

El Dorado County
Chief Administrative Office
Interoffice Memorandum

September 12, 2012

TO: Board of Supervisors

FROM: Kim Kerr, Assistant Chief Administrative Officer
Chief Administrative Office

SUBJECT: Zoning Ordinance Update – September 18, 2012



On August 20, 2012, staff presented information to the Board regarding the Zoning Ordinance Update that identified and summarized the issues raised during the Zoning Ordinance Workshops in July as well as comments received from the public. At that meeting, the Board provided direction to staff regarding those issues in order to allow work on the draft Zoning Ordinance to continue. This report provides an update on the work completed since that date, including the full revised text for a number of the items identified. In some instances, staff has identified additional questions for the Board to consider and provide direction. Once that direction is provided, staff will incorporate revised language into the draft Zoning Ordinance. Staff intends to return with the full draft Zoning Ordinance document on September 24, 2012. Items discussed in this report include:

- | | |
|--|--|
| 1. Planned Development / Density Bonus / 30% Open Space | 5. Landscaping and Outdoor Lighting |
| 2. Mineral Resources – Combining Zone | 6. Signs (separate Board item on September 18th) |
| 3. Protection of Wetlands and Sensitive Riparian Habitat | 7. Animal Raising and Keeping |
| 4. Hillside Development Standards; 30 Percent Slope | 8. Nonconforming |
| | 9. Glossary |
| | 10. Site Planning and Design Manual |

1. PLANNED DEVELOPMENT / DENSITY BONUS / 30% OPEN SPACE

Staff recommended, and the Board agreed, that the General Plan should retain the requirement for 30% open space, clarify when the policy applies, retain the option for Density Bonus when certain open space objectives are met, and the Zoning Ordinance should allow for and implement the following:

- Exempt projects less than 5 units, or smaller than 3 acres in Community Regions and Rural Centers, or condominium conversions, or Multi Family Residential, or Mixed Use Development
- Allow 15% improved open space and 15% exclusive use open space to meet 30% requirement in High Density Residential
- Retain density bonus policies ONLY for projects meeting minimum 30% open space requirement
- Incorporate Ag protections and resources, including ability to use open space for Ag in Ag Districts

The full draft text proposed for both the General Plan policies and Zoning Ordinance for Planned Development, Density Bonus and the requirement of 30% Open Space within Planned Developments is provided as Attachment A to this report. This language has been included in the draft Zoning Ordinance.

2. MINERAL RESOURCE COMBINING ZONE (-MR) MAPS

General Plan Policy 7.2.1.2 directs staff to create a Mineral Resource Combining Zone as part of the comprehensive Zoning Ordinance Update (ZOU) that is consistent with the General Plan Mineral Resource (-MR) overlay.

Under General Plan Policy 7.2.1.3, the County requested a study be conducted by the state “to assess the location and value of non-metallic mineral materials” so that the county “may recognize them in the General Plan and zone them and the surroundings to allow for mineral resource management.” The state chose to study the county, in part due to this request, and also because the State Mining and Geology Board (SMGB) determined that the county “is an expanding urban area and contains construction materials and important industrial and metallic minerals that represent economically valuable present and future resources.” (*California Dept. of Conservation, CGS Open File Report 2000-03; “Mineral Land Classification of El Dorado County, California”, (2001) 6.*)

Mineral resource areas within the entire county were then classified, designated, and mapped in 2000 by the State Department of Conservation, Division of Mines and Geology under an open file report (OFR2000-03, hereinafter referred to as “the report”) that superseded all earlier reports listed under Policy 7.2.1.1 (1-5). The last time a county-wide mineral resource overview was done was in 1956 (Clark and Carlson). As stated in the 1956 report, “the primary goal of mineral land classification is to ensure that the mineral potential of land is recognized by local government decision-makers and considered before land-use decisions are made that could preclude mining.” The report requires the County to “develop and adopt mineral resource management policies to be incorporated in its general plan” that recognize the mineral classifications and maps and “emphasizes the conservation and development of identified mineral deposits”. (*California Dept. of Conservation, CGS Open File Report 2000-03; “Mineral Land Classification of El Dorado County, California”, (2001) 1, 7, 8.*)

General Plan Policy 2.2.2.7 states that the -MR overlay “is to identify those areas that are designated as Mineral Resource Zone 2 (MRZ-2xx)” in the report from the State. The report classification system establishes land as MRZ-2a that contain known significant economic mineral deposits either as an operating mine or through extensive sampling analysis. Those lands classified as MRZ-2b contain discovered deposits that are inferred to be significant resources due to their “lateral extension from proven deposits or their similarity to proven deposits” (*California Dept. of Conservation, CGS Open File Report 2000-03; “Mineral Land Classification of El Dorado County, California”, (2001) 13.*) In short, MRZ-2a are known significant resources and MRZ-2b are inferred significant resources. “Significant” is determined by marketability and threshold value criteria adopted by the SMGB.

The report classifies MRZ-2a and 2b for construction aggregate, other construction materials such as slate and specialty stone, industrial limestone material, and lode gold deposits, the latter of which predominates with 22,923 acres classified 2b.

Policy direction to staff for the Board to consider:

- A. Policy 7.2.1.2 states “Areas designated as Mineral Resource (-MR) overlay on the General Plan Land Use Map shall be identified by the Mineral Resource (-MR) combining zone district on the zoning maps when the likely extraction of the resource through surface mining methods will be compatible with adjacent land uses as determined by Policy 7.2.2.2. ”

Policy discussion:

Should the –MR Combining Zone be based on the General Plan maps or on the state report maps that were done at the request of the County? The General Plan maps consistently delineate the MRZ boundaries approximately 250 feet east of the state maps, clearly an overall mapping error. In addition, the General Plan –MR overlay includes incompatible land use designations (discussed in item 2 below), and excludes other areas that are considered compatible.

- B. Policy 7.2.2.2 states “The General Plan designations, as shown on the General Plan land use maps, which are considered potentially compatible with surface mining shall include:

- Natural Resource (NR)
- Agricultural Land (AL)
- Open Space (OS)
- Industrial (I)
- Public Facilities (PF)
- Rural Residential (RR)
- Commercial (C)
- Low-Density Residential (LDR)

All other General Plan designations are determined to be incompatible for surface mining. Industrial uses shall be limited to those compatible with mineral exploration.”

Policy discussion:

The requirement for compatibility with *adjacent* land use designations under Policy 7.2.1.2 requires the mineral resource area to be removed from the maps where they adjoin or touch upon (as the General Plan definition of “adjacent” suggests) any parcels that are in land use designations other than what is listed as compatible in Policy 7.2.2.2. Excluding MRZ-2a and 2b lots adjoining incompatible land use designations would decrease the protection of those resources even when they are in compatible land use designations themselves.

1. ***Does the policy mean to exclude only those parcels actually mapped as MRZ-2a or 2b that are themselves incompatibly designated?***
2. ***If classified resource areas are incompatibly designated pursuant to Policy 7.2.2.2, should they then be given a compatible designation in order to protect the resource?***

- C. Policy 7.2.2.1 states “The minimum parcel size within, or adjacent to, areas subject to the -MR overlay shall be twenty (20) acres unless the applicant can demonstrate to the approving authority that there are no economically significant mineral deposits on or adjacent to the project site and that the proposed project will have no adverse effect on existing or potential mining operations. The minimum parcel size adjacent to active mining operations which are outside of the -MR overlay shall also be twenty (20) acres.”

Policy discussion:

All active mining operations are within the MRZ-2a classification and therefore should be within the –MR Combining Zone even if not within the –MR overlay (see item 1). In order to map the –MR zone correctly, staff requests the following direction from the Board:

1. *Should the combining zone include all MRZ-2a and 2b mapped resource areas including adjacent (hereinafter referred to as “adjoining”) lots in order to clearly apply the 20 acre minimum lot size requirements on the resources and the buffers; or*
2. *Should the combining zone include only mapped resource areas with the adjoining parcels zoned separately as a buffer? If so, should said buffer zone be indicated by a proposed 20 acre minimum zoning, such as RL-20; and if so, how does the County flag it as such in order to prevent future rezoning to a higher density zone?*
3. *Should parcels adjoining a mapped mineral resource area by a point as well as a linear dimension be included in the 20 acre minimum lot size requirements?*

3. PROTECTION OF WETLANDS AND SENSITIVE RIPARIAN HABITAT.

This section has been substantially revised and is provided as Attachment B. It includes standards for ministerial projects and adds requirements for determining appropriate protections through the discretionary review process. In addition, as directed by the Board, standards have been established for major lakes, rivers and streams.

Board direction from 8-20-2012 is as follows:

- Adopt standardized setbacks for ministerial projects; use biological resource assessments for discretionary applications or modifications to ministerial setbacks
- Use objective measurements (high water mark; spillway elevation)
- Incorporate larger setbacks for major lakes, rivers and creeks
- Codify Environmental Management setbacks for septic system disposal areas and septic tanks for water quality protection”

Discussion: Staff recommends the attached draft Zoning Ordinance language. Following the environmental review, there may be additional discussion needed regarding the concept of using project specific biological resource assessment reports instead of specific standardized measurements for

discretionary projects and whether it would lead to unanticipated consequences, possibly requiring even the simplest discretionary actions, like a CUP, to necessitate an EIR to assess the impact.

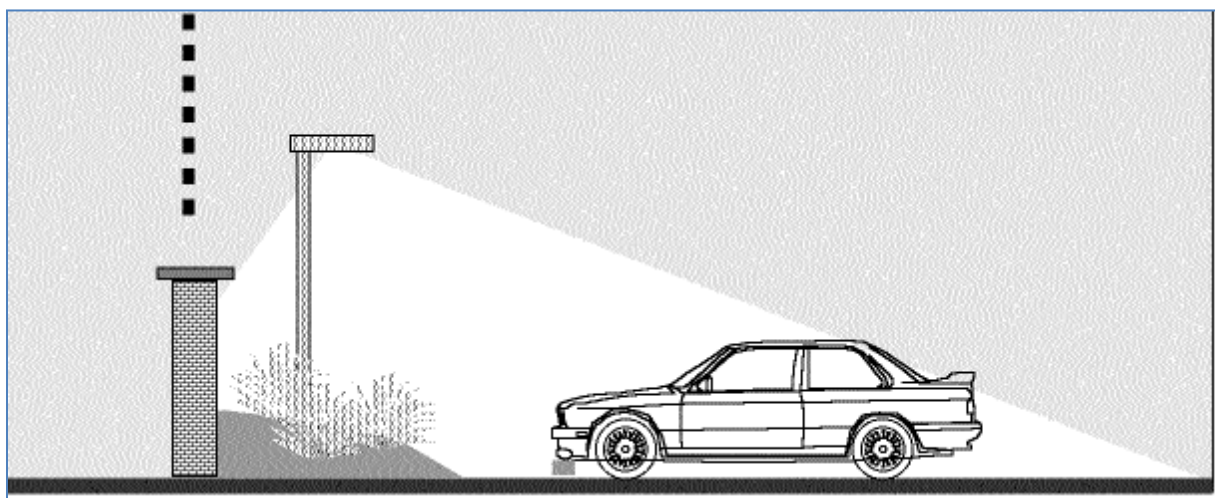
4. HILLSIDE DEVELOPMENT STANDARDS; 30% SLOPE RESTRICTION

Hillside development standards including 30% slope restrictions were prepared following Board direction to not defer this section as originally proposed. As drafted (see Attachment C), these standards apply primarily to development on existing parcels. Hillside development standards for new lot creation would be located in the Land Development Manual and would be similar to current adopted standards.

5. LANDSCAPING AND OUTDOOR LIGHTING

Govt. Code §65591-65599 requires the County to comply with the Water Efficient Landscape plan requirements, when applicable. The section has been modified, shifting a great deal of the plan requirements to the site planning and design manual. Projects not subject to State requirements may still require a landscape plan and those plan requirements will be incorporated into the new site planning and design manual.

The Outdoor Lighting section has been modified in a manner similar to the Landscaping section with the transfer of the plan requirements to the site planning and design manual. Light trespassing off the site of origin and onto neighboring sites is the subject of complaints. Therefore, the section has been revised to clearly state the requirement that no light shall trespass onto neighboring parcels, or roads, except as needed for public safety. An illustration has been added to provide an example of what this requirement might look like.



Property Line

Source: Dark Sky Society

6. SIGNS - CHAPTER 17.36

The Board will consider Signs in a separate Board item on September 18, 2012. Board direction from that item will be incorporated into the draft Zoning Ordinance Update.

7. ANIMAL RAISING AND KEEPING

A comprehensive draft ordinance has been prepared and is provided as Attachment D. The draft ordinance applies to the raising and keeping of domestic fowl, farm, and large animals for hobby purposes, educational projects or commercial use on residentially zoned lands. It also establishes criteria for the size of animals allowed to be kept, including small, medium, & large animals, and apiaries and provides a matrix outlining allowed animal type by residential zone. The draft ordinance allows for animal processing and provides exceptions for agriculture and resource zones and educational projects. The ordinance does not apply to domestic animals, which are addressed in County Code Title 6. The draft ordinance also establishes Operation & Maintenance standards for odor and vector control, erosion and sedimentation, noise and commercial apiary standards.

8. NONCONFORMING

The Nonconforming Use Ordinance Chapter has been comprehensively rewritten in an effort to address the Board's concerns and directions and is provided as Attachment E. The comprehensive update of the Zoning Ordinance reduces many of the potential nonconforming uses, including some uses that are currently not legal. This is achieved by allowing for expanded uses through the Home Occupation Ordinance and expanding the types of uses allowed in each zone. For example, the Home Occupation ordinance would allow for employees, in many cases by right, where currently employees are prohibited. Outdoor home occupations, including some types of student instruction and equestrian-based therapy would now be allowed, again in some cases by right, on larger parcels. Uses allowed within specific zones such as agricultural uses on larger residential lots have also been expanded to include both hobby and commercial agricultural operations. Animal keeping special use regulations have been updated to allow for animal keeping and processing appropriate to the zone. A Rural Commercial zone is proposed to complement the proposed General Plan amendment allowing the establishment of commercial uses in rural regions. The new Rural Lands zone would allow a broad range of agricultural and related agricultural support uses, as well as additional opportunities to provide other economic uses of the land.

We may discover uses that do not conform to the Zoning Ordinance after it is adopted. More importantly there may be structures and infrastructure already built to support an existing or historic use, which would not be an allowed use in a particular zone. The revised Nonconforming Use Ordinance addresses these uses and structures. Additionally it addresses the structures and infrastructure already built which support a use not allowed within a specific zone. The revisions to this section are intended to allow for more interim uses and to provide alternatives to the rural lands and working landscape in lieu of new subdivisions, all without compromising General Plan goals and objectives in the near to midterm. For example, the draft Zoning Ordinance:

- Allows one legal nonconforming use to be replaced with another nonconforming use when no more intensive
- Provides a longer horizon for the determination that a use has been abandoned and allows for the extensions of those time frames by the Planning Commission
- Allows for the reconstruction or expansion of a nonconforming structure
- Allows for additional conforming uses on a property containing a nonconforming use

Embedded within specific sections of the draft Zoning Ordinance there are detailed nonconforming requirements for Ranch Marketing, Landscaping, Lighting and Parking. A change in use may create a nonconformance in the site's landscaping, lighting, or parking. Examples would be when a change in use requires increased parking it may also require an update to the landscaping, or, when lighting equipment currently not meeting minimum code requirements to be replaced with allowable fixtures. Staff is requesting Board direction on when to apply the site specific nonconformance standards.

9. GLOSSARY

Staff is working to finish revisions to the glossary to ensure that terms are consistently and appropriately used. The glossary will be a collection of definitions of terms used throughout the document. Effectively communicating the unique terms used within the Zoning Ordinance will improve the readability of the entire document and assist in the communications between the County and users.

10. SITE PLANNING & DESIGN MANUAL

The County of El Dorado is a composite of differing areas, a variety of lifestyles, and various terrains. The General Plan ensures that the County retains its core identity by guiding future growth that respects the diversity of the County and region, shapes and configures development in relation to the land, and ensures that its various parts relate to its whole.

Staff has proposed the creation of a site planning and design manual for the use of those property owners and design professionals submitting development applications to the County Development Departments. This document will provide the baseline criteria promoting innovative site related development that actively accommodates a balance of housing, employment, and service opportunities for County residents and visitors.

The manual will include both design "standards" and design "guidelines". Design standards are generally considered mandatory requirements and will typically include the term "shall". Standards are usually quantitative or have performance criteria that can be measured. Design guidelines would include more generalized statements, alternatives or illustrations of what is expected and encouraged, and may identify ways to meet a certain "standard". Staff is working to prepare a "checklist" of objectives for ministerial design to assist in streamlining the review process for ministerial or minor use permits.

Following is the draft Table of Contents for the items being considered for inclusion in the site planning and design manual. Items with an asterisk (*) are currently adopted guidelines or standards that are not anticipated to be revised as part of this project.

1. Community Design*
2. Flood Damage Prevention -Determination of Substantial Improvement Checklist
3. Historic Design*
4. Landscaping and Irrigation Design and Plan Requirements
5. Lighting Inventory Plan and Requirements
6. Missouri Flat Design*
7. Mixed Use Development Design
8. Outdoor Lighting Design
9. Parking and Loading Design
10. Research and Development Design*
11. Signs Design
12. Traditional Neighborhood Design

An option for the Board to consider would be to combine the site planning and design standards manual and the proposed Land Development Manual (LDM), currently the Design Improvement Standards Manual, as a component creating a single comprehensive standards and design manual. The proposed LDM is intended to provide standards and guidelines for the creation of new parcels and subdivisions.

Attachment A

Planned Development / Density Bonus

General Plan Policy – Revised Targeted General Plan Amendment Language for Planned Developments and Density Bonus

OBJECTIVE 2.2.3: PLANNED DEVELOPMENTS

Provide for innovative planning and development techniques and further fulfill the Plan Strategy by encouraging balanced growth to better reflect the character and scale of the community in which it occurs while minimizing impacts on the surrounding areas, to provide more efficient utilization of land, and to allow for flexibility of development while providing for general public benefits.

Policy 2.2.3.1 The Planned Development (-PD) Combining Zone District, to be implemented through the zoning ordinance, shall allow residential, commercial, and industrial land uses consistent with the density specified by the underlying zoning district with which it is combined. Primary emphasis shall be placed on furthering uses and/or design that provide a public or common benefit, on- or off-site, cluster intensive land uses or lots to conform to the natural topography, minimize impact on various natural and agricultural resources, avoid cultural resources where feasible, minimize public health concerns, minimize aesthetic concerns, and promote the public health, safety, and welfare. A goal statement shall accompany each application specifically stating how the proposed project meets these criteria.

Except as otherwise provided herein, residential Planned Developments shall include open space lands comprising at least 30 percent of the total site which may be owned in common, by easement or fee title, by the homeowners or may be dedicated to a public agency. The following are exempt from the open space requirement:

- A. Condominium conversions
- B. Residential developments consisting of five or fewer dwelling units,
- C. Projects within Community Regions or Rural Centers on sites 3 acres or less,
- D. Multi-Family Residential developments, and
- E. Commercial/Mixed Use Developments.

The common open space requirement may be reduced to 15% in High Density Residential (HDR) Planned Developments where the open space is improved for recreational purposes, or as landscaped buffers or greenbelts and an additional 15% of the total site is devoted to open space areas reserved for the exclusive use of individual residents such as private yards.

The commonly owned open space can be improved for recreational purposes such as parks, recreational facilities, ball fields, golf courses, or picnic areas or may be

Attachment A

Planned Development / Density Bonus

retained in a natural condition. Both improved and natural open space may be incorporated into a single Residential Planned Development. Commonly owned open space shall not include space occupied by infrastructure (e.g., roads, sewer, and water treatment plants) except when multi-use trails are included within such space.

OBJECTIVE 2.2.4: DENSITY BONUS

Provide for incentives which encourage the utilization of the Planned Development concept and further the provision of public benefits as a component of development.

Policy 2.2.4.1 Residential Planned Developments which provide a minimum of 30% commonly owned or publicly dedicated open space shall be allowed an open space density bonus of additional residential units in accordance with A through C, for the provision of lands set aside for open space, wildlife habitat areas, parks (parkland provided in excess of that required by the Quimby Act), ball fields, or other uses.(See example below.) Developable land as used herein means land which is included in the calculation of density for a standard subdivision, which excludes bodies of water (lakes, rivers and perennial streams) measured at the ordinary high water mark or spillway elevation for lakes and the two-year storm event for rivers and perennial streams.

- A. Maximum Density: The maximum density created utilizing the density bonus provisions shall not exceed the maximum density permitted by the General Plan land use designation as calculated for the entire project area except as provided for by Section B.
- B. In addition to the number of base units, one and one half (1.5) dwelling units may be provided for Planned Developments within a planning concept area for each unit of developable land set aside as open space. In calculating the maximum density permitted by the General Plan land use designation, the County shall include acreage of developable land, as defined above.
- C. Open Space: Lands set aside for open space, as used herein, shall be those lands commonly owned or made available to the general public including but not limited to open space areas, parks, and wildlife habitat areas.

Attachment A

Planned Development / Density Bonus

Revised draft Zoning Ordinance language for Planned Developments and Density Bonus

CHAPTER 17.28 — PLANNED DEVELOPMENT (-PD) COMBINING ZONE

Sections:

- 17.28.010 Planned Development (-PD) Combining Zone Established
- 17.28.020 Applicability
- 17.28.030 Combination with Other Zones
- 17.28.040 Zone Change and Development Plan Requirements
- 17.28.050 Residential Development Requirements
- 17.28.060 Residential Density Bonuses for On Site_Open Space
- 17.28.070 Condominium Conversions

17.28.010 Planned Development (-PD) Combining Zone Established

The Planned Development (-PD) Combining Zone implements the General Plan by providing innovative planning and development techniques that allow the use of flexible development standards; provide for a combination of different land uses which are complimentary, but may not in all aspects conform to the existing zoning regulations; allow clustering of intensive land uses to minimize impacts on various natural resources; avoid cultural resources where feasible; promote more efficient utilization of land; reflect the character, identity and scale of local communities; protect suitable land for agricultural uses; and minimize use compatibility issues and environmental impacts.

17.28.020 Applicability

The provisions of this Chapter shall apply to the following:

- A. Lands zoned or required by the General Plan to be zoned with the Planned Development (-PD) Combining Zone;
- B. All newly constructed residential and non-residential condominium projects when design standards and Condominium Plans are not available, in compliance with Section 17.28.070.

17.28.030 Combination with Other Zones

- A. The -PD Combining Zone may only be added to a base zone through a zone change application in compliance with Chapter 17.63 (Amendments and Zone Changes).
- B. Residential development density shall be that allowed in the base zone, except as provided in Section 17.28.050 (Residential Density Bonuses for On Site Open Space Preservation) and Chapter 17.32 (Affordable Housing Requirements and Incentives). Where the base zone is designated as open space, the density shall be calculated based on the maximum density allowed under the General Plan land use designation.

Attachment A

Planned Development / Density Bonus

- C. Allowed uses of a Development Plan shall only be those allowed in the base zone, as provided in Chapters 17.21 through 17.26 (Zones, Allowed Uses, and Zoning Standards), except for common area recreational facilities and similar uses.

17.28.040 Zone Change and Development Plan Requirements

- A. A Development Plan Permit application may be submitted with a zone change application to add the –PD Combining Zone, in which case the applications shall be processed concurrently in compliance with Section 17.52.040 (Development Plan Permit) and Chapter 17.63 (Amendments and Zone Changes). The review authority shall consider the zone change and development plan applications on their own merits and may consider approval of the zone change without approving the development plan.
- B. No use shall be allowed on lands zoned with the –PD Combining Zone unless a Development Plan Permit is approved by the Commission or Board. All subsequent permits for building, grading, or other development approvals must be found consistent with the approved Development Plan Permit.

17.28.050 Residential Development Requirements

All residential development projects in the –PD Combining Zone shall be subject to the following:

- A. **Open Space.** Except as provided in 17.28.050.B, below, thirty percent of the total site shall be set aside for open space that is commonly owned or publicly dedicated . Commonly owned open space, as defined in Article 8 (Open Space: Common) shall not include space occupied by infrastructure such as roads, parking lots, or above ground components of sewer and water treatment plants, or area set aside for the sole use of individual residents, such as private balconies and patios. Commonly owned Open Space may include land developed or set aside for:
 1. Recreational purposes, such as parks, ball fields, golf courses, or picnic areas;
 2. Passive purposes, such as gathering places, community gardens and landscaped areas;
 3. Aesthetic purposes, such as naturally scenic areas;
 4. Protection of agricultural or natural resources;
 5. Pedestrian circulation, in compliance with Subsection D below; or
 6. Natural or man-made lakes, ponds and other water features, which are included in the calculation of open space, but excluded from the calculation of base units and bonus density.

Attachment A

Planned Development / Density Bonus

- B. Exemptions and Alternatives to the Onsite Open Space Requirement.** To facilitate and encourage development of higher density housing types, including those serving moderate and lower income households, exemptions and alternatives to the 30% onsite open space requirement are identified below.
1. Exempt Projects. The following projects are exempt from the open space requirement:
 - a. Residential planned developments consisting of five or fewer lots or units;
 - b. Condominium conversions;
 - c. Projects within Community Regions or Rural Centers on sites three acres or less in size;
 - d. Residential Multi-Family (RM) zoned projects or the residential component of Mixed Use Developments.
 2. Alternatives for Improved Open Space. The common open space requirement may be reduced to 15 percent of the total site for Planned Developments in the R1 and R20K zones, where:
 - a. The common open space is improved for active recreational uses, including but not limited to swimming pools, sport courts or sport fields, tot lots, clubhouse or meeting room facilities, and community gardens, or for passive recreational uses such as landscaped buffers or greenbelts; and
 - b. In addition to the common open space, additional area equal to 15 percent of the total site is devoted to open space areas reserved for the exclusive use of individual residents, such as private yards and patios.
 3. Open Space requirements for Planned Developments within Agricultural Districts. In order to conserve and promote agricultural activities and uses within the County, planned developments within Agricultural Districts may set aside open space for agricultural uses. The resulting agricultural area reserved for open space and may be used for any allowed agricultural use, include raising and grazing of animals, orchards, vineyards, community gardens and crop lands. The minimum size of the clustered residential parcels in a planned development within an Agricultural District shall be not less than 20 acres.
- C. Clustering.** Residential lots shall be clustered to conform to the natural topography and, where feasible, minimize impacts on natural resources, avoid cultural resources, minimize aesthetic impacts, maintain opportunities for commercial grazing, and minimize loss of agricultural lands.

Attachment A

Planned Development / Density Bonus

- D. Pedestrian Circulation.** Pedestrian connections shall be provided to allow internal circulation for the residents of the development to access adjacent commercial, recreational, residential, and civic uses, or on-site open space areas. Said connections can be counted toward the open space requirement in Subsection A, above.

17.28.060 Residential Density Bonuses for On Site Open Space Dedication

Density bonuses may be earned where a new minimum of 30% of the land area within a residential development project is set aside for commonly owned or publicly dedicated open space , as defined in Article 8 (“Open Space: Public”).

- A. The amount of bonus units earned shall be based on the amount of developable land within the open space. For purposes of this Section, “developable land” excludes the following:
1. Lakes, rivers, and perennial streams.
 2. Areas encumbered by road and/or public utility improvements.
- B. The number of base units for the project shall be based on the amount of gross acreage, excluding water bodies, and the maximum density provided by the existing or proposed zones. Base units may be based on proposed zoning if the proposed zoning is approved concurrently with the project. Where the existing or proposed zone is Open Space (OS), density calculation shall be based on the maximum density allowed by the General Plan land use designation.
- C. **Calculating Total Project Density with a Density Bonus.** The formula for calculating base units, bonus units, and total project density is as follows:
1. Base units are calculated by subtracting the area of lakes, rivers, and perennial streams from the gross acreage and multiplying the difference by the maximum density allowed in the zone(s). Where there is more than one zone, total base units shall be the sum of each zone calculation.
 2. Bonus units are calculated by multiplying the acreage of developable land set aside as public benefit open space by 1.5 times the density allowed in its existing or proposed zone(s). Where there is more than one zone, total bonus units shall be the sum of each zone calculation. Where the existing or proposed zone is Open Space (OS), the density bonus calculation shall be based on the maximum density allowed by the General Plan land use designation.
 3. Fractions of base units and bonus units resulting from the calculations above shall be rounded down to the next whole number.

Attachment A

Planned Development / Density Bonus

4. Total maximum project density is the sum of the total base units and total density bonus units.

D. Density Bonus for Affordable Housing. The open space density bonus provided under this Section is in addition to any bonus that may be applicable in compliance with Chapter 17.31 (Affordable Housing Requirements and Incentives).

17.28.070 Condominium Conversions

Condominium conversions shall meet the following requirements:

- A. Conformance with applicable building code standards;
- B. All private streets, driveways, walkways, parking areas, landscaped areas, storage areas, utilities, open space, recreational facilities, drainage facilities, and other infrastructure and improvements not dedicated to a public entity shall be maintained by the property owners and incorporated in the CC&Rs for the project;
- C. The units shall be individually metered or provisions contained in the CC&Rs to provide for a single meter billed to the property owners' association;
- D. Applications for conversion of multi-unit residential dwellings shall be reviewed by the Public Housing Authority for a determination of the impact of the project on the availability of affordable housing stock and a recommendation on options for preserving said housing stock;
- E. Multi-unit residential dwellings shall not be converted to a condominium, stock cooperative, or timeshare until the following time periods have expired:
 1. 10 years from the date of issuance of the certificate of occupancy for the affected building that was not income restricted; or
 2. 20 years from the date of issuance of the certificate of occupancy for building(s) for which density bonuses were granted in compliance with Chapter 17.32 (Affordable Housing Requirements and Incentives), or that contain any units restricted to households earning 120% or less of the area median family income; and
- F. Notice to the California Department of Housing and Community Development and the existing tenants shall be provided, in compliance with Government Code Section 66427.1, at least two years prior to the conversion of any affordable residential housing units which met any of the following criteria at the time of construction:
 1. The units were built with the aid of government funding;

Attachment A

Planned Development / Density Bonus

2. The project was granted an affordable housing density bonus in compliance with Chapter 17.32; or
3. The project received other incentives based on the inclusion of affordable housing.

Attachment B

Protection of Wetlands and Sensitive Riparian Habitat

Proposed language for the draft Zoning Ordinance Section 17.30.030.H. - Protection of Wetlands and Sensitive Riparian Habitat

1. Content. This subsection establishes standards for avoidance and minimization of impacts to wetlands and sensitive riparian habitat as provided in General Plan Policies 7.3.3.4 and 7.4.2.5.
2. Applicability. The standards in this subsection apply to all ministerial or discretionary development proposed adjacent to any perennial streams, rivers or lakes, any intermittent streams and wetlands, and any sensitive riparian habitat within the County. Activities regulated under this subsection include those activities also regulated under the federal Clean Water Act (33 U.S.C. §1251 et seq.) and California Fish and Game Code (Section 1600-1607). These standards do not apply to culverted creeks and engineered systems developed or approved by the County or other public agency for collection of storm or flood waters, or systems other than natural creeks designed to deliver irrigation or water supplies. Additional standards applicable to the design of new developments or subdivisions are found in the County's Land Development and Design Manual.
3. Use Regulations.
 - a. New ministerial and discretionary development shall avoid or minimize impacts to perennial streams, rivers or lakes, intermittent streams and wetlands, and any sensitive riparian habitat to the maximum extent practicable. Where avoidance and minimization are not feasible, the County shall make findings, based on documentation provided by the project proponent, that avoidance and minimization are infeasible.
 - b. Any new development which does not avoid impacts to wetlands and sensitive riparian habitat shall prepare and submit a Biological Resource Evaluation identifying the location of all features regulated under this section.
 - c. An applicant shall obtain all required permits from state or federal agencies having jurisdiction, and shall fully implement any mitigation program required as a condition of such permit. Where the area impacted is not within federal or state jurisdiction, the County shall require appropriate mitigation as recommended in a biological resource evaluation.
 - d. Ministerial development, including single family dwellings and accessory structures, shall be set back a distance of 25 feet from any intermittent stream, wetland or sensitive riparian habitat, or a distance of 50 feet from any perennial lake, river or stream. This standardized setback may be reduced, or grading within the setback may be allowed, if a biological resource evaluation is prepared which indicates that a reduced setback would be sufficient to protect the resources.

Attachment B

Protection of Wetlands and Sensitive Riparian Habitat

- e. All discretionary development which has the potential to impact wetlands or riparian habitat shall require a biological resource evaluation to establish the area of avoidance and any buffers or setbacks required to reduce the impacts to a less than significant level. Where all impacts are not reasonably avoided, the biological resource evaluation shall identify mitigation measures that may be employed to reduce the significant effects. These mitigation measures may include the requirement for compliance with the mitigation requirements of a state or federal permit, if required for the proposed development activity.
 - f. Any setback or buffer required by this subsection shall be measured from the ordinary high water mark of a river, perennial or intermittent stream, and the ordinary high water mark or spillway elevation of a lake or reservoir.
 - g. Except where otherwise provided in this section, filling, grading, excavating or obstructing streambeds is prohibited except where necessary for placement of storm drain and irrigation outflow structures approved by the County; placement of public and private utility lines; construction of bridges and connecting roadways; maintenance activities necessary to protect public health and safety; and creek restoration and improvement projects.
 - h. All new septic system construction shall comply with standards established by the County Environmental Management Department, or applicable state and federal regulations for setbacks from lakes, rivers and streams.
 - i. Projects within the joint jurisdiction of the County and the Tahoe Regional Planning Agency (TRPA) shall be subject to setbacks established by TRPA.
4. Exceptions; Uses allowed. The following uses are allowed:
- a. Native landscaping;
 - b. Fencing, consistent with the provisions of 17.30.050.B, that does not interfere with the flow of waters or identified wildlife migration corridors;
 - c. Roads or driveways used primarily for access or for the maintenance of a property;
 - d. Utilities;
 - e. Storm drains into riparian areas and creeks;
 - f. Trails and passive recreational activities not involving the establishment of any structures;

Attachment B

Protection of Wetlands and Sensitive Riparian Habitat

Table 17.30.030.H.1

Specific Riparian Setbacks	
Lakes and Reservoirs	
Bass Lake	200 Feet
Folsom Lake	200 Feet
Jenkinson Lake (Sly Park)	200 Feet
Slab Creek Reservoir	200 Feet
Stumpy Meadows Reservoir	200 Feet
Rivers	
American River (Middle and South Forks)	100 Feet
Cosumnes River (North, Middle and South Forks)	100 Feet
Rubicon River	100 Feet
Streams and Creeks	
Big Canyon Creek	50 Feet
Deer Creek (South of US Highway 50 only)	50 Feet
Camp Creek	50 Feet
Clear Creek	50 Feet
Martinez Creek	50 Feet
Pilot Creek	50 Feet
Weber Creek	50 Feet

Attachment B

Protection of Wetlands and Sensitive Riparian Habitat

8. Coordination with Other Regulatory Agencies

All required permits from the California Department of Fish and Game, the U.S. Army Corps of Engineers, regional water quality control board(s), California State Water Resources Control Board, or other applicable agencies, shall be obtained prior to commencement of construction. Evidence of approval or pending approval of any such permit shall be provided to the County, including all appropriate supporting materials, environmental documentation, and studies.

For reference following are the General Plan Policies regarding Wetland and Riparian Buffers and setbacks.

Policy 7.3.3.4

The Zoning Ordinance shall be amended to provide buffers and special setbacks for the protection of riparian areas and wetlands. The County shall encourage the incorporation of protected areas into conservation easements or natural resource protection areas.

Exceptions to riparian and wetland buffer and setback requirements shall be provided to permit necessary road and bridge repair and construction, trail construction, and other recreational access structures such as docks and piers, or where such buffers deny reasonable use of the property, but only when appropriate mitigation measures and Best Management Practices are incorporated into the project. Exceptions shall also be provided for horticultural and grazing activities on agriculturally zoned lands that utilize “best management practices (BMPs)” as recommended by the County Agricultural Commission and adopted by the Board of Supervisors.

Until standards for buffers and special setbacks are established in the Zoning Ordinance, the County shall apply a minimum setback of 100 feet from all perennial streams, rivers, lakes, and 50 feet from intermittent streams and wetlands. These interim standards may be modified in a particular instance if more detailed information relating to slope, soil stability, vegetation, habitat, or other site- or project-specific conditions supplied as part of the review for a specific project demonstrates that a different setback is necessary or would be sufficient to protect the particular riparian area at issue.

For projects where the County allows an exception to wetland and riparian buffers, development in or immediately adjacent to such features shall be planned so that impacts on the resources are minimized. If avoidance and minimization are not feasible, the County shall make findings, based on documentation provided by the project proponent, that avoidance and minimization are infeasible.

Policy 7.4.2.5

Setbacks from all rivers, streams, and lakes shall be included in the Zoning Ordinance for all ministerial and discretionary development projects.

Attachment C

Hillside Development Standards; 30 Percent Slope Restriction

Proposed language for the draft Zoning Ordinance Section 17.30.060 - Hillside development standards; 30 percent slope restriction.

A. Content.

This Chapter contains standards to implement General Plan policies applicable to development within hillside areas. This Chapter regulates disturbance and development on existing lots containing slope gradients thirty percent (30%) or greater in all zones, provides for exceptions to allow reasonable use of property, relieve burdens on and promote agricultural production and protect the public health and safety.

Standards applicable to the creation of new lots or modification of existing lots (through the Boundary Line Adjustment process) containing slopes greater than thirty percent (30%) are found in the *Hillside Design Standards* of the El Dorado County Land Development Manual. The standards in this Title and the Land Development Manual are provided to supplement other applicable regulations by providing additional planning and design tools to enable creative site planning, meeting the challenges of steep terrain, while minimizing the effects of construction on the hillside.

B. Applicability; Slope Gradient Calculation.

These standards in this Section shall apply to any development that will result in ground disturbance on any portion of an existing lot with a natural gradient of at least 30 percent (30 feet of vertical distance for every 100 feet of horizontal distance) and a vertical elevation of at least 50 feet.

The calculation of site gradient shall exclude the following:

1. Artificial slopes created under a permit issued by El Dorado County or for which a permit was not required at the time the slopes were created.
2. Slopes designated as open space or non-building areas in a Specific Plan or Planned Development, or protected through an open space designation, slope easement or other similar covenant.
3. Areas of a site outside the area proposed for development, grading or other construction activity.

C. Development Standards applicable to slopes 30 percent or greater.

Development that will result in ground disturbance on slopes 30 percent or greater with a vertical height of 50 feet or more shall be prohibited, except where reasonable use of the property would be denied, as provided in Subsection E, or the activity is exempt under Subsection D, below.

Attachment C

Hillside Development Standards; 30 Percent Slope Restriction

Any development allowed on slopes 30 percent or greater shall require a grading or building permit and shall include an erosion and sediment control plan in compliance with the County Grading Design Manual.

Where required by the Grading Design Manual, technical studies from qualified professionals, such as soils or geotechnical reports to assess the erosion potential or slope stability may be required. Recommendations for erosion control or slope stabilization measures contained in the technical reports shall be implemented as a requirement of the grading or building permit. A surety bond, cash deposit or other security acceptable to the County may be required to ensure that long term erosion control measures, such as slope landscaping, are permanently established.

D. Exemptions.

The following types of development are exempt from the provisions of this Section:

1. Development that will avoid disturbance of slopes 30 percent or greater;
2. Development on slopes 30 percent or greater which are less than 50 feet in vertical height;
3. Construction of public or private streets and roads, emergency vehicle access or driveways;
4. Development approved prior to the adoption of this ordinance which has identified the extent of allowable development. These include approved variances, tentative and final subdivision and parcel maps, planned developments or other actions;
5. Disturbance of existing artificial slopes created under a permit issued by the County or for which a permit was not required at the time the slopes were created;
6. Repair of existing infrastructure, or replacement or repair of existing structures in substantially the same footprint;
7. Disturbance on slopes necessary for public safety, such as removal of poisonous or noxious plants, controlled removal or thinning of vegetation as part of a fire protection program, or other public safety purpose;
8. Development of a public trail comprising a component of the County's regional parks and trails master plans;
9. Projects located in the Tahoe Basin. Such projects are subject to the policies and regulations of the Tahoe Regional Planning Agency Code of Ordinances;

Attachment C

Hillside Development Standards; 30 Percent Slope Restriction

10. Underground utilities with accessory above ground components, utility poles and guy wires, and other similar features;
11. Agricultural activities that utilize best management practices (BMPs), as recommended by the County Agricultural Commission and adopted by the Board.

E. Reasonable Use of Existing Lots or Parcels.

Where reasonable use of an existing lot or parcel would otherwise be denied, development or disturbance of steep slopes is allowed under the reasonable use criteria in this Section. Reasonable use guidelines are applied based on the type of development proposed. The reasonable use criteria in this Title are not applicable to new subdivisions, or to the modification of existing parcels under the Boundary Line Adjustment process. Standards for new subdivisions or modifications of existing parcels are found in the *Hillside Development Standards* of the Land Development Manual.

1. Single Family Residential on Existing Legal Lot. Development on existing, legally created parcels comprised of slopes that have a gradient of 30 percent or greater is permitted if ground disturbance related to development of the primary structure and any accessory structures and uses meets the following criteria:
 - a. Minimize Area of Disturbance. The proposed total disturbance area on the parcel, excluding areas for septic systems, domestic water wells and driveways, shall not be greater than the thresholds contained in Table 17.30.060.A, based on the parcel size:

Table 17.30.060.A Allowed Disturbance Area for Residential Parcels

Parcel Size			
Less than 1 acre	1.0 acre to 1.5 acres	1.5 acres to 4.0 acres	Greater than 4.0 acres
35 percent of parcel area	15,000 square feet, plus 14 percent of area over 1 acre	18,000 square feet, plus 12 percent of area over 1.5 acres	32,000 square feet plus 10 percent of the area over 4 acres
<i>All resulting values rounded up to the next 1,000 square feet</i>			

Attachment C

Hillside Development Standards; 30 Percent Slope Restriction

- b. **Minimize Grading.** Minimize the impact of grading to the extent feasible through measures such as stepped foundations instead of graded pads, configuration of structures and grading to minimize the impact on natural topographic contours, rounding of cut and fill slopes, and the use of retaining walls to reduce the area of disturbance of slopes 30 percent or greater.

2. **Non-Residential and Multi-Family Residential Development on Existing Legal Lots.** Lands designated for non-residential and multi-family residential are limited in extent and distribution to a small number of parcels, generally within Community Regions and Rural Centers. Development or disturbance of slopes 30 percent or greater will be allowed where:
 - a. The proposed use is consistent with the General Plan and Zone designation for the property;
 - b. The development or disturbance will not impair the stability of slopes on the property or on surrounding properties;
 - c. The development or disturbance will conform to the requirements of the County Grading Ordinance, including best management practices for erosion and sedimentation control;
 - d. Design techniques have been utilized, where feasible, to respect natural contours, including rounding of cut and fill slopes to minimize abrupt edges;
 - e. The proposed use complies with the development standards of Subsection C., above.

3. Reasonable use determinations for ministerial projects will be made by the Director or Building Official based on the criteria above. The determination of reasonable use for discretionary projects will be made as part of the discretionary review of the proposed project. The reasonable use determination may be appealed in the manner set forth in Section 17.52.090 of this code.

F. Reasonable Use Criteria for Placement of Septic Systems on Existing Legal Lots or Parcels.

General Plan Policy 7.1.2.1 restricts the placement of septic systems to on steep slopes. Where public or private sewer service is unavailable, septic systems are integral to the development of most structures. Thus, the placement of an effluent disposal field on slopes of 30 percent or greater is considered as part of the reasonable use determination required for the development of parcels with slopes greater than 30 percent.

Attachment C

Hillside Development Standards; 30 Percent Slope Restriction

Septic system components may be located in areas containing slopes greater than 30 percent where alternative locations are not feasible or where the placement would reduce the overall disturbance of slopes. Location of septic system components shall comply with Chapter 15.32 of the County Code, Resolution No. 259-99, and other regulations as determined by the Environmental Management Department. The area of disturbance associated with construction of septic system components is allowed in addition to the reasonable use areas identified above.

Attachment D

Animal Raising and Keeping

Proposed language for the draft Zoning Ordinance Section 17.40.080 – Animal Raising and Keeping.

- A. Applicability.** The standards set forth in this Section shall apply to the raising and keeping of domestic fowl, farm, and large animals for hobby purposes, educational projects or commercial use on residentially zoned lands, where the use matrices for the zones allow the raising and keeping of animals.
1. The standards in this section apply to Residential Zones that allow for animal raising and keeping, including the Single-Unit Residential (R1/R20K), One-, Two-, and Three-Acre Residential (R1A, R2A, and R3A), and Residential Estate (RE) zones.
 2. The raising and keeping of domestic fowl and farm animals is not permitted in the Multi-unit Residential (RM) or residential uses in Commercial zones.
 3. The standards in this section do not apply to the keeping of household pets which are addressed in El Dorado County Code Title 6
 4. Exceptions:
 - a. **Agricultural, Rural Lands and Resource Zones.** These standards do not apply to the raising and keeping of animals in:
 - i. Agricultural zones: Limited Agricultural (LA), Planned Agricultural (PA), and Agricultural Grazing (AG); and,
 - ii. Rural Lands zones (RL); and
 - iii. Resource zones: Forest Resources (FR), and Timber Production (TPZ).
 - b. **Educational Projects.**
 - i. Animal husbandry projects, including, but not limited to FFA, 4-H, Grange, and school projects, shall be exempt from the requirements of subsection C. below. The current animal husbandry standards for keeping animals must be followed.
 - ii. The animals shall be maintained in a healthy and sanitary manner that does not violate any section of the State of California Penal Code or Title 6 of the El Dorado County Code.
 - c. **Working Animals.** Livestock guardian or herding dogs shall be exempted from the commercial kennel requirements and managed in accordance with Title 6 of County Code.

Attachment D

Animal Raising and Keeping

B. Definitions.

1. **Animal Raising and Keeping** - The keeping, feeding or raising of animals as a commercial agricultural venture, avocation, hobby or school project, including the processing of products or byproducts. This use is allowed either as a principal land use or as subordinate and accessory to a compatible residential use.
2. **Animal Husbandry Project** –The raising of farm or game animals such as cattle, horses, goats, sheep, hogs, chickens, rabbits, birds, as a school, 4-H, Grange, or FFA project conducted by students through the twelfth grade and under the direct supervision of a qualified, responsible adult advisor or instructor.
3. **Animals, Large** – Large animals include, but are not limited to, cattle, horses, mules, ostrich, swine, llamas, and/or similar livestock.
4. **Animals, Medium** – Medium animals include, but are not limited to, sheep, goats, emu, alpaca, turkeys, and donkeys.
5. **Animals, Small** – Small animals include, but are not limited to, rabbits, ducks, chickens, fowl, bees, and worms.
6. **Apiaries, Commercial** – Any place where fifty (50) or more colonies or hives of bees are kept. (See County Code Title 6, Chapter 6.48)

C. Animal Keeping in Residential Zones.

1. **Apiaries, Commercial.** Apiaries may be allowed on the following Residential Zones: R2A, R3A, RE-5 and RE-10. Requirements for bee raising and keeping shall meet industry standards as approved by the Ag Commissioner. No apiary shall be located within 100' of any other property boundary without the written consent of the adjacent parcel owner or resident.
2. **Small animal** keeping may be allowed on lots within these Residential Zones: R1, R20K, R1A, R2A, R3A, RE-5 and RE-10 provided that owners adhere to all Operation and Maintenance standards.
 - a. Poultry and fowl must be contained within the boundary of the residential lot and will be provided a suitable enclosure for nesting, feeding, watering, and roosting.
 - b. The keeping of roosters, guinea hens, or pea hens (peacock family) is prohibited on any lot less than 3 acres.

Attachment D

Animal Raising and Keeping

3. **Medium animal** keeping may be allowed on lots within these Residential Zones: R1A, R2A, R3A, RE-5 and RE-10 provided that owners adhere to all Operation and Maintenance standards. Medium animal keeping may be approved by Administrative Permit for lots within the Single-unit Residential (R20K) zone.
4. **Large animal** keeping may be allowed on lots of more than two acre in size within these Residential Zones: R1A, R2A, R3A, RE-5 and RE-10 provided that owners adhere to all Operation and Maintenance standards. Two or more adjacent lots that are less than two acres in size but managed as a single operation may meet the minimum acreage standard. Large animal keeping may be approved by Administrative Permit for lots less than two acres when zoned Residential One-acre (R1A).

D. Stables and Equestrian Facilities.

1. **Commercial equine facilities.** The licensing requirements and standards for commercial equine rental facilities are included in Title 6 of the County Code.
2. **Private equestrian facilities.** Private equestrian facilities, including the breeding and raising of horses, are allowed on Residential Estate zoned lots (RE-5 or -10). These facilities may be approved by Minor Use Permit on lots zoned Residential One-acre (R1A and R2A) and by Administrative Use Permit for lots zoned (R3A). Facilities are subject to the following standards:
 - a. The facility shall not involve more than three patrons visiting the site at any one time and no more than a maximum of fifteen patrons per day, unless authorized by a use permit.
 - b. If boarded horses are kept, fed, and/or cared for in any type of animal enclosure, or in any way other than equine pasture boarding, the facility is considered to be a boarding stable and is an equestrian facility within the meaning of this subsection.
 - c. The facility shall comply with the home occupations ordinance standards, if required.
 - d. The Operation and Maintenance Standards shall be adhered to.

Attachment D

Animal Raising and Keeping

E. Operation and Maintenance Standards

1. **Odor and Vector Control.** Pastures, agricultural accessory structures and animal enclosures, including but not limited to pens, coops, cages, barns, corrals, paddocks and feed areas, shall be maintained free from excessive litter, garbage, and the accumulation of manure, so as to discourage the proliferation of flies, other disease vectors and offensive odors. Sites shall be maintained in a neat and sanitary manner.
2. **Erosion and Sediment Control.** In no case shall any person allow animal keeping to cause significant soil erosion, or to produce sedimentation on any public road, adjoining property, or in any drainage channel. In the event such sedimentation occurs, the keeping of animals outdoors on the site shall be deemed a nuisance and may be subject to abatement under county code.
3. **Noise.** No animals will be allowed to create a public nuisance, disturbing the peace by frequent or continuous noise of an irritating or raucous nature. If a nuisance is deemed to have occurred it may be subject to abatement as specified in Title 6, Animals.
4. **Specified types of animals permitted.** More than one type of animal may be kept on a single site as allowed for in the use matrix for the applicable zone.

F. Setbacks. Animal sheltering structures, including but not limited to coops, stables, and aviaries, shall meet the setbacks established in the applicable zone district in which they occur.

G. Administrative or Minor Use Permits Required. On all lots of less than two acres in size, a Use Permit shall be required for:

1. The keeping of large animals allowed pursuant to subsection C above.
2. The keeping of poultry, fowl, and rabbits for the purpose of sale of said animals or their products on a continuing basis so long as the animals are maintained in a healthy and sanitary manner that does not violate any section of the State of California Penal Code or Title 6 of the El Dorado County Code.

H. Penalties. Violations of this section may be charged as either an infraction or misdemeanor.

Attachment D

Animal Raising and Keeping

Table 17.40.080.1 Animal Raising & Keeping Matrix

R1: Single-unit Residential R20K: Single-unit Residential R1A: One-acre Residential R2A: Two-acre Residential R3A: Three-acre Residential RE: Residential Estates (-5 or -10)		P A MUP CUP T ---	Permissible (allowed) use (Article 4) Administrative permit required (17.52.010) Minor use permit required (17.52.020) Conditional use permit required/ Temporary use permit required (17.52.070) Use not allowed in zone				
TYPE	R1	R20 K	R1A	R2A	R3A	RE	Reference
Apiaries, Commercial	---	---	---	P	P	P	17.40.080.C.1
Small Animals	P	P	P	P	P	P	17.40.080.C.2
Medium Animals	---	A	P	P	P	P	17.40.080.C.3
Large Animals	---	---	A	P	P	P	17.40.080.C.4
Stables & Equestrian Facilities							
Private Equestrian facility	---	---	MUP	MUP	A	P	17.40.080.E.2

Attachment E

Nonconforming Uses, Structures and Lots

Proposed language for the draft Zoning Ordinance Chapter 17.61- Non-Conforming Uses, Structures and Lots

17.61.010 Content; Applicability

Within the County there exist land uses and structures that were lawfully established before the adoption of this Title, but which would be prohibited, regulated or restricted differently under the terms of this Title, as amended.

This Chapter specifies the manner in which these legal nonconforming uses and structures may be continued, and may be expanded under certain circumstances. It also establishes criteria by which such uses or structures may be abated or removed in an equitable, reasonable, and timely manner without infringing on the constitutional rights of property owners.

17.61.020 Continuation, Transfer, or Sale

Change of ownership, tenancy or management of a legal nonconforming use, structure or lot shall not affect its legal nonconforming status, provided the specific use and intensity of use do not change, except as allowed in this Chapter.

17.61.030 Legal nonconforming structures.

A legal nonconforming structure may be continued and maintained as follows:

- A. A legal nonconforming structure may be restored if it is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy, up to its pre-damage size and placement. Construction shall be completed within three years if located within a Community Region or five years if located in the remaining unincorporated area of the County. .
- B. A legal nonconforming structure or any part of it that is voluntarily destroyed or removed shall lose all nonconforming status for any part or parts affected and may not be reconstructed.
- C. A legal nonconforming structure may be repaired or altered, including structural alterations to bearing walls, columns, beams and girders, or may be increased in area or volume if the addition complies with this title and the most recent County adopted Building Code.
- D. A legal nonconforming structure or accessory structure may be used or converted to any use that conforms to the zone district in which it is located and complies with the most recent County adopted Building Code. Such structure or accessory structure will not lose its nonconforming status if it has been vacant for any time.

Attachment E

Nonconforming Uses, Structures and Lots

- E. A structure considered non-conforming because it does not observe the required setbacks of the zone, may be increased in area or volume, provided that the addition does not encroach further into the required setback.

17.61.040 Legal nonconforming uses.

A legal nonconforming use may be continued and maintained as follows:

- A. No increase in intensity or of the area, space, or volume occupied or devoted to a legal nonconforming use, except as allowed in this Chapter shall be permitted.
- B. A legal nonconforming use that has ceased or been abandoned for a continuous period of five years or more shall lose its nonconforming status, and the continued use of that property or structure shall conform to the regulations of the zone district in which it is located, except as allowed in this .

If the legal nonconforming use is cultivated agricultural land, , the use shall not be considered abandoned if it is part of a managed agricultural operation where such land is planned for continued cultivation.

- C. If a legal nonconforming use involves the keeping of animals, then the number of animals, types of animals, minimum lot area for animals, or other standards for the keeping of animals not in conformance with the zone district in which they are located, may be continued until the owner or occupant removes them for a continuous period of five years or more.
- D. Additional uses are allowed on property that contains a legal nonconforming use provided those uses meet all requirements and regulations of the zone district in which they are located, and do not result in the nonconforming use expanding as restricted in this Chapter.
- E. If a legal nonconforming use is converted to a conforming use, no previous nonconforming use may be resumed.
- F. Repairs and alterations may be made to structures containing legal nonconforming uses, including structural alterations to bearing walls, columns, beams and girders, or an increase in area or volume. All work shall meet the requirements of the most recent County adopted Building Code.
- G. A structure containing a legal nonconforming use may be restored up to its pre-damaged size and density if it is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy. Reconstruction of the structure shall be allowed if the use is to be reestablished.

Attachment E

Nonconforming Uses, Structures and Lots

- H. A legal nonconforming use where no structure is involved may be restored up to its pre-damaged size and intensity if it is involuntarily damaged or destroyed by fire, other catastrophic event, or the public enemy. The use shall be reestablished within five years of the date of the damage.

17.61.050 Changes or expansion to legal nonconforming uses.

The Commission (subject to right of appeal to the Board) may allow changes or expansions to legal non-conforming uses as set forth in this Chapter. Procedures adopted for conditional use permits according to Article 5, shall be used, except that the findings set forth in this Chapter shall be made by the Commission prior to approval.

- A. A legal nonconforming use may be changed to another nonconforming use of the same or less intensive nature.
- B. A structure occupied by a legal non-conforming use that has ceased or been abandoned according this Chapter may be permitted to be used for the same or less intensive use if the structure or structures cannot feasibly be used for any use consistent with the zone district in which it is located.
- C. A legal nonconforming use may be enlarged, expanded, or extended when such use is necessary due to economic market demands for the goods, products, or services provided.
- D. The time limits specified in this Chapter may be extended.
- E. The Commission shall make one or more of the following findings regarding changes or expansions to legal nonconforming uses:
 - 1. The proposed change or expansion of the legal nonconforming use is essential and/or desirable to the public convenience or welfare.
 - 2. The change or expansion of the nonconforming use will not have a negative impact on the surrounding conforming uses and the area overall.
 - 3. Other property where the use would be conforming is unavailable, either physically or economically.
 - 4. No other appropriate remedies are available to bring the use into conformance, including amending the zone or zoning ordinance text.

Attachment E

Nonconforming Uses, Structures and Lots

17.61.060 Legal nonconforming lots.

Nonconforming lots are those lots legally created in compliance with Chapter 16.76 of the County Code that do not conform to the lot area and dimension standards for the zones in which they are located. Nonconforming lots shall be subject to the following:

- A. The uses permitted in the zone shall be permitted on a nonconforming lot.
- B. Development standards for the zone in which the lot is located, including setbacks, shall be applied to all development on the lot

17.61.070 Structures/uses under construction.

Any structure for which the County has issued a building permit that is still in effect, or any conforming use or building which was legally under construction before the effective date of any ordinance rendering the structure or use nonconforming, may be completed and used according to approved plans, specifications or permits as follows:

- A. For nonconforming uses, the use shall be commenced within two years of the effective date of the ordinance rendering such use nonconforming.
- B. For nonconforming structures, the construction shall be commenced within two years and completed within three years of the effective date of the ordinance rendering such structure nonconforming

17.61.080 Determination of nonconforming status—Burden of proof.

The party asserting a right to continue a nonconforming use or structure has the burden of proof to establish its lawful and continuing existence.

16.71.090 Public or Private Nuisance

Nothing contained within this Chapter shall be construed to allow a legal nonconforming use to be conducted in such a way as to constitute a public or private nuisance, or a danger to the public health and safety.