

Huerfano County Land Use Code Updates

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Standard for creation of new development rights

New Section

Development Rights

10.11 No building permit shall be issued on any parcel created after January 1, 2025 that has not been granted a development right through a resolution 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.

In the Agricultural zone district, development rights shall be limited to those that support agricultural activity, and residential uses shall be considered accessory to agricultural uses.

10.11.1 Appeals Process

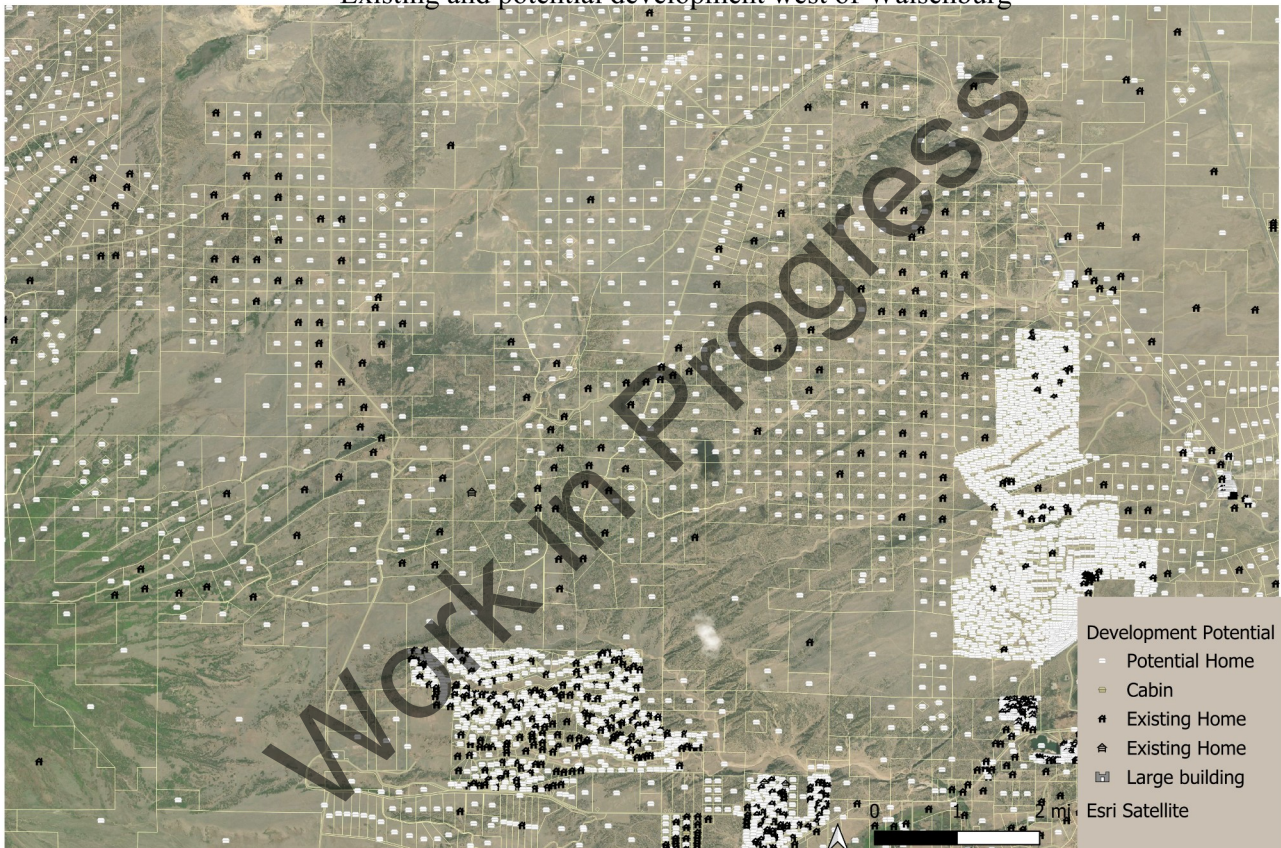
The Board of County Commissioners may approve development rights on newly created parcels under the following conditions:

1. The development rights are removed from an equal number of parcels containing the same or greater acreage as those parcels receiving new development rights and recorded on all affected deeds.
2. Deed-restricted affordable housing units are constructed on at least 15% of the parcels created. Deed restrictions to last a minimum of 20 years.
3. There is a public interest in creating new development rights that contributes to goals articulated in the adopted comprehensive plan.

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

Existing and potential development west of Walsenburg



White house icons represent what this part of the County would look like if each development right were exercised and a home built on each lot.
Black house icons represent existing homes.

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.

Nonconforming parcels:

Any parcel that was properly recorded with the Huerfano County Clerk and Recorder as of January 1, 2025 shall be considered a **legal nonconforming** parcel. This does not impact rights to exempt domestic wells on parcels created prior to June 1, 1972.

Existing and potential development along the Huerfano River



White house icons represent what this part of the County would look like if each development right were exercised and a home built on each lot.
Black house icons represent existing homes.

No recorded conforming or **legal nonconforming** parcels in existence as of January 1, 2025 shall be denied a development right on the basis of parcel size. Any parcel created after January 1, 2025 shall only have a development right if it is specifically granted by the Board of County Commissioners and recorded on the deed as part of a subdivision process and/or as the result of a transfer of development rights. 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. New development rights on newly created parcels shall be bought and transferred from vacant parcels in designated sending zones. The Board of County Commissioners may create new development rights associated with newly created parcels if:

1. It is deemed infeasible to transfer development rights; and
2. There is a public interest in creating new rights

1.16.01 Non-conforming Uses, Lots and Buildings

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.

Sunset of PUDs

Huerfano County has several Planned Unit Developments, most of which were created for the purpose of cluster developments and exemptions from lot size requirements. In many cases there are no other zoning provisions included in the PUDs and the details of each historic PUD can be cumbersome and staff intensive to look up and interpret, and there is no central documentation of what zoning allowances or restrictions are associated with each PUD.

Having made all parcels in existence as of January 1, 2025 conforming or legal nonconforming effectively makes all those PUDs created for the purpose of lot size exemptions moot without affecting conservation easements set aside to allow for smaller parcels. Sunsetting all PUDs after ten years and allowing them to revert to an existing zone district allows developers to use the PUD process to achieve goals or designs that would not be possible under an existing zone district while simplifying the administration of zoning throughout the County. Rezoning PUD districts that are over 10 years old to the most similar regular zone district will make it easier for both property owners and the County to communicate and understand the development potential of parcels in PUD subdivisions.

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 in which the PUD is located. 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.
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.

Primitive Cabin Standard

The County is interested in developing a standard for primitive or rustic cabins as a category of use that is below that of a typical dwelling unit and that could serve as a hunting cabin, or cabin for part-time and temporary use. This could be appropriate in agricultural zones where preservation or conservation of natural landscapes is desired and where the County is not prepared to expand services and from where it would be difficult or costly to bus students to school and maintain roads. In these areas, temporary uses without the expectation of road maintenance and other services could be appropriate.

The Huerfano-Las Animas Health Department does not allow any exceptions on septic and greywater systems for temporary or primitive structures that have running water. For example, outhouses are not allowed and if there is running water, a septic system is required.

In the Building Code, there is not a clearly defined category that allows for such a cabin to be built to a different or lower standard than a typical R-1 home. The IRC does define a “sleeping unit”, but does not create separate construction standards for just a sleeping unit:

[RB]SLEEPING UNIT. A single unit that provides rooms or spaces for one or more persons, includes permanent provisions for sleeping and can include provisions for living, eating and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

Ohio and North Carolina include categories that might be useful to base this standard on. North Carolina’s exemption from the IBC is targeted at summer camps or similar uses.

Ohio Building Codes:

PRIMITIVE TRANSIENT LODGING STRUCTURE. A transient lodging structure with only provisions for sleeping and no building services equipment or piping.

SEMI-PRIMITIVE TRANSIENT LODGING STRUCTURE. A transient lodging structure that provides permanent provisions for only sleeping or for sleeping with either sanitation or kitchen facilities, but not both.

North Carolina: Primitive Camp buildings exempted from IBC

“primitive camp” shall include any structure primarily used or associated with outdoor camping activities, including structures used for educational, instructional, or recreational purposes for campers and for management training, that are

(i) not greater than 4,000 square feet in size and

(ii) are not intended to be occupied for more than 24 hours consecutively.

"Structures primarily used or associated with outdoor camping activities "include, but are not limited to, shelters, tree stands, outhouses, sheds, rustic cabins, campfire shelters, picnic shelters, tents, tepees or other indigenous huts, support buildings used only for administrative functions and not for activities involving campers or program participants, and any other structures that are utilized to store any equipment, tools, commodities, or other items that are maintained or used in conjunction with outdoor camping activities such as hiking, fishing, hunting, or nature appreciation, regardless of material used for construction. The specific types of primitive camping activities, structures, and uses set forth in this subdivision are for illustrative purposes and should not be construed to limit, in any manner, the types of activities, structures, or uses that are exempted from building rules.

Unless the County is interested in exempting such primitive cabins from portions of the Building Code, a rustic or primitive cabin would have to built to the same standards as any other dwelling unit. Where the County could allow flexibility is on square footage, allowng for smaller footprints and permitting residential structures with less than 500 sf to be permitted as an alternative build.

Primitive Cabins could be added to the use table and permitted in the Agricultural District.

1.05 Use Table

		AA	RR	UR	C	I
.04	(Reserved) Primitive Cabin	R	C	P	P	P

Definition of Primitive Cabin:

Permanent structure for temporary dwelling. Max footprint 500 sf. Max occupancy 5-months out of any year; not permitted as a permanent residence and not eligible for an address assignment. A Rustic cabin may have one accessory structure of up to 500 sf.

Purpose:

To preserve the open range for its natural assets and agricultural value by minimizing the extent of potential development. Rustic cabins are intended to allow property owners to enjoy their undeveloped rural and agricultural parcels for hunting, seasonal and recreational visits, and other temporary uses, while restricting the development of full-time residences.

Rustic cabins may be used as housing for seasonal agricultural labor.

Zoning and Context

Primitive Cabins are permitted in the Agricultural zone on parcels of 35 acres or more. The permitting of a Primitive cabin precludes the right to build a permanent dwelling anywhere on the property as it was platted when the Primitive cabin permit was issued. Subsequent subdivisions of a parcel with a

Primitive cabin shall not create new development rights. (moot if new dev rights not created with new parcels).

Small Homes as Alternative Build

Our Land Use Code currently requires a variance for dwellings under 600 square feet. Rather than putting homes under 600 sf through a variance process, these homes could be put through the additional review of the Board of Review. This review would be structural to ensure that the plans have adequate engineering and design. Unlike a variance, the purpose would not be to solicit input from nearby property owners.

1.01 ZONING DISTRICTS

1.01.01 Establishment of Zoning Districts

In order to carry out the purposes of these regulations and implement the goals, objectives and policies of Huerfano County, as contained herein, the unincorporated area of Huerfano County is hereby divided, or by amendment shall become re-divided, into the following zoning districts:

- A Agricultural District**
- RR Rural Residential District**
- UR Urbanizing**
- Residential District C**
- Commercial-**
- Service District**
- I Industrial District**
- APO Airport Protection Overlay District**
- WIND Commercial Wind Generation Overlay District**

1.01.02 District Characteristics and Requirements

Minimum dwelling size in all districts shall be 600 square feet. In recognition that smaller dwelling unit sizes may be adequate to meet individual needs and able to meet criteria of adopted building codes, ~~a variance may be requested for plans for~~ proposed dwellings under 600 square feet will be put before the Board of Review for approval in accordance with Section ~~9-02~~ of this Code. The districts enumerated in Section 1.03.01 shall have the following characteristics and specifications:

Amend the Building Permit Guidelines to read:

If the materials and methods are not listed in the 2021 I.R.C./I.B.C codes, or the residence contains less than 600 square feet, it is considered an alternative building method. The entire structure must be engineered and stamped by a Colorado Licensed Engineer, and be approved by the Huerfano County Building Authority.

Amend Resolution 18-77 to update the powers and duties of the Building Authority as follows:

8. The Authority shall have the following powers and functions:
 - a. Study all uniform codes, international codes, model codes and local ordinances adopted by the county regarding the residential and commercial building industry.
 - b. Make recommendations to the Building Official regarding any update of the county building codes.
 - c. Act in an advisory capacity to the Chief Building Official of each jurisdiction on any requests for changes affecting the county building codes.
 - d. Review submitted plans involving alternative building methods that include materials and methods are not listed in the adopted I.R.C./I.B.C codes, or the construction of a residence containing less than 600 square feet, and make recommendations to Building Official and Staff on approval requirements for such plans
 - e. Serve as the Board to hear any appeals of orders, decisions or determinations made by the Staff relative to Contractor Licensing or the application and interpretation of this Code
 - f. Act in an advisory capacity to Staff to recommend requirements for qualifications to be adopted by resolution by the Board of County Commissioners regarding the licensure of contractors and tradesmen, including but not limited to A. B. or C general contractors, mechanical contractors, specialty contractors, and mobile home contracting businesses.
 - g. Have one member of the Authority sit on the interview panel for the Building Official, Chief Building Inspector and Plans Examiner and make recommendations to the Land Use Director.
 - h. Meet at least four times each year at a regular time to be established by the By-Laws of the Authority.
 - i. Special meetings of the Authority may be called at the discretion of the chairperson or by the vice-chairperson in the event the chairperson is unavailable to consider the request for a special meeting
 - j. Meetings of the Board shall be public meetings.