

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 2011- 49

A RESOLUTION AMENDING THE GUNNISON COUNTY LAND USE RESOLUTION

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 2, 2011 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 December 6, 2011; 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;

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 Sumner, seconded by Commissioner Chamberland and passed on this 20th day of December, 2011.

BOARD OF COUNTY COMMISSIONERS

Phil Chamberland
Phil Chamberland,
Commissioner

Hap Channell
Hap Channell,
Chairperson

Paula Swenson
Paula Swenson,
Commissioner

ATTEST:

[Signature]
Gunnison County Clerk and Recorder

12-27-11



"EXHIBIT A"

Except for the proposed changes to Section 16-101, language that is underlined is the proposed new wording; struck-through language would be deleted. Section 16-101 would be replaced in its entirety.

Changes to Section 9-601: C.6.: regarding exemptions for income-qualified households from Essential Workforce Housing Linkage Fee

C. **EXEMPTIONS.** The following shall be exempt from the Workforce Housing Fee:

1. **SAME-SIZE RECONSTRUCTION OF PRE-EXISTING STRUCTURE.** The reconstruction of any pre-existing structure pursuant to Section 1-108: *Non-conforming Uses* if the reconstruction does not increase the size more than 500 square feet, or as applicable, the number of residences within it, except when the structure was not a legally habitable residence before the reconstruction; or
2. **ADDITION OF 500 SQ. FT. OR LESS TO PRE-EXISTING STRUCTURE.** The addition of 500 square feet or less to a structure, whether it is a residential, commercial or industrial use; or
3. **INTEGRATED SECONDARY RESIDENCE.** An integrated secondary residence as allowed pursuant to Section 9-102: F.: *Standards for Integrated Secondary Residence*, provided that it is deed-restricted for occupancy by Qualified Households with incomes as defined in Section 9-601: C. 6.: *Exemption for Income-Qualified Households*. ~~not exceeding 120 percent of the Area Median Income.~~
4. **MOBILE HOMES.** Individual mobile homes and mobile home communities as defined by this *Resolution*, provided that the homes are deed-restricted for occupancy by Qualified Households with incomes as defined in Section 9-601: C. 6.: *Exemption for Income-Qualified Households*. ~~earning less than 120 percent of the Area Median Income.~~
5. **ESSENTIAL RESIDENCES.** Residences that are constructed and deed-restricted as Essential Housing.
6. **EXEMPTION FOR INCOME-QUALIFIED HOUSEHOLDS.** Households earning less than 120 percent of AMI, as qualified by the Gunnison County Housing Authority Executive Director, ~~that are building homes for their own occupancy and which are a household's primary residence. Primary residency shall be determined by the Gunnison County Housing Authority Executive Director, who may consider the following factors:~~
 - a. Employment address.
 - b. Utilities bills.
 - c. Driver's license and car registration address.
 - d. Address on federal and state tax returns.
 - e. Family members' main residence location.
 - f. The address of a financial institution used by the household.
 - g. Voter registration card addresses.

Proposed language regarding requirements of consent from and notice to a property owner whose neighbor is requesting a variance from a shared property line.

Delete Section 13-104: E. 1.:

- E. **VARIANCE FROM THIS SECTION.** A variance from the requirements of this Section may be requested. An applicant for variance from property line setback requirements shall submit:
1. ~~AGREEMENT FROM ADJACENT LAND OWNER. Notarized letters of consent from the landowners whose properties are immediately adjacent to the property line from which a affected by the reduced setback is proposed.~~

[Paragraphs that follow would be appropriately renumbered.]

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Change in Article 2 (Definitions):

ADJACENT PROPERTY OWNER means an owner of record (as recorded in the most current records on file in the Gunnison County Assessor's Office) of any estate, right, or interest in real property that immediately abuts ~~or (for purposes of ensuring adequate due process and public notice) is located immediately across a road or highway, waterway or other body of water from another parcel.~~ property on which a land use change is proposed.

[NOTE: *The Land Use Resolution* defines "adjacent" as "Abutting or contiguous to or sharing a common border."]

Enforcement: The following replaces the current LUR Article 16: *Enforcement* in its entirety:

SECTION 16-101: GENERAL

- A. **ENFORCEMENT SHALL COMPLY WITH ALL APPLICABLE LAW.** This *Resolution* shall be enforced in accordance with the requirements of Colorado law and as provided in this Article. Each enforcement remedy can be invoked by Gunnison County independently or in conjunction with any or all of the other enforcement remedies.
- B. **OWNER HAS BURDEN OF PROOF OF COMPLIANCE.** The burden of proof that a project is in compliance with this *Resolution* lies with the owner of the land on which the project is occurring.
- C. **ENFORCEMENT COSTS ARE OWNER/PERMITEE RESPONSIBILITY.** The costs of any County investigation of the violation and the costs of the hearing and Board action, including incidental expenses of abating the violation, shall be the responsibility of the landowner and permittee, jointly and severally. The term "incidental expenses" shall include personnel costs, both direct and indirect; costs incurred in documenting the violation; the actual expenses and costs to the County in the preparation of notices, specifications and contracts, and in inspecting the work; and the costs of printing and mailing, and attorney's fees required. The County shall provide written notice of those costs to the permittee and landowner by first class mail at the last known address. If the landowner or permittee fails to pay those costs within 30 days of the County mailing, the costs shall become a lien against the subject land or any improvement on the subject land.
- D. **IMPLEMENTATION OF MITIGATION DOES NOT RELIEVE PERMITEE OF RESPONSIBILITY FOR COMPLIANCE WITH STANDARDS.** Implementation of mitigation does not relieve permittee's responsibility to comply with all County standards and criteria. Failure to conduct the project in compliance with standards and criteria at any time shall be deemed a permit violation and may result in enforcement and/or require a permit amendment to address whether standards and criteria can be satisfied with different mitigation or change in project operations.

SECTION 16-102: AUTHORIZATION TO ENFORCE

The Board, County Manager, County Community Development Director, the Community Development Director's designees, County Attorney, County Building Inspector, County Environmental Health Official, County Public Works Director and such other persons as the Board may designate are charged with and authorized to enforce all the requirements of this *Resolution*.

SECTION 16-103: RIGHT OF ENTRY AND INSPECTION

When a person charged with enforcement of this *Resolution* has reasonable cause to believe that any project is being conducted or any condition exists on a tract of land or in any building or other structure which is contrary to or in violation of this *Resolution* or any permit issued pursuant to this *Resolution*, any person charged with enforcement of this *Resolution* may enter and inspect or cause to be entered and inspected, the tract, building or other structure at reasonable times to determine compliance with this *Resolution* or that permit, provided that if that tract, building or other structure is occupied, credentials shall be presented to the occupant and entry requested. If the tract of land, building or other structure is unoccupied, such person shall first make a reasonable effort to locate the owner or other person having charge or control of the tract, building or other structure and request entry. If entry is refused, or the owner or person having charge or control cannot be located after reasonable effort, the Board or its designee shall apply to the District Court, Gunnison County, for an order to permit entry. Nothing in this Section precludes or constrains any entry upon or into, or inspection of, any land or into a building otherwise permitted by law.

SECTION 16-104: NOTIFICATION TO CORRECTION VIOLATION

When a person charged with enforcement of this *Resolution* has reasonable cause to believe that any project is being conducted or any condition exists on any tract of land or in any building or other structure which is contrary to or in violation of this *Resolution* the County Attorney shall give written notice to the land owner or other person having charge or control of such tract, building or other structure, by certified mail, return receipt requested at the last known address. The notification shall state which requirements of this *Resolution* or of a permit are being violated, shall state the conditions that are to be satisfied for compliance, and shall state that the violator shall immediately initiate correction of the violation to be substantially complete within 30 days of receipt of the notification. Such written notification is cumulative to, and not a prerequisite to, any other enforcement remedies available to Gunnison County. The Community Development Director shall issue a written compliance letter only if the project or condition that is the basis of the notice has been remedied.

SECTION 16-105: STOP ORDER; IMMEDIATE COMPLIANCE

- A. COMMUNITY DEVELOPMENT DIRECTOR MAY ISSUE ORDER.** When a person charged with enforcement of this *Resolution* has reasonable cause to believe that any project is being conducted or any condition exists on any tract of land or in any building or other structure which is contrary to or in violation of this *Resolution* or any permit issued pursuant to this *Resolution* the Community Development Director may, by written notice ("stop order"), order the activity or use stopped immediately or by a time certain. The stop order shall state the conditions that shall be satisfied for compliance. The stop order shall be served by delivering it to any person engaged in that activity or use, or to any person owning, leasing, or controlling the land, building or other structure, or by posting the order in a conspicuous location on the land, building or other structure.
- B. IMMEDIATE COMPLIANCE REQUIRED.** All persons shall comply immediately with the stop order upon its service or posting, as set forth above.
- C. STOP ORDER LIFTED ONLY BY COMPLIANCE ORDER.** The stop order shall remain in effect until the Community Development Director determines that the activity or condition that is the basis for the stop order has been remedied, and the Community Development Director issues a written compliance order that is served by Gunnison County.
- D. DISCRETIONARY BOARD REVIEW.** The Board may review and amend the stop order if the permittee or landowner demonstrates that such amendment is warranted and will not result in an amendment to the subject permit. Any proposed amendment to the subject permit shall comply with all other applicable requirements of this *Resolution*.
- E. STOP ORDER NOT A PREREQUISITE TO OTHER REMEDIES.** The issuance of a stop order is cumulative to, and not a prerequisite to any other enforcement remedies available to Gunnison County.

SECTION 16-106: TEMPORARY SUSPENSION OR PERMANENT REVOCATION OF PERMIT

- A. TEMPORARY SUSPENSION OR PERMANENT REVOCATION OF PERMIT UPON VIOLATION.**
- 1. BOARD ACTION AFTER WRITTEN NOTICE TO PERMITTEE.** The Board may temporarily suspend or permanently revoke an approved Permit if the provisions of any permit or the terms of any related Development Improvement Agreement have been violated. Before making such a temporary suspension or permanent revocation, the Board shall give the permittee written notice of the violation, by certified mail. The Board shall allow the permittee to correct the violation within 30 calendar days from the date of receipt of the notice.
 - 2. PERMITTEE OPPORTUNITY TO PROVIDE EVIDENCE IN RESPONSE.** If the permittee believes that the notice of violation has been issued in error, the permittee shall, within 15 calendar days from the date of receipt of the notice, provide evidence satisfactory to the County to show that the determination is in error.
- B. PUBLIC HEARING.** The Board shall conduct a hearing to determine if the permit shall be temporarily suspended, permanently revoked or that there is no demonstrated violation.
- 1. NOTICE AND CONDUCT OF HEARING.** The Board shall give written notice of the hearing to the permittee by mailing notice, certified, return receipt requested at the last known address, postmarked at least 14 days before the hearing. The notice shall contain a summary of the grounds for the potential suspension or revocation.
 - 2. HEARING DATE MAY BE ADVANCED.** The County Manager shall make reasonable efforts to schedule an expedited hearing if requested by the permittee, and/or if irreparable harm may occur if the hearing process is not completed in an expedited manner.
 - 3. CREDIBLE EVIDENCE REQUIRED TO SUSPEND OR REVOKE.** At the hearing, the County shall have the burden to demonstrate, by credible evidence presented at the hearing, that the permit should be temporarily suspended or permanently revoked.



- C. **GENERAL STANDARDS.** The permit shall be suspended or revoked if, after the close of the hearing, and based on credible evidence, either of the following findings is made by the Board:
1. **PERMIT ISSUANCE WAS BASED ON MISLEADING INFORMATION OR MISREPRESENTATION.** The permit was issued in reliance on materially erroneous or misleading information from the permittee or his/her representative; or
 2. **VIOLATION OF CONDITIONS OF PERMIT OR APPLICABLE REGULATION.** Activity is being conducted or a condition exists on the tract of land or in the building or other structure that is a violation of the subject permit, or any applicable regulation.
- D. **DECISION OF BOARD.** Within five working days after the close of the hearing, the Board shall render a decision based upon its findings that there is no violation of the permit, or that there is a violation and the permit is temporarily suspended or permanently revoked, and the effective date of such suspension or revocation.
- E. **NOTIFICATION.** Notification of the Board's decision shall be provided by the Community Development Director to the permittee, by certified mail postmarked within five working days of the Board's decision.
- F. **SUSPENSION LIFTED ONLY BY COMPLIANCE FINDING.** A suspension order shall remain in effect until, at a regular meeting of the Board, the Board finds that the activity or condition that is the basis for the suspension order has been remedied, and the Board issues a written compliance finding.
- G. **CUMULATIVE REMEDY.** The Board's right to suspend or revoke a permit as provided in this Section shall be cumulative to, and not a prerequisite to, any other enforcement remedies available to the Board.

SECTION 16-107: ABATEMENT OF VIOLATION

Any violation of this *Resolution* or of a permit issued pursuant to this *Resolution* may be abated under the process and standards of this Section.

A. PROCESS FOR ABATEMENT.

1. **NOTIFICATION OF VIOLATION.** If, after investigation by any person charged with enforcement of this *Resolution*, or the Board determines that reasonable cause exists to believe that any activity is being conducted or any condition exists on any tract of land or in any building or other structure which is contrary to or in violation of this *Resolution* or any permit issued pursuant to this *Resolution*, the Board shall serve the permittee, by certified mail, return receipt requested, with a Notice to Abate, stating the grounds of the violation, and setting forth a reasonable time for the permittee to abate and correct the violation.
2. **HEARING TO CORRECT VIOLATION.** If the permittee fails to comply with the Notice to Abate, the Board shall conduct a hearing on abatement to ascertain whether abatement should be conducted.
3. **NOTICE OF HEARING.** The Board shall provide notice of the Hearing on Abatement to the permittee or landowner and any complainant by certified mail, return receipt requested at the last known address, a minimum of 14 days before the date established for the hearing. Notice shall be substantially in this format:

*Notice of Hearing on Abatement of Violation of
Gunnison County Land Use Resolution*

This is a notice of hearing before the Board of County Commissioners of Gunnison County, Colorado, to ascertain whether certain activity being conducted on, or condition existing on, a tract of land, in any building or other structure situated in unincorporated Gunnison County, Colorado, known and designated as _____(address)_____, in said County, and more particularly described as _____(legal description)_____ with Tax Parcel No. _____, constitutes a violation of the Gunnison County Land Use Resolution and is subject to abatement pursuant to this *Resolution*. If the violation is not promptly abated by the permittee or landowner, such violation may be abated by Gunnison County, in which case the cost of that abatement will be assessed on such land, and the costs, together with interest thereon, shall constitute a lien on such until paid.

Said alleged violation does not comply with Section _____ of the *Gunnison County Special Development Project Resolution*, and consists of the following: _____.

The method(s) of abatement are: _____.

All persons having an interest in said matters may attend the hearing and their testimony and evidence will be heard and given due consideration.

Dated this _____ day of _____, 20____.

Time and Date of Hearing: _____

4. DECISION BY BOARD.

a. **GENERAL.** At the time stated in the notice of the hearing on abatement, the Board shall conduct a hearing pursuant to the requirements of this Section, and shall hear and consider all relevant evidence, objections or protests, and shall hear testimony of the alleged violator, if desiring to testify, and all other persons having an interest in the hearing.

5. **CONTINUANCE.** The Board may continue the hearing to a specific date and time for good cause.

6. **RECOMMENDED ORDER.** If, after the conclusion of the hearing, the Board finds that a violation of the this *Resolution* does exist and there is sufficient cause to abate the violation, within five days after the close of the hearing the County Attorney shall prepare a recommended Order to Abate with findings of fact specifying the nature of the violation, the method of abatement and the time within which the abatement shall be commenced and completed. The recommended Order to Abate shall then be forwarded to the Board for adoption.

7. **BOARD DECISION.** At its next regularly scheduled meeting, the Board shall take action on the recommended Order to Abate.

8. **NOTIFICATION OF RECOMMENDED ORDER.** The County Attorney shall provide the permittee a copy of the recommended Order to Abate by certified mail, return receipt requested at the last known address, postmarked the day the recommended Order to Abate is forwarded to the Board for adoption.

9. **BOARD DECISION.** At the next regularly scheduled meeting of the Board after receipt of the recommended Order to Abate, the Board shall approve the Order to Abate or a modified version of it, if there is competent evidence in the record that a violation of this *Resolution* does exist and there is sufficient cause to evict or relocate an illegal use or rehabilitate, demolish, remove or repair an illegal structure.

10. **NOTICE OF ORDER.** The Board shall provide a copy of the decision to the landowner by certified mail, return receipt requested.

B. EFFECT OF ORDER TO ABATE. If an Order to Abate is issued it shall mean that the land, building or structure is in violation of this Resolution, and the illegal activity shall be discontinued and rehabilitated, repaired, removed, or demolished in the manner and means specifically set forth in the Order to Abate, including but not limited to the abatement being performed by Gunnison County.

C. ABATEMENT BY COUNTY. If the violation is not abated pursuant to the Order to Abate within the prescribed abatement period, the County Manager shall cause the violation to be abated by County employees or by private contract, or by any other means provided by Colorado law. The County Manager is authorized to enter upon land for those purposes. In addition to the costs regarding the Order to Abate, the landowner shall be responsible to pay all costs, including incidental expenses, of the abatement by the County. The County shall provide written notice of those costs to the landowner by first class mail at the last known address. If the landowner fails to pay those costs within 30 days of the County mailing, the costs shall become a lien against the subject land or any improvement on the subject land.

D. CUMULATIVE REMEDY. The Board's right to abate a violation of this Resolution or of any permit issued pursuant to this Resolution, as provided in this Section, shall be cumulative to, and not a prerequisite to, any other enforcement remedy provided by this Resolution.

SECTION 16-108: NO PROCESSING OR APPROVAL FOR LAND OR PERMITTEE SUBJECT TO ENFORCEMENT ORDERS

No permit application shall be processed or approved pursuant to this *Resolution*, and no other Gunnison County permit shall be issued by Gunnison County, for property or permittee that is the subject of an existing Stop Order, Suspension Order, or *Order of Abatement*. The enforcement remedy provided by this Section shall be cumulative to, and not a prerequisite to, any other enforcement remedy provided by this *Resolution*.

SECTION 16-109: NO ACTION FOR PERSONS SUBJECT TO ENFORCEMENT ORDERS

No application shall be processed or approved pursuant to this *Resolution*, and no other Gunnison County permit shall be issued by Gunnison County, for or to any person who is responsible for a violation that is the subject of an existing Stop Order, Suspension Order or *Order of Abatement*. The enforcement remedy provided by this Section shall be cumulative to, and not a prerequisite to, any other enforcement remedy provided by this *Resolution*.



SECTION 16-110: REVIEW OF POTENTIAL VIOLATION AND NECESSARY REMEDIATION BEFORE PERMIT APPLICATION ACCEPTED

- A. **COMMUNITY DEVELOPMENT DEPARTMENT REVIEW.** When any activity has begun or any condition exists on a tract of land or in any building or other structure without the necessary permit having been obtained pursuant to this Resolution the Community Development Director shall conduct a review to determine what remediation must occur before a permit application will be accepted to consider that activity or condition.
- B. **REVIEW FEE.** A review fee, in addition to the application fee, shall be collected whether or not a permit is issued based on the application. The review fee shall be equal to three times the amount of the application fee and payable at the time of the application.
- C. **FEE PAYMENT OR FILING OF APPLICATION DOES NOT PROVIDE EXEMPTION FROM OTHER REQUIREMENTS.** Neither the payment of the review fee nor the filing of an application shall exempt any person from compliance with all other requirements of this Resolution and all other applicable regulations or relieve any person from any other enforcement remedies available to Gunnison County.
- D. **CUMULATIVE REMEDY.** The requirement of a review pursuant to this Section shall be cumulative to, and not a prerequisite to, any other enforcement remedy provided by this Resolution.

SECTION 16-111: REQUIREMENTS REGARDING SUBDIVISION OF LAND

In addition to the enforcement remedies provided in this Resolution, but not as a prerequisite to any of them:

- A. **FINE FOR TRANSFERRING TITLE BEFORE FINAL PLAN APPROVAL AND FILING OF WARRANTS.** Pursuant to C.R.S. 30-28-110(4)(a) as it may be amended, any subdivider or agent of a subdivider, who transfers legal or equitable title or sells any subdivided land before a Final Plat for subdivided land has been approved by the Board and recorded or filed in the Office of the County Clerk and Recorder, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$1,000 nor less than \$500 for each parcel of, or interest in, subdivided land which is sold. All fines collected under this Section shall be credited to the General Fund of Gunnison County.
- B. **LOTS MAY NOT BE SOLD BEFORE FINAL APPROVAL.** Pursuant to C.R.S. 30-28-110(4)(b) as it may be amended, the Board has the power to bring an action to enjoin any subdivider from selling subdivided land before a Final Plat for such subdivided land has been approved by the Board and properly recorded.
- C. **TAXES TO BE PAID.** An application for any land use change, any subdivision of land or the subsequent phasing of an approved subdivision of land or issuance of any related County permits shall be placed on inactive status pursuant to Section 3-105: B.: *Withdrawn and Inactive Applications* if the real property taxes for the subject parcel are determined by the Gunnison County Treasurer's Office to be delinquent in whole or in part. No plat for subdivided land shall be approved by the Board unless at the time of the approval of platting the applicant provides the certification of the County Treasurer's office that all real property taxes applicable to that subdivided land, up to the year in which approval is granted, have been paid.

SECTION 16-112: OTHER REMEDIES

- A. **CIVIL REMEDIES.** Any person violating any provision of this Resolution shall be subject to all civil sanctions and penalties authorized by law, including Sections 30-28-124 C.R.S. and 124.5 C.R.S. as they may be amended. For purposes of civil sanctions the County may seek, this Resolution shall be considered to be a zoning resolution. A civil sanction and penalty may be assessed for each day the violation exists.
- B. **CRIMINAL REMEDIES.** Any person violating any provision of this Resolution shall be subject to all criminal sanctions and penalties authorized by law, including but not limited to Sections 30-28-124, 124.5, and 16-13-301 C.R.S., et seq. as they may be amended. For purposes of criminal sanctions the County may seek, this Resolution shall be considered to be a zoning resolution. A sanction and penalty may be assessed for each day the violation exists.
- C. **CUMULATIVE REMEDY.** The Board's right to seek civil and/or criminal remedies shall be exercised only by the Board and shall be cumulative to, and not a prerequisite to, any other enforcement remedies provided by this Resolution.
- D. **FEES.** The Board shall be entitled to recover from any person violating any provision of this Resolution all reasonable attorneys' fees as well as all reasonable costs including staff time incurred in enforcing requirements of this Resolution.

SECTION 16-113: NO PERSONAL LIABILITY

Any County official, employee or agent charged with the enforcement of this Resolution who acts in good faith in the discharge of the duties required by this Resolution or other pertinent law, ordinance, regulation or Resolution shall not thereby be rendered



personally liable for any damages that may accrue to any person or property as a result of an act or omission to act in the discharge of those duties.

SECTION 16-114: NO COUNTY LIABILITY

This *Resolution* does not make, and shall not be construed to make, Gunnison County, or any of its officials, employees or agents responsible or liable for any injury to persons or property resulting from any action taken pursuant to this *Resolution*.

SECTION 16-115: RESPONSIBILITY NOT LESSEMED

This *Resolution* does not and shall not be construed to relieve from or lessen the responsibility of any person owning or controlling any land for any damages to persons or property caused by use of such land for which a permit was issued pursuant to this *Resolution*.

SECTION 16-116: NO WAIVER BY GUNNISON COUNTY OF STATUTORY AUTHORITY

Nothing in this Article 8 is, or shall be construed to be, a waiver by Gunnison County of any statutory authority including the authority identified in Section 24-32-2109, C.R.S., Local Disaster Emergencies, as it may be amended.

SECTION 16-117: NO WAIVER BY GUNNISON COUNTY OF GOVERNMENTAL IMMUNITY

Nothing in this *Resolution*, and no act performed pursuant to this *Resolution*, is or shall be construed to be a waiver by Gunnison County, its officials, employees or agents of governmental immunity.

Wetlands-related sections:

Change in Article 2:

~~WETLAND~~. means an area ~~as defined by the U.S. Environmental Protection Agency Regulations listed at 40 CFR 230.3(t), as amended. Generally such~~ inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and ~~that under usual circumstances does,~~ supports, a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

- Wetland areas generally include marshes, bogs, seeps, riparian and similar areas ~~but~~.
- Wetland areas do not include artificial wetlands intentionally created from non-wetland areas, including: flood-irrigated agricultural and ranch lands and ranch ponds; irrigation and drainage ditches; grass-lined swales; canals; detention facilities; ~~ranch ponds and~~ landscape amenities; ~~Exempt from the definition are and~~ areas in which there are wastewater treatment systems, including treatment ponds and lagoons designed to meet the requirements of the Clean Water Act (33 U.S.C. Sec. 1341), treated water distribution and storage facilities or treated water that otherwise meet the criteria in this definition ~~and areas created by irrigation related activities from agriculture and ranching.~~ However, wetlands may include those artificial wetlands intentionally created from non-wetland areas created for the purpose of mitigating conversion loss of wetlands, if permitted by the County.

WETLANDS FUNCTIONS. The beneficial roles that wetlands serve, including storage, conveyance, and attenuation of floodwaters and storm waters; groundwater recharge and discharge; protection of water quality and reduction of sediment and erosion; ~~production of waterfowl, game and non-game birds, mammals, and other living resources; protection of habitat for endangered, threatened, and sensitive species;~~ food chain support for a broad range of wildlife and fisheries; educational, historical, and archaeological value protection; and scenic, aesthetic, and recreational amenities.