Date: January 22, 2018
For the Elbert County Planning Commission meeting:
Date: February 6, 2018

TO: ELBERT COUNTY PLANNING COMMISSION

FROM: VINCE HOOPER, PMP (BASELINE CORPORATION)
APPROVED: VINCE HARRIS, AICP, INTERIM DIRECTOR OF CDS

RE: AMENDMENTS TO THE ELBERT COUNTY ZONING REGULATIONS INCLUDING CREATION OF AN ECONOMIC DEVELOPMENT ZONE (EDZ) OVERLAY DISTRICT; CREATION OF A COUNTY INITIATED REZONING PROCESS; AND REVISIONS TO ZONING ENFORCEMENT.

APPLICANTS: ELBERT BOARD OF COUNTY COMMISSIONERS

REPRESENTATIVE: Vince Harris, AICP, Interim Director of CDS

SUMMARY OF REQUEST
The Elbert Board of County Commissioners (BOCC) directed CDS Staff to propose three amendments to the Elbert County Zoning Regulations (ECZR).

The first amendment would provide for the creation of a new overlay zoning district known as the Economic Development Zone Overlay (EDZ). The intent of this overlay district is to facilitate the implementation of goals and policies of the Elbert County Master Plan and to promote economic activity and mixed uses along select Elbert County roadway corridors. The EDZ is linked to the Economic Development goals identified in the 1996 Elbert County Master Plan (amended in 2009), to Elbert County’s higher traffic corridors as defined by the West Elbert County Transportation Master Plan of 2008 and other corridors identified by the BOCC.

The second amendment is to create a process for County initiated rezoning. This process is separate from a property owner rezoning process. Today the ECZR allows the BOCC, Planning Commission, and Board of Adjustments to initiate a rezoning, but provides no process for which such a rezoning is to be processed. This County initiated process is necessary to accommodate the creation of the above EDZ. It is similar to the action that the BOCC took when originally adopting the existing Elbert County Zoning Map.
The third amendment is a major revision to the provisions for enforcement of the Zoning Regulations. The current enforcement provisions are inadequate to administer an effective regulation enforcement program. The new provisions will strengthen the County’s ability to respond to, and secure correction of zoning violations. Additionally, a new section is created to handle enforcement of rubbish, trash or junk.

AMENDMENTS TO THE ZONING REGULATIONS

Part 1, Section 4 of the ECZR defines the required procedure for amendments to the Zoning Regulations. Subsection B.2. of that section provides that:

Any amendment(s) proposed shall be submitted to the Planning Commission for its review and recommendation prior to any action at a public hearing by the Board of County Commissioners.

POWERS OF THE PLANNING COMMISSION

As part of its formal responsibilities defined in ECZR Part 1, Section 2: Planning Commission, the Planning Commission has the power to:

C. Generally, the Planning Commission shall have the following power and duties, except as otherwise provided by law:
   2. To review and make recommendation to the [BOCC] on the following:
      b. amendments to the Elbert County Zoning Regulations.
      c. rezoning of land. (Res. 15-12)

DESCRIPTION OF PROPOSED AMENDMENTS

PROPOSED AMENDMENT #1. ECONOMIC DEVELOPMENT ZONE OVERLAY
New Part II, Section 27 Elbert County Zoning Regulations entitled Economic Development Zone (EDZ) Overlay

At the direction of the BOCC, CDS staff have drafted a new proposed zone district: the Economic Development Zone (EDZ) Overlay District. High traffic corridors form the foundation from which to expand economic opportunity, increase assessed values and improve local services. EDZ corridors will generally be located within 1,320 feet (1/4 mile) of the centerline of identified roads. The EDZ will be applied to property on both sides of the roads, forming a 2,640 foot (1/2 mile) wide corridor. See Figure 1 for potential corridors.

Similar to standard zone districts, the EDZ defines a list of additional uses by right and uses by special review that can be implemented on a property. Please see the proposed regulations (Attachment B) for a complete list of EDZ uses. A Site
Development Plan (SDP) application and approval is required prior to commencement of any EDZ use or development. This SDP is an administrative review and approval process. Uses Permitted by Special Review within the EDZ District are required to obtain approval of the BOCC, upon the recommendation of the PC.

The proposed amendment provides for the possibility of future inclusions of additional properties if requested by property owners.

The EDZ is proposed to be an overlay zone, as a result, the original underlying zoning would remain in place and valid. Land within the EDZ retains the rights associated with its underlying zone district. The property owner would have the choice of which zone district uses (original vs. EDZ) to undertake on the property. The chosen uses would be required to conform to the zoning standards that are associated with the chosen use.

There are certain exclusions to properties which can utilize the EDZ overlay. Existing platted residential subdivisions or existing residential PUD developments within the identified corridors are excluded from the EDZ District and the opportunity to utilize it. The EDZ does not apply to any lands that lie within the municipal boundaries of the towns of Kiowa, Elizabeth or Simla.

The new EDZ section of the Elbert County Zoning Regulations will be Part II, Section 27. Until October 25, 2017, Section 27 was the section of the Elbert County Zoning Regulations pertaining to administrative oil and gas regulations. Resolution 17-34 voided and removed that section.
FIGURE 1

ECONOMIC DEVELOPMENT OVERLAY ZONE
Potential Overlay Locations

This map is a graphic representation of the potential proposed EDZ Overlay Zone District corridors.
PROPOSED AMENDMENT #2. COUNTY INITIATED REZONING
Revisions to Part I, Section 6 Elbert County Zoning Regulations entitled Rezoning
Procedures and Requirements

Under the current Elbert County Zoning Regulations there is no distinction between a
private land owner initiated rezoning and a rezoning which has been initiated by the
County. The ECZR allows for the BOCC, PC, and BOA to initiate rezonings, however it
does not define a process. Many of the existing requirements and procedures found in
the current rezoning provisions do not apply to a County initiated rezoning. The
proposed amendment includes the addition of a subsection for the County initiated
rezoning procedure, while also designating the current rezoning procedure as applying
specifically to owner initiated rezonings.

The proposed county initiated rezoning procedure is in accordance with C.R.S. § 30-28-
116, the state enabling legislation for county initiated rezonings. The proposed
procedure eliminates specific application submittal requirements, fees, and community
meetings, and retains similar procedures for referrals, public hearing notice, public
hearings, and recordation. These changes will eliminate the waste of county resources
on unnecessary procedures, while retaining the procedures that allow for thoughtful
consideration of rezoning proposals by citizens, outside agencies, county staff, and
officials.

In addition, several minor amendments are proposed to this section in order to bring it in
line with recent ECZR amendments. The public notice procedures are deleted because
they were made redundant by recently adopted procedures in Part I, Section 10 of the
Elbert County Zoning Regulations (Resolution 17-36).

The amendment proposes deleting the rezoning procedure specific to the A-1 zone
district. This A-1 district rezone procedure is not valid due to the past elimination of the
A-1 zone district category from the Zoning Regulations. Resolution 11-25 merged the
A-1 zone district with the A zone district. Deleting all language referring to these items
will clarify the regulations for applicants and staff.

The proposed revisions are attached as Attachment C.

PROPOSED AMENDMENT #3. ZONING REGULATION ENFORCEMENT
Revisions to Part I, Section 7 Elbert County Zoning Regulations entitled
Enforcement of the Zoning Regulations

The Elbert County Zoning Regulations contain a small section addressing zoning
violations and enforcements. The regulations need to be amended to allow for better
enforcement techniques and processes when illegal land uses get started on any
property in the county. Today there are land owners or business owners that do not
have proper zoning, permits and authorizations according to the Zoning Regulations.
Additionally, a new regulation has been drafted to handle the enforcement of cleanup of rubbish, trash and junk.

CDS staff and the County Attorney have drafted a revised Part I, Section 7 and 7.1 to address these concerns.

The proposed revisions are attached as Attachment D and E.

CRITERIA FOR REVIEW

The Zoning Regulations contain standards for evaluating lands proposed to be rezoned to Planned Unit Development. It does not contain any standards for the Planning Commission to use in evaluating proposed text amendments to the Zoning Regulations. In that absence, the rezoning standards for PUD’s can be used as a general guide for the Planning Commission’s review of the amendments proposed by this action, specifically for the creation of EDZ.

The General Rezoning Approval Standards are listed below. The staff analysis will address those that apply as follows:

1. Whether the proposed rezoning complies with the goals and policies of the Elbert County Master Plan.
   Staff comment: See Master Plan Compliance analysis below.

2. Whether the proposed rezoning is compatible with surrounding land uses.
   Staff comment: An evaluation of compatibility for each property within the EDZ will be conducted at the time of Site Development Plan application, or if applicable, in the review of a Special Use by Review. Site Development Plans will be reviewed and acted upon administratively.

3. Whether the proposed rezoning would adversely impact the provision of public services.
   Staff comment: Impacts of the individually proposed development within the EDZ upon public services will be evaluated at the time of Site Development Plan application, or if applicable, in the review of a Special Use by Review.

4. Whether the proposed rezoning would adversely impact the environment.
   Staff comment: Impacts of the individually proposed development within the EDZ upon environmental factors will be evaluated at the time of Site Development Plan application, or if applicable, in the review of a Special Use by Review.

5. Whether the proposed rezoning would create traffic congestion or burden the existing road system.
Staff comment: The EDZ is founded on utilization of the high traffic corridors identified in the West Elbert County Transportation Master Plan of 2008. These high traffic corridors provide the greatest capacity for increased traffic in the future. Land dedication and public improvement requirements are not absolved by creating the EDZ.

6. Whether the proposed rezoning will not otherwise be detrimental to the health, safety or welfare of the present or future inhabitants of Elbert County.

Staff comment: Part of the intent of the EDZ is to promote economic activity and expansion of goods and services to Elbert County residents. This will directly enhance the health, safety and welfare of the resident.

MASTER PLAN COMPLIANCE

The Elbert County Master Plan contains extensive goals and policies relating to economic development. We have not located any goals or policies which relate to the rezoning process or zoning enforcement. The following is a listing of the goals and policies which staff believes most directly relate to the Economic Development Zone Overlay. There are other goals and policies which relate to other aspects of economic development which have not been included.

I. INTRODUCTION

Elbert County recognizes the need to welcome and accommodate Economic Development.

Economic development efficiently located and effectively directed will ensure economic balance between business, residential development, and the agriculture character in the County.

SECTION V. GENERAL POLICIES

13. Economic Development goals and policies demonstrate the County's willingness to ensure the fiscal well-being of the County through the encouragement of activities such as manufacturing, distribution, agricultural, wholesale or retail trade.

15. Economic development shall be located where arterial access, water and sewer service, and suitable topography exist or are included as part of the development plan.

16. Industrial uses shall be located so as to avoid conflicts with residential development, agricultural uses, wildlife areas and environmentally or visually sensitive areas. Where possible, new industrial development shall be located near existing municipalities and rural town centers. The County strongly discourages strip industrial development.
SECTION IX. ECONOMIC DEVELOPMENT

ECONOMIC GROWTH

Goal:
ENCOURAGE ECONOMIC DEVELOPMENT THAT WILL PROMOTE ECONOMIC DIVERSITY WHILE ENSURING THE PRESERVATION OF THE AGRICULTURAL RESOURCES AND RURAL CHARACTER OF THE COUNTY.

Policies:
1. Elbert County desires that a more reasonable balance between economic and residential tax assessment values exist. Special consideration shall be given to economic development that preserves the rural character and open space of Elbert County.
2. Economic Development should be directed to employment centers, but will not be restricted to these areas only.
3. Elbert County will designate locations for economic development and employment centers according to their role and function in the region.
4. The County may require a review in order to establish economic development areas or zones and may require an environmental impact assessment or statement to ensure mitigation of potential impacts brought by that designation.
5. The County will encourage cooperation between residential, commercial and industrial developments sites to minimize roads, curb cuts, parking lots and other facilities.
6. The County will encourage economic development that is non-polluting and causes minimal adverse impacts on surrounding land or provide an acceptable mitigation plan.
7. The County will encourage the development of agriculturally related industries.
8. Economic Development districts shall be identified in order to initiate the approval process.

Goal:
ENCOURAGE ECONOMIC DEVELOPMENT CENTERS IN ORDER TO CREATE EMPLOYMENT OPPORTUNITIES FOR ELBERT COUNTY RESIDENTS.

Policies:
9. The County shall identify areas, which can be designated as appropriate for employment, including business parks, commercial zones and industrial areas.
10. The County will encourage public-private collaboration to attract non-residential development, which will provide opportunities for the workforce.

Goal:
ENCOURAGE ECONOMIC DEVELOPMENT WHICH LIMITS TRAVEL BETWEEN HOME, WORK, SHOPPING AND OTHER ACTIVITIES.

Policies:
11. The County shall encourage a variety of activities to effectively serve residents.
12. Large scale retail development should be located within or near Municipalities and Rural Town Centers or designated economic development areas.
13. Neighborhood businesses such as restaurants, day care centers, and other businesses shall be allowed in residential areas where a demonstrable need exists.

**COMMERCIAL DEVELOPMENT**

**Goal:**
ECONOMIC DEVELOPMENT CENTERS WILL BE DIRECTED TO THOSE AREAS IDENTIFIED FOR DEVELOPMENT AND OTHER AREAS TO BE ESTABLISHED THROUGH AN APPROVAL PROCESS.

**Policies**
1. Elbert County will encourage economic development and employment centers that are compatible with agriculture and community values.
2. Elbert County will encourage Campus type facilities surrounded by areas that maintain open space or agricultural uses.
3. Strict adjacency requirements will be discouraged in favor of economic diversity and open space.
4. Special consideration will be given to development that preserves open space through conservation easements or other contractual arrangements.
5. Multiple uses of resources (water, land, transportation facilities, etc.) are encouraged.
6. Elbert County shall encourage blending of economic development facilities within the surrounding area.
7. Elbert County shall encourage the development of infrastructure that is synergetic for the community.

**INDUSTRIAL DEVELOPMENT**

**Goal:**
ELBERT COUNTY WILL ENCOURAGE THE RECRUITMENT, EXPANSION AND DIVERSIFICATION OF THE INDUSTRIAL ECONOMIC BASE TO ACHIEVE A WELL BALANCED ECONOMY.

**Policies:**
1. Locate economic development areas to maximize the utilization of Infrastructure and physical environment.
2. Identify economic development areas or districts within the county that utilize existing transportation facilities, and are located where traffic, noise, air and visual pollution conflicts with residential, commercial and agricultural uses can be mitigated.
3. The applicant shall be required to provide or obtain adequate services and facilities.
4. Promote and recruit development that is appropriately located in relation to surrounding land uses, and that meets necessary environmental standards.
5. Encourage development that is sensitive to natural topography and suitability of the land.
6. Require visual and sound barrier landscaping to screen industrial areas from residential uses or other non-compatible uses.

SECTION X. IMPLEMENTATION

MUNICIPALITIES AND RURAL TOWN CENTERS (M & RTC)

Goal:
FUTURE DEVELOPMENT SHALL BE ENCOURAGED TO OCCUR IN AND AROUND EXISTING MUNICIPALITIES AND RURAL TOWN CENTERS (M & RTC).

Additional Master Plan guidance can be found in the Attachment A Economic Development Area Map, which also contains additional Implementation Strategies

STAFF FINDINGS OF MASTER PLAN COMPLIANCE

The goals and policies identified above present a wide spectrum of guidance for economic development in Elbert County. It is clear that the proposed EDZ does not achieve every single goal and policy. It is not intended to. It is intended to be one component of the County’s strategy to promote economic development into the future. As such, it implements a significant portion of the above goals and policies. Staff finds that the proposed EDZ is in general compliance with the Master Plan.

REFERRALS

Referrals for the EDZ were sent to the following agencies:
- Arapahoe County
- Douglas County
- Lincoln County
- El Paso County
- Town of Elizabeth
- Town of Kiowa
- Town of Simla
- Town Limon
- Town Parker
- City of Aurora

We have not had any responses to these referral comment requests to date. We will update the Planning Commission at the hearing if any comments are received.
PUBLIC WORKSHOP/OPEN HOUSE

Elbert County staff and consultants conducted a public workshop/open house on December 14, 2017 in which the concept of the EDZ was presented to the public and feedback sought. Approximately 30 people attended. While not all of the attendees commented on the proposed EDZ, those that did had positive responses. The most common response was that this was a very beneficial concept for the County to pursue. None of the comments that we received were opposed to the concept.

PUBLIC HEARING DATES

Public hearing dates are set for
- Planning Commission: February 6, 2018
- Board of County Commissioners: February 28, 2018

RECOMMENDATION

Community and Development Services staff recommends that the Planning Commission recommend that the Board of County Commissioners approve the following three amendments to the Elbert County Zoning Regulations:

1. New Part II, Section 27, Economic Development Zone (EDZ) Overlay
2. Revised Part II, Section 6, Rezoning Procedures and Requirements
3. Revised Part I, Section 7, Enforcement Of The Zoning Regulations and new Part I, Section 7.1, Enforcement of Rubbish, Trash, or Junk

Respectfully submitted to and on behalf of Elbert County,

Vince Hooper, PMP
Senior Planner
Baseline Corporation
Contract Planner for Elbert County

CC. Vincent Harris, AICP, Interim Director of Community and Development Services
Sam Albrecht, Elbert County Manager
Bart Greer, Elbert County Attorney

Attachment A - Economic Development Area Map, Elbert County Master Plan
Attachment B - New Part II, Section 27, Economic Development Zone (EDZ) Overlay
Attachment C - Revised Part II, Section 6, Rezoning Procedures and Requirements
Attachment D - Revised Part I, Section 7, Enforcement of the Zoning Regulations
Attachment E - New Part I, Section 7.1, Enforcement of Rubbish, Trash, or Junk
COMMERCIAL DEVELOPMENT WILL BE ALLOWED IN CURRENT AND PROPOSED RURAL SUBDIVISION, MUNICIPAL AND RURAL TOWN CENTERS, EMPLOYMENT CENTERS AND INDUSTRIAL AREAS WHERE COMMERCIAL SERVICES MAY REDUCE TRAVEL, INCREASE CONVIENCE AND ENHANCE THE CURRENT ELBERT COUNTY LIFESTYLE.

1. Areas appropriate for commercial development have been identified or can be designated through the Economic Development Area Approval process.

2. Elbert County shall allow a 2% density bonus to subdivisions which include commercial areas to provide localized goods and services compatible with the size and design of the development.

3. Elbert County shall allow commercial development in areas which can show a historic record of providing goods and services in the past.

INDUSTRIAL AREAS SHALL BE LOCATED IN AREAS SUCH THAT NOISE, TRAFFIC, AIR POLLUTION AND VISUAL QUALITY DO NOT CONFLICT WITH RESIDENTIAL, COMMERCIAL OR AGRICULTURAL USES OR SHALL CONTAIN DESIGN FACTORS TO MITIGATE THESE PROBLEMS.

1. Areas appropriate for industrial development have been identified or can be designated through the Economic Development Area Approval process.
2. Elbert County should encourage industrial development which utilizes new technologies which minimize noise, traffic, air pollution and visual impairment.

3. Industrial areas should be accessible to the intended employment base.

4. Industrial sites should contain design factors to accommodate parking, open space, any necessary buffering, landscaping and fencing of storage and disposal sites.

Approval of Additional Areas not presently Designated as Economic Development Areas

These are Economic Development Areas that become necessary because of changes in population areas, demographics, and community needs, but which are not presently designated in the current Master Plan.

Goals:

CRITERIA FOR IDENTIFYING AND DESIGNATING FUTURE AREAS FOR ECONOMIC DEVELOPMENT SHALL INCLUDE NEED, MITIGATION OF NEGATIVE FACTORS, AVAILABILITY OF DESIGNATED AREAS, NATURE OF THE PROPOSED DEVELOPMENT AND PRESERVATION OF THE RURAL NATURE OF THE COUNTY.

Policies:

Requirements for designating new Economic Development Areas include:

1. The community need for such a designation shall be identified and justified.

2. The developer shall specify the local services required to support the designation and how the impact on present services shall be alleviated.

3. A determination of the economic impact to the community shall be made.

4. The environmental impacts shall be identified.

5. Impacts on County services, both positive and negative shall be identified.

6. Identify the impact on water resources.

7. Identify the impact on traffic.

8. State the current zoning and Master Plan designation

9. Identify affected property and mineral owners.

MINERAL RESOURCE AREAS

Goals:

THE COUNTY MAY ALLOW THE DEVELOPMENT OF MINERAL RESOURCES ONLY IF THEY ARE EXCAVATED WITH ENVIRONMENTAL SENSITIVITY, DO NOT CAUSE ANY HAZARD TO COUNTY RESIDENTS OR ADJACENT LANDS, AND DO NOT INTERFERE WITH INDIVIDUAL PROPERTY RIGHTS.

Policies:

The mineral resource area includes all lands mapped by the County, State and Federal agencies, mainly in the central and eastern portion of the County from Kiowa to the eastern County boundary, as having potential mineral resources.
Elbert County Economic Development Zone (EDZ) Overlay
DRAFT January 18, 2018
Attachment B

ELBERT COUNTY ZONING REGULATION AMENDMENT

PART II, SECTION 27: Economic Development Zone (EDZ) Overlay

A. PURPOSE AND INTENT

1. The Economic Development Zone (EDZ) Overlay is to facilitate the implementation of goals and policies of the Elbert County Master Plan and to promote economic activity and mixed uses along select Elbert County travel corridors. The EDZ is linked to the Economic Development goals identified in the 1996 Elbert County Master Plan (amended in 2009), to Elbert County’s high traffic corridors as defined by the West Elbert County Transportation Master Plan of 2008 and other corridors identified by the County. High traffic corridors form the foundation from which to expand economic opportunity, increase assessed values and improve local services.

B. DEFINITIONS

1. Appropriate Buffering: The act of minimizing one parcel’s impact(s) from that of another parcel in the same vicinity. Appropriate Buffering may include separation by distance, vegetation, natural topography, walls, or site design features.

2. High Traffic Corridors: Roadways, parts of roadways or intersections identified in the 2008 West Elbert County Transportation Master Plan as having 2,500 or more trips per day in 2008 and 15,000 trips by the year 2035 as adjusted to recognize that the Kiowa-Bennett Road is now a high traffic corridor.

3. Site Plan/Site Development Plan (SP/SDP): As defined in the Elbert County Zoning Regulations (ECZR), Part II, Section 25, as amended as a formal administrative process.

C. APPLICABILITY

1. The Lands within Economic Development Overlay Zone are comprised of corridors and nodes which are described below. Specific boundaries of each corridor and node will be identified on an Economic Development Overlay Zone Map.

2. EDZ Corridors are generally intended to be located within 1,320 feet of the centerline of identified roads, have street frontage onto the subject roads and have legal access to:

   a. Elbert County Road 1 (Delbert Road) from County Road 194 south to State Highway 86.

   b. Elbert County Road 166 (Singing Hills Road) between the Douglas/Elbert County Line and Elbert County Road 29.

   c. Elbert County Road 158 (Hilltop Road) between the Douglas/Elbert County Line and Elbert County Road 13.
d. Elbert County Road 13 from the municipal boundary of the Town of Elizabeth to Elbert County Road 166.

e. Colorado State Highway 86 from the Douglas/Elbert County Line to Comanche Creek Road, except within the municipal boundaries of the Town of Elizabeth and the Town of Kiowa.

f. Elbert County Road 194 from the Douglas County/Elbert Line to Kiowa-Bennett Road.

g. All of US Highway 24 within Elbert County, except within the municipal boundary of the Town of Simla.

h. Kiowa-Bennett Road from the municipal boundary of the Town of Kiowa north to the Arapahoe/Elbert County line.

i. Interstate 70 within two miles of the Town of Limon. Lands located between Agate and north to the Arapahoe/Elbert County Line including Old US Highway 40 to be recognized as a frontage road.

3. EDZ Nodes are focused around key intersections and corridors in an effort to ultimately create community employment/retail centers. Nodes are located where opportunities for new economic activities are desirable and encouraged. The Elbert County Board of County Commissioners (BOCC) may identify and approve additional nodes to be created as the demand arises in areas where limited availability of EDZ lands exists.

4. After the adoption of the Zoning Map that provides the initial EDZ corridors established by the Board of County Commissioners, a property owner may request that a property contiguous with an EDZ zoned property and/or any property not currently mapped or identified to be located within the recognized corridors is eligible to request inclusion of such property in the EDZ. A property need not be contiguous to a previously approved EDZ overlay area.

a. An inclusion request is subject to approval by the BOCC.

b. Property owners seeking to obtain an EDZ property inclusion will submit an application to the Elbert County Community and Development Services (CDS) Director describing in detail the proposed EDZ location, use and potential impacts including a detailed description of proposed development/economic activity for the property, complete with an evaluation of identified area potential impacts including environmental, traffic and effect to adjacent properties. CDS shall review the submitted application and the Planning Commission shall hold a hearing within 45 days of submittal of the application and make an appropriate recommendation to the Planning Commission for their review and subsequent recommendation to the BOCC.
c. BOCC approval of inclusion of the identified property enables the applicant to request the optional EDZ uses. The property owner may proceed with a Site Plan application request containing that use after and if a rezoning has been approved by the BOCC.

d. The Elbert County Zoning Map will be updated to include the subject property within the EDZ overlay.

e. If the BOCC determines that a property inclusion is not appropriate, the applicant may submit an application utilizing the regular Elbert County rezone process.

5. Exclusions and future requests to include property in the EDZ overlay

a. Platted residential subdivisions or existing residential Planned Unit Development (PUD) developments within the identified corridors are excluded (not a qualified property) from the EDZ District and the opportunity to utilize it. The EDZ does not apply to any lands that lie inside of the municipal boundaries of the towns of Kiowa, Elizabeth or Simla.

b. A property owner may request that a property contiguous with an EDZ zoned property and/or adjacent to a County Road not currently zoned EDZ, be rezoned to EDZ. A rezone application shall be submitted to the Elbert County CDS Department and processed through the regular owner initiated rezone process. The BOCC will determine, pursuant to a recommendation from CDS and Planning Commission, if the EDZ district is appropriate for the identified lands.

D. UNDERLYING ZONING

1. The EDZ lies on top of an underlying zone district as identified by the Official Zoning Map. The underlying zone district remains valid. All lands within the EDZ retain the rights associated with their underlying zone district. Qualified Property owners within the EDZ have the option of choosing to follow the zoning requirements established by the underlying zoning or following the requirements of the EDZ. The underlying zoning district requirements are described in the Elbert County Zoning Regulations.

E. SITE PLAN AUTHORIZATION REQUIRED

1. Site Plan approval is required prior to development or initiation of any Use Permitted by Right within the EDZ. Uses Permitted by Special Review within the EDZ District are required to obtain approval of the BOCC.

2. Uses permitted by right associated with the underlying zoning are subject to the approval requirements, if any, of the underlying zone district.

3. Compliance with all adopted codes including, but not limited to, building, access, parking and fire codes is required.
F. POTENTIAL SUBDIVISION OF LAND

1. EDZ boundaries are zoning boundaries and do not establish legal lot lines or ownership boundaries. Creation of legal lots requires the County’s approval following the processes defined in the Elbert County Subdivision Regulations.

G. EDZ STANDARDS

1. Appropriate Buffering Between Varying Uses: Visual, landscape, spatial and other buffering tools shall be required between existing residential development and any use permitted in the EDZ. Buffering requirements shall be identified at the Site Plan stage including an implementation plan before initiating any allowed EDZ permitted use.

2. EDZ Uses by Right: The following are uses by right on the lands within the EDZ overlay district. Unless otherwise noted, initiation of these uses will require the approval of a formal administrative Site Plan. Access, parking, and life-safety standards may limit or include special requirements prior to approval. The Public Works Director shall determine if a traffic study is required to evaluate access and safety considerations.

   a. Automobile/RV/Boat/Farm Equipment/ATV Sales & Service. Requires a permanent building serviced by water and sanitation systems.

   b. Bank or Financial Institution

   c. Bar or Lounge

   d. Bed and Breakfast

   e. Building Materials – retail, wholesale, or both

   f. Church

   g. Club or Country Club

   h. College or University

   i. Community Garden – Public

   j. Cultural Facility

   k. Day-care Center

   l. Fire Station

   m. Greenhouse

   n. Hotel, Motel
o. Indoor Equipment Service, Repair, or both

p. Light industrial or manufacturing operation that does not emit excessive amounts of dust, smoke, fumes, gas, noxious odors, or noise

q. Library

r. Mini or self-storage

s. Museum

t. Neighborhood grocery/convenience store with or without fuel.
u. Office – General, Medical, Urgent Care, Professional, Government

v. Outdoor RV/Boat/Auto/ATV Storage

w. Park, Playground, or both

x. Parking Lot – Public or Private

y. Post Office

z. Product Distribution, Storage (including agricultural)

aa. Recreation Facility

bb. Residence – Multi-family or Single-family (Site Plan not required for Single-family)

c. Restaurant – Traditional or Fast Food Restaurant including drive-up facilities

dd. Retail Business, Service Business, or both – Indoor or Outdoor including Home Improvement Centers

ee. Retreat/Lodge

ff. Sales Office – temporary

gg. School – private or public K-12

hh. Seasonal Use Theatre – Indoor or Outdoor

ii. Senior Living Center

jj. Sheriff Station

kk. Training Facility for Horses, Riders, or both

ll. Veterinary Clinic or Hospital
3. Accessory Uses: The following Accessory Uses are allowed when a Principal Use from
the preceding list has been established with the exception of agricultural uses on
agriculturally zoned lands.

a. Residential Accessory Uses:
   1. Animals – Densities and animal units shall not exceed those included in the
      underlying zone district as described in ECZR Part II, Section 23 as
      amended.
   2. Caretaker, owner or employee Residence.
   3. Home Occupation (refer to Part II, Section 22 of the ECZR as amended).

b. Non-residential Accessory Uses:
   1. Accessory uses and buildings that support a permitted use on the property.
   2. Screened Storage Area.

4. Uses Permitted By Special Review within the EDZ: The following uses are permitted in
accordance with the requirements of Part II, Section 17 Uses Permitted by Special
Review of the Elbert County Zoning Regulations on EDZ lands. Buffering techniques
between adjacent residential or agricultural uses will be considered during the Special
Review approval process.

a. Concrete, asphalt and mortar batch plants, permanent or temporary. May require
   bonding.

b. Group Residential Facility

c. Heavy Equipment Sales, Rental and Repair

d. Kennel

e. Grain elevator

f. Major Facilities of a Public Utility – includes utility services facility

g. Heavy industry and manufacturing

h. Propane Distribution, Storage, or both

i. Sanitary treatment facilities

j. Telecommunication Facility
k. Temporary Offices

l. Truck terminals and loading facilities

m. Water Treatment and/or Storage

5. Uses Not Itemized: Uses not listed (itemized) as a Use by Right, may be permitted subject to administrative approval by the County Manager or his designee. Such Uses Not Itemized must have substantially similar impacts to a use listed in the Uses by Right. Substantially similar impacts includes: intensity of use, scale and potential impact to environment, traffic, and adjacent properties. Property owners seeking to obtain approval to conduct a Use Not Itemized must submit a letter to the Community Development Services Director, describing in detail the proposed use and its potential impacts. The Community Development Services Director shall administratively review the submitted information and make a recommendation to the County Manager for his/her determination of the similarity of the proposed use. If the County Manager determines that the proposed Use Not Itemized is substantially similar, then the property owner may proceed with a Site Plan application request containing that use. If the County Manager determines that the proposed Use Not Itemized is not appropriate then the applicant may appeal to the BOCC by means of submitting an application for a Special Use pursuant to Elbert County Zoning Regulations.

6. Setbacks

a. EDZ Uses by Right Setbacks:

1. FRONT: Minimum of fifty (50) feet from the road right of way/easement.

2. SIDE AND REAR: 100 feet

   a) If adjoining residential zoning (RA-1, RA-2, R-1, R-2, MF, MH or residential PUD) regardless of underlying zoning.

   b) If adjoining platted residential uses.

   c) If adjoining undeveloped, unplatted lands.

3. Residential structures and residential accessory use setbacks shall be determined by the underlying zone district defined in the ECZR, as amended. If not residen
tially zoned, residential-use front setbacks shall be the same as the zone district the parcel most closely resembles as described in the ECZR based on its size.

b. EDZ Use By Special Review Setbacks: The following are minimum setback requirements for Uses by Special Review in the EDZ. Additional setbacks may
be required as determined through the Site Plan approval process on a case by case basis.

1. FRONT: At least seventy-five (75) feet from the edge of the road right of way/easement.

2. SIDE AND REAR: 150 feet
   a) If adjoining residential zoning (RA-1, RA-2, R-1, R-2, MF, MH or residential PUD) regardless of underlying zoning.
   b) If adjoining platted residential uses.
   c) If adjoining undeveloped, unplatted lands.

3. Residential structures and residential accessory use setbacks shall be determined by the underlying zone district defined in the ECZR, as amended. If not residentially zoned, residential-use front setbacks shall be the same as the zone district the parcel most closely resembles as described in the ECZR based on its size.

7. Parking and Access
   a. Parking requirements are determined by Part II, Section 20 of the ECZR, as amended and shall comply with all state and federal standards.
   b. County road access requirements shall be evaluated by Elbert County Public Works Director/Colorado Department of Transportation and the relevant Fire District based on life safety, current traffic patterns and future traffic projections. The applicant is responsible for any road or engineering studies and the construction of any required improvements to roadways or driveways related to their development. Construction will be completed in compliance with Elbert County standards.

H. EXISTING ENCUMBRANCES

1. Existing encumbrances including but not limited to: open space, easements, access, drainage, building envelopes etc., shall be recognized and enforced.

I. SIGNS

1. Sign requirements are determined by Part II, Section 19 of the ECZR, as amended.

J. LAND DEDICATIONS

1. Land owner dedication of public right-of-way to Elbert County may be required depending upon the potential traffic impacts created by the proposed use. Requirements
will be determined by the Elbert County Public Works Director during the Site Plan review and approval process. The County may choose to have additional right of way dedication reserved as an option, to be exercised for use by the County at a future date.
PART I, SECTION 6: REZONING PROCEDURES AND REQUIREMENTS

A. INTENT

To provide for the orderly, well-informed, properly planned transition of historic land uses within Elbert County to those deemed more desirable or necessary to accommodate residential, commercial, business and industrial growth for the present and future citizens of Elbert County.

B. REZONING PROCEDURE AND SUBMITTAL REQUIREMENTS

Rezoning shall mean a revision to the zoning. Rezoning requests which do not incorporate within them a proposed use or uses, shall not be considered by the County due to lack of important planning data such as water availability, traffic impacts and environmental considerations. Rezoning applications involving 8 or more lots shall be considered only as a PUD and are subject to Elbert County Site Design Standards. Elbert County Site Design Standards are included within the Elbert County Zoning Regulations. (Included in Part II, Section 16). Rezoning requests may be initiated by the Board of County Commissioners, Planning Commission, Board of Adjustments or the owner of the parcel of land in question.

1. OWNER INITIATED REZONING REVIEW PROCEDURE

The following steps shall be involved in an owner initiated rezone review process:

a. Pre-Application Meeting- This process was developed to improve communication between the applicant and County staff. The intended result is a more efficient application review process. Community & Development Services should be contacted for submittal requirements. A Case Planner will be assigned after the Pre-Application Meeting is held.

b. Community Meeting - Applicants are required to conduct a community meeting prior to submitting a formal rezoning application. This meeting must be conducted in the general vicinity of the property involved in the rezoning application and serves to provide a forum for information exchange between applicants and citizens. By conducting the community meeting prior to the formal application submittal, it is anticipated that applicants will be able to address community concerns and incorporate community input in the formal application. The presentation at the community meeting is the responsibility of the applicant. A Case Planner will attend the meeting to address procedural matters only. The applicant will be responsible for notifying adjacent property owners within 1,320 feet of the subject property boundary at least fourteen (14) days prior to the
community meeting. The subject property must be posted a minimum of ten (10) days prior to the Community meeting to inform citizens in the immediate area of the community meeting. Signage location, format, and language will be provided to the applicant by Community & Development Services.

c. Two Copy Submittal - Applicants shall meet with a Case Planner to submit two copies of each item that is required to be submitted for the formal application. Case Planner will conduct a review of the information to check for completeness and adequacy. Once the Case Planner determines that the items are complete and adequate, the applicant may proceed with the formal rezoning application submittal.

d. Formal Rezoning Application Submittal - The applicant shall submit the completed application, fees, and required support documents in quantities identified by the Case Planner. The Case Planner will review the submittal package for completeness. A submittal package that is not complete in terms of type, quantity, and adequacy of required documents will not be accepted for review. The Case Planner will refer the application and support documents to County Departments and other referral agencies as identified by the Case Planner.

e. County and Referral Agency Response - The referral agencies will respond in writing to the applicant's submittal. The Case Planner will collect all referral comments.

f. Provide Comments to the Applicant - A summary of staff comments inclusive of other departments and agency responses will be forwarded to the applicant. A meeting between the Case Planner and the applicant may be held to review the referral responses. The applicant may also meet directly with the agency or agencies that have expressed concerns with the application. The Case Planner should be included in any meetings with referral agencies.

g. Applicant Responds to Comments - The applicant shall address, in writing, all issues and deficiencies identified by the Case Planner, any other County departments, and any referral agency. To continue the process in a timely manner, the applicant must complete the requested revisions and resubmit appropriate documents for a second review by the Case Planner, other County departments, and any applicable outside agencies as quickly as possible. If there is no written response to staff comments within sixty (60) calendar days after referral comments are provided to the applicant, the application will be considered withdrawn and the application fees forfeited. The applicant will then need to file a new application with the required fees and documents. The Community &
Development Services Director may extend this sixty (60) day maximum response deadline for an additional sixty (60) day period, upon written request by the applicant, if, in his or her opinion the delay in response is justifiable. Any additional time required for the response deadline, beyond that granted by the Community & Development Services Director, shall require approval by the Board of County Commissioners.

h. Staff Review of Revised Submittal and Pre-Hearing Meeting-At the time of re-submittal of the revised information, the applicant may arrange a pre-hearing meeting with the Case Planner. The pre-hearing meeting is an opportunity for the applicant to receive additional input and explore alternatives with the Case Planner. This input may include re-stating the already established position of staff in regard to the proposal and/or a discussion of steps involved in completing the proposal. Additional review fees may be charged for re-submittals that do not address previously red-marked prints, comments, and recommendations. Additional fees may also be charged for re-submittals that include new changes that are not in response to staff or referral agency red-marked prints, comments, and recommendations. If there is no written response by the applicant within sixty (60) calendar days of the date that the applicant was forwarded staff comments, the application will be considered withdrawn and the application fees forfeited. The applicant will then need to file a new application with the required fees and documents. The Community & Development Services Director may extend this sixty (60) day maximum response deadline for an additional sixty (60) day period, upon written request by the applicant, if, in his or her opinion the delay in response is justifiable.

i. Public Hearing Documents Submittal-At such time as the Case Planner deems the application ready for public hearings, or the applicant advises the Case Planner in writing that no further revisions will be made, and the applicant desires to proceed to the Planning Commission and Board of County Commissioners' public hearings, the applicant shall submit all documents requested by Case Planner necessary for the public hearings.

j. Planning Commission and Board of County Commissioners' Public Hearings Scheduled- Following the submittal of all required public hearing documents, the Case Planner will schedule Planning Commission and Board of County Commissioners' public hearing dates and notify the applicant in writing of the assigned dates. The Board of County Commissioners public hearing shall be a minimum of 21 days after Planning Commission recommendation.
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k. Public Hearing Notification - The applicant will be responsible for preparing and posting the "Notice of Public Hearing" sign on the subject property, preparing and publishing the "Notice of Public Hearing" in a newspaper of general circulation, and mailing the "Notification of Adjacent Property Owners" letters, per the requirements of Part I, Section 6, "Rezoning Procedures and Requirements" and Part I, Section 10, “Public Notice Requirements for Land Use Applications” section of these regulations.

l. Planning Commission Public Hearing - The Planning Commission shall review the request, staff report, other evidence, and public testimony. The Planning Commission shall recommend approval, conditional approval, or denial of the rezoning to the Board of County Commissioners. The Planning Commission may continue a request for a period of time not to exceed six (6) months from the completion of the presentation by the applicant at a public hearing.

m. Board of County Commissioners' Public Hearing - The Board of County Commissioners shall review the request, staff report, other evidence, and public testimony at one or more public hearings. Upon conclusion of the presentation of testimony and evidence in the hearing(s) before the Board of County Commissioners, the Board may render a decision which approves, conditionally approvals, or denies the rezoning application; unless the Board continues the case for further testimony and/or decision for a period of time not to exceed six (6) months from the date of the scheduled hearing.

n. Recordation of the Rezone Exhibit-Not more than one hundred eighty (180) days after approval of the Zoning change, the applicant shall complete the "conditions of approval" for recording. The mylars will include a sign-off for Elbert County Engineering, Community Development Services, Planning Commission, Board of County Commissioners and Elbert County Clerk & Recorder. If the plat is not ready for sign-off within the one hundred eighty (180) day period, the Zoning change approval shall automatically be rescinded as of the last day of the one hundred eighty (180) day period.

If the Zoning change will not be ready for recording within the one hundred eighty (180) day period, the applicant may make written request, (prior to the 180th day), to the Director of Community & Development Services for an extension of ninety (90) days in which to satisfy / complete the "conditions of approval" for recording, showing good and just cause for the need of said extension. If granted, the applicant shall have an additional ninety (90) day period in which to complete the "conditions of approval."
If the "conditions of approval" are not completed for recording during the ninety (90) day extension period, the Zoning change approval shall automatically be rescinded as of the last day of the extension period. (270th day)

Upon written request within thirty [30] days of the original or extended expiration date by the applicant, the Board of County Commissioners may reinstate the Zoning change, however, the Zoning change will now be subject to a reinstatement fee equal to at least one half the original "BASE" fee and concurrence with any Master Plan updates and regulation updates that may have occurred since the project was initiated.

The applicant, at this point, shall be required to resubmit the Zoning change to the Planning Commission and Board of County Commissioners for approval at duly noticed public hearings. Written justification for failure to complete the "conditions of approval," must accompany the resubmitted Zoning change, and will be taken into account at the hearings. Following expiration of the reinstatement period, only anew application and new fees would be accepted for processing.

2. SUBMITTAL REQUIREMENTS

The following materials shall be submitted for Rezoning applications. Initially, two hard copies and one digital copy of each document shall be submitted by the applicant for review by Community & Development Services. At such time as the documents are deemed adequate by the reviewing Case Planner, additional copies will be requested by the assigned Case Planner. The Director of Community & Development Services (Planning Director) may waive or alter any of these requirements if they are determined to be inappropriate or unnecessary to determining if the application satisfies applicable standards.

a. Land Use Application Packet
   • Completed application form (provided by Community & Development Services) with original signatures and notary public seal.
   • Cover Letter - Which includes the name, address, and phone number of the property owner and representative; and a brief description of the proposal.
   • Disclosure Letter (provided by Community & Development Services) with original signatures and notary public seal
• Application Agreement Form (provided by Community & Development Services) with original signature from the applicant or the applicant's authorized representative.

• Statement of Taxes - Proof of taxes current as of land use application submittal date.

b. Proof of ownership - copy of a recorded deed and-or title policy or ownership and encumbrance report current within three weeks.

c. Fees - The application submittal must be accompanied by the appropriate fees. The costs of consultant and referral agency review are the responsibility of the applicant. The County will require payment of County consultant review fees, based upon estimated consultant review costs, at the time of application. These costs are in addition to the application fees.

d. Development Guide (For PUD Zoning only) - (see Part II, Section 16 Planned Unit Development Zone District-FUD)

e. Rezone Exhibit - All sheets shall be in 24" X 36" format. The following information and standards shall apply to the Rezone Exhibit:

1. A margin, at least 1" on all sides, except the left-hand margin shall be a minimum of 2";

2. The name of the Rezone Exhibit, centered on the upper portion of each sheet;

3. The sheet number in the lower right hand corner of each sheet (Sheet 1 of-__);

4. Case# in the upper right corner of each sheet;

5. Rezone Exhibit notes and information shall be included on the first sheet of the Rezone Exhibit, with lettering being a minimum font size of 12 point. (Note: For processing purposes, the textual information may be prepared on 8 1/2 "X 11" paper format);

6. Legal Description - A legal description of the property designated as a lot, block, or tract on a recorded plat or a metes and bounds description;

7. Vicinity Map - Vicinity map shall be provided that locates the parcel in the County. The vicinity map shall clearly show the boundaries of the subject property, major roads within 2 miles of the subject property and the proposed access to the property;
8. Names, addresses, and phone number of owner, representative, and individual/firm preparing the document;

9. Site Plan - Shall include information regarding the layout of proposed land use areas; buildable and non-buildable areas, hazard areas, open space, easements (indicate Reception # and Book Number and Page Number, if applicable), etc.;

10. The following signature blocks shall be included on the Rezone Exhibit:

   **Community and Development Services**

   This Rezone Exhibit was reviewed and approved by Community and Development Services on the ___ day of ____________, year _____, A.D.

   ________________________________
   Community and Development Services Director

   **Planning Commission**

   This Rezone was reviewed by and recommended for approval by the Elbert County Planning Commission on the ___ day of __________, year _____, A.D.

   ________________________________
   Chairman, Planning Commission

   **Board of County Commissioners**

   This Rezone was reviewed and approved by the Elbert County Board of County Commissioners on the ______ day of __________ year _____ A.D.

   ________________________________
   Chairman, Board of County Commissioners

   **Clerk and Recorder's Certificate**

   I hereby certify this Rezone Exhibit was filed in my office on this ____ day of ____________ in the year ______ A.D. at ____ A.M. / P.M. and was recorded at Reception Number _____________.
Owner's Certificate

(Use the appropriate certificate for an individual owner, multiple owners, or corporation)

(Individual)

I, ___________________________________________________________________________ as owner of the land affected by this Rezoning, accept and approve all conditions set forth herein.

Owner: ___________________________ Date: ______
(Signature)

_____________________________________________________________________________
(Name Printed)

(Multiple Owners)

We, ______________________________________________________________________ and ________________________________________________________________________________, as owners of the land affected by this Rezoning, accept and approve all conditions set forth herein.

Owners: ___________________________ Date: ______
(Signature)

_____________________________________________________________________________
(Name Printed)

_____________________________________________________________________________
(Signature)

_____________________________________________________________________________
(Name Printed)
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(Corporation)

__________________________ as owner of the land affected by this Rezoning, accept and approve all conditions set forth herein.

__________________________ as president of ________________________
(Name Printed)

__________________________ Date: _____
(Signature)

__________________________ as secretary of ________________________
(Name Printed)

__________________________ Date: _____
(Signature)

NOTARY PUBLIC:

County of ____________________  )
 ) §
State of ________________________  )

The foregoing instrument was acknowledged before me this ___ day of _____ 20__.

By: ____________________________
Signature)

______________________________
(Name Printed)

WITNESS my hand and official seal

My commission expires: ________________

11. Standard Flexibility Statement (to be included on the first page of the Rezone Exhibit):
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"The graphic drawings contained within this Rezone Exhibit are intended to depict general locations and illustrate concepts of the textual provisions of this Planned Unit Development. During the platting process the Community & Development Services Director may allow minor variations for the purpose of establishing:

1. Final road alignments
2. Final configuration of lot and tract sizes and shapes
3. Final building envelopes
4. Final access and parking locations
5. Landscape adjustments

12. Applicability Statement (to be included on the first page of Zoning Exhibit):

"Except as expressly provided otherwise on this Rezone Exhibit, development of this property shall conform to the Elbert County Zoning Regulations in effect at the time of final plat recordation."

13. North Arrow and Scale - North arrows shall be indicated on the Rezoning Exhibit site plan and the location map. In addition, the scale shall be indicated and a bar scale provided for the site plan.

14. Existing zoning, land uses, and owner's name and addresses shall be indicated for adjacent properties.

15. Existing easements shall be shown on the site plan with reception# and book and page reference, their use, and whether or not the easement will remain on the subject property.

16. All existing structures on the subject property shall be shown with setbacks from the property line with a note indicating as to whether or not the structures will remain on the subject property.

17. Topography of the site shall be shown at ten (10) foot contour intervals. Areas of twenty percent (20%) slope or greater shall be noted.

18. Access to the site from a dedicated County right-of-way shall be shown graphically. Internal vehicular and pedestrian circulation shall be shown with right-of-way and trail widths indicated."
19. All natural and man-made water courses, detention areas, streams/creeks, and lakes shall be shown. Any 100-year flood plains affecting the property shall be indicated.

20. All adjacent land owned by the applicant or owned by an entity that the applicant is a party to, that is not a part of the application, shall be noted and a note indicating the current and intended use of the land shall be included.

21. No-build areas that restrict building in hazardous areas shall be indicated.

22. Significant treed areas on the subject property shall be indicated.

f. Proof of Water - A written statement shall be provided from an existing water district or proof that an adequate water supply is dedicated for the proposed uses that meet all County and State requirements.

g. Proof of Sanitary Sewer - A written statement shall be provided from an existing sanitary sewer provider or proof that an adequate system will be developed for sanitary sewer treatment that meets all Elbert County Environmental Health Department, Elbert County Engineer, and State requirements. Proposed individual Septic Provisions must meet the recommendations of the Elbert County Master Plan.

h. Drainage Report- At a minimum, a Phase I Drainage Report, in compliance with the Elbert County Construction Standards and Specifications Manual shall be submitted, if the County Engineer deems the report necessary.

i. Geologic Report - If the subject property is located within an area that contains expansive soils or other geologic hazards, a geologic report may be required by the County Engineer or Colorado Geologic Survey.

j. Traffic Study - A traffic study may be required for developments, subject to determination by the Elbert County Road & Bridge Department or the County Engineer.

k. Additional Requirements - In certain circumstances, additional information may be necessary to fully evaluate the rezoning request. The applicant will be informed of any additional requirements during the review process.

No hearing dates will be scheduled for an applicant if it is discovered that fees or taxes are owed to the County or to a County contracted reviewing agency during
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review of the application. any fees or taxes owed by the applicant, or by an llc the
applicant is a party to, must be paid in full before hearing dates will be scheduled.

general considerations for every application

in addition to the specific minimum design standards set forth herein, and as
discussed in the elbert county master plan, all applications will be reviewed based
on over-arching considerations as to suitability and supportability in the
communities/areas where the application is proposed. for example:

1. is the application suitable for the community/area in which it is proposed?

   in reviewing how the application will impact the community/area in which it is
   proposed the general types of issues to be considered include, for example:

   • density
   • lot size
   • perimeter lots
   • population
   • water use
   • water/sewer
   • open space
   • agricultural lands

2. does the community/area in which the application is proposed have the resources
to support it?

   in reviewing whether the community/area has the necessary resources and
infrastructure to support the application, the general types of issues to be
considered include, for example:

   • schools
   • roads
   • law enforcement
   • animal control
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- Fire Protection
- Ambulance Services
- Library Services
- Social Services

GENERAL REZONING APPROVAL STANDARDS

The following criteria shall be considered by the Planning Commission and the Board of County Commissioners in reviewing all Planned Unit Development Rezoning applications:

1. Whether the proposed rezoning complies with the goals and policies of the Elbert County Master Plan
2. Whether the proposed rezoning is compatible with surrounding land uses.
3. Whether the proposed rezoning would adversely impact the provision of public services.
4. Whether the proposed rezoning would adversely impact the environment.
5. Whether the proposed rezoning would create traffic congestion or burden the existing road system.
6. Whether the proposed rezoning will not otherwise be detrimental to the health, safety or welfare of the present or future inhabitants of Elbert County.

3. Notice of Hearing. Notice of hearing shall be provided by newspaper publication, sign posting, and mailed notice to adjacent and nearby property owners according to Part I, Section 10 “Public Notice Requirements for Land Use Applications” of these regulations.

a. Publication

   At least thirty (30) days prior to a public hearing before the Planning Commission, notice of hearing shall be published in a newspaper of general circulation in Elbert County at least once. Publication of said notices shall be the responsibility of the applicant and shall read as follows:

*****************************************************************************
*****
"NOTICE OF PUBLIC HEARING"

"Rezoning from _to_

Notice is hereby given that on ______ (day of week), ______
(month) ______ (year), at ______
(time A.M./P.M.), or as soon as possible thereafter, a Planning Commission Hearing will be conducted and on
(day of week), ______
(month) ______
(year), at ______
(time A.M./P.M.), or as soon as possible thereafter, a Board of County Commissioners hearing will be conducted. Hearings will be conducted in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado or at such other time and place as these hearings may be adjourned. Public hearings will be heard upon the application on file with the Elbert County Community and Development Services, 215 Comanche (Courthouse Annex), Kiowa, Colorado, 303-621-3136, by _____ (name of applicant), for a change in zoning pursuant to the current Elbert County Zoning Regulations. The affected property is located approximately
________ (distance and direction from nearest major intersection). Reason: ______

Project Name and Number:

Description of Property:

Date of Application: ____________

Published In: ______ (name of newspaper)

_____ (date of Publication)

*******************************************************************************
******

*Publishers affidavit verifying the above publication shall be submitted to Community and Development Services at least five (5) working days prior to the public hearing."
b. Sign Posting

The applicant shall also be required to post notice on the property for which the rezoning is requested at least thirty (30) days prior to the day of the public hearing before the Planning Commission. Such notice shall consist of at least one (1) sign facing parallel to each adjacent road right-of-way. Such sign(s) shall measure not less than four feet by four feet (4’ x 4’); size of letters shall be a minimum of three inches (3”) high and such signs shall be erected no further than ten feet (10’) beyond the edge of the adjacent right-of-way on posts which shall locate the bottom of the sign no less than three feet (3’) above the ground. All signs shall be clearly legible to persons on the adjacent right-of-way and shall be completed and installed in a neat and professional manner. All signs shall be visible and legible throughout the entire period, and shall read as follows:

******************************************************************************
******
"NOTICE OF PUBLIC HEARING"

"Rezoning from—— to——."

Notice is hereby given that the property upon which this sign is posted shall be considered for a change in zoning from—— to—— pursuant to the current Elbert County Zoning Regulations. Further information may be obtained by calling Community and Development Services 303-621-3136. The Planning Commission hearing is to be held on—— (day of week),——

(month)——

(year), at (time A.M./P.M.), or as soon as possible thereafter, and a Board of County Commissioners hearing will be conducted and on—— (day of week),——

(month)——

(time), or as soon as possible
thereafter. Said hearings are to be held in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado.11

Name of Proposal:_________

Further requirements include:

1) Notarized affidavit verifying the date of the sign posting required at least thirty (30) days prior to the hearing date.

2) This affidavit must be submitted to Community and Development Services at least twenty-four (24) days prior to the Public Hearing date.

3) All signs must remain on the property until the final hearing, and must be removed no later than seven (7) days following the final hearing.

4) Signs advertising the rezoning of property in Elbert County must be photographed and submitted for the applicant's file in Community and Development Services as per the following form:

- (ATTACH PHOTO HERE)

"************* ***********
The above sign was posted on________ pursuant to the current Elbert County Zoning Regulations by_______ (name of applicant).

Project Name and Number:________ Signature of Applicant/Representative:

-Signed and sworn before me this date:______________

NOTARIZED BY:

Project Review:

"************* ***********

e. Notification of Adjacent Property Owners
At least thirty (30) days prior to the day of the Public Hearing before the Planning Commission, the applicant shall mail a notice of said hearing by Certified Mail, Return Receipt Requested, to owners of property adjacent to and within thirteen hundred twenty feet (1320') of the property under consideration for the rezoning and to the mineral right's owners and lessees and easement holders, as shown in the records of the Office of the Elbert County Assessor. When owners of property adjacent to and within thirteen hundred twenty feet (1320') of the property under consideration for rezoning are related to, or a business associate of the applicant, the applicant shall then notify by return receipt mail all property owners in closest proximity north and south and east and west that are not related to, or a business associate of, the applicant.

1) At least twenty-four (24) days prior to the date of the Public Hearing before the Planning Commission, the applicant shall submit to Community and Development Services the following: The white postal receipts for Certified Mail mailed to the adjacent property owners and the property owners within thirteen hundred twenty feet (1320') of the proposed site as required by these Rezoning Procedures and Requirements; a copy of the note mailed to said property owners; A list, in alphabetical order, of the adjacent property owners and a map illustrating the location and proximity of the adjacent property owners and property owners within thirteen hundred twenty feet (1320') of the proposed site.

2) At least five (5) working days prior to the date of the Public Hearing before the Planning Commission, the applicant shall submit to Community and Development Services, the green postal Domestic Return Receipts mailed to the adjacent property owners and property owners within thirteen hundred twenty feet (1320') of the proposed site as required by these Rezoning Procedures and Requirements.

C. COUNTY INITIATED REZONING REVIEW PROCEDURE

The Board of County Commissioners, Planning Commission, or the Board of Adjustments may, at any time, direct the Community and Development Services Department to initiate Rezoning for any parcel or parcels of land within the unincorporated area of Elbert County. Notwithstanding any provisions of this section to the contrary, County Initiated Rezoning procedures shall be in accordance with the provisions of Section 30-28-116, C.R.S. 1973, as amended. Public notice and public hearings shall be in accordance with Part I, Section 6, C. 1 of these regulations.
1. The following steps shall be involved in a County initiated rezoning process:

a. Initiation - The Board of County Commissioners Planning Commission, or the Board of Adjustments directs Community and Development Services Department to initiate an amendment to a property’s zoning, by parcel number or legal description. A case planner shall be assigned to the application. The Case Planner will refer the application to County Departments and other referral agencies as identified by the Case Planner.

b. County and Referral Agency Response - The referral agencies will respond in writing to the applicant's submittal. The Case Planner will collect all referral comments.

c. Public Hearing Documents Submittal - At such time as the Case Planner deems the application ready for public hearings, the Case Planner shall collect all documents necessary for the public hearings.

d. Planning Commission and Board of County Commissioners' Public Hearings Scheduled - Following the collection of all required public hearing documents, the Case Planner will schedule Planning Commission and Board of County Commissioners' public hearing dates.

e. Public Hearing Notification - The Case Planner will be responsible for preparing and publishing for three consecutive weeks the "Notice of Public Hearing" in a newspaper of general circulation, per the requirements of Part I, Section 6, "Rezoning Procedures and Requirements" and Part I, Section 10, “Public Notice Requirements for Land Use Applications” of these regulations.

f. Planning Commission Public Hearing - The Planning Commission shall review the request, staff report, other evidence, and public testimony. The Planning Commission shall recommend approval, conditional approval, or denial of the rezoning to the Board of County Commissioners. The Planning Commission may continue a request for a period of time not to exceed two (2) months from the completion of the presentation by the applicant at a public hearing.

g. Board of County Commissioners' Public Hearing - The Board of County Commissioners shall review the request, staff report, other evidence, and public testimony at one or more public hearings. Upon conclusion of the presentation of testimony and evidence in the hearing(s) before the Board of County Commissioners, the Board may render a decision which approves, conditionally approvals, or denies the rezoning application; unless the Board continues the case
for further testimony and/or decision for a period of time not to exceed two (2) months from the date of the scheduled hearing.

h. Recordation of the Rezone Exhibit- Not more than one hundred eighty (180) days after approval of the Zoning change, the Case Planner shall complete the "conditions of approval" for recording. The Rezone Exhibit for County initiated rezoning may be a legal description and any applicable map exhibits and may be attached to the resolution approving the rezoning.

C. A-1 REZONING PROCEDURE (Exemptions from the Regular Rezoning Process)

1. Required Submittal Information for A-1 Rezoning: Applicants shall provide such information as deemed necessary by Community and Development Services. Such information shall include, but not be limited to:

   a. Proof of ownership: Copy of deed, title policy or other sufficient information.
   
   b. Comment on the adequacy of emergency access from the fire district: May be a letter from the appropriate fire district acknowledging the access.
   
   c. Proof of a weed control and grazing plan: May be addressed in the Covenants or submitted separately to Community and Development Services.
   
   d. A road permit will be required for any Rezoning which creates two (2) or more parcels accessing the same drive. The road permit procedures will be followed as provided by the Elbert County Road and Bridge Department.
   
   e. A Land Survey, Plat submitted in accord with the rezoning Plan Exhibit requirements in Part I, Section 6, B, I, b, 4) of the Elbert County Zoning Regulations. Signatures shall be provided prior to recordation.
   
   f. Fee: See current fee schedule.
   
   g. A rezone narrative submitted in accord with the rezoning narrative requirements in Part I, Section 6, (B) of these Regulations.

2. Criteria for Approving or Disapproving A and A-1 Rezoning Developments: Community and Development Services shall make written recommendations and findings of fact as to the consistency of the application with A or A-1 rezoning procedures as documented in the Elbert County Zoning Regulations. The applicant may respond to such recommendations and findings.

The Planning Commission, at a duly noticed public hearing, shall consider the recommendations of Community and Development Services in their review of the application.
3. Procedure:

a. Formal submittal to Community and Development Services, including completed application form, appropriate supplemental information and fee.

b. Community and Development Services Staff shall review the proposal within five (5) working days to determine the completeness of the application.

c. At least fourteen (14) days prior to a public hearing before the Planning Commission and Board of County Commissioners, notice of hearing shall be published in a newspaper of general circulation in Elbert County at least once. Publication of said notice shall be the responsibility of the applicant and shall read as follows:

******************************************************************************
*****
"NOTICE OF PUBLIC HEARING"
"Rezoning from _to_"

Notice is hereby given that a Planning Commission Hearing will be conducted on ___(day of week), ___(month) ___(time), or as soon as possible thereafter, and a Board of County Commissioners hearing will be conducted and on ___(day of week), ___(month) ___(time), or as soon as possible thereafter, in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado, or at such other time and place as these hearings may be adjourned. Public hearings will be heard upon the application on file with the Elbert County Community and Development Services, 215 Comanche, Courthouse, Kiowa, Colorado, 303-621-3136, by ____ (name of applicant), for A or A-1 rezoning pursuant to the current Elbert County Zoning Regulations. The affected property is located approximately ___(distance and direction from nearest major intersection)."

Reason:

Project Name and Number:

Legal Description of Property: __________________________ Date of Application: ________

Published In: (name of newspaper),
Publishers affidavit verifying the above publication shall be submitted to Community and Development Services at least five (5) working days prior to the public hearing.

d. The applicant shall mail a written notice of said hearing by certified mail, return receipt requested, at least fourteen (14) days prior to the hearing date before the Planning Commission, to the adjoining property owners of the property for which an A to A-1 rezoning has been requested. The names and addresses for those properties affected shall be obtained from the current records of the Elbert County Assessor's Office.

e. 1) At least five (5) working days prior to the date of the public hearing before the Planning Commission, the applicant shall submit to Community and Development Services, the following:
   The white postal receipts for Certified Mail mailed to the adjacent property owners of the proposed site as required by these A or A-1 rezoning procedures and requirements; a copy of the notice mailed to said property owners; a list, in alphabetical order, of the adjacent property owners of the proposed site and a map illustrating the location and proximity of the adjacent property owners. When a notice is mailed to a property owner at an address other than the property adjoining or adjacent to the A-1 development, the applicant shall match notification with lot and block number, legal description or other manner which clearly locates the notified parties.

   2) The day of the Public Hearing before the Planning Commission, the applicant shall submit to Community and Development Services, the green postal Domestic Return Receipts mailed to the adjacent property owners of the proposed site as required by these A or A-1 rezoning procedures and requirements.

f. Community and Development Services may require additional public notice prior to any determination by the Planning Commission, in a manner consistent with the laws of the State of Colorado, which may include posting of the property. Such notice shall be posted fourteen (14) days prior to the day of the public hearing before the Planning Commission. Such notice shall consist of at least one (1) sign facing parallel to each adjacent road right-of-way. Such sign(s) shall measure not less than four feet by four feet (4’ x 4’); size of letters shall be a minimum of three (3) inches high and such signs shall be erected no further than ten (10) feet beyond the edge of the adjacent right-of-way on posts which shall locate the bottom of the sign no less than three (3) feet above the ground. All signs shall be clearly legible to the persons on the adjacent right-
of way and shall be completed and installed in a neat professional manner. All signs shall be visible and legible throughout the entire period and shall read as follows:

__________________________________________________________

"NOTICE OF PUBLIC HEARING"

"Rezoning from_____ to_____"

"Notice is hereby given that the property upon which this sign is posted shall be considered for a change in

zoning from—

to_____

pursuant to the current Elbert County Zoning Regulations. Further information may be obtained by calling Community and Development Services 621-3136. The Planning Commission hearing is to be held on_____(day of week),_____(month)_____(year), at______(time A.M./P.M.), or as soon as possible thereafter, and a Board of County Commissioners hearing will be conducted and on________

(day of week),_______

(month)_____

(year), or as soon as possible thereafter. Said hearings are to be held in the Hearing Room of the Elbert County Commissioners at Kiowa, Colorado."

Name of Proposal:_____

Further requirements include:

1) _____ Notarized affidavit verifying the date of the sign posting required the day of the hearing.
2) Signs advertising the A-1 rezoning property in Elbert County must be photographed and submitted for the applicant's file in Community and Development Services Offices. The following form shall be used:

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-(ATTACH PHOTO HERE)

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****** The above sign was posted on ______ pursuant to the current Elbert County Zoning Regulations by _______ (name of applicant).

Project Name and Number:

Signature of Applicant/Representative:

Signed and sworn before me this date: ________________

NOTARIZED BY:

Project Review: ____________

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4. Following approval by the Board of County Commissioners, the applicant will submit the rezoning exhibit to the Elbert County Clerk and Recorder's Office for recordation.

D. A AND A-1 ZONE DISTRICT ADMINISTRATIVE LOT LINE ADJUSTMENT PROCESS

The following administrative process will be used for a lot line adjustment where both of the properties are either zoned A and/or A-1 and where both property owners are agreeable to the lot line adjustment affecting both of their properties and where no change in zoning will take place:

1. The Board of County Commissioners will delegate the review and approval of lot line adjustments for properties in the A and/or A-1 zoning districts to an administrative process to be conducted within Community and Development Services.

2. The following specific conditions must be met in order to apply for an administrative lot line adjustment process:
a. Both properties are zoned A and/or A-1.
b. Both property owners are agreeable to the lot line adjustment affecting both of their properties.
c. No change in zoning will take place on either property.

3. The applicant will be responsible for the following documentation and fees.
a. Completed Land Use Application for applicable sections, signed by both property owners.
b. Narrative which contains: description of the lot line adjustment reason for the lot line adjustment proof of ownership
c. Site Plan - prepared according to the rezoning exhibit standards.
d. Fee - see current fee schedule.

4. The Elbert County Administrative Hearing Officer will make a determination on the request for an Administrative Lot Line Adjustment after review of submitted documentation and determination of completeness at an Administrative Hearing conducted by Community and Development Services.

5. The applicant will record the Site Plan with the Elbert County Clerk and Recorder within thirty (30) days of Administrative Lot Line Adjustment approval.
PART I, SECTION 7: ENFORCEMENT OF THE ZONING REGULATIONS

A. PURPOSE and INTENT

Pursuant to State of Colorado authority, these Elbert County Zoning Regulations are adopted with the following purposes and intent:

1. To promote the public health, safety and welfare of the citizens of Elbert County.
2. To implement the vision, goals, and recommendations of the Elbert County Comprehensive Plan.
3. To protect and enhance the natural environment including the conservation of natural features, land and energy.
4. To provide for a range and orderly development of agricultural, housing, economic and commercial uses and buildings to meet the current and future needs of the citizens of Elbert County.
5. To promote safe, efficient, and effective transportation corridors within the County.

B. AUTHORITY

The Elbert County Zoning Regulations shall be enforced by the Elbert County Community and Development Services Director and his authorized representative(s) on all matters involving these Regulations. The Community and Development Services Director shall consult with the County Attorney, the County Building Official and other affected County offices concerned with, but not limited to, the unlawful erection, construction, altering, occupancy or use of any building, structure, or land, in the unincorporated areas of the County.

CRS 30-28-113 authorizes the Board of County Commissioners to regulate buildings and structures as to size, scale, location, height, open space, use, solar access, etc., and to establish zones or districts to aid in that regulation. They may also require and provide for the issuance of building permits as condition of construction or alteration.

CRS 30-28-114 authorizes the Board of County Commissioners to enforce their zoning regulations through the establishment of a County building inspector and the withholding of required building permits. They may require reasonable fees for such permits. It shall be unlawful to construct or alter buildings without such a permit. A permit shall not issue unless plans fully conform to existing zoning regulations.

CRS 30-28-124 establishes criminal penalties for constructing, altering, or using a building or land in violation of zoning standards. Violators are guilty of a misdemeanor and may be subject to fines, imprisonment, or both. Every day of violation is considered a separate offense. The County shall provide notice of violation. If the offense is not
remedied within 30 days, the County sheriff shall issue a summons and complaint, including notice to appear in County Court.

The County Attorney, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove the violation.

CRS 30-28-209 allows for the enforcement of building code violations. It is identical to 30-28-124 in terms of required process and potential penalties. CRS 30-28-124.5, adopted in 1998 allows the County to impose civil penalties for zoning regulations, and some counties find this has expedited their enforcement actions. Actions require a summons and complaint in County Court (rather than District Court), and do not carry with them a procedure to obtain an entry warrant or a procedure for collecting fines through liens on the property. If the County Court determines a violation has occurred, based upon a preponderance of the evidence, the violator may be subject to civil penalties. The County may, but is not obligated to pursue civil penalties. Each day after the issuance of the court order that the violation continues is considered a separate violation and is subject to a continuing penalty for every day on noncompliance.

CRS 30-29-210 provides for the use of civil penalties through the County Courts for building code violations. It is identical to 30-28-124.5 in terms of required process and potential penalties.

CRS 30-28-110(4) describes the County powers to enforce subdivision regulations. The County may bring an action against a property owner who files a plat that has not been approved by the County. Upon conviction, the illegal subdivider may be fined. The County may also enforce subdivision regulations by withholding building permits, or through an injunction to prevent the sale of lots in the illegal subdivision.

C. VIOLATION AND PENALTY

1. Any person, persons, firm, association or corporation violating any provision of the Elbert County Zoning Regulations or any employee, assistant, agent, or any other person participating or taking part in, joining or aiding in a violation of any provision of the Zoning Regulations may be prosecuted pursuant to the Elbert County Regulations and/or Code, as well as Colorado Revised Statute. Such authority is contained within Colorado Revised Statute, to include the authority granted within 30-28-113; 30-28-124; 30-28-124.5 C.R.S. 30-28-120(1); 30-28-209; 30-29-210; 30-28-110(4) 30-15-401. Each day a violation continues after service of written notice to abate such violation shall constitute a separate violation.
2. Violators shall be fined a penalty per day for each such violation; such fine to inure to the County of Elbert, State of Colorado. Each day of the documented existence of any situation held to be a violation shall be deemed an equal and separate offense.

D. INSPECTIONS

The Community and Development Services Director and/or Building Official and their authorized representative(s), are hereby empowered to enter and inspect any building, structure or tract of land in the unincorporated area of the county. When a violation is alleged and/or found, the Community and Development Services Director and/or Building Official shall compile, or cause to be compiled, relevant evidence of the alleged violation. Whenever the Community and Development Services Director or Building Official has personal knowledge of any violation hereof, one shall give written notice to the violator to correct such violation(s).

After appropriate notice(s) has (have) been served by the Community and Development Services Director and/or Building Official, the Community and Development Services Director shall then forward the file, or copy thereof, to the County Attorney for further action. The Community and Development Services Director shall be advised of any actions taken.

Any action brought to remedy or prosecute a violation shall be brought in the name of the Board of County Commissioners of Elbert County, Colorado or the People of the State of Colorado. The Board of County Commissioners may authorize the Building Department to withhold issuance of building permits where a violation is found to exist pursuant to CRS, 1973, 30-28-114, as amended.

E. BUILDING PERMITS

It shall be unlawful to erect, construct, reconstruct, alter or change the use of any building or other structure, including surface and subsurface structures, or to move a structure from one property to another within the unincorporated areas of Elbert County without first obtaining a building permit from the County Building Official or his authorized representative.

The County Building Department shall not issue any building permit unless the plans for the proposed erection, construction, reconstruction, alteration or use fully conforms to all applicable provisions of these regulations and the Uniform Building Code.

All building permits shall be issued in conformance with the provisions of the Elbert County Zoning Regulations and the Uniform Building Code and shall be valid for a period of time not exceeding one (1) year from the date issued.
F. ZONING INSPECTION

The Community and Development Services Director shall assign the responsibilities for zoning inspections to one or more members of his staff who shall be able to respond to zoning complaints and make regular inspections of properties in Elbert County. The procedure for responding to zoning complaints and processing by the Community and Development Services Director shall be developed by Community and Development Services and then reviewed and approved by the County Attorney.

G. LIABILITY

The Community and Development Services Director and/or Building Official or their authorized representative(s) charged with the enforcement of this code, acting in good faith and without malice in the discharge of his duties, shall not thereby render himself personally liable for any damage that may occur to persons or property as a result of any act or by reason of an act or omission in the discharge of his duties. Any suit brought against the Community and Development Services Director and/or Building Official or employee because of such act or omission performed by him in the enforcement of any provision of this code shall be defended by legal counsel provided by this jurisdiction until final termination of such proceedings.

This code shall not be construed to relieve or lessen the responsibility of any person owning operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the regulation enforcement agency or its parent jurisdiction be held as assuming any such liability by reason of the inspections authorized by this regulation or any certificates of inspection issued under this regulation.

The County and its employees are not liable for damages resulting from any failure to inspect or enforce, or resulting from the issuance or denial of any building permit or the institution or failure to institute any court action as herein authorized or mentioned. In enacting these enforcement regulations, the Board of County Commissioners intends to preserve all rights of the County, its agencies and departments, its elected and appointed officials and employees to immunity from liability as described in the Colorado Governmental Immunity Act, C.R.S. 24-10-101 through 24-10-119, as amended.

H. PROCESS

1. The Community and Development Services Director and/or Building Official or their authorized representative(s) shall give notice in writing to request voluntary compliance within a specific timeframe as deemed fair and appropriate by the author of the notice.
2. A one-time extension may be requested from the person or entity in violation of the regulation(s) if such violation is not removed within the required timeframe and is requested in advance of the date of expected compliance.

3. If compliance is not attained, then the Community and Development Services Director and/or Building Official or their authorized representative(s) shall notify the County Attorney of the infraction. The County Attorney or Elbert County Sheriff shall then notify the person or entity in violation that a Civil Court or District Court process is eminent to process and prosecute the case for the violation.

4. The process of utilizing the District Court will require an affirmative approval from the Board of County Commissioners to authorize the County Attorney to prosecute. Otherwise, the process to commence Civil Court action is done completely at the County Manager’s and Attorney’s directive.
PART I, SECTION 7.1: ENFORCEMENT OF RUBBISH, TRASH, OR JUNK

A. PURPOSE and INTENT

Pursuant to State of Colorado authority, these Elbert County Zoning Regulations are adopted with the following purposes and intent:

1. To promote the public health, safety and welfare of the citizens of Elbert County.
2. To implement the vision, goals, and recommendations of the Elbert County Comprehensive Plan.
3. To protect and enhance the natural environment including the conservation of natural features, land and energy.
4. To provide for a range and orderly development of agricultural, housing, economic and commercial uses and buildings to meet the current and future needs of the citizens of Elbert County.
5. To promote safe, efficient, and effective transportation corridors within the County.

B. AUTHORITY

The County also has the authority to Remove Rubbish and Dangerous Structures via Colorado Revised Statute REVISE

Elbert County Zoning Regulations shall be enforced by the Elbert County Community and Development Services Director and his authorized representative(s) on all matters involving these Regulations. The Community and Development Services Director shall consult with the County Attorney, the County Building Official and other affected County offices concerned with, but not limited to, the unlawful erection, construction, altering, occupancy or use of any building, structure, or land, in the unincorporated areas of the County.

CRS 30-15-401(1)(a)(I)(A) authorizes the County to provide for and compel the removal of rubbish, including trash, junk and garbage, from lots and tracts within the County (except from industrial tracts of ten or more acres and agricultural lands currently in agricultural use) and from alleys behind and sidewalk areas in front of the property “at such time, and upon such notice, and in such manner as the Board of County Commissioners may prescribe by ordinance”. Upon failure of the owner to remove the rubbish, the County may perform the removal and assess the reasonable costs, plus five percent for administration, against the property. Actual entry to remove rubbish requires application for and receipt of an administrative entry and seizure warrant from County or District Court.

CRS 30-15-401(1)(q) authorizes the County to provide for, and allows the County to compel the removal of any building or structure (except for those on land subject to the Mined Lands Reclamation Act or Surface Mining Reclamation Act) if the building or
structure presents a substantial danger to public health, safety, or welfare, or any
dilapidated building that is unused by the owner or uninhabited because of deterioration
or decay, which causes a fire hazard, storm hazard, rodent infestation hazard, or that is
used by transients, “at such time, and upon such notice, and in such manner as the Board
of County Commissioners may prescribe by ordinance”.
Upon failure of the owner to remove the structure or building, the County may perform
the removal and assess the reasonable costs, plus five percent for administration, against
the property. This power does not extend to buildings or structures
that are not “neat and orderly” – it must be dangerous, dilapidated, or meet one of the other standards listed
above.

CRS 30-15-402.5(1) provides that personnel designated by a County in an ordinance to
enforce the rubbish and dangerous building removal ordinance may issue citations and
summons to violators without having been first certified as meeting the state Peace
Officer Standards and Training requirements set forth in CRS 24-31-30.

C. VIOLATION AND PENALTY

Any person, persons, firm, association or corporation violating any provision of the
Rubbish/Trash/Junk regulations CRS 30-15-402(1) criminal enforcement provides that a
person who violates the rubbish removal or building removal provisions in CRS 30-15-401 shall, upon conviction, be punished by a fine of not more than $1,000 for each
violation. The County can decide to use the “penalty assessment” procedure in CRS 16-2-201 – i.e. the procedures generally used by peace officers in issuing minor traffic tickets.
The “arresting officer” (who need not be a certified Peace Officer, pursuant to CRS 30-15-402.5) delivers the alleged violator a summons and complaint containing
identification of the alleged offender, specification of the offense and applicable fine, a
requirement that the alleged offender pay the fine or appear to answer the charge at a
specified time and place, and “any other matter reasonably adapted to effectuating the
purposes of this section”. The person receiving the notice must either acknowledge his
guilt and pay the fine or appear in County Court for trial. If the Court finds guilt, the
violator may also be charged court costs.

D. INSPECTIONS

The Community and Development Services Director, Building Official, and their
authorized representative(s), are hereby empowered to enter and inspect any building,
structure or tract of land in the unincorporated area of the county. When a violation is
alleged and/or found, the Community and Development Services Director and/or
Building Official shall compile, or cause to be compiled, relevant evidence of the alleged
violation. Whenever the Community and Development Services Director or Building
Official has personal knowledge of any violation hereof, one shall give written notice to the violator to correct such violation(s).

After appropriate notice(s) has (have) been served by the Community and Development Services Director and/or Building Official, the Community and Development Services Director shall then forward the file, or copy thereof, to the County Attorney for further action. The Community and Development Services Director shall be advised of any actions taken.

Any action brought to remedy or prosecute a civil violation shall be brought in the name of the Board of County Commissioners of Elbert County, Colorado or the People of the State of Colorado.

Actions may also be prosecuted as a criminal violation, or via a process other than civil, in accordance with Elbert County’s Ordinance Regarding the Accumulation and Removal of Junk and Rubbish or via applicable criminal statute, in Elbert County by the Elbert County Sheriff’s Department, and the District Attorney’s office for the 8th Judicial District.

E. ZONING INSPECTION

The Community and Development Services Director shall assign the responsibilities for inspections of rubbish, trash, and junk regulation violations to one or more members of his staff who shall be able to respond to zoning complaints and make regular inspections of properties in Elbert County. The procedure for responding to zoning complaints and processing by the Community and Development Services Director shall be developed by Community and Development Services and then reviewed and approved by the County Attorney.

F. LIABILITY

The Community and Development Services Director and/or Building Official or their authorized representative(s) charged with the enforcement of this code, acting in good faith and without malice in the discharge of his duties, shall not thereby render himself personally liable for any damage that may occur to persons or property as a result of any act or by reason of an act or omission in the discharge of his duties. Any suit brought against the Community and Development Services Director and/or Building Official or employee because of such act or omission performed by him in the enforcement of any provision of this code shall be defended by legal counsel provided by this jurisdiction until final termination of such proceedings.
This code shall not be construed to relieve or lessen the responsibility of any person owning operating or controlling any building or structure for any damages to persons or property caused by defects, nor shall the regulation enforcement agency or its parent jurisdiction be held as assuming any such liability by reason of the inspections authorized by this regulation or any certificates of inspection issued under this regulation.

The County and its employees are not liable for damages resulting from any failure to inspect or enforce, or resulting from the issuance or denial of any building permit or the institution or failure to institute any court action as herein authorized or mentioned. In enacting these enforcement regulations, the Board of County Commissioners intends to preserve all rights of the County, its agencies and departments, its elected and appointed officials and employees to immunity from liability as described in the Colorado Governmental Immunity Act, C.R.S. 24-10-101 through 24-10-119, as amended.

G. PROCESS FOR CIVIL VIOLATIONS

1. The Community and Development Services Director and/or Building Official or their authorized representative(s) shall give notice in writing to request voluntary compliance within a specific timeframe as deemed fair and appropriate by the author of the notice.

2. A one-time extension may be requested from the person or entity in violation of the regulation(s) if such violation is not removed within the required timeframe and is requested in advance of the date of expected compliance.

3. If compliance is not attained, then the Community and Development Services Director and/or Building Official or their authorized representative(s) shall notify the County Attorney of the infraction. The County Attorney or Elbert County Sheriff shall then notify the person or entity in violation that a Civil Court or District Court process is eminent to process and prosecute the case for the violation.

4. The process of utilizing the District Court will require an affirmative approval from the Board of County Commissioners to authorize the County Attorney to prosecute. Otherwise, the process to commence Civil Court action is done completely at the County Manager’s and Attorney’s directive.

H. PROCESS FOR CRIMINAL VIOLATIONS

The process for criminal violations involving rubbish, trash, or junk will comply with state criminal statute and Colorado Rules of Criminal Procedure.