

# **SAN MIGUEL COUNTY LAND USE CODE**

## **ARTICLE 2**

### **LAND USE POLICIES**

This article contains San Miguel County's land use policies. The policies serve as the guide to the land use standards of this Code.

#### **SECTION 2-1: CONFORMANCE WITH ADOPTED COMPREHENSIVE PLAN**

It is the policy of the County to insure that the use and development of land within San Miguel County and any actions committing such land to development or a change in use are consistent with San Miguel County's adopted Comprehensive Plans.

#### **SECTION 2-2: COMPREHENSIVE PLANNING**

It is the policy of the County to adopt a Comprehensive Development Plan for the County and regularly update the plan.

#### **SECTION 2-3: PHASING OF PUBLIC SERVICES AND FACILITIES**

It is the policy of the County to insure the efficient phasing of public services. To this end, it is County policy to prevent the location of activities and developments resulting in significant changes in population densities that are inconsistent with adopted Comprehensive Development Plan.

#### **SECTION 2-4: COMMUNITY BALANCE**

It is the policy of the County to identify the carrying capacity of San Miguel County to achieve and maintain a social, economic and environmental balance in the community. Additionally, the County shall seek to maintain a balance between the peak population in the community and recreational activities and public services, taking into consideration the County's environmental carrying capacity and shall determine the appropriate service level required to maintain an adequate stock of affordable housing.

#### **SECTION 2-5: SKI AREA DEVELOPMENT**

It is the policy of the County to seek a balance between ski area capacity and demands generated by skiers for tourist accommodations, commercial facilities and public services including transportation and affordable housing.

**SECTION 2-6: COMPATIBILITY WITH EXISTING ADJACENT NEIGHBORHOODS**

It is the policy of the County to insure that any land use applicant under the provisions of this Code consults with the local neighborhood caucus or homeowners' association, open to all residents, concerning the compatibility of the uses proposed with existing neighborhood and any adopted neighborhood goals and objectives, or that the procedures for the processing of any development application provide for notice to and hearing of such local groups.

**SECTION 2-7: CONFORMANCE WITH OTHER LAWS**

It is the policy of the County to consider whether approval of uses or development of lands within San Miguel County is consistent with applicable laws of the United States of America and the State of Colorado and the County Land Use Code.

**SECTION 2-8: NATURAL AND MAN-MADE HAZARD AND RESOURCE AREAS**

It is the policy of San Miguel County to prevent any use and development of land that may:

**2-801**

Unreasonably subject any person, or use, to natural or man-made hazards;

**2-802**

Unreasonably create or contribute to the danger of natural or man-made hazards that might affect lands or the use and development thereof;

**2-803**

Unreasonably subject other persons including the County to the risks and expenses necessary to mitigate hazardous conditions, respond to emergencies created by such conditions, or to rehabilitate any lands or improvements thereof;

**2-804**

Be unduly destructive to the natural resources of the County; or

**2-805**

Constitute a public or private nuisance.

**SECTION 2-9: SOIL, SURFICIAL GEOLOGIC CHARACTERISTICS AND RADIATION**

It is the policy of the County to discourage inappropriate land uses or development in hazard areas; those areas susceptible to radiation hazards or to structural damage or failure resulting from soil and surficial geological characteristics such as shrink-swell, inadequate bearing capacity, inadequate groundwater drainage, frost heaving, or chemical reactions.

**SECTION 2-10: DRAINAGE**

It is the policy of the County to preserve the integrity of existing and natural drainage patterns in order that future public and private development activities do not cause or contribute to storm drainage and floodwater patterns exceeding the capacity of natural or constructed drainage ways, subject other areas to increased potential for damage by flood, erosion or sedimentation, or cause or contribute to polluting natural streams. New development must provide for structures and/or detention facilities necessary to insure that the runoff characteristics of a site are no more disruptive to natural streams, or existing land uses, or drainage systems than are the runoff characteristics in its natural state.

**SECTION 2-11: EROSION**

It is the policy of the County to prevent the acceleration of the erosion of soil and rock and whenever possible maintain vegetative cover to minimize soil disturbance.

**SECTION 2-12: SCENIC QUALITY**

It is the policy of the County to preserve the scenic quality of lands within the County for the benefit of its residents and the continued viability of a resort economy that is dependent upon the quality of its rural and natural setting. To this end, it is the policy of the County to:

**2-1201**

Preserve the natural appearance of the mountain slopes, particularly from major activity areas, public roads, and trails by regulating the location, height, design and screening of development;

**2-1202**

Minimize the adverse scenic effects of roads and facilities by regulating the location and use of future development and the expansion of existing development where new or increased roads and

facilities would be required to serve such areas and where the construction of such roads and facilities would impact the scenic quality of areas visible from public roads, trails or major activity centers;

### **2-1203**

Minimize any adverse scenic effects of roads and other facilities by regulating their alignment, design, and construction so as to reduce their impact on the visual quality of any areas in the County, particularly public roads, trails and major activity areas;

### **2-1204**

Control the use of natural areas to insure that development does not result in scars from fire, erosion or vandalism;

### **2-1205**

Preserve and create scenic views of the surrounding mountains from public places within the County;

### **2-1206**

Achieve visual quality within areas of existing and future development by prohibiting or mitigating the impacts of unsightly equipment, uses and structures; controlling the design and alignment of electricity and phone lines and similar facilities; and, where feasible, requiring such lines to be underground; specifying design standards such as setbacks, height limits, view corridors, historic zones and material requirements; controlling signs, and ensuring the rehabilitation of areas subject to temporary or discontinuous use, such as mines, pits and quarries; and

### **2-1207**

Manage development within the designated view planes and the scenic foreground to preserve the natural appearances within the Telluride Region.

## **SECTION 2-13: AIR QUALITY**

It is the policy of the County to permit only that development which will not contribute significantly to degradation of air quality in the County.

## **SECTION 2-14: WATER RESOURCE AND WETLAND IMPACTS**

It is the policy of the County to preserve and protect water resources, identified wetland areas, watershed basins, riparian areas and ecologically important ground waters, recognizing the County's semi-arid character and that the vested rights of senior appropriations in the basins have materially curtailed the availability of an already scarce water resource. To this end it is the policy of the County:

### **2-1401**

To discourage development that would adversely affect the quantity, quality, or accessibility of the County's water resources; and to discourage development which would occur at the expense of established water-dependent agricultural activities or which would result in increased degradation of water resources, loss of minimum stream flows, further destruction of wildlife habitat or major expenditures to reacquire or redistribute major water resources; and

### **2-1402**

To maintain a natural vegetative buffer along surface waters such that the surface and groundwater resources of the area are not encroached upon by land uses or other human activities which could cause degradation of water quality or impair the ecological functions and natural treatment processes provided by riparian areas, meadows and wetlands.

### **2-1403**

To protect the significant ecological, recreational, aesthetic and water resource values of watershed basins of the upper San Miguel River, and in so doing protect the natural resources of the upper San Miguel River.

### **2-1404**

To facilitate the protection and provision of public drinking water supplies, by protecting the integrity of the upper San Miguel River watershed, including ecological and drinking water functions of groundwater and the integrity of the San Miguel River ecosystem.

## **SECTION 2-15: NOISE**

It is the policy of the County to discourage land uses that will generate noise that would adversely impact existing neighboring land uses or the enjoyment thereof.

## **SECTION 2-16: WILDLIFE PROTECTION**

It is the policy of the County to identify and protect wildlife habitats for the preservation of

wildlife, to encourage land use patterns that avoid disruptions to such habitat. The County will coordinate with Colorado Parks and Wildlife personnel regarding proposed development or uses within or adjacent to mapped wildlife habitat areas to mitigate impacts of development on wildlife.

## **2-1601**

It is the policy of the County to protect, enhance and preserve Gunnison Sage-grouse populations and their habitats. To this end, the County will consider and, to the extent possible, implement the rangewide and local conservation strategies set forth in the Gunnison Sage-grouse Rangewide Conservation Plan, dated April 2005, and all amendments to the Plan (Colorado Parks and Wildlife) when considering land use activities and development that is located within Gunnison Sage-grouse habitat as mapped by the Colorado Parks and Wildlife.

## **SECTION 2-17: ADEQUATE PROVISION OF WATER**

It is the policy of the County to insure the availability of a water supply of adequate quality, quantity, pressure and dependability for fire protection and support of a proposed land use prior to approval of the use. The County shall encourage land uses to hook up to existing public systems if service is available.

## **SECTION 2-18: SEWAGE TREATMENT AND COLLECTION**

It is the policy of the County to insure that adequate facilities to collect, treat and dispose of anticipated types and quantities of sewage are available with suitable capacity, quality of discharge, suitable point of discharge and dependability, and that any proposed system is financially feasible based on the available tax base and other legal criteria prior to approval of any land use. The County shall encourage land uses to hook up to existing public systems if service is available.

## **SECTION 2-19: ROAD SYSTEM IMPACTS**

It is the policy of the County to preclude development that generates traffic volumes in excess of the capacity of the County road system or results in significant service level reductions or extraordinary impacts, unless the proponents of the development pay their fair share of costs to be generated by the proposed development to upgrade on-site and off-site roads consistent with the County's Road Management Plan and other policies of the County. The County may deny or postpone development approvals to insure that the timing of development coincides with the County's road improvement program.

## **SECTION 2-20: NEW SUBDIVISION ROADS**

It is the policy of San Miguel County to accept the dedication of new roads within subdivisions, when a developer demonstrates the roads are constructed in compliance with County standards and development will generate an adequate revenue stream for the County to maintain the roads without placing an additional tax burden on existing County residents.

## **SECTION 2-21: EXISTING SUBDIVISION ROADS**

The County shall assist homeowners currently maintaining their subdivision roads to form districts to maintain existing subdivision roads. Additionally, the County shall insure that new development which impacts existing subdivision roads pays its fair share cost to mitigate the impacts of construction and daily traffic on existing subdivision roads.

## **SECTION 2-22: ROAD DESIGN AND CONSTRUCTION**

### **2-2201**

It is the policy of the County to insure that new and upgraded roadways are designed, engineered and constructed to minimize environmental or aesthetic damage and future maintenance costs consistently with public safety needs. The County shall utilize flexible road standards to design roadways to adapt to the landscape rather than requiring significant changes to the landscape by strictly applying standard engineering practices.

### **2-2202**

This policy statement is intended to reflect the Goals and Objectives of the Telluride/Ophir High Country Area Sections of the County's Comprehensive Development Plan (Master Plan). It is the policy of the County in the High Country Area (HCA) Zone District to prohibit both public and private improvements to public roads, in order to retain the relatively undeveloped character of backcountry areas and maintain the present rough condition of existing mountain passes and roads to protect their historic character and recreational functions.

### **2-2203**

Roads and driveways shall have minimal visibility from the Towns of Telluride, Mountain Village, or Ophir.

### **2-2204**

The County shall prohibit public or private routine winter maintenance on public roads from

November 1 through May 1 in the High Country Area (HCA) Zone District. The County Road and Bridge Department may, pursuant to Resolution 1996-23, in its reasonable discretion issue a Special Construction Permit authorizing winter maintenance on a portion of CR K69, also referred to as Lower Bridal Veil Road, a designated High Country Road, after November 1 and before May 1, based upon its determination that weather and snow pack conditions are reasonably safe and appropriate for such road maintenance activities as may be required to serve essential community facilities.

**SECTION 2-23: EXTENSION OF UTILITIES**

It is the policy of the County to regulate utility extensions in a manner which insures that utility resources be directed to areas with or adjacent to existing development and to areas suitable for development consistent with the policies of the County. Such areas should be provided with necessary public utilities. The County shall discourage utility extensions:

**2-2301**

To areas which are not fully serviced and are premature for development;

**2-2302**

To areas that are not suitable for the type or amount of development necessary to support the service or development that is likely to result from such extension;

**2-2303**

That are not financially viable without additional public expenditures to extend or upgrade components of the system or for increased maintenance or operating needs;

**2-2304**

Which duplicate major lines or treatment facilities;

**2-2305**

Which would require unusual construction, maintenance or operating costs due to topographical, soil or geological conditions; and

**2-2306**

Which generate costs, including environmental impacts exceeding the benefit to be gained thereby.

**SECTION 2-24: IMPACTS ON TAXES AND MANAGEMENT OF NECESSARY SERVICES AND FACILITIES**

It is the policy of the County to insure that new development shall make a fair share contribution to San Miguel County or to special districts to insure that new development will not result in any reduction in the quality of services, or public facilities or programs provided to the community.

**SECTION 2-25: TRANSPORTATION**

It is the policy of the County to encourage in any new development measures minimizing automobile congestion; promoting traffic safety and discouraging automobile sources of air pollution; promoting non-motorized transportation alternatives such as trails for bicycles, horses, pedestrians and cross-country skiers; encouraging the use of public transportation, as opposed to the individual use of the automobile; and reducing the number of vehicle trips per day.

**SECTION 2-26: MASS TRANSIT**

It is the policy of the County to require new developments to pay their fair share costs to enhance the mass transit system in San Miguel County.

**SECTION 2-27: COMPATIBILITY WITH AGRICULTURAL LANDS AND OPERATIONS**

It is the policy of the County to promote the economic viability of agricultural lands and operations within San Miguel County and to insure that large tracts of land now committed to or capable of agricultural uses are preserved. To this end, the County shall:

**2-2701**

Insure that development in the vicinity of agricultural land shall not make continued agricultural operations impractical or economically infeasible;

**2-2702**

Encourage the exclusion of primarily agricultural lands from taxing districts that may be formed for purposes with little measurable benefit to agricultural operations;

**2-2703**

Preclude development or development patterns that remove so much water from agricultural use that there is an insufficient supply for agriculture;

**2-2704**

Encourage the preservation of agricultural lands and uses within the undeveloped portions of proposed or approved development wherever possible;

**2-2705**

Protect agricultural operations from disruptions resulting from domestic pets; and

**2-2706**

Encourage practices that eliminate noxious weeds, including use of weed-free hay. Any ground disturbance should incorporate appropriate weed control measures to be determined in consultation with the San Miguel Basin Weed Board.

**SECTION 2-28: COMPATIBILITY WITH HISTORICAL AND ARCHAEOLOGICAL RESOURCES**

It is the policy of the County to protect any sites, structures and surrounding areas determined to have historical or archaeological significance to the community, the region, or the State of Colorado from any destruction or alteration of the site, structure or surrounding area that would detract from its historical and archaeological significance.

**SECTION 2-29: HOUSING**

Resident and tourist speculative investment and the utilization of an increasing percentage of the housing stock as short-term accommodations or vacation homes are economic factors contributing to high housing costs and a contraction of the housing stock available for permanent and seasonal residents. Real estate market forces spur developers to create an exclusionary, homogenous, high income, second-home housing market absent of low and moderate income housing opportunities. It is the policy of the County to:

**2-2901**

Alleviate overcrowding, excessive commuting, and social instability prevalent in the permanent resident community resulting from speculative, second home and tourist influences in the permanent resident housing market;

**2-2902**

Provide a wider choice of housing alternatives for persons of low or moderate incomes living in the community;

**2-2903**

Insure that future development alleviates rather than contributes to problems of inadequate housing for persons residing or working within the County;

**2-2904**

Disapprove those developments that are exclusionary;

**2-2905**

Assist the private sector in providing new affordable housing throughout San Miguel County, but primarily in the Telluride Region, to reduce the critical shortage of affordable housing;

**2-2906**

Prepare, adopt and continually update a Housing Action Plan addressing affordable housing;

**2-2907**

Revise County land use policies and regulations based upon the adoption of the Housing Action Plan and updates to the Plan; and

**2-2908**

Insure that housing units that are intended to mitigate the impacts of development upon affordable housing are located in the same general area as the development.

**2-2909**

Insure that all new employee generating development contributes its fair share to the housing of local residents in order to reduce commuting traffic, create social investment and maintain vitality within our community.

**2-2910**

It is the policy of the County to provide affordable employee housing for persons working in the County. This policy has been reiterated by the Board of County Commissioners and is formally recognized in this Code and by the establishment of the multi-jurisdictional housing authority created by San Miguel County and Towns of Mountain Village and Telluride. Revisions to this Code are necessary to further the goal of the County to provide housing that is affordable to the average person employed in the County so that further degradation of our community character is prevented and that the County continues to be a viable residential community.

San Miguel County has set the following priorities to further the goal of providing affordable housing:

1. Onsite construction of affordable housing units
2. Off-site construction of affordable housing units
3. Dedication of improved lots within a subdivision
4. Dedication of (raw or unimproved) land
5. Conversion of existing free market housing to deed restricted, appreciation Capped units in a manner acceptable to the Board of County Commissioners
6. Payment in-lieu (employee housing Impact Fees), to apply to development that has not otherwise fully mitigated its employee housing impacts.

## **SECTION 2-30: ENERGY CONSERVATION**

It is the policy of the County to encourage features in any development that will conserve energy resources and minimize the consumption of energy.

### **2-3001**

Encourage the utilization and incorporation of energy conservation measures, Green Building Standards (pursuant to Board of Commissioner Resolution 2005-44 regarding Prescriptive Energy Code and Green Building Standards), and alternative energy sources, including but not limited to passive solar design, wind generation, geothermal, photovoltaic, hydrogen fuel cells, etc., for all construction in the County.

## **SECTION 2-31: COMPATIBILITY WITH ADJACENT OR NEARBY PUBLIC LANDS**

It is the policy of the County to preserve and protect public lands from the impacts of incompatible development. To this end it is the policy of the County to:

### **2-3101**

Insure that development near or adjacent to public lands will not cause high concentrations of population in such areas;

### **2-3102**

Discourage development that will encourage the intrusion of roads or high levels of human activities on such lands;

**2-3103**

Insure that any development will not result in adverse environmental impacts on such lands, such as water or air pollution and threats to wildlife habitat by dogs or human activity;

**2-3104**

Favor low-impact land uses that support non-motorized dispersed recreation and the preservation of wildlife habitat, scenic quality and air and water quality;

**2-3105**

Favor public land management practices, policies and plans that are consistent with County policies over other land management practices;

**2-3106**

Coordinate and cooperate with public land managers on the management of both public and private lands and interests consistent with County policies;

**2-3107**

Adhere to the policies and standards embodied in the **San Miguel County Land Use Code**, the **San Miguel County Comprehensive Development Plan**, Planned Unit Development agreements and State and federal regulations in addressing development of lands within or adjacent to public lands;

**2-3108**

Neither impose special standards nor waive existing standards in response to land use permitting in these areas;

**2-3109**

Pursue the implementation of these policies through a land use planning process, including public involvement and more specific legislation if necessary; and

**2-3110**

Strongly oppose land uses within wilderness areas that are not consistent with the Wilderness Act of 1964.

**SECTION 2-32: ACCESS TO PUBLIC LANDS**

It is the policy of the County to preserve existing access points to public lands and to strive to secure new access points to public lands. To this end it is the policy of the County to:

**2-3201**

Insure open access to public lands while protecting the rights of private landowners;

**2-3202**

Favor pedestrian and non-motorized forms of access in pursuit of exercise, camping, hunting and fishing, nature study and similar uses minimizing impacts and preserving the natural environment over other types of access;

**2-3203**

Favor the maintenance of access into areas along routes that have been used in the past over the development of new access routes, unless the Master Plan recommends the development of a new route or if it is found that the abandonment of old access routes and the development of new ones will lead to significant reductions in environmental impacts and superior public access;

**2-3204**

Identify access routes in which the County has a legal interest and pursue the establishment of such interests by appropriate means;

**2-3205**

Identify those access routes of which preservation is essential to the maintenance of appropriate uses and activities, and take appropriate steps to secure those routes for ongoing public use; and

**2-3206**

Favor permanent and irrevocable rights of access over conditional or temporary rights.

**SECTION 2-33: PRIVATE LANDS SURROUNDED BY PUBLIC LANDS (INHOLDINGS)**

It is the policy of the County to promote and encourage the transfer of private inholdings to public ownership with the objective of promoting consistent management of the public lands to reduce conflicts between private owners and developers and the public at large. To this end it is the policy of the County to:

### **2-3301**

Pursue and promote the acquisition of private inholdings through purchase or exchange by the federal government, or, within the constraints of County budget and competing needs, by the County;

### **2-3302**

Favor maintenance of inholdings for open space over the use of inholdings for any developmental purpose; and

### **2-3303**

Subject any development of inholdings for any purpose to all applicable County land use standards including, but not limited to, zoning codes, building codes and land use codes.

## **SECTION 2-34: REVEGETATION WITH NATIVE SPECIES**

It is the policy of the County to prevent weed infestation and to ensure that all surface disturbances, especially of topsoil, are revegetated with native species.

## **SECTION 2-35: MINING AND MINERAL PROCESSING OPERATIONS**

It is the policy of the County to permit commencement or expansion of Mining and Mineral Processing operations only in appropriate areas identified pursuant to the County Comprehensive Development Plan, with review, as appropriate, under Land Use Code Section 5-4 and CRS 24-65.1-101 *et. seq.*, "Areas and Activities of State Interest," subject to adequate mitigation of environmental, noise, traffic, and other impacts of such activities.

## **SECTION 2-36: CODE ENFORCEMENT**

It is the policy of the County to enforce all provisions of the Land Use Code, Uniform Building Code, Colorado Department of Health and Environment regulations, and all other applicable County-adopted codes governing public health, safety and welfare, such that County personnel's knowledge of non-compliance discovered during the normal course of business shall result first in efforts to bring non-compliant situations into compliance, and then, if compliant can't be achieved within a reasonable time frame, in seeking appropriate remedies as described in Land Use Code Section 1-16.

## **SECTION 2-37:      PRESERVING THE HIGH COUNTRY AREAS**

### **2-3701**

It is the policy of the County to encourage private efforts to preserve land in the High Country Master Plan Area through conservation easements with land trusts, or by sale, transfer, or land exchange to a public land management agency. The County favors preservation and protection of these high country areas in the upper San Miguel Watershed for open space, public recreation, and watershed and source water protection over the use of these properties for any development purpose.

### **2-3702**

Ensure that any development of property in the High Country Area Zone District is in keeping with the goals and objectives of the Telluride/Ophir High Country Area Sections of the Master Plan.

## **Section 2-38            WIRELESS SERVICES AND COMMUNICATIONS FACILITIES**

It is the policy of the County to ensure that residents, visitors, schools, public safety operations and businesses in unincorporated areas San Miguel County have reliable access to Personal Wireless Services while ensuring that this objective is achieved in a fashion that preserves the aesthetic character of the community and neighborhood and is accomplished according to the County's planning, zoning, and design standards.