



## MEMORANDUM

---

**MEETING TYPE:** Board of County Commissioners Work Session

**MEETING DATE:** 3/21/23

**ITEM NAME:** Land Use Code Update

**SUBMITTED BY:** Sky Tallman

**SUMMARY:**

Sections to be reviewed in this session: 1.18 Rezoning; 2.09 Subdivisions; 2.14 Amendments to Approved and Recorded Plats; 2.15 Vacating of Approved and Recorded Plats, Roads or Easements; 3.07 PUDs; Section 12 Submittal Copies; 14.04 Sign Permit Procedures; 18.00 Marijuana Conditional Use Permits; 17.00 Definitions; Section 4.00 Flood Damage Prevention

**Major questions to consider:**

1. Public Hearings: Should public hearings be held with the Planning Commission, Board of County Commissioners, or both?
  - a. If two public hearings were to be held, would the same noticing requirements apply to both?
    - i. State law seems to give Counties substantial flexibility for establishing noticing requirements for land use processes. If letters were sent and notice in the paper were posted for a first public hearing, that may be sufficient under State law.
    - ii. Process Outline: Application submitted → Review Agencies contacted (30-days) → Public Noticing (can overlap with noticing) → PC hearing → BOCC hearing and decision.
  - b. If one public hearing were held with the Planning Commission:
    - i. Advantages: Simple process. BOCC role would be limited to making a decision on a recommendation.
    - ii. Disadvantages: Members of the public may still want to speak at BOCC meeting after hearing closed, but there would be no legal space for their testimony to be considered.
    - iii. Process Outline: Application submitted → Review Agencies contacted (30-days) → Public Noticing (can overlap with noticing) → PC hearing → BOCC meeting and decision.
  - c. If one public hearings were held by the BOCC (Planning Commission recommendation):
    - i. Advantages: Public noticing could go out after Planning Commission review.
    - ii. Disadvantages: Public or applicants may want to testify at public meeting, but since it would not be a formal hearing, this testimony would not necessarily be

part of the record reviewed by the BOCC. There would be no formal process for public to offer input and it could lead to inconsistent practices in which sometimes comment would be invited and other times not.

Time to process would be slightly longer because review agency comments would still be sought to include in staff report to PC, but the review period could not overlap with public noticing, which would add about two weeks to the process.

- iii. Process Outline: Application submitted → Review Agencies contacted (30-days) → PC Meeting → Public Noticing (can not overlap with noticing) → BOCC hearing and decision.
- d. Under either a one or two hearing process, review agencies would get 30 days to respond with comments. This time period would suffice to prepare a staff report, with, perhaps a few additional days to incorporate any comments or feedback into the staff report and present it to the Commission, a total of 32 to 35 days plus any residual time to the next regular meeting, up to 14 days, implying the time between a complete application and a first public hearing could be between 32 and 46 days; between a Planning Commission meeting and a regularly scheduled Board of County Commissioners meeting, there are typically 5 days; in the best case scenario with a Planning Commission or two public hearing process, processing time could be 37 to 51 days. If only the BOCC holds a public hearing, noticing would have to be sent after the Planning Commission review and recommendation, adding another 18 days to the process (because the paper is only published on Thursdays).
- e. Proposed changes eliminate the need for joint public hearings.
- f. The pattern proposed by the Planning Commission is that the Planning Commission hold a public meeting and the Board of County Commissioners would hold all public hearings.
  - i. If this is not what gets adopted, certain application types give Planning Commission the discretion to determine whether an application requires a public meeting or hearing, and to request additional materials or information. If this remains their role and we adopt a process in which the Planning Commission holds public hearings, an initial application review meeting may still be necessary.

For example: Public Noticing Requirements for Rezoning, subdivisions: Planning Commission recommendation is to include identified properties that have the potential to be impacted by the proposal as determined by majority vote of the Commission.

Depending on public hearing pattern selected, when in the process this vote would occur is not clear. If there were two public hearings, the Commission would have to have a review meeting prior to a public hearing.
2. Define threshold between subdivision and plat amendment. Currently it is at the discretion of the Planning Commission to interpret whether changes proposed are “significant”.
3. Remove requirement for the vacation of a lot line to hold a public hearing and align code with State statute.
4. Review Sign Permit requirements – First Amendment does not allow regulation of content.
5. Marijuana CUPs – add clarity to language around billing permittee for staff expenses.

6. Add clarity to manufactured home definition. Currently, it is defined differently in two parts of the Code, Section 17, definitions and Section 4, Flood Damage Prevention.
  - a. Remove definition from Chapter 4 so terms are defined in only one place in the Code.
  - b. These changes are in response to BOCC request when we were editing the Use Table on where manufactured homes would be permitted; they were not proposed or reviewed by the Planning Commission.
7. Repeal Section 12 Submittal Copies – obsolete with online permitting.
8. Incorporate Roadway Design Guidance into Land Use Code. Minor changes suggested to avoid issues with road repair when cuts are made.

To improve clarity on responsibility for repairs when a gravel road is cut for utilities or another purpose.

- a. Section 10.11(B) add:

After a disturbance in the surface of the road, the road must be restored to have 4”-6” inches of gravel across the whole width of the road and to be inspected by Road and Bridge Department.

Repair to roads in poor condition or roads lacking road base at the time of disturbance is to be negotiated with Road and Bridge prior to any disturbance. See 10.11.1.

- b. Add a section 10.16 to address nuisances such as blocking or damaging roads.
  - i. Intentionally or unintentionally causing a County Road to become blocked, partially blocked, or damaged shall be considered a nuisance and the responsible party may be fined.
    1. Causing a road to be blocked or partially blocked without a permit shall make responsible party subject to a fine of up to \$500/day for each 24-hour period in which a road was blocked for any amount of time over 30 minutes, to be determined by the Board of County Commissioners.
    2. Causing a County road to be damaged or flooded will make responsible party subject to a fine of \$500 plus the costs associated with repair.
    3. Creating obstructions or hazards in the right-of-way may be subject to prosecution under CRS 43-5-301.
- c. Staff suggests calling this Section 16.00 Roadway Design and Construction Standards, which was formerly known as “Manufactured Home Park & Campground Regulations”, rescinded in August of 2013. Alternatively, this could be adopted as Section 19.00 Roadway Design and Construction Standards.
- d. Markup and Clean Copies include only pages 54, 55 and 59 of the Roadway Design and Construction Standards as these are the only pages on which changes are made or referenced. The complete Roadway Design and Construction Standards can be found on the Road and Bridge page on the County website: <https://huerfano.us/departments/road-bridge/>