

**CHAFFEE COUNTY COLORADO
RESOLUTION 2022—41**

A RESOLUTION IMPOSING A TEMPORARY MORATORIUM ON THE ACCEPTANCE OF CERTAIN LAND USE APPLICATIONS PENDING THE ADOPTION OF WATER ADEQUACY STANDARDS AND IN CONNECTION WITH THE UPDATE AND IMPLEMENTATION OF THE CHAFFEE COUNTY LAND USE CODE

FINDINGS AND CONCLUSIONS:

- A. The Land Use Enabling Act (C.R.S. § 29-20-101 *et seq.*) and the County Planning Code (C.R.S. § 30-28-101, *et seq.*) and other authorities listed in Section 1.1.2 of the Chaffee County Land Use Code authorize county regulation of land use in the unincorporated areas of the county.
- B. The Local Government Land Use Control Enabling Act, C.R.S. § 29-20-101 *et seq.*, provides the County with the broad authority to plan for and regulate the use of land to best protect and promote the health, safety, and general welfare of the present and future inhabitants of Chaffee County and to guide future growth, development, and distribution of land uses within Chaffee County.
- C. Further, C.R.S. § 29-20-101, *et seq.* gives the County authority to:
 - a. Regulate development in hazardous areas;
 - b. Protect lands from activities which would cause immediate or foreseeable material danger to significant wildlife habitat and would endanger a wildlife species;
 - c. Preserve areas of historical importance;
 - d. Regulate the location of developments which may result in significant changes in population density;
 - e. Regulate development in order to promote the construction of new affordable housing units;
 - f. Regulate the use of land on the basis of the impact of the use on the community or surrounding areas; and
 - g. To otherwise plan for and regulate the use of land so as to provide planned and orderly use of land and protection of the environment in a manner consistent with constitutional rights.
- D. The following provisions also give the County authority to plan for and regulate the use of land, including the authority to impose temporary moratoriums on development activities:
 - a. C.R.S. § 30-11-107 concerning powers of the Boards of County Commissioners;
 - b. C.R.S. § 30-28-101, *et seq.* concerning the regulation of the use of structures in various zone districts throughout Chaffee County; and
 - c. C.R.S. § 30-28-115 concerning the promotion of the health, safety, convenience, order and/or welfare of the citizenry through the use of land use regulations.
- E. The current Chaffee County Land Use Code (“LUC”) was adopted pursuant to Ordinance 2014-01 and became effective in February 2014. Following its adoption, the Chaffee County Board of County Commissioners (“Board”) approved amendments and corrections to the LUC and on September 9, 2014, June 9, 2015, January 19, 2016, and February 9, 2016 pursuant to Resolutions 2014-38, 2014-51, 2015-24, 2016-04, 2016-13 and 2016-24, 2016-42, 2016-49, 2016-51, 2016-52, 2017-01, 2017-22, 2017-29, 2017-42, 2017-51, 2017-54, 2017-55, 2017-67, 2017-72, 2017-73, 2018-02, 2018-25,

2018-34, 2019-51, 2020-25, 2020-26, 2020-61 and 2021—31, respectively.

- F. In 2020, pursuant to C.R.S. §§ 30-28-106 and 31-23-206, Chaffee County created and adopted a new comprehensive plan, which is a guiding document that provides a framework for regulatory tools like zoning, subdivision regulations, annexation, and other policies to promote the community’s vision, goals, objectives, and policies. The updated comprehensive plan, referred to as the 2020 Comprehensive Plan, aims is to create a healthier, more connected, and economically successful county that sustains the lifestyles and landscapes that attract so many people to Chaffee County.
- G. In connection with the 2020 Comprehensive Plan, the County has recently begun efforts to update the LUC, and has engaged a consulting firm to assist in the rewrite process. The County anticipates that the LUC rewrite project will be completed by the end of 2023, but has structured the project to allow for the adoption of certain sections of the new LUC language at more-frequent intervals as such language is drafted, reviewed, and approved. This structure is referred to as the “modular approach” to the LUC rewrite project.
- H. Chaffee County and the LUC rewrite consulting firm have preliminarily designated land subdivision standards and land use change procedures for consideration in “Module 2” of the rewrite project, outlined for potential discussion and approval on or about December 2022.
- I. Chaffee County is seeing unprecedented growth and development in its unincorporated areas. The rate of growth and development has brought to light a number of concerns that require further study and analysis, including the adequacy and availability of water and other natural resources, increased wildfire risks, and potential impacts to wildlife, forest health, and sensitive riparian areas. The County has recently initiated efforts to further study some of these concerns in hopes of providing additional guidance and policy measures for the new LUC. Chaffee County thus recognizes the importance and timeliness of these endeavors as part of the LUC rewrite process.
- J. Further, the ongoing LUC rewrite project risks being significantly delayed or altered in scope should the County continue to accept land development applications that materially change the physical, natural, and economic fabric of the County.
- K. C.R.S. § 29-20-101, *et seq.* gives the County authority to impose a temporary moratorium on the acceptance of land use applications while the County is updating the LUC in connection with the 2020 Comprehensive Plan.
- L. On June 7, 2022, the Board of County Commissioners (“Board”) held a public hearing for the purpose of receiving public comments with respect to the proposed moratorium on the acceptance of certain land use change, division, and development applications.
- M. The people of Chaffee County have had an opportunity to review the proposed moratorium and have had an opportunity to make public comment for or against adoption of the proposed moratorium.
- N. In light of the foregoing, the Board determines that circumstances warrant the immediate enactment of a temporary moratorium on the acceptance of certain land use change, division, and development applications in order to protect and promote the public health, safety, and welfare and to avoid development which may contravene the results and purpose of the LUC rewrite project. Such applications subject to the temporary moratorium are:

- a. Applications for Major Subdivisions as defined in LUC § 5.1.2 and outlined procedurally in LUC § 4.3.4;
 - b. Applications for Minor Subdivisions as defined in LUC § 5.1.2 and outlined procedurally in LUC § 4.3.3;
 - c. Applications for Conservation Subdivisions, including Rural Land Use Cluster, Rural Open Space Incentive, and Cluster Subdivisions, as defined in LUC § 5.3 and outlined procedurally in LUC § 4.3; and
 - d. Land Use Change Applications requiring a Major Impact Review as outlined procedurally in LUC § 4.2.4; and
 - e. Land Use Change Applications requiring a Limited Impact Review as outlined procedurally in LUC § 4.2.3.
- O. This moratorium shall not apply to applications submitted before June 7, 2022 that have been deemed complete pursuant to LUC § 4.1.3.C.
- P. The County seeks to honor applicants who have actively initiated the application process with Planning Department staff and have invested time and resources into said applications. As such, applications for a Major or Conservation Subdivision, or a Land Use Change application requiring a Limited or Major Impact Review where the applicant has contacted the Planning Department before June 7, 2022 for a pre-application conference as required by LUC § 4.1.3.A, or any application for a Minor Subdivision where the applicant has contacted the Planning Department before the close of business on June 15, 2022 for a pre-application conference as required by LUC § 4.1.3.A, and who submit a complete application before July 15, 2022, shall be permitted to proceed as outlined in the LUC.
- Q. This moratorium shall be in effect through December 31, 2022 or until the adoption of new LUC language regarding land subdivision standards and land use change procedures, whichever is sooner. The duration of the moratorium imposed by this Resolution is reasonable in length and is no longer than necessary for the County to reasonably conduct the required studies and prepare its plans.

RESOLUTION:

Based on the foregoing findings and conclusions, the Board resolves as follows:

Section 1. The foregoing recitals are incorporated herein and made a part of this Resolution.

Section 2. Except as set out in Section 4, a moratorium is hereby imposed from June 7, 2022 and until such date as the Board duly adopts new LUC provisions relating to land subdivision standards and land use change procedures, or until December 31, 2022, whichever is earlier, on the acceptance of land use applications for Major Subdivisions, Minor Subdivisions, Conservation Subdivisions, and Land Use Change Applications requiring Major or Limited Impact Reviews. Other such land use applications, including, but not limited to Heritage Water and Agricultural Subdivision Exemptions, boundary line adjustments, and special events permit applications are not subject to this temporary moratorium.

Section 3. Any application that has been submitted prior to June 7, 2022, or any application for a Major Subdivision, Conservation Subdivision, or Land Use Change application that requires a Limited or Major Impact Review where the applicant has contacted the Planning Department before June 7, 2022 to schedule a pre-application conference pursuant to LUC § 4.1.3.A, or any application for a Minor Subdivision where the applicant has contacted the Planning Department before the close of business on

June 15, 2022 to schedule a pre-application conference pursuant to LUC § 4.1.3.A, and such application is subsequently submitted before July 15, 2022 and deemed complete pursuant to LUC § 4.1.3.C by the attestation of the Planning and Legal departments, shall be exempt from the provisions of this Resolution.

Section 4. During the pendency of this moratorium, County Staff, the Chaffee County Planning Commission, and the Board of Commissioners shall endeavor to complete the matters outlined herein – including the adoption of water adequacy standards for Chaffee County - and to work with the LUC rewrite consulting firm for updates to the LUC that are sufficient to protect the public health, safety, and welfare of the residents of Chaffee County regarding such matters. This process shall be moved forward expeditiously, such that the Board can end the temporary moratorium sooner if appropriate.

Section 5. This temporary moratorium does not apply to any land use applications not specifically cited in Paragraph N of the Findings and Conclusions made herein. Further, the County may, at the Board’s sole discretion during the pendency of this moratorium, accept certain land use applications otherwise prohibited that are necessary to protect the public health, safety, and welfare of the residents of Chaffee County.

Section 6. This Resolution shall in no way limit application and enforcement of any statutes of the State of Colorado but shall be in addition thereto.

Section 7. All provisions of this Resolution are intended to be severable. If a court or administrative body declares any provision or its application to be invalid or unenforceable, in whole or in part, such determination shall not affect, impair or invalidate any other provision of this Resolution. If a court or administrative body determines a provision or its application to be valid or enforceable only if its application is limited, its application shall be limited as required to most fully implement its purpose.

Section 8. This Resolution shall be in full force and effect immediately upon adoption by the Board.

ADOPTED AND APPROVED/DENIED by the Chaffee County Board of County Commissioners on June 7, 2022.

BOARD OF COUNTY COMMISSIONERS



[Acting] Chairman

The vote on the above Resolution was as follows:

Commissioner Greg Felt	_____ Yes _____
Commissioner Keith Baker	_____ Yes _____
Commissioner Russell Granzella	_____ Yes _____

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Lori A Mitchell
Chaffee County Clerk

STATE OF COLORADO, CHAFFEE COUNTY
ATTEST:

The above is a true and correct record of Resolution 2022-41 duly adopted by the Chaffee County Board of County Commissioners by a 3—0 vote at a regular meeting, properly noticed and held on June 7, 2022.

Lori Mitchell
Chaffee County Clerk



