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ARTICLE I

ADMINISTRATION, INTERPRETATION, AND FEES

DIVISION 1 ADMINISTRATION

Section 1-100 Title and Short Title.

This document shall be known as the Park County Land Use Regulations or "LUR."

Section 1-101 Authority.

These Land Use Regulations are intended to fully exercise all relevant powers conferred by the laws of the State of Colorado, including, but not limited to:

- A. The Constitutions of the United States and the State of Colorado.
- B. Colorado State Statutory Enabling Legislation including but not limited to:
 - 1. Title 30, Article 28, C.R.S. The provisions of the County Planning Act.
 - 2. Title 29, Article 20, C.R.S. The provisions of the Local Government Land Use Control Enabling Act of 1974.
 - 3. Title 24, Article 65.1, C.R.S. The provisions of the Areas and Activities of State Interest Act. (H.B. 1041 Powers).
 - 4. Title 24, Article 67, C.R.S. The provisions of the Planned Unit Development Act of 1972.
 - 5. Title 24, Article 68, C.R.S. The provisions of the Vested Property Rights Act.
- C. All Other Powers Authorized. All other powers authorized by constitutional, statutory, and common law.

Section 1-102 Purposes.

The general purposes of these Land Use Regulations include:

- A. Implementation of the Strategic Master Plan. The Strategic Master Plan is a guide to develop, rather than an instrument to regulate land use. The Land Use Regulations will recognize and attempt to implement the goals, objectives and policies of Park County as contained in the Park County Strategic Master Plan where such goals, objectives, and policies are sufficiently specific to ensure that conditions based on them can be imposed in a rational and consistent manner. This paragraph is in compliance with Colorado statute as of December 18th, 2008.
- B. Compliance with Law. Implement the powers and authorities granted by the law of the state of Colorado.
- C. Protection of Quality of Life. To provide for protection of the health, safety, welfare, and prosperity of present and future residents and property owners.
- D. Preservation of Orderly Development of the County. To provide for balanced, orderly growth patterns and to provide efficient, phased government services to accommodate existing and future residents.

- E. Preservation of Property Values. To preserve and promote the value of property, to protect the tax base of Park County and to respect the property rights of citizens.

Section 1-103 Applicability.

- A. General Applicability. These Land Use Regulations apply to all use and development of land, buildings, structures, and uses on all private and public property located within all unincorporated areas of Park County, Colorado, to the full extent permitted by Colorado and federal laws, regulations, and policies.
- B. Applicability to Pending Land Use Applications. A completed application for land use approval submitted to and pending before the County prior to the Effective Date of these Land Use Regulations shall be processed in accordance with the land use regulations in effect upon the date of the submission of the completed application. Following a final decision upon such pending application, the provisions of these Land Use Regulations shall apply to subsequent applications submitted for any part or portion of property subject to a previously approved land use application.
- C. Public Property Exemption Following Hearing. The Board of County Commissioners may, following a public hearing preceded by notice published not less than fourteen (14) days before the hearing in any newspaper of general circulation within the County, provide by resolution or by motion for an exemption to all, or to any portion or requirement of, the provisions of these Land Use Regulations. Such exemption may only be made available for property: (a) owned by or leased to Park County, Colorado, and (b) proposed for one or more public purposes. No exemption pursuant to this paragraph may be granted by the Board of County Commissioners for private property not leased to Park County. The Board of County Commissioners shall not exempt public property from these Land Use Regulations unless the Board finds that such exemption is necessary to protect the health and safety of the public.

Section 1-104 Reserved.

Section 1-105 Repeal and Effective Date.

- A. Repealer. Except to the extent such former regulations are necessary to continue processing of applications submitted to and pending before the County prior to the Effective Date of these Land Use Regulations as required by Section 1-103, the current Land Use Regulations of Park County therefore amended by subsequent action of the Board of County Commissioners, are repealed in their entirety as of the Effective Date of these Land Use Regulations.
- B. Effective Date. Following adoption of a resolution approving these Land Use Regulations by the Board of County Commissioners, these Regulations shall be effective November 3, 2011 (“the Effective Date”).

Section 1-106 Severability and Savings Clauses.

- A. Invalid Provisions Severable. If any provision of this Land Use Regulation is declared invalid by a decision of any court of competent jurisdiction then the effect of such decision shall be limited to that provision which is expressly declared invalid and shall not affect any other provision of these Land Use Regulations.
- B. Invalid Provisions Limited to Specific Property. If the application of any provision of these Land Use Regulations to any specifically identified property is declared to be invalid by a decision of any court of competent jurisdiction then the effect of such decision shall be limited to the specifically identified property. Such decision shall not affect the application of these Land Use Regulations to any other tract of land.

- C. Savings Clause. The amendment or repeal of any resolution or part thereof by these Land Use Regulations shall not release, extinguish, or modify, in whole or in part, any penalty or liability, or any right of the County, incurred or obtained under the amended or repealed land use regulations or part thereof. These Land Use Regulations or part thereof, so amended or repealed, shall be treated and held as remaining in force or effect for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions, for the enforcement of any penalty, liability, or any right of the County, for the purpose of sustaining any judgment, decree, or order which may be rendered in such proceedings, actions, acts, decisions, hearings and appeals pending before the County, and any other decision-making body or officer, and any court.

DIVISION 2

BOARD OF ADJUSTMENT

Section 1-200

Creation and Appointment.

- A. Board of Adjustment Created. Pursuant to C.R.S. § 30-28-117, the Park County Board of Adjustment is hereby created. The Board of Adjustment shall consist of five (5) regular members and other alternate members. All regular and alternate members must be residents of Park County. Not more than two of the members of the board of adjustment may be members of the planning commission.
- B. Alternate Members. Any number of alternate members may be appointed by the Board of County Commissioners to assist the Board of Adjustment as provided by this Section. The Board of Adjustment Chairperson shall select an alternate member, when present at a meeting, to serve and to vote on the Board of Adjustment during all, or any part of, any meeting in the event that a regular member is temporarily absent or unable to act for any reason or where a opening on the Board of Adjustment exists due to a vacancy. Alternate members in attendance at a meeting when there is no opening due to an absent regular member or vacancy shall be entitled to participate during any meeting to the same extent as a regular member although such alternate member shall not be entitled to vote upon any matter.
- C. Appointment and Term of Members. Regular members and alternate members shall be appointed by majority vote of the Board of County Commissioners. The Board of County Commissioners shall endeavor to appoint members and alternate members will provide representation from each of the sub-areas of Park County. Regular members shall be appointed for a three (3) year term in a manner that permits staggered terms. Alternate members of the Board of Adjustment shall be appointed for a maximum two (2) year term that shall expire at 11:59 p.m. of December 31 on the second year of the alternate member's service . Any regular or alternate member of the Board of Adjustment may be re-appointed to any number of additional terms, as the Board of County Commissioners deems appropriate. In the event that the Board of County Commissioners fails to take affirmative action to re-appoint a regular or alternate member of the Board of Adjustment on or before the expiration of such member's term, the previously appointed member shall be automatically deemed re-appointed for an additional term.
- D. Unexpired Terms. In the event of the death, resignation, or removal of any member or alternate member before the expiration of such member's term, a successor shall be appointed in the manner described above for the unexpired portion of such member's term.
- E. Compensation. All regular members and alternate members of the Board of Adjustment shall be paid a per diem and/or mileage compensation only if, and in such amount, established by resolution of the Board of County Commissioners. Any changes in the amount or benefit of a standard per diem and/or mileage amount of compensation shall be effective only for the term following the effective date of the resolution.
- F. Resignation. Any member of the Board of Adjustment may resign at anytime by delivery of a written statement or letter of resignation to the Chairperson of the Board of Adjustment, to the chief administrative official of the County, or to any County Commissioner. Regardless of the content or form of the statement or letter, all resignations shall be effective upon receipt.
- G. Removal. The Board of County Commissioners may remove a regular or alternate member of the Board of Adjustment for cause by a majority vote pursuant to the following procedure:
1. Grounds for Removal. Grounds for removal shall include, but not be limited to, failure to disclose a real or apparent conflict of interest concerning a particular matter under consideration by the applicable commission or board, documented incompetence or inefficiency, intemperance such as extreme immoderate personal conduct, recurring loss

of temper or control or abuse of alcohol or illegal narcotic or dangerous drugs in public meetings, disregard for established County policy (including but not limited to the Requirements for Professional Performance, Section 1-202 of these Land Use Regulations), the unexcused absence of three (3) meetings during any one year period, or other conduct that adversely reflects upon the member's fitness to serve on the Board of Adjustment.

2. Oral Warning. Whenever grounds for removal are believed to exist, the BOCC in its sole discretion may determine, based upon information and belief or a recommendation of the Planning Director, that removal is not immediately necessary. In such case, the BOCC may communicate, orally or in writing, to the Board of Adjustment member the grounds for removal and provide a time frame not exceeding six (6) months in which said Board of Adjustment member shall correct the alleged deficiency in performance. Failure to correct such deficiency in performance within the prescribed time frame may result in the Board of Adjustment member's removal by the BOCC in accordance with the procedures in this Section.
3. Written Charge. Notwithstanding the BOCC's discretionary oral warning as described in the preceding paragraph, upon information and belief, the BOCC may remove any Board of Adjustment member for cause by filing a written charge ("Charge") against such Board of Adjustment member. The Charge shall specify the cause(s) for removal and the time, place and date of the hearing at which the member may appear to present evidence on his or her behalf. The hearing shall take place no sooner than fifteen (15) days from the date of the Charge and the Board of Adjustment member may request one continuance of the hearing date not exceeding fifteen (15) days, provided such request is made prior to the scheduled hearing date. Said Charge shall be personally served upon the member or sent certified mail, with return receipt requested, to the member at the member's last known registered address.
4. Public Hearing. The BOCC shall conduct a public hearing to consider removal of a Board of Adjustment member at the time and place stated in the Charge. The Board of Adjustment member may appear at such hearing to answer, defend or otherwise present mitigating factors concerning the allegations set forth in the Charge. In lieu of appearing at the hearing, the Board of Adjustment member may provide a written statement to the BOCC setting forth any defense or mitigating factors. The BOCC and the Board of Adjustment member may be represented by legal counsel in order to present evidence in support of or in opposition to the allegations specified in the Charge.
5. Decision. At the conclusion of the hearing or within five (5) days of the public hearing, the BOCC shall render a decision based on the evidence and testimony presented at the hearing. If the BOCC determines, by majority vote, that the causes specified in the Charge justify removal, the BOCC shall deem said Board of Adjustment member removed from office effective immediately. The BOCC's decision to remove a member shall be in writing, shall be mailed to the Board of Adjustment member if such member is not present at the time the BOCC renders a decision, and shall be final.

Section 1-201 Powers and Duties.

The Board of Adjustment shall have the following powers and duties:

- A. To authorize and issue variances from the provisions of Article V in accordance with Division 1 of Article III of these Land Use Regulations.
- B. To exercise such other powers and duties as may be specifically referred to the Board of Adjustment by the Board of County Commissioners by resolution, which are not inconsistent with

the powers and duties of boards of adjustment as established by C.R.S. §§ 30-28-117 and 30-28-118.

Section 1-202 Requirements of Professional Performance.

Every member of the Board of Adjustment shall abide by the following requirements of professional performance:

- A. A Board of Adjustment Member Shall Seek to Avoid Impropriety and the Appearance of Impropriety in all the Board of Adjustment Member's Activities.
1. A Board of Adjustment member shall at all times seek to respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the Board of Adjustment.
 2. A Board of Adjustment member shall not allow family, social, or other relationships to influence the Board of Adjustment member's quasi-judicial conduct or independent judgment.
 3. A Board of Adjustment member shall not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when the member or the member's immediate family member has a substantial financial interest in a competing firm or undertaking.
 4. A Board of Adjustment member shall not lend the prestige of his or her office to advance the private interests of others; nor shall a Board of Adjustment member convey or permit others to convey the impression that they are in a special position to influence him or her.
- B. A Board of Adjustment Member Shall Perform the Duties of His or Her Office Impartially and Diligently. A Board of Adjustment member's duties include all the duties of his or her office prescribed by law. In the performance of these duties, the following standards apply:
1. A Board of Adjustment member shall be faithful to the law and maintain professional competence in the rules and law governing the Board of Adjustment. A Board of Adjustment member shall be unswayed by partisan interest, public clamor, or fear of criticism.
 2. A Board of Adjustment member shall maintain order and decorum in proceedings before him or her.
 3. A Board of Adjustment member shall be patient, dignified, and courteous to applicants, members of the public, consultants, lawyers and representatives, County employees, and others with whom a Board of Adjustment member deals in his or her official capacity, and should require similar conduct of the County employees and others subject to the Board of Adjustment member's direction and control.
- C. A Board of Adjustment Member Shall Not Participate Where Unable to Professionally Perform. In the event that a Board of Adjustment member finds himself or herself unable to perform in accordance with the requirements of this Section, the member shall disclose such inability and the general reasons therefore immediately following the Chairperson's announcement of the opening or commencement of consideration of the matter and the member shall recuse himself or herself from any official action regarding such matter and not participate as a Board of Adjustment member.

Section 1-203 Rules of Procedure.

- A. Rules Authorized. The Board of Adjustment may promulgate rules of procedure not inconsistent with these Land Use Regulations.
- B. Officers. The Board of Adjustment shall annually elect its own Chairperson and Vice-Chairperson at an available meeting on or after January 1 of each year.
- C. Recording Secretary. A recording secretary shall be provided to the Board of Adjustment by the BOCC and such recording secretary shall be present at all regular and special meetings of the Board of Adjustment. The recording secretary shall take the minutes of the meeting. The minutes shall be made a matter of public record within a practical time after the meeting and will be available from the Planning Department. Anyone wishing to have a transcript of the meeting may have a court reporter present at his or her own expense.
- D. Advisor. The Planning Director or designee shall serve as advisor to the Board of Adjustment on all matters brought to the Board of Adjustment's attention, and be responsible for scheduling all Board of Adjustment meetings in accordance with the guidelines established by the Board of Adjustment.
- E. Open Meetings Required. All meetings of the Board of Adjustment shall be open to the public except for lawfully conducted executive sessions authorized by the Colorado Open Meetings Law. The Board of Adjustment shall meet as often as necessary to hear and act upon applications and other appropriate requests submitted. An agenda shall be made available to the public from the Planning Department prior to or at each meeting.
- F. Quorum. The presence of four (4) members shall be necessary to constitute a quorum for all purposes.
- G. Voting Requirements:
 - 1. Variations. A vote of at least four (4) Board of Adjustment members shall be necessary to approve a variance. The failure of at least four (4) Board of Adjustment members to vote affirmatively upon a motion to approve a variance shall constitute a denial of the variance. A majority vote of a quorum of the Board of Adjustment upon a motion to deny a variance shall constitute a denial of the variance.
 - 2. Authorization to Impose Conditions. The Board of Adjustment, in approving the variance, may impose such restrictions and conditions on such approval, and the premises to be developed or used pursuant to such approval, as it determines are required to assure compliance with this Land Use Regulation and to prevent or minimize adverse effects from the proposed variance on other land in the neighborhood and on the general health, safety and welfare of the County. All conditions imposed upon any variance shall be set forth in writing together with the provision of this Land Use Regulation the condition is designed to address.
- H. Conduct of Public Hearings. Whenever the Board of Adjustment conducts a public hearing to consider an application for variance or other application for land use approval, the following procedure shall apply in addition to any promulgated rules of procedure adopted by the Board of Adjustment:
 - 1. Opening of Public Hearing. The Chairperson shall formally open and announce the public hearing.

2. Acceptance of Record. The Chairperson shall announce the acceptance of the application, supporting documentation provided by staff, agency referral comments, correspondence delivered to the County prior to the hearing, and announce that any other documentation presented during the hearing shall be made part of the record of the matter.
3. Presentation by Staff. The Planning staff shall, present such preliminary information regarding the application deemed relevant or helpful by the staff. Staff shall seek to provide information to establish that proper notice was provided for the public hearing.
4. Presentation by Applicant. The applicant shall make a presentation to demonstrate that the requirements and criteria of approval of the application are satisfied. The applicant shall be afforded such time as deemed necessary by the applicant for such presentation, subject to the Chairperson's discretion to limit the presentation to avoid duplicative or repetitious information.
5. Public Comment. As directed by the Chairperson, those persons in attendance who wish to speak shall be afforded an opportunity. The Chairperson may establish reasonable time limitations on such opportunity when deemed necessary to conduct an efficient meeting. In no event shall any member of the public be afforded less than three (3) minutes to present their testimony or information.
6. Applicant Rebuttal. The applicant shall be afforded an opportunity to provide additional information in the form of a rebuttal of the public comments.
7. Closing of Public Hearing. Upon the conclusion of all presentations, the Chair should formally announce the closing of the public hearing. Closure of the public hearing shall indicate that no further unsolicited comment from the applicant or public shall be entertained; however, the Board of Adjustment members may pose questions and solicit information from the applicant or members of the public who spoke during the hearing.
8. Deliberation. The Board of Adjustment shall deliberate the evidence of the application and consider whether the evidence presented constituted sufficient and competent evidence to support the requested land use approval.
9. Motion. The Board of Adjustment shall entertain one or more motions to reach a conclusion regarding the application. Such motion(s) may include:
 - a. *Approval* of the application without conditions.
 - b. *Conditional Approval* of the proposal indicating specifically for the record in writing what condition(s) are imposed. No condition shall be imposed unless the Board of Adjustment is authorized by these Land Use Regulations to impose a condition upon the land use approval to be granted.
 - c. *Denial* of the proposal indicating for the record the reason(s) for the recommendation of denial.
 - d. *Continuance* of the hearing to a date and time certain or to an unspecified date in order to obtain more information to help clarify the application.
 - i. Motions to Continue a Matter To A Date Certain. A motion to continue (or to postpone) a matter pending before the Board of Adjustment shall be deemed in order and may be made at any time during consideration of any matter. A motion to continue shall state the date, time, and place

for the continued consideration of the matter being continued and the specific reason for the proposed continuance. Approval of a motion to continue shall require only a majority of a quorum present and voting. Upon approval of such motion, no further discussion or deliberation on such continued matter shall be entertained until the date, time, and place stated in the motion. If the Board of Adjustment properly moves and votes to continue a matter to a specified date, time, and place, no further or additional notice of the continued matter need be provided. If the applicant or representative is not present for an application, the Board of Adjustment may at its discretion continue the consideration of the application.

- ii Motions to Continue a Matter To An Unspecified Date. A motion to continue (or to postpone) to an indefinite time or without a specified date and time shall only be appropriate if the applicant consents to the proposed continuance. Approval of a motion to continue to an unspecified date shall require only a majority of a quorum present and voting. If the Board of Adjustment properly moves and votes to continue a matter to an indefinite or unspecified date, new public notice of the date, time, and place of the continued meeting or hearing shall be required in accordance with the notice requirements applicable to the application. Upon approval of such motion, no further discussion or deliberation on such continued matter shall be entertained until the matter is properly brought before the Board of Adjustment at the time and date as stated in the public notice.

Section 1-204 Appeals of Board of Adjustment Decisions.

Final decisions of the Board of Adjustment on quasi-judicial matters shall be appealed in accordance with Rule 106(a)(4) of the Rules of Colorado Civil Procedure. Such appeal shall be limited, as provided by Rule 106(a)(4) to a determination of whether the Board of Adjustment exceeded its jurisdiction or abused its discretion, based on the evidence in the record before the defendant body or officer. See Colorado Rules of Civil Procedure, Volume 12 of the Colorado Revised Statutes.

Section 1-205 Publication of Board of Adjustment Agendas and Decisions.

County staff shall post agendas and decisions of the Board of Adjustment near the Board of County Commissioners hearing room, in the Planning Department offices, and on the County website (www.parkco.us).

DIVISION 3

PLANNING COMMISSION

Section 1-300

Creation and Authority.

- A. Planning Commission Created. Pursuant to C.R.S. § 30-28-103, the Park County Planning Commission is hereby created. The Planning Commission shall consist of five (5) regular members and other alternate members. All regular and alternate members must be residents of Park County.
- B. Alternate Members. Any number of alternate members may be appointed by the Board of County Commissioners to assist the Planning Commission as provided by this Division. The Planning Commission Chairperson shall select an alternate member, when present, to serve and to vote on the Planning Commission during all, or any part of, any meeting in the event that a regular member is temporarily absent or unable to act for any reason or where a opening on the Planning Commission exists due to a vacancy. Alternate members in attendance at a meeting or hearing when there is no opening due to an absent regular member or vacancy shall be entitled to participate during any hearing or meeting to the same extent as a regular member although such alternate member shall not be entitled to vote upon any matter.
- C. Appointment and Term of Members. Regular members and alternate members shall be appointed by majority vote of the Board of County Commissioners. The Board of County Commissioners shall endeavor to appoint members and alternate members will provide representation from each of the Sub areas of Park County. Regular members shall be appointed for a three (3) year term. Alternate members of the Planning Commission shall be appointed for a two (2) year term that shall expire at 11:59 p.m. of December 31 in the second year of the alternate member's service. Any regular or alternate member of the Planning Commission may be re-appointed to any number of additional terms, as the Board of County Commissioners deems appropriate. In the event that the Board of County Commissioners fails to take affirmative action to re-appoint any regular or alternate member of the Planning Commission on or before the expiration of such member's term, the previously appointed member shall be automatically deemed re-appointed for an additional term.
- D. Unexpired Terms. In the event of the death, resignation, or removal of any member or alternate member before the expiration of such member's term, a successor shall be appointed in the manner described above for the unexpired portion of such member's term.
- E. Compensation. All members and alternate members of the Planning Commission shall be paid a per diem and/or mileage compensation only if, and in such amount, established by resolution of the Board of County Commissioners. Any changes in the amount or benefit of a standard per diem and/or mileage amount of compensation shall be effective only for the term following the effective date of the resolution.
- F. Resignation. Any member of the Planning Commission may resign at anytime by delivery of a written statement or letter of resignation to the Chairperson of the Commission, to the chief administrative official of the County, or to any County Commissioner. Regardless of the content or form of the statement or letter, all resignations shall be effective upon receipt.
- G. Removal. The Board of County Commissioners may remove a regular or alternate member of the Planning Commission for cause by a majority vote pursuant to the following procedure:
1. Grounds for Removal. Grounds for removal shall include, but not be limited to, failure to disclose a real or apparent conflict of interest concerning a particular matter under consideration by the applicable commission or board, documented incompetence or inefficiency, intemperance such as extreme immoderate personal conduct, recurring loss of temper or control or abuse of alcohol or illegal narcotic or dangerous drugs in public

meetings, disregard for established County policy (including but not limited to the Requirements for Professional Conduct, Section 1-302 of these Land Use Regulations), the unexcused absence of three (3) meetings during one year period, or other conduct that adversely reflects upon the Member's fitness to serve on the Planning Commission.

2. Oral Warning. Whenever grounds for removal are believed to exist, the Board of County Commissioners in its sole discretion may determine, based upon information and belief or a recommendation of the Planning Director, that removal is not immediately necessary. In such case, the BOCC may communicate, orally or in writing, to the Planning Commission member the grounds for removal and provide a time frame not exceeding six (6) months in which said Planning Commission member shall correct the alleged deficiency in performance. Failure to correct such deficiency in performance within the prescribed time frame may result in the Planning Commission member's removal by the BOCC in accordance with the procedures in this Section.
3. Written Charge. Notwithstanding the BOCC's discretionary oral warning as described in the preceding paragraph, upon information and belief, the BOCC may remove any Planning Commission member for cause by filing a written charge ("Charge") against such Planning Commission member. The Charge shall specify the cause(s) for removal and the time, place and date of the hearing at which the member may appear to present evidence on his or her behalf. The hearing shall take place no sooner than fifteen (15) days from the date of the Charge and the Planning Commission member may request one continuance of the hearing date not exceeding fifteen (15) days, provided such request is made prior to the scheduled hearing date. Said Charge shall be personally served upon the member or sent certified mail, with return receipt requested, to the member at the member's last known registered address.
4. Public Hearing. The BOCC shall conduct a public hearing to consider removal of a Planning Commission member at the time and place stated in the Charge. The Planning Commission member may appear at such hearing to answer, defend or otherwise present mitigating factors concerning the allegations set forth in the Charge. In lieu of appearing at the hearing, the Planning Commission member may provide a written statement to the BOCC setting forth any defense or mitigating factors. The BOCC and the Planning Commission member may be represented by legal counsel in order to present evidence in support of their respective positions.
5. Decision. At the conclusion of the hearing or within five (5) days of the public hearing, the BOCC shall render a decision based on the evidence and testimony presented at the hearing. If the BOCC determines, by majority vote, that the causes specified in the Charge justify removal, the BOCC shall deem said Planning Commission member removed from office effective immediately. The BOCC's decision to remove a Member shall be in writing, shall be mailed to the Planning Commission member if such member is not present at the time the BOCC renders a decision, and shall be final.

Section 1-301 Powers and Duties.

The Planning Commission shall have the following powers and duties:

- A. To review all land use applications and make formal recommendations to the Board of County Commissioners, in accordance with these Land Use Regulations and state law.
- B. When instructed by the BOCC, to make and adopt a County Comprehensive Plan or Master Plan, or elements of such plan.

- C. To review and make recommendations to the BOCC for amendments to these Land Use Regulations.
- D. To review and make recommendations to the BOCC regarding zoning and subdivision matters.
- E. To provide other assistance to the BOCC on any matter referred to the Planning Commission.

Section 1-302 Requirements of Professional Performance.

Every member of the Planning Commission shall abide by the following requirements of professional performance:

- A. A Planning Commission Member Shall Seek to Avoid Impropriety and the Appearance of Impropriety in all the Planning Commission Member's Activities.
 - 1. A Planning Commission member shall at all times seek to respect and comply with the law and should conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the Planning Commission.
 - 2. A Planning Commission member shall not allow family, social, or other relationships to influence the Planning Commission member's quasi-judicial conduct or independent judgment.
 - 3. A Planning Commission member shall not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when the member or the member's immediate family member has a substantial financial interest in a competing firm or undertaking.
 - 4. A Planning Commission member shall not lend the prestige of his or her office to advance the private interests of others; nor shall a Planning Commission member convey or permit others to convey the impression that they are in a special position to influence him or her.
- B. A Planning Commission Member Shall Perform the Duties of His or Her Office Impartially and Diligently. A Planning Commission member's duties include all the duties of his or her office prescribed by law. In the performance of these duties, the following standards apply:
 - 1. A Planning Commission member shall be faithful to the law and maintain professional competence in the rules and law governing the Planning Commission. A Planning Commission member shall be unswayed by partisan interest, public clamor, or fear of criticism.
 - 2. A Planning Commission member shall maintain order and decorum in proceedings before him or her.
 - 3. A Planning Commission member shall be patient, dignified, and courteous to applicants, members of the public, consultants, lawyers and representatives, County employees, and others with whom a Planning Commission member deals in his or her official capacity, and should require similar conduct of the County employees and others subject to the Planning Commission member's direction and control.
- C. A Planning Commission Member Shall Not Participate Where Unable to Professionally Perform. In the event that a Planning Commission member finds himself or herself unable to perform in accordance with the requirements of this Section, the member shall disclose such inability and the general reasons therefore immediately following the Chairperson's announcement of the

opening or commencement of consideration of the matter and the member shall recuse himself or herself from any official action regarding such matter and not participate as a Planning Commission member.

Section 1-303 Rules of Procedure.

- A. Rules Authorized. The Planning Commission may promulgate rules of procedure not inconsistent with these Land Use Regulations.
- B. Officers. The Planning Commission shall annually elect or appoint its own Chairperson and Vice-Chairperson at an available meeting on or after January 1 of each year.
- C. Recording Secretary. A recording secretary shall be provided to the Planning Commission by the BOCC and such recording secretary shall be present at all regular and special meetings of the Planning Commission. The recording secretary shall take the minutes of the meeting. The minutes shall be made a matter of public record within a practical time after the meeting and will be available from the Planning Department. Anyone wishing to have a transcript of the meeting may have a court reporter present at his or her own expense.
- D. Advisor. The Planning Director or designee shall serve as advisor to the Planning Commission on all planning and zoning matters brought to the Commission's attention, and be responsible for scheduling all Planning Commission meetings in accordance with the guidelines established by the Planning Commission. The Planning Director, or authorized representative, shall represent the Planning Commission at official meetings at which the Planning Commission recommendation or opinion is so solicited, inclusive of, but not limited to, meetings before the Board of County Commissioners and at such other times as approved by the Planning Commission.
- E. Meetings. All meetings of the Planning Commission shall be open to the public except for lawfully conducted executive sessions authorized by the Colorado Open Meetings Law. The Planning Commission shall meet as often as necessary to hear and act upon applications and other appropriate requests submitted. Whenever possible, an agenda shall be made available to the public from the Planning Department prior to or at each meeting.
- F. Quorum. The presence of four (4) members shall be necessary to constitute a quorum.
- G. Voting Requirements. Unless otherwise required by law, the approval, acceptance, or other action on any motion, resolution, or proposition before the Planning Commission shall require a majority of a quorum present.
- H. Conduct of Public Hearings. Whenever the Planning Commission conducts a public hearing to consider an application for variance or other application for land use approval, the following procedure shall apply in addition to any promulgated rules of procedure adopted by the Planning Commission:
 - 1. Opening of Public Hearing. The Chairperson shall formally open and announce the public hearing.
 - 2. Acceptance of Record. The Chairperson shall announce the acceptance of the application, supporting documentation provided by staff, agency referral comments, correspondence delivered to the County prior to the hearing, and announce that any other documentation presented during the hearing shall be made part of the record of the matter.
 - 3. Presentation by Staff. The Planning staff may, at its option, present such preliminary information regarding the application deemed relevant or helpful by the staff. Staff should

seek to provide information to establish that proper notice was provided for the public hearing.

4. Presentation by Applicant. The applicant shall make a presentation to demonstrate that the requirements and criteria of approval of the application are satisfied. The applicant shall be afforded such time as deemed necessary by the applicant for such presentation, subject to the Chairperson's discretion to limit the presentation to avoid duplicative or repetitious information.
5. Public Comment. As directed by the Chairperson, those persons in attendance who wish to speak shall be afforded an opportunity. The Chairperson may establish reasonable time limitations on such opportunity when deemed necessary to conduct an efficient meeting. In no event shall any member of the public be afforded less than three (3) minutes to present their testimony or information.
6. Applicant Rebuttal. The applicant shall be afforded an opportunity to provide additional information in the form of a rebuttal of the public comments.
7. Closing of Public Hearing. Upon the conclusion of all presentations, the Chair should formally announce the closing of the public hearing. Closure of the public hearing shall indicate that no further unsolicited comment from the applicant or public shall be entertained; however, the Planning Commission members may pose questions and solicit information from the applicant or members of the public who spoke during the hearing.
8. Deliberation. The Planning Commission shall deliberate the evidence of the application and consider whether the evidence presented constituted sufficient and competent evidence to support the requested land use approval.
9. Motion. The Planning Commission shall entertain one or more motions to reach a conclusion regarding the application. Such motion(s) may include:
 - a. *Recommend Approval* of the application without conditions.
 - b. *Recommend Conditional Approval* of the proposal indicating specifically for the record what condition(s) are imposed. No condition shall be imposed unless the Planning Commission is authorized by these Land Use Regulations to impose a condition upon the land use approval to be granted.
 - c. *Recommend Denial* of the proposal indicating for the record the reason(s) for the recommendation of denial.
 - d. *Continuance* of the hearing until a date and time certain or to an unspecified date in order to obtain more information to help clarify the application.
 - i. Motions to Continue a Matter To A Date Certain. A motion to continue (or to postpone) a matter pending before the Planning Commission shall be deemed in order and may be made at any time during consideration of any matter. A motion to continue shall state the date, time, and place for the continued consideration of the matter being continued and the specific reason for the proposed continuance. Approval of a motion to continue shall require only a majority of a quorum present and voting. Upon approval of such motion, no further discussion or deliberation on such continued matter shall be entertained until the date, time, and place stated in the motion. If the Planning Commission properly moves and votes to continue a matter to a specified date, time, and place, no further

or additional notice of the continued matter need be provided. If the applicant or representative is not present for an application, the Planning Commission may at its discretion continue the consideration of the application.

ii Motions to Continue a Matter To An Unspecified Date. A motion to continue (or to postpone) to an indefinite time or without a specified date and time shall only be appropriate if the applicant consents to the proposed continuance. Approval of a motion to continue to an unspecified date shall require only a majority of a quorum present and voting. If the Planning Commission properly moves and votes to continue a matter to an indefinite or unspecified date, new public notice of the date, time, and place of the continued meeting or hearing shall be required in accordance with the notice requirements applicable to the application. Upon approval of such motion, no further discussion or deliberation on such continued matter shall be entertained until the matter is properly brought before the Planning Commission at the time and date as stated in the public notice.

I. Mandatory Recommendation Deadline. Unless the deadline is waived by the applicant, the Planning Commission shall render a recommendation to approve, conditionally approve, or deny an application within ninety (90) days of the opening of the public hearing or public meeting on any matter formally presented to the Planning Commission for review and action. In the event that the Planning Commission fails to render such a recommendation on or prior to such ninety (90) day deadline, the application shall be deemed recommended for approval by the Planning Commission.

Section 1-304 Appeals of Planning Commission Recommendations.

Because recommendations and actions of the Planning Commission are advisory only and are not final decisions on legislative, quasi-judicial, or administrative matters, such recommendations shall not be subject to appeal pursuant to Rule 106(a)(4) of the Rules of Colorado Civil Procedure.

Section 1-305 Publication of Planning Commission Agendas and Recommendations.

County staff shall post agendas and decisions of the Planning Commission near the Board of County Commissioners hearing room, in the Planning Department offices, and on the County website (www.parkco.us).

DIVISION 4

FEES

Section 1-400 Application Fees and Deposit.

At the time of submission of any application for any type of land use approval described in these Land Use Regulations, the applicant shall pay to the County the established fees and deposits for the purpose of the County's review and processing of the application. The Board of County Commissioners may, by resolution with or without referral to or recommendation from the Planning Commission, adopt and amend from time to time a fee and deposit schedule for all applications and proceedings under these Land Use Regulations. The Board of County Commissioners may exempt specific classes or types of applications from fees and/or deposits where such exemption would encourage applicants to pursue land use approvals deemed by the Board of County Commissioners to advance important goals or policies of Park County.

Section 1-401 Reimbursement of County Review Costs.

- A. Reimbursement Agreement Required. Where required as part of any application for land use approval described in these Land Use Regulations, the applicant shall execute an *Agreement for Payment of Development Review Expenses* ("Agreement") in a form substantially similar to that included in Appendix C of these Regulations. The terms, conditions, and obligations of the Agreement contained in Appendix C are incorporated as requirements of applications for land use approval as if set forth in full in this section. In the event that an applicant proposes any change or revision to the Agreement, the Planning Director shall postpone the processing of the application until such time that the proposed change or revision is presented to the County Attorney and the Board of County Commissioners. The Board of County Commissioners may, at its discretion after reviewing the advice of the County Attorney, approve, reject, or modify the proposed change or revision of the Agreement. Such consideration and decision by the Board of County Commissioners shall be conducted as an administrative matter. The Planning Director may, at his or her discretion, execute the Agreement (in its standard form or as approved by the Board of County Commissioners) on behalf of the County or forward such Agreement to the Board of County Commissioners for the Board's consideration and approval as an administrative matter. No application shall be deemed complete unless accompanied by a properly and fully executed Agreement for Payment of Development Review Expenses.
- B. Reimbursement of Unpaid Expenses. In the event the County incurs expenses for the review of the applicant's request greater than the monies on deposit or collected from the applicant, the applicant shall reimburse the County for the additional expenses. The applicant shall make reimbursement within ten (10) days of the date of the County's submission of a written invoice or a written statement to the applicant for payment of the additional expenses. Failure by the applicant to pay the invoice in full within the specified time shall be cause for the County to cease processing the application and/or deny approval of the application.

Section 1-402 Waivers and Modification of Fees and Costs.

- A. Waivers and Modification of Fees and Expenses. Upon written request by an applicant, the Board of County Commissioners may at its discretion administratively waive, modify, adjust, or refund any fee or expense associated with the processing of any application where the Board determines that any one or more of the following exist:
1. The project proposed by the application will be restricted to providing residential housing opportunities not generally available within the County or its surrounding area, such as, but not limited to: (a) housing designed and priced to provide ownership opportunities to individuals with incomes below the median annual income for Park County; (b) housing for elderly individuals; (c) housing for handicapped individuals, as defined by the Fair

Housing Amendments Act, 42 U.S.C. § 3602 *et seq.*; and/or (d) group homes for elderly, disadvantaged, or handicapped individuals.

2. The project proposed by the application will be restricted to a land use that will directly and substantially advance one or more significant goals and policies of the Park County Strategic Master Plan.
 3. The project proposed by the application will significantly or substantially exceed applicable requirements for dedication of desirable public open space or useable public park area or provides a significant and substantial public benefit to the County not otherwise required by these Land Use Regulations.
 4. The project proposed by the application is requested by a federal, state, or local governmental or quasi-governmental entity and the Board of County Commissioners has determined that the project will substantially advance the health, safety, and welfare of the County.
 5. The application was delayed in its timely processing due to an error by County staff through no fault of the applicant and a waiver or other relief is justified to remedy an unfairness or harm caused to the applicant as the result of such error.
- B. County Exempt from Fees and Deposit Requirements. Applications, for which the applicant is Park County, or its offices, boards, commissions, or departments, shall be exempt from payment of any application fee or review deposit.

DIVISION 5

AMENDMENT OF LAND USE REGULATIONS

Section 1-500

Amendment Procedure.

- A. Amendment by Resolution of Board. These Land Use Regulations may be amended, revised, or altered from time to time by resolution adopted by the Board of County Commissioners following review by the Planning Commission in accordance with this Division. Unless otherwise provided by such resolution, any amending resolution shall be effective immediately upon adoption by the BOCC.
- B. Initiation and Application for LUR Amendment. An amendment to the text of these Land Use Regulations may be initiated by the Planning Director or designee, the Planning Commission, The Board of County Commissioners, a resident of the County or any person who holds a recognized interest in real property in the County.
- C. Planning Commission Review. Prior to approval of any proposed amendment of these Land Use Regulations, a draft resolution containing the text of the proposed amendment shall be submitted by the Planning Director or designee to the Planning Commission for review and consideration. For purpose of this section, the "date of submission" shall be the date of the presentation of the draft resolution to the Commission at a regular or special meeting of the Commission. Within thirty (30) days of the date of submission of the amendment to the Commission, the Commission shall endeavor to render its approval, disapproval, or recommendation to the BOCC. The Planning Commission's failure to render its approval, disapproval, or provide any recommendation to the BOCC within thirty (30) days of the date of submission of the proposed amendment to the Commission may be deemed by the BOCC as approval of the proposed amendment by the Planning Commission.
- D. Board of County Commissioners Public Hearing. Before final adoption of a proposed amendment to these Land Use Regulations, the Board of County Commissioners shall hold at least one public hearing on the proposed amendment.
- E. Notice of Public Hearing. Notice of the public hearing shall be provided as follows:
1. Content of Notice. The notice of public hearing shall include the date, time, place, and general purpose of the hearing, a general description of the topic of the proposed amendment of the Land Use Regulations. The Planning Department may include other information deemed appropriate by the Department to apprise the public of the general nature of the action proposed.
 2. Form of Notice. In accordance with C.R.S. § 30-28-116, notice of public hearing shall be published in the official County newspaper or in a newspaper of general circulation within Park County at least fourteen (14) days before the date of the hearing.
- F. Standard for Approval of Amendment. As a legislative act, the amendment of these Land Use Regulations shall be subject to the discretion of the BOCC. Any approval of an amendment to these Land Use Regulations shall constitute a finding by the BOCC that the amendment advances the health, safety, or welfare of the County.

DIVISION 6

BOARD OF COUNTY COMMISSIONERS

Section 1-600

Rules of Procedure for Hearing of Development Applications

- A. Rules Authorized. The Board of County Commissioners may promulgate rules of procedure not inconsistent with these Land Use Regulations.
- B. Conduct of Public Hearings. Whenever the Board of County Commissioners conducts a public hearing to consider a development application, the following procedure shall apply in addition to any promulgated rules of procedure adopted by the Board of County Commissioners:
1. Opening of Public Hearing. The Chairperson shall formally open and announce the public hearing.
 2. Acceptance of Record. The Chairperson shall announce the acceptance of the application, supporting documentation provided by staff, agency referral comments, correspondence delivered to the County prior to the hearing, and announce that no other documentation presented during the hearing shall be made part of the record of the matter.
 3. Presentation by Staff. The Planning staff may, at its option, present such information deemed relevant or helpful by the staff. Staff should seek to provide information to establish that proper notice was provided for the public hearing.
 4. Presentation by Applicant. The applicant shall make a presentation to demonstrate that the requirements and criteria of approval of the application are satisfied. The applicant shall be afforded such time as deemed necessary by the Board of County Commissioners for such presentation, subject to the Chairperson's discretion to limit the presentation to avoid repetitious information.
 5. Public Comment. As directed by the Chairperson, those persons in attendance who wish to speak shall be afforded an opportunity. The Chairperson may establish reasonable time limitations on such opportunity when deemed necessary to conduct an efficient meeting.
 6. Applicant Rebuttal. The applicant shall be afforded an opportunity to provide additional information in the form of a rebuttal of the public comments.
 7. Closing of Public Hearing. Upon the conclusion of all presentations, the Chairperson should formally announce the closing of the public hearing. Closure of the public hearing shall indicate that no further unsolicited comment from the applicant or public shall be entertained; however, the Board members may pose questions and solicit information from the applicant.
 8. Deliberation. The Board of County Commissioners shall deliberate the evidence of the application and consider whether the evidence presented constituted sufficient and competent evidence to support the requested application approval.
 9. Motion. The Board of County Commissioners shall entertain one or more motions to reach a conclusion regarding the application. Such motion(s) may include:
 - a. *Approval* of the application without conditions.
 - b. *Conditional Approval* of the application indicating specifically for the record what condition(s) are imposed.

- c. *Denial* of the application indicating for the record the reasons for the recommendation of denial.
- d. *Continuance* of the hearing until a date and time certain or to an unspecified date in order to obtain more information to help clarify the application.
 - i. Motions to Continue a Matter to a Date Certain. A motion to continue (or to postpone) a matter pending before the Board of County Commissioners shall be deemed in order and may be made at any time during consideration of any matter. A motion to continue shall state the date, time, and place for the continued consideration of the matter being continued and the specific reason for the proposed continuance. Upon approval of such motion, no further discussion of deliberation on such continued matter shall be entertained until the date, time, and place stated in the motion. If the Board of County Commissioners properly moves and votes to continue a matter to a specified time, date, and place, no further or additional notice of the continued matter need be provided. If the applicant or representative is not present for an application, the Board of County Commissioners may at its discretion continue the consideration of the application.
 - ii. Motions to Continue a Matter to an Unspecified Date. A motion to continue (or to postpone) to an indefinite time or without a specified date and time shall only be appropriate if the applicant consents to the proposed continuance. If the Board of County Commissioners properly moves and votes to continue a matter to an indefinite or unspecified time, date, and place, new public notice of the date time, and place shall be required in accordance with the notice requirements applicable to the application. Upon approval of such motion, no further discussion of deliberation on such continued matter shall be entertained until the matter is properly brought before the Board of County Commissioners at the time and date as stated in the public notice.
- e. *Remand* of the application to the Planning Commission for further consideration of information that was not available at the time of the hearing of the application by the Planning Commission. Such a motion shall state the specific information that was not available for Planning Commission review and the relationship between that information and the standards for approval of the application in the Land Use Regulations.