as shown in Attachment A.

**INTRODUCED, READ, AND ADOPTED** on this \_\_<sup>th</sup> day of \_\_\_\_\_, 2024.



BOARD OF COUNTY COMMISSIONERS OF  
HUEFANO COUNTY, COLORADO

BY \_\_\_\_\_

Arica Andreatta, Chairman

\_\_\_\_\_  
Mitchell Wardell, Commissioner

Attest: \_\_\_\_\_

County Clerk and Recorder and      Karl Sporleder, Commissioner  
ex officio clerk to said board.

ATTACHMENT A

**Amendments to Zoning Districts in Section 1.03.02**

Note: *No changes made to UR, C, I, APO, or WIND districts.*

**A Agricultural District**

This district is created for the purpose of protecting the productive agricultural lands of Huerfano County ~~from development~~ and preserving the visual and cultural values, historical and archeological features and critical wildlife habitat associated with the scenic vistas, natural topography and agricultural lifestyles in rural, unincorporated areas of Huerfano County. Residential uses on parcels less than 170 acres are limited to agriculture related housing, or uses approved through a conditional use permit.

Minimum district size: ~~40~~170 acres

Minimum lot area: 35 acres

Minimum lot area for a residence as a use by right: 170 acres

Minimum lot width: 200 feet

Front yard setback: 60 feet

Side yard setback: 25 feet

Rear yard setback: 30 feet

Maximum structure height: Refer to Comprehensive plan, page 4, "Residential Use"

Maximum lot coverage: ~~15 percent~~ For uses allowed by right, conditional uses and prohibited uses see Section 1.05. A single residential unit as accessory to a commercial agricultural use along with accessory agricultural structures.

**Commented [1]:** To rezone to Agricultural, should we make min district size 170 acres?

**RR Rural Residential District**

This district is created for the purpose of allowing the establishment of moderate density rural residential development ~~in predominantly agricultural and rural areas of unincorporated Huerfano County without Compromising or otherwise significantly changing the visual, scenic and other natural characteristics of the surrounding area and providing as necessary for the protection of critical wildlife habitat.~~ Rural Residential development districts are primarily residential neighborhoods dependent on the services and jobs to be found in commercial districts, urbanizing residential districts or incorporated towns. The establishment of new districts should be in close proximity to such other districts or locations.

Minimum district size: 20 acres or five parcels, whichever is less

Maximum district size: 100 acres

Minimum lot area: 2 acres

Maximum lot area: average of up to 10 acres

Minimum lot width: 100 feet

Front yard setback: 20 feet

Side yard setback: 10 feet

Rear yard setback: 20 feet

Maximum structure height: 40 feet (refer to Comprehensive plan, page 4, "Residential Use")

Maximum lot coverage: 30 percent For uses allowed by right, conditional uses and prohibited uses see Section 1.05.

**Commented [2]:** For it not to be considered spot zoning, which is prohibited in Colorado, would a rezoning need to include at least two parcels, or a subdivision into at least two parcels?

### HS Homestead District

This district is created to accommodate subdivisions with large-lots (35 or more acres) that are primarily residential in nature and located in the context of predominantly agricultural and rural areas of unincorporated Huerfano County. Development in this district should minimize impact on the visual, scenic and other natural characteristics of the surrounding area and provide as necessary for the protection of critical wildlife habitat. This zone may include small-scale farming or ranching activities and a wide range of home occupations that do not generate significant traffic or noise. This is a zone intended to give people access to nature and to highlight rural, homestead living. To ensure public access to nature, Homestead zones must include public access trail easements that connect to any adjacent public lands and designate easements for an internal trail network with a length of at least one quarter of the road Right-of-Way serving the subdivision.

Minimum District Size: 105 acres

Minimum lot area: 35 acres

Front yard setback 20 feet

Side yard setback 20 feet

Rear yard setback 20 feet

Maximum structure height 40 ft

Maximum lot coverage: up to two residential structures and four accessory structures

**Commented [3]:** I'm not sure if we would want to apply this upon a County-led rezoning, but it might be an important element for community-led efforts.

#### 1. Meaning and Intent.

A non-conforming use, lot or building shall be any use ~~or lot~~ or building that lawfully existed at the date of adoption of these zoning regulations, or any lot that was properly recorded with the Huerfano County Clerk and Recorder as of January 1, 2025, and has been maintained following such adoption, but is prohibited by the provisions contained within these regulations and not otherwise exempt from non-conforming status. It is the intent of these zoning regulations to allow for the continuation of such non-conforming uses, lots and buildings, so long as they meet the provisions contained herein. But it is not the intent of these regulations to allow their enlargement nor to allow their continuation should they be discontinued for a period of 180 days or substantially damaged by fire or other cause. No recorded conforming or legal non-conforming parcels in existence as of January 1, 2025 shall be denied a development right on the basis of parcel size. The conformity of a lot does not impact rights to exempt domestic wells on parcels created prior to June 1, 1972, and it does grandfather previously unrecognized non-conforming uses.

Any parcel created after January 1, 2025 shall only have a development right if it is specifically granted by the Board of County Commissioners as per Section 10.11 of this Code and recorded on the deed. The deed shall record the date of the decision by the Board of County Commissioners and the specific development rights conveyed to the property. Whenever two or more parcels are consolidated, the resulting parcel shall have the development rights of a single parcel. Whenever a single parcel is divided into two or more parcels, only one parcel will retain a development right. If one of the resulting parcels has an existing home or structure, the development right will remain with that parcel already developed.

**Commented [4]:** Not discussed in PC meeting. I assume we want to focus narrowly on lot size conformity and exclude use conformity.

### 1.18.02 Special Rezoning Requirements and Provisions

All listed owners of record of adjacent properties shall be notified by certified mail in accordance with noticing guidelines in Section 8.05 and 8.08. Notifications for Rezoning shall include a vicinity map, a short narrative describing the current zoning, the proposed rezoning and the nature of the proposed land use change along with announcement of the date, time and location of the scheduled hearing.

Rezoning applications may be initiated by any citizen or group of citizens, association, partnership or corporation owning or leasing property or residing in Huerfano County or by a representative or agent with written power of attorney from one of the above parties to initiate the application.

The Board of County Commissioners and the Huerfano County Planning Commission may also initiate a rezoning.

If rezoning to a zone that allows a higher intensity of development, the Board of County Commissioners must approve additional development rights in accordance with Section 10.11 of this Code.

### 1.18.03 Submittal Requirements

1.17—37

Applications for rezoning shall include those submittals outlined in Section 8.03. In addition to those submittal requirements, applications for rezoning shall include the following::

Required attachments:

1. The source and quantity of water required for the proposed use(s) within the area to be rezoned.
2. The method of wastewater treatment and anticipated quantity of wastewater generated.
3. When water or wastewater service would be provided by a municipality or a water or sanitation or water and sanitation district or other public entity, written confirmation that the public entity in question is willing and able to provide the service in question.
4. A description of any natural or man-made hazard within or in the vicinity of the land proposed for rezoning and a statement describing how the anticipated impact of such hazards will be mitigated.
5. A vicinity map showing to scale the proposed area to be rezoned in relationship to the surrounding area within a distance of two (2) miles from the boundaries of the proposed rezoning.
6. A graphic description of all natural and manmade water courses, retention areas, streams, lakes and known one hundred (100) year flood plains on or adjacent to the property along with all areas in the proposed rezoning with a slope of twenty (20) percent or greater.
7. A description of any critical wildlife habitat and migration corridors and unique natural features, such as historical sites, unique land forms or scenic vistas contained within the land proposed for rezoning.
8. Description of any planned development.10. Any additional information requested by staff or Planning Commission.

9. If rezoning to a zone district that allows a greater intensity of development, evidence of development rights to applies to all parcels.

## Code updates related to development rights

### 2.02.08 Building Permits

No building or other structure shall be erected, nor shall a building permit be issued within a subdivision or proposed subdivision before a final plat and development rights associated with newly created parcels has have been approved by the Board of County Commissioners and recorded or filed in the Office of the County Clerk and Recorder; except, however, that temporary uses as provided for in section 1.12 of Huerfano County's General Zoning Regulation shall be allowable if they meet the requirements and provisions contained therein.

### **2.02.16 Development Rights**

The right to develop dwelling units or commercial buildings on any parcel created after January 1, 2025 must be granted by the Board of County Commissioners in accordance with Section 10.11 of this Code and recorded with the subdivision plat and on the deeds to each newly created parcel. No building permit shall be issued for residential or commercial structures on parcels created after January 1, 2025 for which the Board of County Commissioners has not granted development rights in accordance with Section 10.11.

### **2.09.02 Preliminary Plan/General Submission**

[add to list of submittal requirements as #37]

2.09.02(37)

37. Evidence of acquired development rights to apply to parcels, an agreement to make 15% of new housing units deed-restricted affordable units, or a conditional use permit granting development rights.

### **Amendment to PUD regulations:**

**3.03.05** Relationship of These Regulations to the Zoning Regulations Planned unit developments can be approved in any zoning districts established within Huerfano County, and the issuance of a PUD approval shall not change the zoning district(s) within which such PUD is established. Planned unit developments may include all uses allowed by right and any conditional uses allowed by the zoning regulations in the district(s) in which the PUD would be located to be valid for a period up to ten years. Approval of a PUD application by the Board of County Commissioners and the granting of a PUD approval shall be considered de facto approval of the proposed conditional uses, and the applicant shall not be required to apply for or receive approval for a conditional use when such use is within the approved PUD proposal.

Upon written request by the applicant, the Planning Commission may recommend to the Board of County Commissioners that specific provisions of the County Zoning Regulations be waived or amended, if determined by majority vote that such waiver or amendment would promote the health, safety, welfare and convenience of the residents of Huerfano County.

PUD zoning regulations shall expire after a period of ten years and the PUD zone will revert to the zone district or districts in which the PUD is located and which most closely align with actual or intended use. All completed developments will be grandfathered in as uses by right and shall be exempt from section 1.16.01(2) Abandonment of Use, and all parcels will be considered conforming or legal nonconforming. The expiration of a PUD shall not affect any easements, conservation easements or open space. Where part of the provisions of a PUD were to allow for smaller lot sizes in exchange for conservation of land, conditions imposed by PUD to preserve land shall remain with the land. Such portions of the land that are intended to be conserved shall maintain the PUD zone until or unless conditions of conservation are recorded in the deed.

PUDs older than ten years at the time of amendment of this section shall expire and revert to the zone district in which the PUD is located on January 1, 2026.

Use Table

**Commented [5]:** Is this strong enough? Not sure how to apply a deed restriction or note that would be attached to land

**Commented [6]:** I think this allows for the continuance of PUD protections without requiring land owners to go to a title company to add a deed restriction. It would make the interpretations of remaining PUDs more consistently interpretable as a conservation zone.

### **2.16 VESTED PROPERTY RIGHTS**

Final approval of a PUD or non-PUD final subdivision plat or a PUD development plan shall be considered approval of a site specific development plan as defined by Board of County Commissioners Resolution 12- 15 or as otherwise required by Section 24-68-101, et seq., Colorado Revised Statutes and shall result in a vested

property right for a period of three (3) years as provided for in Section 24-68-101, et seq., Colorado Revised Statutes. Within fourteen (14) days after final approval of a site specific development plan, the County Planner or other person authorized by the Board of County Commissioners shall publish in a newspaper of general circulation in Huerfano County notice of the creation of a vested property right as described in Section 24-68-101, et seq., Colorado Revised Statutes.

All approved site specific development plans shall contain a note stating that the vested property right is vested for a period of three (3) years from the date that the vesting notice is published. The Board of County Commissions may, by majority vote, following review and recommendation by the Planning Commission, approve vested rights for a period of more than three (3) years upon payment of the required application fee and the approval of a development agreement in accordance with the provisions of Section 24-68-101, et seq., Colorado Revised Statutes.

The zoning exemptions applied to a PUD shall apply for a period stated on the final subdivision plat of no more than ten years, after which, the subdivision will revert to the base zone.

#### Amendments to the use table

##### 1.05 Use Table

R = Use by Right , C = Conditional Use, P = Prohibited, L = License required

		<b>AA</b>	<b>HS</b>	<b>RR</b>	<b>UR</b>	<b>C</b>	<b>I</b>	<b>Ref</b>
0.01	Up to two dwelling units on a single parcel of land*	<del>RC</del>	<b>R</b>	R	R	R	C	1.06 <u>10.05</u>
0.02	Three to six dwelling units on a single, parcel of land.*	<del>CP</del>	<b>P</b>	C	R	R	C	1.06 <u>10.05</u>
	Over six dwelling units on a single parcel, including: Multiple family dwelling, co-housing facilities, condominiums or employee housing.*	<del>CP</del>	<b>P</b>	C	C	R	C	1.06 <u>10.05</u>
0.03	<u>Agricultural-related housing*</u>							
0.04	<del>(Reserved)</del>	<u>R</u>	<b>R</b>	<u>NA</u>	<u>NA</u>	<u>NA</u>	<u>NA</u>	
	Unpurged mobile homes built prior to 1976 and non-qualified manufactured homes.	P	<b>P</b>	P	P	P	P	N/A
0.05	Manufactured home parks and manufactured home subdivisions (see also Section A 7)	<del>CP</del>	<b>C</b>	C	C	C	P	1.06
0.06	Boarding and rooming houses and bed & breakfast establishments	C	<b>C</b>	C	C	<del>CR</del>	P	1.06
0.07	Guest ranches and vacation lodge	C	<b>C</b>	C	C	P	P	1.06
0.08	Rest, nursing, convalescent, retirement and assisted living facilities	C	<b>C</b>	C	C	<del>CR</del>	P	1.06
0.09								



0.1	Jails, prisons, correctional institutes and youth facilities and work camps	C	<b>P</b>	P	P	C	C	1.06
0.11	Hospitals	<del>EP</del>	<b>P</b>	C	C	<del>PR</del>	P	1.06
0.12	Hotels and motels	<del>EP</del>	<b>P</b>	C	C	R	P	1.06
0.13	Restaurants and eating places	<del>EP</del>	<b>C</b>	C	C	R	C	1.06
0.14	Public schools and educational institution	<del>RP</del>	<b>P</b>	<del>RP</del>	R	<del>ER</del>	P	1.06
0.15	Private schools, educational institutes and training centers	C	<b>C</b>	C	C	<del>ER</del>	P	1.06
0.16	Day care, child care and nursery schools and homes	C	<del>CR</del>	<del>ER</del>	<del>ER</del>	<del>ER</del>	P	1.06
0.17	Churches and religious institutes	<del>RP</del>	<b>C</b>	R	R	C	P	1.06
0.18	Public airport	C	<b>P</b>	P	P	P	C	1.06
0.18 A	Private airports and heliports	C	<b>C</b>	C	C	C	C	1.06
0.19	Public cemeteries	C	<b>C</b>	C	C	P	P	1.06
0.2	Parks, playgrounds, <del>golf courses</del> or playing fields	R	<b>R</b>	<del>ER</del>	<del>ER</del>	C	C	1.06
0.21	Essential public and government utility uses, facilities, services and buildings. Note that special H.B. 1041 regulations may also apply.	C	<b>C</b>	C	C	R	R	1.06 Or H.B.104 1 Dependi ng on Scale
0.22	Other utility uses, facilities and services including electric transmission lines and pipelines and all appurtenant facilities, uses and structures thereto. Note that special H.B.1041 regulations may also apply.	C	<b>C</b>	C	C	C	C	H.B. 1041
0.23	Commercial radio and television transmitting and receiving stations, dishes and towers including telecommunications, microwave and cellular towers, antennae and dipoles (see height restrictions)	C	<b>C</b>	C	C	C	C	1.06
0.24	Private antennas over 35 feet in height	R	<b>C</b>	P	P	C	C	1.06

	Sewage disposal areas, sludge, septic, landfills for non-hazardous substances and waste water	C	<b>C</b>	C	C	C	C	1.06
0.25	treatment plants							
	Landfills and disposal sites for toxic, radioactive and otherwise hazardous materials	P	<b>P</b>	P	P	P	P	N/A
0.26	Agricultural crop production including orchards and accessory uses and buildings (agricultural property not associated with large lot subdivisions)	R	<b>R</b>	R	R	R	R	N/A
0.27	exempt from building permits)							
	Recreational domestic animal husbandry including	R	<b>R</b>	R	C	C	C	1.06
0.28	barns and shelters							
	Animal production, including grazing and	R	<b>R</b>	R	C	C	C	1.06
0.29	accessory uses and buildings but excluding commercial feedlots							
		See Item .31 (CAFO's)						1.06
0.3	Commercial feedlots							
	Confined Animal Feeding Operations (CAFO's)	C	<b>C</b>	P	P	P	C	1.06
0.31	Stands for the sale of agricultural products	R	<b>R</b>	R	C	R	C	1.06
0.32	Commercial riding stables	C	<b>C</b>	C	C	C	P	1.06
0.33	Kennels and veterinary clinics	C	<b>R</b>	P	P	C	C	1.06
0.34	Private and public zoos	C	<b>C</b>	C	C	C	C	1.06
0.35	Camping areas and campgrounds	C	<b>C</b>	C	C	C	P	1.06
0.36	Ski lifts and accessory structures and uses	C	<b>C</b>	C	C	C	P	1.06
0.37	Outdoor amusement facilities	C	<b>C</b>	C	C	C	P	1.06
0.38	Membership clubs and lodges	C	<b>C</b>	C	C	C	P	1.06
0.39	Professional service and business offices for the delivery of health, legal, accounting, travel agencies, real estate, technology, office service and similar services	<del>EP</del>	<b>C</b>	C	<del>ER</del>	R	C	1.06
0.4								

**Commented [7]:** Should these be separated? Kennels seem like a nuisance that should be conditional anywhere, while vet clinics are needed in the county and should be allowed at least in commercial areas by right.

0.41	Personal service outlets such as beauty and barber shops, laundromats, etc.	<del>EP</del>	<b>C</b>	<del>ER</del>	<del>ER</del>	R	C	1.06
0.42	Retail sales outlets except convenience outlets serving a neighborhood or local resident clientele, including repair and rental outlets	P	<b>P</b>	P	C	R	C	1.06
0.43	Retail convenience outlets serving a neighborhood or local residents	<del>EP</del>	<b>C</b>	C	C	R	P	1.06
0.44	Wholesale sales and/or distribution with open storage of goods	<del>EP</del>	<b>P</b>	P	P	C	R	1.06
0.45	Wholesale sales and/or distribution without open storage of goods	<del>EP</del>	<b>P</b>	P	C	R	R	1.06
0.46	Gasoline service stations	C	<b>P</b>	<del>EP</del>	C	R	<del>ER</del>	1.06
0.47	Vehicle repair facilities including storage garages as a principal or an accessory use	<del>EP</del>	<b>C</b>	P	C	R	C	1.06
0.48	Motor vehicle parking lots	C	<b>C</b>	C	C	R	R	1.06
0.49	Rental self-and mini-storage lockers	<del>EP</del>	<b>P</b>	C	C	C	R	1.06
0.5	Commercial lumber yards and sawmills (Exemption: Home occupations see Section 1.11)	C	<b>P</b>	P	P	C	R	1.06
0.51	Manufacture or storage of gases or above ground storage of flammable liquids such as gasoline for other than residential or agricultural on-site use	C	<b>C</b>	C	C	C	C	1.06
0.52	Railroad facilities including repair sheds and switch yards and trucking terminals, excluding trucks	C	<b>C</b>	P	P	C	R	1.06
0.53	Junk, wrecking or vehicle storage yards, which shall be surrounded by an eight foot high solid fence or not visible from any public road (excluding agricultural equipment storage)	<del>EP</del>	<b>P</b>	P	P	C	C	1.06

0.54	Batch plants and hot mix plants and all appurtenant and accessible uses thereto	C	<b>C</b>	P	P	C	R	1.06
	Manufacture, fabrication or processing of all materials not otherwise listed and which will not	C	<b>C</b>	P	P	C	R	1.06
0.55	cause excessive noise, heat, dust, fumes or other adverse consequences							
	Manufacturing, production and other uses not otherwise listed that will cause excess noise, heat,	P	<b>P</b>	P	P	P	C	1.06
0.56	dust, fumes or other adverse consequences							
	Rock quarries, sand and gravel excavating pits,	C	<b>C</b>	P	P	P	C	1.06
0.57	pipelines, strip and underground coal mines and all appurtenances and accessory uses thereto,							
0.58	Oil and gas wells	C	<b>P</b>	P	P	P	C	Section 6.00
	The exploration and mining of uranium or other radioactive substances or the disposal,	C	<b>P</b>	P	P	P	C	
0.59	storage or processing of such substances							
0.6	Shipping containers for storage purposes (Staff approval)	C	<b>C</b>	P	P	C	R	Land-use office
0.61	(Reserved)							
0.62	Commercial and medical Marijuana retail stores and dispensaries	L	<b>L</b>	P	L	L	L	Section 18
	Commercial/recreational/medical Marijuana	L	<b>L</b>	P	P	L	L	Section 18
0.63	cultivation facility							
0.64	Marijuana Hospitality – on-site consumption	L	<b>L</b>	P	L	L	L	Section 18
	Commercial Marijuana product manufacturing and testing, product infusion facilities	L	<b>L</b>	P	P	L	L	Section 18
0.65								
0.66	Commercial Marijuana cultivation facility	L	<b>L</b>	P	P	L	L	Section 18

0.67	Marijuana cultivation for personal use, when growing twelve (12) or less plants on a tract of land, per occupied dwelling, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and is not made available for sale.	R	<b>R</b>	R	R	R	C	1.06
0.68	Marijuana cultivation for personal use, when growing thirteen (13) or more plants on a tract of land, per occupied dwelling, provided that the growing takes place in an enclosed, locked space, is not conducted openly or publicly, and is not made available for sale.	C	<b>C</b>	C	C	C	C	1.06
0.69	Any use not listed in this table	C	<b>C</b>	C	C	C	C	

\* The right to develop additional housing is conditional upon demonstration of access and availability of water as described in 10.05.

#### Amendments to Section 10 related to development rights

##### 10.05 ADEQUATE WATER, SEWAGE DISPOSAL SYSTEMS AND CERTIFICATES OF OCCUPANCY REQUIREMENTS

1. All occupied dwellings, structures and all other buildings that the Building Inspector determines need an adequate supply of water shall provide proof of water in order to obtain a building permit. Proof of adequate water is required for new construction as well as additions that include new bathrooms or kitchens. If the building is proposed to be supplied water from a central water provider delivered by water lines, proof of water shall consist of a letter of availability or tap receipt from the provider. If the building is proposed to be supplied water from a bulk water provider by way of hauling water to the property, proof of water shall consist of a letter of availability or tap receipt from the provider. Furthermore, the applicant for any development approved to be served by a bulk water provider must sign a waiver acknowledging: "Huerfano County provides no assurance or representation that the use of bulk water and a cistern will be an approved or acceptable long term source of potable water. There is no guarantee that bulk water will always be available for sale and Huerfano County has no authority or jurisdiction whatsoever over water suppliers or their decision to sell water in bulk to the general public." If the building is proposed to be supplied water by a domestic well, the minimum of one gallon per minute is required, as certified by a pump test conducted by a licensed well driller, pump installer, professional engineer or geologist who has constructed, serviced, or tested the well. If an addition or additional unit is proposed on a property served by a well, a letter from the Division of Water Resources may be required, indicating adequate water rights and availability to support the project.

#### New Section 10.11

## Development Rights

### Section 10.11 Right to Develop

#### Purpose:

Huerfano County has a vast amount of undeveloped open range and natural landscape that should be preserved and protected for the enjoyment of future generations. The proliferation of large lot subdivisions of 35-acres or more and the vast number of vacant lots that have been created over the years have led to the potential loss of the natural assets that make Huerfano County a unique and attractive place to live. There are currently sufficient development rights on vacant County parcels to increase the population or number of dwelling units in the County by over 65%. Of the County's 12,529 non-exempt parcels, 8,217 are vacant. If a home were to be built on each vacant parcel that exists today, it would require a vast extension of roads and electric wires that would cut across the landscape, it would impact the water table and wildlife and the low-density, spread-out character of development would make it more costly and challenging to provide services such as police and fire protection, road maintenance, and school busing. By ceasing to create new development rights with the creation of each new parcel, and the ability to transfer development rights, the intent of the County is to direct future development to areas of the County that are already close to services, jobs, infrastructure and historical development and to protect from development those areas of the County where vast open ranges and wild landscapes persist.

10.11.1 No building permit shall be issued on any parcel created after January 1, 2025 that has not been granted a development right through a conditional use permit, as part of a major or minor subdivision, or through the transfer of a development right approved by the Board of County Commissioners and recorded on the deed to the parcel to include the date of the decision by the Board of County Commissioners and the specific development rights conveyed to the property. Whenever two or more parcels are consolidated, the resulting parcel shall have the development rights of a single parcel. Whenever a single parcel is divided into two or more parcels, only one parcel will retain a development right. If one of the resulting parcels has an existing home or structure, the development right will remain with that parcel already developed or most developed.

A. In the Agricultural zone district, residential development rights on parcels less than 170 acres shall be limited to those that support agricultural activity; residential uses on such parcels shall be considered accessory to agricultural uses. Residential uses on parcels less than 170 acres in the agricultural zone shall be granted only as the result of a transferred development right or through a conditional use permit.

#### C. Transferred rights:

To develop on an agriculturally zoned parcel less than 170 acres, development rights may be removed from sending parcels adding up to an area of 170 acres minus the area of the receiving parcel. To transfer development rights to a parcel in other zones, sending parcel or parcels must conserve an amount of land not less than 80% of the land area of the receiving parcel. Where sending parcels are smaller than the receiving parcel, development rights from multiple parcels may be combined to equal a single right on a larger parcel.

**Commented [8]:** Part E of this section qualifies this. Our approach depends on how we want to treat TDR at this point.

**Commented [9]:** Modified to defer to CUP process.

**Commented [10]:** Could be made to apply to Homesteading as well.

**Commented [11]:** Qualified to make work with 170-acre ag threshold.

D. Conditional Use Permit Conditions:

Approval of a conditional use permit to grant development rights should meet one of the following conditions:

1. Development serves a public interest and their creation would contribute to goals articulated in the adopted comprehensive plan. This can include the provision of at least two deed-restricted affordable housing units at 100% AMI, or 15% of units for developments over 20 units.
2. Context and proximity to existing development. If a proposed residence is situated in a context where it is within 1,000 ft. of at least two other residential units or a commercial use that supports four or more permanent, on-site jobs, it should be considered compatible with context unless there are other unique circumstances that the Commission finds that make the development incompatible with context.
3. Demonstration of the cost/benefit to the County. If the applicant can show that the benefit to the County, measured in terms of anticipated economic benefit of the development outweighs the cost to the County of providing services, including police, fire, school district, road maintenance and other infrastructure maintenance.

**Commented [12]:** Because of low median income and high cost of building. Placed in approval section rather than appeals section.

**Commented [13]:** This would be a way to incentivize incremental development in Ag, and could also be used in Homesteading.

**Commented [14]:** New: conditions for approval.

E. In the approval of subdivisions, the Board of County Commissioners may require any of the conditions in 10.11.1 to be met for newly created parcels to be granted development rights in accordance with the designated zone district. The Board of County Commissioners may require any of the conditions in 10.11.1 as part of a rezoning to any zone district that allows a greater intensity of development.

F. Water Availability as condition for right to develop: Applicant must provide proof of availability and access to water to support proposed projects. (See Section 10.05)

10.11.1 Appeals Process

Applicant must present petition for development rights before the Huerfano County Planning Commission that provides sufficient evidence that one of the three conditions for approval will be met. The Planning Commission shall make a recommendation and send the case to The Board of County Commissioners, who may approve development rights on newly created parcels under the following conditions:

1. The development rights are removed from an equal or greater number of parcels containing at least 80% of the acreage as those parcels receiving new development rights and recorded on all affected deeds.
2. There is a public interest or mitigating circumstance that was not considered in denial of conditional use permit to create new development rights that contributes to goals articulated in the adopted comprehensive plan.

**Commented [15]:** Added.

**Additions to definitions**

**17.02 Definitions**

[add the following]

**Agriculture Related Housing:** Dwelling units that are accessory to and in support of an agricultural operation on the same property on which housing is built.

**Development Right:** The eligibility to seek a building permit for a residential or commercial structure.