# AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

**AgendaTitle:**
Public Hearing; Planning Commission Recommendation; Proposed Amendments to the Gunnison County Land Use Resolution

**Action Requested:** Discussion

**Parties to the Agreement:**

**Term Begins:** **Term Ends:** **Grant Contract #:**

**Summary:**
PC Recomendations to LUR Amendments

**Fiscal Impact:** n/a

**Submitted by:** N. Starkebaum **Submitter's Email Address:** Nstarkebaum@gunnisoncounty.org

**Finance Review:** ○ Required ◉ Not Required

Comments:

Reviewed by: Discharge Date:

**County Attorney Review:** ◉ Required ○ Not Required

Comments:

Reviewed by: GUNCOUNTY1\ATREZISE Discharge Date: 11/1/2013 Certificate of Insurance Required Yes ○ No ◉

**County Manager Review:**

Comments:

Reviewed by: GUNCOUNTY1\MBIRNIE Discharge Date: 11/1/2013

○ Consent Agenda ◉ Regular Agenda ○ Worksession Time Allotted: 30 min

Agenda Date: 11/5/2013 Follow Up Agenda Date: n/a

*Revised April 2013*

Gunnison County
Community Development Department
Offices of Planning, Building and Environmental Health
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Phone: (970) 641-0360 Fax: (970)641-8585

September 9, 2013

**TO:** **Board of County Commissioners**
**Matthew Birnie, County Manager**
**David Baumgarten, County Attorney**

**FROM:** **Neal Starkebaum**
**Assistant Director**

**SUBJECT:** **Planning Commission Recommendation**
**Proposed Amendments to the *Gunnison County Land Use Resolution***

The following proposed amendments to the *Gunnison County Land Use Resolution* were initiated by the Board of County Commissioners. The proposed amendments to the *Land Use Resolution* are updates and revisions to the protections adopted for review of activities located in Gunnison Sage-grouse habitat.

Pursuant to Section 1-113: C.: of the *Resolution*, the Community Development Department and Planning Commission have reviewed the proposed amendments and considered the following:

1. **CONSISTENCY WITH ANY COMPREHENSIVE PLAN ADOPTED BY GUNNISON COUNTY**. Consistency of the proposed amendment with any applicable comprehensive plan adopted by Gunnison County;
2. **CHANGED CONDITIONS**. Changed conditions, including the economy of Gunnison County;
3. **EFFECT ON THE NATURAL ENVIRONMENT**. Effect of the proposed amendment on the natural environment;
4. **COMMUNITY NEEDS**. Community needs;
5. **DEVELOPMENT PATTERN**. Development pattern;
6. **CHANGES IN APPLICABLE LAW**. Changes in applicable law;
7. **PUBLIC HEALTH, SAFETY AND WELFARE**. Public health, safety and welfare;
8. **COMPLIANCE WITH ANY APPLICABLE INTERGOVERNMENTAL AGREEMENTS ADOPTED BY GUNNISON COUNTY**. Compliance with any applicable intergovernmental agreements adopted by Gunnison County.

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At its meeting of September 6, 2013, Planning Commissioners Tom Venard and Jeremy Rubingh were seated, and the Planning Commission unanimously approved the following:

Moved by Commissioner Venard, seconded by Commissioner Eskew to approve the recommendation on amendments to the *Gunnison County Land Use Resolution* (RED highlighted text is new language; ~~struck through~~ text is deleted language):

# EXHIBIT A

## SECTION 1-112: USE OF MAPS

Gunnison County uses the following maps as general sources of information to provide initial guidelines for siting development, and for alerting the County, the applicant and the public about the physical characteristics of a parcel and the area in which it is located. Site-specific studies may be required of individual parcels to determine individual characteristics more definitively, and how they may affect a development proposal.

**A. MAPS ADOPTED**. Gunnison County hereby adopts the following maps in this *Resolution*, as if they were actually included as illustrations in the *Resolution*. These maps may be updated from time to time, pursuant to Section 1-112: B: *Adoption of New or Updated Maps.*

**3. GUNNISON SAGE-GROUSE ~~LEK AND OCCUPIED~~ HABITAT MAPS**. Gunnison County map~~s~~ that depicts private lands located within ~~0.6 miles of known Gunnison Sage-grouse leks; and the Gunnison County *Gunnison Sage-grouse Occupied Habitat Map* that generally depicts Gunnison Sage-grouse occupied~~ areas defined as Gunnison Sage-grouse habitat, as currently adopted by the Board.

## SECTION 2-102: DEFINITIONS

~~**GUNNISON SAGE-GROUSE OCCUPIED HABITAT** means areas of suitable habitat as delineated within the *Gunnison Sage-grouse Rangewide Conservation Plan* and known to be used by Gunnison Sage-grouse within the last 10 years from the date of mapping as delineated on the Gunnison County *Gunnison Sage-grouse Occupied Habitat Map*. Areas of suitable habitat contiguous with areas of known use, which do not have effective barriers to Sage-grouse movement from known use areas, are mapped as occupied habitat unless specific information exists that documents the lack of Sage-grouse use. This category can be delineated from any combination of telemetry locations, sightings of the Gunnison Sage-grouse or sign, local biological expertise, GIS analysis, or other data sources.~~

**GUNNISON SAGE-GROUSE HABITAT** means areas that are mapped as habitat for Sage-grouse as defined by the Gunnison Basin Gunnison Sage-grouse Habitat Prioritization Tool (Gunnison Basin Sage-grouse Strategic Committee 2012), as may be amended by the Gunnison Basin Sage-grouse Strategic Committee, with final approval by the Gunnison County Board of County Commissioners.

**GUNNISON SAGE-GROUSE RANGEWIDE CONSERVATION PLAN** means the document titled the *Gunnison Sage-grouse Rangewide Conservation Plan, Gunnison Sage-grouse Rangewide Steering Committee, Colorado Division of Parks and Wildlife, Denver, Colorado, 2005*, as may be amended and accepted by resolution of the Board. If not listed specifically within this *Resolution*, definitions related to the Gunnison Sage-Grouse shall be as specified in the *Gunnison Sage-grouse Rangewide Conservation Plan*.

**LEK** means an arena where male Sage-grouse display for the purpose of gaining breeding territories and attracting females. These arenas are usually open areas with short vegetation within sagebrush habitats, usually on broad ridges, benches, or valley floors where visibility and hearing acuity are excellent~~. Leks are delineated on the Gunnison County *Gunnison Sage-grouse Lek Map*.~~

**TIER 1 HABITAT** means seasonally important Sage-grouse habitat defined in the Rangewide Conservation Plan 2005, by the Gunnison Basin Gunnison Sage-grouse Habitat Prioritization Tool as having a score of +15 or higher.

**TIER 2 HABITAT** means Sage-grouse habitat defined by the Gunnison Basin Gunnison Sage-grouse Habitat Prioritization Tool as having a score of +14 or lower.

**HABITAT PRIORITIZATION TOOL** means the modeling methodology adopted by the Gunnison Basin Sage-grouse Strategic Committee (2012) to map Gunnison Sage-grouse habitat types and provide comparative numerical scoring of those habitats. The Habitat Prioritization Tool is maintained by the Gunnison County Geographic Information Systems (GIS) Department.

## SECTION 4-102: PROJECTS CLASSIFIED AS ADMINISTRATIVE REVIEW PROJECTS THAT DO NOT REQUIRE LAND USE CHANGE PERMITS

The following Administrative Review Projects require a Building Permit, an Individual Sewage Disposal System Permit, an Access Permit, Reclamation Permit, or other County permit, but shall not require an additional Land Use Change Permit; such Projects shall comply with all the other requirements of this *Resolution:*

~~**L. PARCELS WITHIN GUNNISON SAGE-GROUSE OCCUPIED HABITAT.** A land use change proposed on a parcel located wholly or partially within Gunnison Sage-grouse occupied habitat.~~

## SECTION 5-102: PROJECTS CLASSIFIED AS ADMINISTRATIVE REVIEW PROJECTS THAT REQUIRE LAND USE CHANGE PERMITS

The following types of Projects are classified as Administrative Review Projects that require Land Use Change Permits:

~~**P. PARCELS WITHIN A 0.60 MILE RADIUS OF A GUNNISON SAGE-GROUSE LEK**. A land use change proposed on a parcel located wholly or partially within a 0.60-mile radius of a Gunnison Sage-grouse lek.~~

## SECTION 7-201: SKETCH PLAN APPLICATION FOR MAJOR IMPACT PROJECTS

**2. NATURAL FEATURES**. A map or maps identifying the general locations of the following elements, and any other significant visual or other resource areas on the property:

**f. WILDLIFE HABITAT MAPS.** Wildlife Habitat Maps, prepared by the Colorado Division of Parks and Wildlife including the Wildlife Resource Information System (WRIS) and/or the National Natural Diversity Information Source (NDIS) maps available from the Colorado Division of Parks and Wildlife; and the Gunnison County *Gunnison Sage-grouse* ~~*Lek Map* that depicts private lands located within 0.6 miles of known Gunnison Sage-grouse leks; and the Gunnison County *Gunnison Sage-grouse Occupied Habitat Map* that generally depicts Gunnison Sage-grouse occupied habitat~~. Maps may also be submitted that are prepared by the applicant's wildlife consultant to provide site-specific detail using the Colorado Division of Parks and Wildlife and Gunnison County habitat maps as baseline data.

## SECTION 11-106: PROTECTION OF WILDLIFE HABITAT AREAS

**A. PURPOSE.** The natural and scenic resources in Gunnison County, including wildlife, are essential components of the County's economic base and help to establish the rural character of the County. Tourists visit and recreate in Gunnison County because of the quality of these natural resources, including the abundance of wildlife species found in the area. These resources are also a basic element of the quality of life for residents of Gunnison County. The standards in this Section are intended to protect sensitive wildlife habitat areas, to protect biological field research, and to ensure that wildlife remains a part of Gunnison County's natural environment for generations to come. In addition, this Section is designed to:

1. **SUSTAIN AND ENHANCE EXISTING POPULATIONS OF GUNNISON SAGE-GROUSE.** Sustain and enhance survival of the Gunnison Sage-grouse.

2. **PRECLUDE THE NEED TO LIST, OR MINIMIZE THE IMPACT OF LISTING OF GUNNISON SAGE-GROUSE AS CANDIDATE SPECIES.** Help implement an effective strategy and programs that will preclude the need to list, or minimize the impact of listing of the Gunnison Sage-grouse as a candidate for threatened or endangered status pursuant to the *Endangered Species Act of 1973*, or at a minimum, demonstrate the intent of Gunnison County to preserve and protect habitat that will lessen the impact if listing does occur.

**B. APPLICABILITY.** All applications for Land Use Change Permits, including Building Permits, Individual Sewage Disposal System Permits, Gunnison County Access Permits, Gunnison County Reclamation Permits, and Land Use Change Permits shall be processed subject to the individual requirements of this Section, and assessed to determine if the location of the proposed activity is within the sensitive wildlife habitat areas designated on the maps referenced in *Section 11-106: C.: Maps Used to Identify Sensitive Wildlife Habitats.*

1. **DEVELOPMENT ON INDIVIDUAL LOTS, WITH A BUILDING ENVELOPE, IN SUBDIVISIONS APPROVED BY GUNNISON COUNTY ~~BEFORE APRIL 3, 2007~~.** If a building envelope ~~Activity~~ on individual lots in subdivisions approved by Gunnison County ~~before April 3, 2007, for which building envelopes were~~ that was designated on an approved plat, recorded in the Office of the Gunnison County Clerk and Recorder, and is located in Tier 1 Sage-grouse habitat, the building envelope shall be relocated to avoid or minimize impacts to Gunnison Sage-grouse or their habitat, to the maximum extent feasible. This requirement is general in nature and applicable to property subject to land use regulation by Gunnison County. If it is determined that relocation of the building envelope is necessary to avoid or minimize impacts to Gunnison Sage-grouse or their habitat, the process to relocate the building envelope shall be handled as an administrative review by the Community Development Department. ~~inside a building envelope, shall be located to minimize adverse impacts to wildlife, to the maximum extent feasible, except as prohibited by a vested right pursuant to *Section 1-109: Vested Property Rights.*~~

   ~~**a. ALTERATION OF BUILDING ENVELOPES TO BENEFIT GUNNISON SAGE-GROUSE**. If the decision-making body, in consultation with the Colorado Division of Parks and Wildlife, determines that relocation of a designated building envelope in a subdivision approved by the County before April 3, 2007 will benefit the Gunnison Sage-grouse, such alteration may be permitted, pursuant to the requirements *of Article 5: Administrative Review Projects That Require Land Use Change Permits.*~~

**C. MAPS USED TO IDENTIFY SENSITIVE AND CRITICAL WILDLIFE HABITATS**. The general reference maps used to identify locations of sensitive wildlife habitats. Because maps depicting wildlife habitat are general in nature, and because animal distribution is fluid and animal populations are dynamic, the maps shall be used as "guides" or "red-flags."

1. **COLORADO DIVISION OF PARKS AND WILDLIFE MAPS.** The Wildlife Resource Information System (WRIS) and Natural Diversity Information Source (NDIS) maps available from the Colorado Division of Parks and Wildlife.

2. **GUNNISON COUNTY MAPS.** The Gunnison County *Gunnison Sage-grouse* ~~*Lek Map* and the Gunnison County *Gunnison Sage-grouse Occupied*~~ *Habitat Map*. The purpose of ~~these~~ this map~~s~~ is to place a landowner on notice that a parcel may contain ~~sensitive wildlife~~ important Sage-grouse habitat areas.

~~**3. SITE-SPECIFIC INFORMATION PREVAILS.** If the applicable decision-making body determines that a site-specific analysis demonstrates that a proposed activity is not located on a parcel that is wholly or partially within or near sensitive wildlife habitat or critical wildlife habitat, including Gunnison Sage-grouse occupied habitat, or within 0.6 miles of a known Gunnison sage-grouse lek, or that legally-created or natural physical characteristics are consistent with sensitive wildlife habitat, are permanent and create barriers to Gunnison Sage-grouse activity within occupied habitat or within 0.6 miles of a lek, then the requirements of this Section shall not apply to the proposed activity.~~

**D. INITIAL SITE-SPECIFIC ANALYSIS REQUIRED FOR ACTIVITY PROPOSED ON A PARCEL THAT IS WHOLLY OR PARTIALLY WITHIN ~~0.60 MILES OF~~ GUNNISON SAGE-GROUSE ~~LEK OR OCCUPIED~~ HABITAT.** As part of the applicable required permit application review process, ~~Gunnison County~~, the Gunnison County Wildlife Conservation Coordinator, in consultation with the Colorado Division of Parks and Wildlife, shall conduct an initial site-specific analysis of development that is proposed on a parcel that is wholly or partially within ~~0.60 miles of a~~ Gunnison Sage-grouse ~~lek~~ habitat. ~~If the applicable decision-making body determines it necessary, the County also shall conduct a site-specific analysis of a development that is proposed on a parcel that is wholly or partially within Gunnison Sage-grouse occupied habitat.~~

**E. APPLICATIONS FOR BUILDING PERMITS, ACCESS PERMITS, INDIVIDUAL SEWAGE DISPOSAL SYSTEM PERMITS AND GUNNISON COUNTY RECLAMATION PERMITS ON A PARCEL THAT IS WHOLLY OR PARTIALLY WITHIN ~~0.60 MILES OF~~ GUNNISON SAGE-GROUSE ~~LEK OR OCCUPIED~~ HABITAT.** Development located on a parcel that is wholly or partially within ~~0.60 miles of a~~ Gunnison Sage-grouse ~~lek~~ habitat that requires a Building Permit, Access Permit, an Individual Sewage Disposal System Permit, or a Gunnison County Reclamation Permit, ~~and any development classified as an Administrative Review Project pursuant to *Article 4: Administrative Review Projects That Do Not Require Land Use Change Permits* and *Article 5: Administrative Review Projects That Require Land Use Change Permits*~~ shall be reviewed as follows: ~~If the Community Development Department determines during review of an application that the proposed use exceeds the classification criteria of an Administrative Review project, the criteria detailed in Section 3-111: B. 1*: Additional Criteria* shall be considered and the appropriate review process and submittals and an application for the applicable Land Use Change Permit shall be required to be submitted~~.

1. **LOCATION WITHIN GUNNISON SAGE-GROUSE TIER 1 HABITAT ~~A 0.60 MILE RADIUS OF A GUNNISON SAGE-GROUSE LEK.~~** All applications for Land Use Change Building Permits, Access Permits and Individual Sewage Disposal System Permits and Gunnison County Reclamation Permits shall be reviewed by the Gunnison County Wildlife Conservation Coordinator and shall require consultation with the Colorado Division of Parks and Wildlife. ~~classified and initially reviewed as Administrative Review projects pursuant to *Article 5: Administrative Review Projects That Require Land Use Change Permits* when the property on which the activity or use is to occur is on a parcel that is located partially or wholly within a 0.60 mile radius of a Gunnison Sage-grouse lek~~.

2. **LOCATION WITHIN GUNNISON SAGE-GROUSE TIER 2 ~~OCCUPIED~~ HABITAT.** All applications for Land Use Change Permits, Building Permits, Access Permits, Individual Sewage Disposal System Permits and Gunnison County Reclamation Permits shall be reviewed by the Gunnison County Wildlife Conservation Coordinator and may require consultation with the Colorado Division of Parks and Wildlife ~~classified and initially reviewed as Administrative Review projects pursuant to *Article 4: Administrative Review Projects That Do Not Require Land Use Change Permits* when the property on which the activity or use is to occur is located partially or wholly within Gunnison Sage-grouse occupied habitat~~.

3. **PRE-APPLICATION CONFERENCE.** Owner(s) of land may request a pre-application conference with Gunnison County staff to review Gunnison Sage-grouse issues that reasonably may arise from an application pursuant to this Section. Upon receipt of such request, Gunnison County staff, and as available a representative of the Colorado Division of Parks and Wildlife, will meet with the owner(s) to review such issues and to identify potential solutions. The Community Development Department will coordinate the conference. Gunnison County shall consider the advice of applicant's wildlife biologist/ecologist or a similar qualified expert.

4. **REFERRAL TO ~~COLORADO DIVISION OF PARKS AND WILDLIFE~~ GUNNISON COUNTY WILDLIFE CONSERVATION COORDINATOR AND ON-SITE CONSULTATION.** The Community Development Department and the Public Works Department shall forward a copy of the application(s) to the Gunnison County Wildlife Conservation Coordinator. The Gunnison County Wildlife Conservation

Coordinator shall determine the habitat type and whether an on-site consultation is required. If an on-site consultation is required the Gunnison County Wildlife Conservation Coordinator shall coordinate and ~~local office of the Colorado Division of Parks and Wildlife and~~ schedule an on-site consultation with the applicant and/or applicant's representative, the Community Development Department, Public Works Department ~~and the Gunnison County Sage-grouse Conservation Coordinator~~ and ~~a representative from~~ the Division of Parks and Wildlife~~, as available~~. The purpose of the on-site consultation shall include location of ~~any lek or occupied~~ habitat, identification of site-specific data to inform the review process, and identification of potential mitigation of Sage-grouse related issues. ~~The on-site consultation shall be coordinated by the Community Development Department~~.

a. **TIMELINE FOR REVIEW.** The County shall request that the Colorado Division of Parks and Wildlife submit comments about the application within 21 days after the on-site consultation; when comments are not provided within that time by the Division, the County shall proceed to complete the permit process without those comments.

**F. REVIEW, REFERRAL TO COLORADO DIVISION OF PARKS AND WILDLIFE OF MINOR AND MAJOR IMPACT PROJECT APPLICATIONS.** The Community Development Department shall refer Land Use Change Permit applications for Minor or Major Impact projects to the local office of the Colorado Division of Parks and Wildlife for that agency's review and comments to make use of the expertise and judgment of that agency in the protection of sensitive wildlife habitat, and its recommendations, if any, to reduce or eliminate adverse impacts to sensitive wildlife habitat and species that may result from proposed development. It is intended that the Division of Parks and Wildlife will review the application and participate in on-site consultations and provide timely comments to the Community Development Department that identify actions and/or recommendations to reduce or eliminate adverse impacts to wildlife.

1. **MINOR IMPACT PROJECTS.** The Department shall submit a copy of the Minor Impact project application to the Division pursuant to *Section 6-106: E: Request for Review by Other Agencies or Departments*, with a written request that the Division review the application and identify in a written response whether or not the parcel on which the land use change is proposed is located within sensitive wildlife habitat, and issues that it believes appropriate to be addressed during the permitting process. Based upon the Division's knowledge of a specific site, the Division may also recommend that a wildlife habitat analysis be conducted, pursuant to *Section 11-106: F.4.: Wildlife Habitat Analysis of Minor Impact or Major Impact Projects,* which shall be required to be submitted by the applicant before a public hearing is scheduled on the Minor Impact project application.

2. **MAJOR IMPACT PROJECTS.** The Department shall submit a copy of the Preliminary Plan for a Major Impact project application to the Division pursuant *to Section 7-302: C: Review and Comment by Review Agencies,* with a written request that the Division review the application and identify in a written response whether or not the parcel on which the land use change is proposed is located within sensitive wildlife habitat and issues that it believes appropriate to be addressed during the permitting process. If the parcel is located within sensitive wildlife habitat, a wildlife habitat analysis conducted pursuant to *Section 11-106: F.4.: Wildlife Habitat Analysis* shall be submitted by the applicant before the public hearing on the Preliminary Plan is scheduled.

3. **PRE-APPLICATION CONFERENCE FOR MINOR OR MAJOR IMPACT PROJECTS LOCATED ON A PARCEL WHOLLY OR PARTIALLY WITHIN GUNNISON SAGE-GROUSE ~~OCCUPIED~~ HABITAT ~~OR WITHIN 0.6 MILES OF A GUNNISON SAGE-GROUSE LEK~~.** A Pre-Application Conference is required for any Minor or Major Impact project located wholly or partially on a parcel within Gunnison Sage-grouse ~~occupied~~ habitat ~~or within 0.60 miles of a Gunnison Sage-grouse lek~~.

4. **WILDLIFE HABITAT ANALYSIS OF MINOR IMPACT OR MAJOR IMPACT PROJECTS**. If Colorado Division of Parks and Wildlife comments indicate that the proposed land use change for a Minor Impact or Major Impact project is within sensitive wildlife habitat, the applicant shall be required to submit a site-specific wildlife habitat analysis. The analysis shall evaluate the relevant physical features of the property, shall make a site-specific determination of the locations of wildlife habitat on the property, and shall describe how the proposed development will comply with *Section 11-106: G.: General Standards for Development in Sensitive Wildlife Habitat Areas.* The analysis shall be prepared by a wildlife biologist/ecologist or similar qualified expert in consultation with the Colorado Division of Parks and Wildlife. It shall be submitted with the Preliminary Plan application for a Major Impact project, or before the public hearing is scheduled on a Minor Impact project, and shall contain the following:

**a. MAP.** A map of the property shall be submitted, depicting the activity patterns of the wildlife using the sensitive wildlife habitat, identifying, where relevant, migration routes, travel corridors or patterns, nesting, feeding, watering and production areas, and any critical connections or relationships with habitat adjoining, but outside of, the project site. The map shall also identify whether the land immediately surrounding the proposed land use change is privately owned or is public land owned by the U.S. Forest Service, U.S. Bureau of Land Management, Colorado Division of Parks and Wildlife, or other similar agency.

**b. REPORT.** A report shall be submitted that describes the activity patterns of the wildlife using the habitat, using a scientifically valid time period. It will also identify any species that use the property that are listed by the U.S. Department of the Interior or the State of Colorado as endangered, threatened, or are species of special concern.

**1. EVALUATE IMPACTS.** The report shall evaluate the potential impacts of the proposed land use change on the sensitive wildlife habitat and the species using that habitat, including whether it could be a threat to the viability of the species, cause a reduction in the diversity of wildlife species in the county, or change the status of its federal or state listing. The report shall identify the types of potential impacts that are anticipated (including stress due to human presence, interference with reproduction, change of migration routes, etc.) and the time periods (spring, summer, fall, winter, year-round, etc.) during which wildlife are expected to be affected by the proposed land use change.

**2. CUMULATIVE IMPACTS.** The report addressing any Major Impact project (and any proposed land use change classified as a Minor Impact project that the Planning Commission determines requires such evaluation) shall also evaluate the cumulative impacts on wildlife habitat beyond the project site. The report shall also address whether the cumulative impacts of the proposed land use change when added to the past and present impacts of other land use changes, will eliminate, reduce, or fragment wildlife habitat in the county to the extent that the viability of an individual species is threatened or the diversity of species found in the county is reduced, or the population of a species in the impact area will be significantly reduced.

**3. MITIGATION PLAN.** The report shall include a wildlife habitat mitigation plan that describes how the proposed development will comply with *Section 11-106: G.: General Standards for Development in Wildlife Habitat Areas,* providing detail regarding the avoidance, mitigation, and enhancement techniques, monitoring and performance criteria that will be employed.

**G. GENERAL STANDARDS FOR DEVELOPMENT IN SENSITIVE WILDLIFE HABITAT AREAS**. All development shall comply with the following standards when it is located on lands designated as sensitive wildlife habitat, including but not limited to parcels located partially or wholly in habitat areas delineated on the Gunnison County *Gunnison Sage-grouse Habitat ~~Lek~~ Map*~~; and the Gunnison County *Gunnison Sage-grouse Occupied Habitat Map*~~, and all lands determined to be sensitive wildlife habitat pursuant to Section 11-106: B: *Applicability.*

**1. MITIGATION OF ADVERSE IMPACTS TO SENSITIVE HABITAT.** A proposed land use change must mitigate adverse impacts it causes to lands determined to be sensitive wildlife habitat including but not limited to a Gunnison Sage-grouse ~~lek or occupied~~ habitat. Proposed land use changes that are found to have a significant net adverse impact that cannot be mitigated upon sensitive wildlife habitat, shall be denied.

**a. CONSIDERATION OF BENEFICIAL EFFORTS**. Gunnison County shall consider, and affirmatively recognize as mitigation in the permitting process, conservation easements/covenants (and similar mechanisms), and documented management agreements/programs accomplished, or to be accomplished, in coordination with the Colorado Division of Parks and Wildlife or other agencies (such as the Natural Resources Conservation Service or the U.S. Fish and Wildlife Service) that are beneficial to the Gunnison Sage-grouse. Each case will be reviewed on an individual basis to determine if the easement, covenant or deed restriction satisfies all of these standards.

1. **TERMS OF EASEMENT ARE PERPETUAL AND SATISFACTORY TO COUNTY**. The terms of the existing easement, covenant or deed restriction are perpetual and acceptable to the County.

2. **PRESERVED LANDS PROVIDE GUNNISON SAGE-GROUSE HABITAT**. That both the preserved land provides Gunnison Sage-grouse habitat, and the restrictions imposed by the pertinent easement, covenant or deed restriction are sufficient to justify the determination that adverse impacts have been substantially or wholly mitigated by such preservation.

3. **ADDITIONAL BENEFITS SUBSTANTIALLY OR WHOLLY MITIGATE ADVERSE IMPACTS.** Additional preservation efforts substantially or wholly mitigate adverse impacts to sensitive wildlife habitat.

2. **IRRIGATION DITCHES.** Pursuant to Colorado law, owners of irrigation ditches have the right to maintain irrigation ditches, headgates and other diversion structures. Gunnison County shall not require mitigation that will interfere with the right of ditch owners to maintain ditches, headgates or other diversion structures.

3. **MITIGATION TECHNIQUES**. Mitigation techniques to protect wildlife species that the County determines may be impacted by a proposed land use change on lands identified in Section 11-106: B: *Applicability,* including, but not limited to:

   a. **LIMITATIONS.** Requirements to avoid sensitive wildlife habitat during seasons the wildlife species use the habitat. When appropriate, the proposal shall include techniques to minimize human intrusion, including, but not limited to:

      1. **BUFFERS.** Visual and sound buffers to screen structures and activity areas from habitat areas through effective use of topography, vegetation, and similar measures.

      2. **LIMITATIONS OF HUMAN ACTIVITIES DURING SENSITIVE TIME PERIODS**. Seasonal avoidance limitations on, or stoppages of intrusive human activities during sensitive time periods, including limiting construction activities and recreational uses during sensitive time periods such as elk migration, elk calving or when sage grouse mating, nesting or brood rearing is occurring on parcels located partially or wholly in habitat areas delineated on the Gunnison County *Gunnison Sage-grouse ~~Lek~~ Habitat Map ~~or the Gunnison County Gunnison Sage-grouse Occupied Habitat Map~~*.

      3. **LOCATIONAL CONTROLS.** Controls on the location of development, so it does not force wildlife to use new migration corridors, or expose wildlife to significantly increased predation, interaction with vehicles, intense human activity, or more severe topography or climate, or encircle wildlife habitat with development.

   b. **WATERING AREAS**. Measures to avoid disturbance of waterholes, springs, seepages, marshes, stream beds, stream banks, wetlands, streamside vegetation, ponds, and watering areas to the maximum extent feasible. Catchment basins may be required to prevent stream siltation.

   c. **HABITAT COMPENSATION**. Requirements to develop additional habitat, or to acquire and permanently protect existing habitat to compensate for habitat that is lost to development, in the form of ongoing on-site or off-site wildlife habitat enhancement. Enhancement is the process of increasing wildlife carrying capacity on undeveloped habitat and may include prescribed burns, seeding, brush cutting, and fertilization, as determined to be appropriate by the County, based on the advice of the Colorado Division of Parks and Wildlife or other technical experts.

   d. **DOMESTIC ANIMAL CONTROLS.** Controls on domestic animals within or near areas of sensitive wildlife habitat. Dogs may be prohibited within one-half mile of elk, deer, and bighorn sheep critical winter ranges and winter concentration areas. The number of cats and dogs allowed in a development may also be limited.

      1. **DOGS AND CATS PROHIBITED OR CONTROLLED NEAR GUNNISON SAGE-GROUSE HABITAT.** Requirements in the form of conditions of a permit, and/or inclusion within declarations of a subdivision's protective covenants enforceable by Gunnison County, may be required prohibiting, or requiring control by kenneling or other physically-

secure methods within ~~or near a 0.60 mile radius of a~~ Gunnison Sage-grouse ~~lek or within or near sensitive Gunnison Sage-grouse~~ habitat.

e. **PROTECTION FROM ANIMAL-BORNE DISEASES**. Gunnison County may impose limitations on the introduction or possession of non-native species to lessen the possibility of the introduction of disease to native wildlife populations.

f. **CONTROL OF NUISANCES.** Controls on lighting, noise, excess use of fertilizers or pesticides, and similar nuisances that could have a significant net adverse effect on Gunnison Sage-grouse ~~occupied~~ habitat and the continued use of the area by other wildlife.

g. **DENSITY RELOCATION.** Residential development may be clustered to avoid sensitive wildlife habitat.

h. **ROAD CONSTRUCTION.** Requirements to avoid new road construction through sensitive wildlife habitat.

i. **STREAM ALTERATIONS OR DIVERSIONS.** Controls on alterations or diversions of streams to retain the character and productivity of the streams. Such alterations will be subject to all applicable local, state and federal codes and regulations.

j. **ALTERATIONS OF EXISTING WET MEADOW/SAGE HABITAT INTERFACE AREAS.** Controls on alterations of existing wet meadow/sage habitat interface areas.

k. **STRUCTURES TO MINIMIZE HAZARDS.** Requirements to design, locate, construct and maintain game-proof fencing, one-way gates, game underpasses, or other structures to minimize hazards to wildlife, such as requiring a minimum distance between high-power electric wires to avoid electrocution of eagles.

l. **AGENCY ACCESS.** Where applicable, the provision of access to Colorado Division of Parks and Wildlife or other applicable agencies to facilitate maintenance of wildlife and wildlife habitat.

**H. STANDARDS SPECIFIC FOR DEVELOPMENT PROPOSED ON PARCELS THAT ARE WHOLLY OR PARTIALLY WITHIN ~~0.60 MILES OF A LEK, OR WITHIN OCCUPIED HABITAT OF~~ GUNNISON SAGE-GROUSE HABITAT.** In addition to the standards and mitigation techniques included within this Section, the following standards shall apply specifically to development proposed on a parcel that is wholly or partially within ~~a 0.60 mile radius of a lek, or within occupied habitat of the~~ Gunnison Sage-grouse Habitat:

1. **DISTURBANCE GUIDELINES**. Development activity shall comply with the GUSG *Disturbance Guidelines in the Gunnison Sage-grouse Rangewide Conservation Plan*, *Appendix 1*, as may be adopted and amended from time to time by the Board.

2. **LIMITATION ON HUMAN ACTIVITIES INCLUDING RECREATIONAL USES DURING GUNNISON SAGE-GROUSE SENSITIVE TIME PERIODS**. Seasonal avoidance or limitations of intrusive human behavior during sensitive time periods, including but not limited to winter and when Gunnison Sage-grouse are mating or raising chicks.

3. **UNDERGROUND UTILITIES REQUIRED NEAR GUNNISON SAGE-GROUSE LEKS**. Utility lines shall be placed underground within ~~0.60 miles of a~~ Gunnison Sage-grouse habitat, to discourage avian predators.

**I. FENCES.** Design of fences other than those associated with agricultural operations ~~to~~ shall ensure they do not adversely impact wildlife. Design standards for fences are as follows:

1. **MAXIMUM HEIGHT**. Fences shall not be higher than 42 inches.

2. **MATERIALS.** Fences should be limited to a maximum of three strands or rails. Rail fences should only use rounded rails. Wire fences should not be made of woven wire, unless they are used to enclose sheep or goats. Wire and rail fences shall have a kick-space (distance between the top two wires or rails) of not less than 18 inches that uses wire or rail that has a smooth surface. The top rail should be made of a solid material in heavy use areas, to make it more visible to wildlife.

3. **REMOVABLE SECTIONS**. Fences in migration corridors should have removable sections or openings to allow for seasonal passage of wildlife. The applicant shall be responsible for removing fence sections when migration is occurring and replacing those sections when the season of migration has ceased.

4. **UPGRADING EXISTING FENCES.** As a condition of development approval, applicants proposing land use changes within sensitive wildlife habitat areas should agree to remove or to alter any existing fences on the property to comply with the above requirements.

5. **FENCES AROUND RESIDENCES EXEMPT.** Fences located in the immediate vicinity of a residence shall be exempt from these limitations.

6. **DESIGN AND LOCATION.** Fence location and design should minimize adverse impacts to sensitive wildlife habitat.

**J. VEGETATION.** Proposed land use changes shall be designed to comply with the recommendations of the Colorado Division of Parks and Wildlife regarding vegetation, and to preserve large areas of vegetation utilized by wildlife for food and cover. Roads shall be located on the edge of wildlife habitat areas, to prevent fragmentation of wildlife habitat. When native vegetation must be removed within habitat areas, it shall be replaced with native and/or desirable non-native vegetation capable of supporting post-disturbance land use. Individuals planting vegetation away from the homesite should consider using vegetation suitable for wildlife cover and food. Vegetation removed to control noxious weeds shall not be required to be replaced, unless the site requires revegetation to prevent erosion or noxious weeds from becoming established.

1. **TIME ALLOTTED FOR REVEGETATION.** Vegetation required pursuant to *Section 13-115: Reclamation and Noxious Weed Control* shall be established and growing within two growing seasons (730 days) of the issue date of the applicable Gunnison County Reclamation Permit.

**K. CDOW ACCESS.** Where applicable, the applicant shall continue to provide historical access or agreed-upon new access other than the historical access, for the Colorado Division of Parks and Wildlife to manage wildlife and to monitor wildlife activities.

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**BOARD OF COUNTY COMMISSIONERS**
**OF THE COUNTY OF GUNNISON, COLORADO**

**RESOLUTION NO. 2013-___**

**A RESOLUTION AMENDING THE *GUNNISON COUNTY LAND USE RESOLUTION* INCLUDING AMENDMENTS TO SECTION 11-106: PROTECTION OF WILDLIFE HABITAT AREAS AND ADOPTION OF THE HABITAT PRIORITIZATION TOOL**

**WHEREAS,** pursuant to the *Gunnison County Land Use Resolution* ("the *Resolution*"), Section 1-113, details a process for initiation, review and Board of County Commissioner action on proposed amendments to the *Resolution*, and

**WHEREAS,** pursuant to Section 1-113, the Community Development Department and Planning Commission have initiated and completed review of proposed amendments as required by the *Resolution*; and

**WHEREAS,** the Planning Commission on September 6, 2013, forwarded its written recommendations to the Board regarding the proposed amendments; and

**WHEREAS,** the Board of County Commissioners has conducted a duly noticed public hearing on these proposed amendments November 5, 2013; and pursuant to Section 1-113 of the *Resolution* evaluated the proposed amendments using the following criteria:

- Consistency of the proposed amendments with any comprehensive plan that may be adopted by Gunnison County;
- Changed conditions, including the economy of Gunnison County;
- Effect of the proposed amendments on the natural environment;
- Community needs;
- Development pattern;
- Changes in applicable law;
- Public health, safety and welfare; and
- Compliance with any applicable intergovernmental agreements adopted by Gunnison County; and

**NOW, THEREFORE, BE IT RESOLVED,** by the Board of County Commissioners of Gunnison County, Colorado that the Board hereby adopts the following amendments of the *Gunnison County Land Use Resolution* as included on the attached "Exhibit A**."**

**INTRODUCED** by Commissioner _____, seconded by Commissioner _____ and adopted on this 5th day of November, 2013.

**BOARD OF COUNTY COMMISSIONERS**
**OF THE COUNTY OF GUNNISON, COLORADO**

**By:** _____
Paula Swenson, Chairperson

**By:** _____
Phil Chamberland, Commissioner

**By:** _____
Jonathan Houck, Commissioner

**ATTEST:**

_____
Deputy County Clerk

**EXHIBIT A**

**Note: Strikethrough – Deleted**
**Underlined - Added**

## SECTION 1-112: USE OF MAPS

Gunnison County uses the following maps as general sources of information to provide initial guidelines for siting development, and for alerting the County, the applicant and the public about the physical characteristics of a parcel and the area in which it is located. Site-specific studies may be required of individual parcels to determine individual characteristics more definitively, and how they may affect a development proposal.

**A. MAPS ADOPTED**. Gunnison County hereby adopts the following maps in this *Resolution*, as if they were actually included as illustrations in the *Resolution*. These maps may be updated from time to time, pursuant to Section 1-112: B: *Adoption of New or Updated Maps.*

**3. GUNNISON SAGE-GROUSE ~~LEK AND OCCUPIED~~ HABITAT MAPS**. Gunnison County map~~s~~ that depicts private lands located within ~~0.6 miles of known Gunnison Sage-grouse leks; and the Gunnison County *Gunnison Sage-grouse Occupied Habitat Map* that generally depicts Gunnison Sage-grouse occupied~~ areas defined as Gunnison Sage-grouse habitat, as currently adopted by the Board.

## SECTION 2-102: DEFINITIONS

~~**GUNNISON SAGE-GROUSE OCCUPIED HABITAT** means areas of suitable habitat as delineated within the *Gunnison Sage-grouse Rangewide Conservation Plan* and known to be used by Gunnison Sage-grouse within the last 10 years from the date of mapping as delineated on the Gunnison County *Gunnison Sage-grouse Occupied Habitat Map*. Areas of suitable habitat contiguous with areas of known use, which do not have effective barriers to Sage-grouse movement from known use areas, are mapped as occupied habitat unless specific information exists that documents the lack of Sage-grouse use. This category can be delineated from any combination of telemetry locations, sightings of the Gunnison Sage-grouse or sign, local biological expertise, GIS analysis, or other data sources.~~

**GUNNISON SAGE-GROUSE HABITAT** means areas that are mapped as habitat for Sage-grouse as defined by the Gunnison Basin Gunnison Sage-grouse Habitat Prioritization Tool (Gunnison Basin Sage-grouse Strategic Committee 2012), as may be amended by the Gunnison Basin Sage-grouse Strategic Committee, with final approval by the Gunnison County Board of County Commissioners.

**GUNNISON SAGE-GROUSE RANGEWIDE CONSERVATION PLAN** means the document titled the *Gunnison Sage-grouse Rangewide Conservation Plan, Gunnison Sage-grouse Rangewide Steering Committee, Colorado Division of Parks and Wildlife, Denver, Colorado, 2005*, as may be amended and accepted by resolution of the Board. If not listed specifically within this *Resolution*, definitions related to the Gunnison Sage-Grouse shall be as specified in the *Gunnison Sage-grouse Rangewide Conservation Plan*.

**LEK** means an arena where male Sage-grouse display for the purpose of gaining breeding territories and attracting females. These arenas are usually open areas with short vegetation within sagebrush habitats, usually on broad ridges, benches, or valley floors where visibility and hearing acuity are excellent~~. Leks are delineated on the Gunnison County *Gunnison Sage-grouse Lek Map*.~~

**TIER 1 HABITAT** means seasonally important Sage-grouse habitat defined in the Rangewide Conservation Plan 2005, by the Gunnison Basin Gunnison Sage-grouse Habitat Prioritization Tool as having a score of +15 or higher.

**TIER 2 HABITAT** means Sage-grouse habitat defined by the Gunnison Basin Gunnison Sage-grouse Habitat Prioritization Tool as having a score of +14 or lower.

**HABITAT PRIORITIZATION TOOL** means the modeling methodology adopted by the Gunnison Basin Sage-grouse Strategic Committee (2012) to map Gunnison Sage-grouse habitat types and provide comparative numerical scoring of those habitats. The Habitat Prioritization Tool is maintained by the Gunnison County Geographic Information Systems (GIS) Department.

## SECTION 4-102: PROJECTS CLASSIFIED AS ADMINISTRATIVE REVIEW PROJECTS THAT DO NOT REQUIRE LAND USE CHANGE PERMITS

The following Administrative Review Projects require a Building Permit, an Individual Sewage Disposal System Permit, an Access Permit, Reclamation Permit, or other County permit, but shall not require an additional Land Use Change Permit; such Projects shall comply with all the other requirements of this *Resolution:*

~~**L. PARCELS WITHIN GUNNISON SAGE-GROUSE OCCUPIED HABITAT.** A land use change proposed on a parcel located wholly or partially within Gunnison Sage-grouse occupied habitat.~~

## SECTION 5-102: PROJECTS CLASSIFIED AS ADMINISTRATIVE REVIEW PROJECTS THAT REQUIRE LAND USE CHANGE PERMITS

The following types of Projects are classified as Administrative Review Projects that require Land Use Change Permits:

~~**P. PARCELS WITHIN A 0.60 MILE RADIUS OF A GUNNISON SAGE-GROUSE LEK**. A land use change proposed on a parcel located wholly or partially within a 0.60-mile radius of a Gunnison Sage-grouse lek.~~

## SECTION 7-201: SKETCH PLAN APPLICATION FOR MAJOR IMPACT PROJECTS

**2. NATURAL FEATURES**. A map or maps identifying the general locations of the following elements, and any other significant visual or other resource areas on the property:

**f. WILDLIFE HABITAT MAPS.** Wildlife Habitat Maps, prepared by the Colorado Division of Parks and Wildlife including the Wildlife Resource Information System (WRIS) and/or the National Natural Diversity Information Source (NDIS) maps available from the Colorado Division of Parks and Wildlife; and the Gunnison County *Gunnison Sage-grouse* ~~*Lek Map* that depicts private lands located within 0.6 miles of known Gunnison Sage-grouse leks; and the Gunnison County *Gunnison Sage-grouse Occupied*~~ *Habitat Map* ~~that generally depicts Gunnison Sage-grouse occupied habitat~~. Maps may also be submitted that are prepared by the applicant's wildlife consultant to provide site-specific detail using the Colorado Division of Parks and Wildlife and Gunnison County habitat maps as baseline data.

## SECTION 11-106: PROTECTION OF WILDLIFE HABITAT AREAS

**A. PURPOSE.** The natural and scenic resources in Gunnison County, including wildlife, are essential components of the County's economic base and help to establish the rural character of the County. Tourists visit and recreate in Gunnison County because of the quality of these natural resources, including the abundance of wildlife species found in the area. These resources are also a basic element of the quality of life for residents of Gunnison County. The standards in this Section are intended to protect sensitive wildlife habitat areas, to protect biological field research, and to ensure that wildlife remains a part of Gunnison County's natural environment for generations to come. In addition, this Section is designed to:

1. **SUSTAIN AND ENHANCE EXISTING POPULATIONS OF GUNNISON SAGE-GROUSE.** Sustain and enhance survival of the Gunnison Sage-grouse.

2. **PRECLUDE THE NEED TO LIST, OR MINIMIZE THE IMPACT OF LISTING OF GUNNISON SAGE-GROUSE AS CANDIDATE SPECIES.** Help implement an effective strategy and programs that will preclude the need to list, or minimize the impact of listing of the Gunnison Sage-grouse as a candidate for threatened or endangered status pursuant to the *Endangered Species Act of 1973*, or at a minimum, demonstrate the intent of Gunnison County to preserve and protect habitat that will lessen the impact if listing does occur.

**B. APPLICABILITY.** All applications for Land Use Change Permits, including Building Permits, Individual Sewage Disposal System Permits, Gunnison County Access Permits, Gunnison County Reclamation Permits, and Land Use Change Permits shall be processed subject to the individual requirements of this Section, and assessed to determine if the location of the proposed activity is within the sensitive wildlife habitat areas designated on the maps referenced in *Section 11-106: C.: Maps Used to Identify Sensitive Wildlife Habitats.*

1. **DEVELOPMENT ON INDIVIDUAL LOTS, WITH A BUILDING ENVELOPE, IN SUBDIVISIONS APPROVED BY GUNNISON COUNTY ~~BEFORE APRIL 3, 2007~~.** If a building envelope ~~Activity~~ on individual lots in subdivisions approved by Gunnison County ~~before April 3, 2007, for which building envelopes were~~ that was designated on an approved plat, recorded in the Office of the Gunnison County Clerk and Recorder, and is located in Tier 1 Sage-grouse habitat, the building envelope shall be relocated to avoid or minimize impacts to Gunnison Sage-grouse or their habitat, to the maximum extent feasible. This requirement is general in nature and applicable to property subject to land use regulation by Gunnison County. If it is determined that relocation of the building envelope is necessary to avoid or minimize impacts to Gunnison Sage-grouse or their habitat, the process to relocate the building envelope shall be handled as an administrative review by the Community Development Department. ~~inside a building envelope, shall be located to minimize adverse impacts to wildlife, to the maximum extent feasible, except as prohibited by a vested right pursuant to *Section 1-109: Vested Property Rights.*~~

   ~~**a. ALTERATION OF BUILDING ENVELOPES TO BENEFIT GUNNISON SAGE-GROUSE**. If the decision-making body, in consultation with the Colorado Division of Parks and Wildlife, determines that relocation of a designated building envelope in a subdivision approved by the County before April 3, 2007 will benefit the Gunnison Sage-grouse, such alteration may be permitted, pursuant to the requirements *of Article 5: Administrative Review Projects That Require Land Use Change Permits.*~~

**C. MAPS USED TO IDENTIFY SENSITIVE AND CRITICAL WILDLIFE HABITATS**. The general reference maps used to identify locations of sensitive wildlife habitats. Because maps depicting wildlife habitat are general in nature, and because animal distribution is fluid and animal populations are dynamic, the maps shall be used as "guides" or "red-flags."

1. **COLORADO DIVISION OF PARKS AND WILDLIFE MAPS.** The Wildlife Resource Information System (WRIS) and Natural Diversity Information Source (NDIS) maps available from the Colorado Division of Parks and Wildlife.

2. **GUNNISON COUNTY MAPS.** The Gunnison County *Gunnison Sage-grouse ~~Lek Map~~ ~~and the Gunnison County *Gunnison Sage-grouse Occupied*~~ Habitat Map*. The purpose of ~~these~~ this map~~s~~ is to place a landowner on notice that a parcel may contain ~~sensitive wildlife~~ important Sage-grouse habitat areas.

~~**3. SITE-SPECIFIC INFORMATION PREVAILS.** If the applicable decision-making body determines that a site-specific analysis demonstrates that a proposed activity is not located on a parcel that is wholly or partially within or near sensitive wildlife habitat or critical wildlife habitat, including Gunnison Sage-grouse occupied habitat, or within 0.6 miles of a known Gunnison sage-grouse lek, or that legally-created or natural physical characteristics are consistent with sensitive wildlife habitat, are permanent and create barriers to Gunnison Sage-grouse activity within occupied habitat or within 0.6 miles of a lek, then the requirements of this Section shall not apply to the proposed activity.~~

**D. INITIAL SITE-SPECIFIC ANALYSIS REQUIRED FOR ACTIVITY PROPOSED ON A PARCEL THAT IS WHOLLY OR PARTIALLY WITHIN ~~0.60 MILES OF~~ GUNNISON SAGE-GROUSE ~~LEK OR OCCUPIED~~ HABITAT.** As part of the applicable required permit application review process, ~~Gunnison County~~, the Gunnison County Wildlife Conservation Coordinator, in consultation with the Colorado Division of Parks and Wildlife, shall conduct an initial site-specific analysis of development that is proposed on a parcel that is wholly or partially within ~~0.60 miles of a~~ Gunnison Sage-grouse ~~lek~~ habitat. ~~If the applicable decision-making body determines it necessary, the County also shall conduct a site-specific analysis of a development that is proposed on a parcel that is wholly or partially within Gunnison Sage-grouse occupied habitat.~~

**E. APPLICATIONS FOR BUILDING PERMITS, ACCESS PERMITS, INDIVIDUAL SEWAGE DISPOSAL SYSTEM PERMITS AND GUNNISON COUNTY RECLAMATION PERMITS ON A PARCEL THAT IS WHOLLY OR PARTIALLY WITHIN ~~0.60 MILES OF~~ GUNNISON SAGE-GROUSE ~~LEK OR OCCUPIED~~ HABITAT.** Development located on a parcel that is wholly or partially within ~~0.60 miles of a~~ Gunnison Sage-grouse ~~lek~~ habitat that requires a Building Permit, Access Permit, an Individual Sewage Disposal System Permit, or a Gunnison County Reclamation Permit, ~~and any development classified as an Administrative Review Project pursuant to *Article 4: Administrative Review Projects That Do Not Require Land Use Change Permits* and *Article 5: Administrative Review Projects That Require Land Use Change Permits*~~ shall be reviewed as follows: ~~If the Community Development Department determines during review of an application that the proposed use exceeds the classification criteria of an Administrative Review project, the criteria detailed in Section 3-111: B. 1*: Additional Criteria* shall be considered and the appropriate review process and submittals and an application for the applicable Land Use Change Permit shall be required to be submitted~~.

1. **LOCATION WITHIN GUNNISON SAGE-GROUSE TIER 1 HABITAT ~~A 0.60 MILE RADIUS OF A GUNNISON SAGE-GROUSE LEK.~~** All applications for Land Use Change Building Permits, Access Permits and Individual Sewage Disposal System Permits and Gunnison County Reclamation Permits shall be reviewed by the Gunnison County Wildlife Conservation Coordinator and shall require consultation with the Colorado Division of Parks and Wildlife. ~~classified and initially reviewed as Administrative Review projects pursuant to *Article 5: Administrative Review Projects That Require Land Use Change Permits* when the property on which the activity or use is to occur is on a parcel that is located partially or wholly within a 0.60 mile radius of a Gunnison Sage-grouse lek~~.

2. **LOCATION WITHIN GUNNISON SAGE-GROUSE TIER 2 ~~OCCUPIED~~ HABITAT.** All applications for Land Use Change Permits, Building Permits, Access Permits, Individual Sewage Disposal System Permits and Gunnison County Reclamation Permits shall be reviewed by the Gunnison County Wildlife Conservation Coordinator and may require consultation with the Colorado Division of Parks and Wildlife ~~classified and initially reviewed as Administrative Review projects pursuant to *Article 4: Administrative Review Projects That Do Not Require Land Use Change Permits* when the property on which the activity or use is to occur is located partially or wholly within Gunnison Sage-grouse occupied habitat~~.

3. **PRE-APPLICATION CONFERENCE.** Owner(s) of land may request a pre-application conference with Gunnison County staff to review Gunnison Sage-grouse issues that reasonably may arise from an application pursuant to this Section. Upon receipt of such request, Gunnison County staff, and as available a representative of the Colorado Division of Parks and Wildlife, will meet with the owner(s) to review such issues and to identify potential solutions. The Community Development Department will coordinate the conference. Gunnison County shall consider the advice of applicant's wildlife biologist/ecologist or a similar qualified expert.

4. **REFERRAL TO ~~COLORADO DIVISION OF PARKS AND WILDLIFE~~ GUNNISON COUNTY WILDLIFE CONSERVATION COORDINATOR AND ON-SITE CONSULTATION.** The Community Development Department and the Public Works Department shall forward a copy of the application(s) to the Gunnison County Wildlife Conservation Coordinator. The Gunnison County Wildlife Conservation

Coordinator shall determine the habitat type and whether an on-site consultation is required. If an on-site consultation is required the Gunnison County Wildlife Conservation Coordinator shall coordinate and ~~local office of the Colorado Division of Parks and Wildlife and~~ schedule an on-site consultation with the applicant and/or applicant's representative, the Community Development Department, Public Works Department ~~and the Gunnison County Sage-grouse Conservation Coordinator~~ and ~~a representative from~~ the Division of Parks and Wildlife~~, as available~~. The purpose of the on-site consultation shall include location of ~~any lek or occupied~~ habitat, identification of site-specific data to inform the review process, and identification of potential mitigation of Sage-grouse related issues. ~~The on-site consultation shall be coordinated by the Community Development Department~~.

**a. TIMELINE FOR REVIEW.** The County shall request that the Colorado Division of Parks and Wildlife submit comments about the application within 21 days after the on-site consultation; when comments are not provided within that time by the Division, the County shall proceed to complete the permit process without those comments.

**F. REVIEW, REFERRAL TO COLORADO DIVISION OF PARKS AND WILDLIFE OF MINOR AND MAJOR IMPACT PROJECT APPLICATIONS.** The Community Development Department shall refer Land Use Change Permit applications for Minor or Major Impact projects to the local office of the Colorado Division of Parks and Wildlife for that agency's review and comments to make use of the expertise and judgment of that agency in the protection of sensitive wildlife habitat, and its recommendations, if any, to reduce or eliminate adverse impacts to sensitive wildlife habitat and species that may result from proposed development. It is intended that the Division of Parks and Wildlife will review the application and participate in on-site consultations and provide timely comments to the Community Development Department that identify actions and/or recommendations to reduce or eliminate adverse impacts to wildlife.

**1. MINOR IMPACT PROJECTS.** The Department shall submit a copy of the Minor Impact project application to the Division pursuant to *Section 6-106: E: Request for Review by Other Agencies or Departments*, with a written request that the Division review the application and identify in a written response whether or not the parcel on which the land use change is proposed is located within sensitive wildlife habitat, and issues that it believes appropriate to be addressed during the permitting process. Based upon the Division's knowledge of a specific site, the Division may also recommend that a wildlife habitat analysis be conducted, pursuant to *Section 11-106: F.4.: Wildlife Habitat Analysis of Minor Impact or Major Impact Projects,* which shall be required to be submitted by the applicant before a public hearing is scheduled on the Minor Impact project application.

**2. MAJOR IMPACT PROJECTS.** The Department shall submit a copy of the Preliminary Plan for a Major Impact project application to the Division pursuant *to Section 7-302: C: Review and Comment by Review Agencies,* with a written request that the Division review the application and identify in a written response whether or not the parcel on which the land use change is proposed is located within sensitive wildlife habitat and issues that it believes appropriate to be addressed during the permitting process. If the parcel is located within sensitive wildlife habitat, a wildlife habitat analysis conducted pursuant to *Section 11-106: F.4.: Wildlife Habitat Analysis* shall be submitted by the applicant before the public hearing on the Preliminary Plan is scheduled.

**3. PRE-APPLICATION CONFERENCE FOR MINOR OR MAJOR IMPACT PROJECTS LOCATED ON A PARCEL WHOLLY OR PARTIALLY WITHIN GUNNISON SAGE-GROUSE ~~OCCUPIED~~ HABITAT ~~OR WITHIN 0.6 MILES OF A GUNNISON SAGE-GROUSE LEK~~.** A Pre-Application Conference is required for any Minor or Major Impact project located wholly or partially on a parcel within Gunnison Sage-grouse ~~occupied~~ habitat ~~or within 0.60 miles of a Gunnison Sage-grouse lek~~.

**4. WILDLIFE HABITAT ANALYSIS OF MINOR IMPACT OR MAJOR IMPACT PROJECTS**. If Colorado Division of Parks and Wildlife comments indicate that the proposed land use change for a Minor Impact or Major Impact project is within sensitive wildlife habitat, the applicant shall be required to submit a site-specific wildlife habitat analysis. The analysis shall evaluate the relevant physical features of the property, shall make a site-specific determination of the locations of wildlife habitat on the property, and shall describe how the proposed development will comply with *Section 11-106: G.: General Standards for Development in Sensitive Wildlife Habitat Areas.* The analysis shall be prepared by a wildlife biologist/ecologist or similar qualified expert in consultation with the Colorado Division of Parks and Wildlife. It shall be submitted with the Preliminary Plan application for a Major Impact project, or before the public hearing is scheduled on a Minor Impact project, and shall contain the following:

**a. MAP.** A map of the property shall be submitted, depicting the activity patterns of the wildlife using the sensitive wildlife habitat, identifying, where relevant, migration routes, travel corridors or patterns, nesting, feeding, watering and production areas, and any critical connections or relationships with habitat adjoining, but outside of, the project site. The map shall also identify whether the land immediately surrounding the proposed land use change is privately owned or is public land owned by the U.S. Forest Service, U.S. Bureau of Land Management, Colorado Division of Parks and Wildlife, or other similar agency.

**b. REPORT.** A report shall be submitted that describes the activity patterns of the wildlife using the habitat, using a scientifically valid time period. It will also identify any species that use the property that are listed by the U.S. Department of the Interior or the State of Colorado as endangered, threatened, or are species of special concern.

**1. EVALUATE IMPACTS.** The report shall evaluate the potential impacts of the proposed land use change on the sensitive wildlife habitat and the species using that habitat, including whether it could be a threat to the viability of the species, cause a reduction in the diversity of wildlife species in the county, or change the status of its federal or state listing. The report shall identify the types of potential impacts that are anticipated (including stress due to human presence, interference with reproduction, change of migration routes, etc.) and the time periods (spring, summer, fall, winter, year-round, etc.) during which wildlife are expected to be affected by the proposed land use change.

**2. CUMULATIVE IMPACTS.** The report addressing any Major Impact project (and any proposed land use change classified as a Minor Impact project that the Planning Commission determines requires such evaluation) shall also evaluate the cumulative impacts on wildlife habitat beyond the project site. The report shall also address whether the cumulative impacts of the proposed land use change when added to the past and present impacts of other land use changes, will eliminate, reduce, or fragment wildlife habitat in the county to the extent that the viability of an individual species is threatened or the diversity of species found in the county is reduced, or the population of a species in the impact area will be significantly reduced.

**3. MITIGATION PLAN.** The report shall include a wildlife habitat mitigation plan that describes how the proposed development will comply with *Section 11-106: G.: General Standards for Development in Wildlife Habitat Areas,* providing detail regarding the avoidance, mitigation, and enhancement techniques, monitoring and performance criteria that will be employed.

**G. GENERAL STANDARDS FOR DEVELOPMENT IN SENSITIVE WILDLIFE HABITAT AREAS**. All development shall comply with the following standards when it is located on lands designated as sensitive wildlife habitat, including but not limited to parcels located partially or wholly in habitat areas delineated on the Gunnison County *Gunnison Sage-grouse Habitat ~~Lek~~ Map~~; and the Gunnison County Gunnison Sage-grouse Occupied Habitat Map~~*, and all lands determined to be sensitive wildlife habitat pursuant to Section 11-106: B: *Applicability.*

**1. MITIGATION OF ADVERSE IMPACTS TO SENSITIVE HABITAT.** A proposed land use change must mitigate adverse impacts it causes to lands determined to be sensitive wildlife habitat including but not limited to a Gunnison Sage-grouse ~~lek or occupied~~ habitat. Proposed land use changes that are found to have a significant net adverse impact that cannot be mitigated upon sensitive wildlife habitat, shall be denied.

**a. CONSIDERATION OF BENEFICIAL EFFORTS**. Gunnison County shall consider, and affirmatively recognize as mitigation in the permitting process, conservation easements/covenants (and similar mechanisms), and documented management agreements/programs accomplished, or to be accomplished, in coordination with the Colorado Division of Parks and Wildlife or other agencies (such as the Natural Resources Conservation Service or the U.S. Fish and Wildlife Service) that are beneficial to the Gunnison Sage-grouse. Each case will be reviewed on an individual basis to determine if the easement, covenant or deed restriction satisfies all of these standards.

1. **TERMS OF EASEMENT ARE PERPETUAL AND SATISFACTORY TO COUNTY**. The terms of the existing easement, covenant or deed restriction are perpetual and acceptable to the County.

2. **PRESERVED LANDS PROVIDE GUNNISON SAGE-GROUSE HABITAT**. That both the preserved land provides Gunnison Sage-grouse habitat, and the restrictions imposed by the pertinent easement, covenant or deed restriction are sufficient to justify the determination that adverse impacts have been substantially or wholly mitigated by such preservation.

3. **ADDITIONAL BENEFITS SUBSTANTIALLY OR WHOLLY MITIGATE ADVERSE IMPACTS.** Additional preservation efforts substantially or wholly mitigate adverse impacts to sensitive wildlife habitat.

2. **IRRIGATION DITCHES.** Pursuant to Colorado law, owners of irrigation ditches have the right to maintain irrigation ditches, headgates and other diversion structures. Gunnison County shall not require mitigation that will interfere with the right of ditch owners to maintain ditches, headgates or other diversion structures.

3. **MITIGATION TECHNIQUES**. Mitigation techniques to protect wildlife species that the County determines may be impacted by a proposed land use change on lands identified in Section 11-106: B: *Applicability,* including, but not limited to:

   a. **LIMITATIONS.** Requirements to avoid sensitive wildlife habitat during seasons the wildlife species use the habitat. When appropriate, the proposal shall include techniques to minimize human intrusion, including, but not limited to:

      1. **BUFFERS.** Visual and sound buffers to screen structures and activity areas from habitat areas through effective use of topography, vegetation, and similar measures.

      2. **LIMITATIONS OF HUMAN ACTIVITIES DURING SENSITIVE TIME PERIODS**. Seasonal avoidance limitations on, or stoppages of intrusive human activities during sensitive time periods, including limiting construction activities and recreational uses during sensitive time periods such as elk migration, elk calving or when sage grouse mating, nesting or brood rearing is occurring on parcels located partially or wholly in habitat areas delineated on the Gunnison County *Gunnison Sage-grouse ~~Lek~~ Habitat Map ~~or the Gunnison County Gunnison Sage-grouse Occupied Habitat Map~~.*

      3. **LOCATIONAL CONTROLS.** Controls on the location of development, so it does not force wildlife to use new migration corridors, or expose wildlife to significantly increased predation, interaction with vehicles, intense human activity, or more severe topography or climate, or encircle wildlife habitat with development.

   b. **WATERING AREAS**. Measures to avoid disturbance of waterholes, springs, seepages, marshes, stream beds, stream banks, wetlands, streamside vegetation, ponds, and watering areas to the maximum extent feasible. Catchment basins may be required to prevent stream siltation.

   c. **HABITAT COMPENSATION**. Requirements to develop additional habitat, or to acquire and permanently protect existing habitat to compensate for habitat that is lost to development, in the form of ongoing on-site or off-site wildlife habitat enhancement. Enhancement is the process of increasing wildlife carrying capacity on undeveloped habitat and may include prescribed burns, seeding, brush cutting, and fertilization, as determined to be appropriate by the County, based on the advice of the Colorado Division of Parks and Wildlife or other technical experts.

   d. **DOMESTIC ANIMAL CONTROLS.** Controls on domestic animals within or near areas of sensitive wildlife habitat. Dogs may be prohibited within one-half mile of elk, deer, and bighorn sheep critical winter ranges and winter concentration areas. The number of cats and dogs allowed in a development may also be limited.

      1. **DOGS AND CATS PROHIBITED OR CONTROLLED NEAR GUNNISON SAGE-GROUSE HABITAT.** Requirements in the form of conditions of a permit, and/or inclusion within declarations of a subdivision's protective covenants enforceable by Gunnison County, may be required prohibiting, or requiring control by kenneling or other physically-

secure methods within ~~or near a 0.60 mile radius of a~~ Gunnison Sage-grouse ~~lek or within or near sensitive Gunnison Sage-grouse~~ habitat.

e. **PROTECTION FROM ANIMAL-BORNE DISEASES**. Gunnison County may impose limitations on the introduction or possession of non-native species to lessen the possibility of the introduction of disease to native wildlife populations.

f. **CONTROL OF NUISANCES.** Controls on lighting, noise, excess use of fertilizers or pesticides, and similar nuisances that could have a significant net adverse effect on Gunnison Sage-grouse ~~occupied~~ habitat and the continued use of the area by other wildlife.

g. **DENSITY RELOCATION.** Residential development may be clustered to avoid sensitive wildlife habitat.

h. **ROAD CONSTRUCTION.** Requirements to avoid new road construction through sensitive wildlife habitat.

i. **STREAM ALTERATIONS OR DIVERSIONS.** Controls on alterations or diversions of streams to retain the character and productivity of the streams. Such alterations will be subject to all applicable local, state and federal codes and regulations.

j. **ALTERATIONS OF EXISTING WET MEADOW/SAGE HABITAT INTERFACE AREAS.** Controls on alterations of existing wet meadow/sage habitat interface areas.

k. **STRUCTURES TO MINIMIZE HAZARDS.** Requirements to design, locate, construct and maintain game-proof fencing, one-way gates, game underpasses, or other structures to minimize hazards to wildlife, such as requiring a minimum distance between high-power electric wires to avoid electrocution of eagles.

l. **AGENCY ACCESS.** Where applicable, the provision of access to Colorado Division of Parks and Wildlife or other applicable agencies to facilitate maintenance of wildlife and wildlife habitat.

**H. STANDARDS SPECIFIC FOR DEVELOPMENT PROPOSED ON PARCELS THAT ARE WHOLLY OR PARTIALLY WITHIN ~~0.60 MILES OF A LEK, OR WITHIN OCCUPIED HABITAT OF~~ GUNNISON SAGE-GROUSE HABITAT.** In addition to the standards and mitigation techniques included within this Section, the following standards shall apply specifically to development proposed on a parcel that is wholly or partially within ~~a 0.60 mile radius of a lek, or within occupied habitat of the~~ Gunnison Sage-grouse Habitat:

1. **DISTURBANCE GUIDELINES**. Development activity shall comply with the GUSG *Disturbance Guidelines in the Gunnison Sage-grouse Rangewide Conservation Plan*, *Appendix 1*, as may be adopted and amended from time to time by the Board.

2. **LIMITATION ON HUMAN ACTIVITIES INCLUDING RECREATIONAL USES DURING GUNNISON SAGE-GROUSE SENSITIVE TIME PERIODS**. Seasonal avoidance or limitations of intrusive human behavior during sensitive time periods, including but not limited to winter and when Gunnison Sage-grouse are mating or raising chicks.

3. **UNDERGROUND UTILITIES REQUIRED NEAR GUNNISON SAGE-GROUSE LEKS**. Utility lines shall be placed underground within ~~0.60 miles of a~~ Gunnison Sage-grouse habitat, to discourage avian predators.

**I. FENCES.** Design of fences other than those associated with agricultural operations ~~to~~ shall ensure they do not adversely impact wildlife. Design standards for fences are as follows:

1. **MAXIMUM HEIGHT**. Fences shall not be higher than 42 inches.

2. **MATERIALS.** Fences should be limited to a maximum of three strands or rails. Rail fences should only use rounded rails. Wire fences should not be made of woven wire, unless they are used to enclose sheep or goats. Wire and rail fences shall have a kick-space (distance between the top two wires or rails) of not less than 18 inches that uses wire or rail that has a smooth surface. The top rail should be made of a solid material in heavy use areas, to make it more visible to wildlife.

3. **REMOVABLE SECTIONS**. Fences in migration corridors should have removable sections or openings to allow for seasonal passage of wildlife. The applicant shall be responsible for removing fence sections when migration is occurring and replacing those sections when the season of migration has ceased.

4. **UPGRADING EXISTING FENCES.** As a condition of development approval, applicants proposing land use changes within sensitive wildlife habitat areas should agree to remove or to alter any existing fences on the property to comply with the above requirements.

5. **FENCES AROUND RESIDENCES EXEMPT.** Fences located in the immediate vicinity of a residence shall be exempt from these limitations.

6. **DESIGN AND LOCATION.** Fence location and design should minimize adverse impacts to sensitive wildlife habitat.

**J. VEGETATION.** Proposed land use changes shall be designed to comply with the recommendations of the Colorado Division of Parks and Wildlife regarding vegetation, and to preserve large areas of vegetation utilized by wildlife for food and cover. Roads shall be located on the edge of wildlife habitat areas, to prevent fragmentation of wildlife habitat. When native vegetation must be removed within habitat areas, it shall be replaced with native and/or desirable non-native vegetation capable of supporting post-disturbance land use. Individuals planting vegetation away from the homesite should consider using vegetation suitable for wildlife cover and food. Vegetation removed to control noxious weeds shall not be required to be replaced, unless the site requires revegetation to prevent erosion or noxious weeds from becoming established.

1. **TIME ALLOTTED FOR REVEGETATION.** Vegetation required pursuant to *Section 13-115: Reclamation and Noxious Weed Control* shall be established and growing within two growing seasons (730 days) of the issue date of the applicable Gunnison County Reclamation Permit.

**K. CDOW ACCESS.** Where applicable, the applicant shall continue to provide historical access or agreed-upon new access other than the historical access, for the Colorado Division of Parks and Wildlife to manage wildlife and to monitor wildlife activities.

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