Section 3: Enforcement and Administrative Exceptions

(orig. 5-6-46; am. 9-6-77; am. 12-12-78; am. 5-20-08)

A. Compliance

It shall be unlawful for any person, firm, corporation or other entity to use, or cause to be used, any land within the unincorporated areas of Jefferson County except as permitted by this Zoning Resolution. If a use is not listed within the "Permitted Uses" section of a zone district, then the use is not allowed. (orig. 9-6-77; am. 3-28-00; am. 12-17-02)

B. Zoning Administrator/Enforcement

1. There is hereby established the position of Zoning Administrator, appointed by the Director of Planning and Zoning, and approved by formal resolution of the Board of County Commissioners. (orig. 9-6-77; am. 12-17-02; am. 12-21-10)
2. No oversight or error on the part of the Zoning Administrator, the Zoning Administrator's assistants, or any official or employee of the County shall legalize, authorize, or excuse the violation of any of the provisions of this Zoning Resolution. (orig. 5-6- 46; am. 9-6-77; am. 6-14-88; am. 12-17-02)
3. It shall be the duty of the Zoning Administrator or his/her appointed designee to interpret and enforce all regulations and requirements contained in this Zoning Resolution and in Special Exceptions, Variances, Special Uses, County-approved landscape plans, and Official Development Plans unless that duty has been expressly delegated to another office. (orig. 9-6-77; am. 6-1-93, am. 8-17-99; am. 12-17-02)
4. Cease and Desist Order (orig. 12-14-04)
   a. If the Zoning Administrator or his/her appointed designee determines that a violation of this Zoning Resolution exists, the Zoning Administrator or his/her appointed designee may issue a cease and desist order. (orig. 12-14-04)
   b. The cease and desist order shall be in writing and served on the owner of the property involved or the owner's agent or the person committing the violation. All cease and desist orders shall be served upon such person by personal service or certified or registered mail, return receipt requested. (orig. 12-14-04)
   c. The cease and desist order shall set forth with particularity the provisions of the Zoning Resolution being violated, the facts that constitute the violation and the time by which the violation must be terminated or corrected. An immediate order to cease the violation may be issued but in no case shall a correction period of longer than 30 calendar days be granted unless the Zoning Administrator or his/her appointed designee approves a longer time period. (orig. 12-14-04)
   d. Unless provided otherwise in the cease and desist order or granted in writing by the Zoning Administrator or his/her appointed designee, all cease and desist orders are effective upon service. (orig. 12-14-04)
   e. Failure to comply with a cease and desist order issued pursuant to this section shall be considered a violation of this Zoning Resolution. (orig. 12-14-04)
   f. All appeals of cease and desist orders must be filed in accordance with Section 4 of this Zoning Resolution and applicable law. If an appeal of a cease and desist order is filed, the effect of the order shall be stayed until affirmed or modified in accordance with Section 4 of this Zoning Resolution. (orig. 12-14-04)
5. Enforcement Measures for Mining Operations (orig. 6-1-93)
   a. Periodic inspections of mining operations, made by personnel from the County and other agencies with enforcement responsibilities concerning regulation of any aspect of the mining operation, shall be allowed by the operator. Such inspectors shall comply with all state and federal safety and health regulations. Any violation of the provision and terms of the Board of Adjustment's resolution authorizing a Special Exception, and/or any violation of the provisions and terms of the Board of County Commissioner's resolution authorizing a

Special Use within the M-C District, and/or any violation of the provisions and terms of the Official Development Plan (ODP) within the Planned Development District is a violation of this Zoning Resolution. In addition to all other remedies as provided by law, this may result in the issuance of a notice of zoning violation. Any attempt to modify conditions of the existing Special Exception shall be in accordance with Section 46 of this Zoning Resolution. (orig. 2-20-80; am. 6-1-93; am. 12-17-02)

b. Annual Report

The operator shall prepare an annual report for any previously approved Special Exception and, unless waived by the Board of County Commissioners, a Special Use or Planned Development for mining, which shall include the following: (orig. 2-20-80; am. 6-1-93)

(1) Operations: A report identifying days of operation and identifying all days on which the detonation of blasting material within 250 feet of the ground surface has occurred. (orig. 2-20-80)

(2) Reclamation: A progress report on reclamation identifying areas being reclaimed, areas in which reclamation is complete, and the success or failure of all reclamation efforts to date. A copy of the mined land reclamation annual report shall satisfy this requirement. (orig. 2-20-80; am. 6-1-93)

(3) Seismic and Noise Monitoring: A report on the seismic and noise monitoring of the operation, if required. (orig. 2-20-80; am. 6-1-93)

(4) Air Quality Data: A report on air quality monitoring, if required. (orig. 2-20-80; am. 6-1-93)

(5) Production and Transportation: A report on transportation activities which is a summary of how material was actually transported off-site, including truck and/or rail trips, as appropriate. This report will demonstrate how actual transportation compares to the traffic study as originally presented to the Board of Adjustment and/or the Board of County Commissioners. New traffic studies may be required of operators when routes and methods of transportation to major markets undergo substantial changes that will result in negative impacts on areas not considered during the hearings approving the mining use. The operator should mark documents which they believe to be confidential. Information marked "confidential," which may be precluded from disclosure under 24-72-204, C.R.S., as amended, shall not be available to the public until the mining operation is terminated unless the operator gives a written consent to the release of all or any part of the information. (orig. 2-20-80; am. 6-1-93)

(6) Hydrologic Data: A report on hydrologic data, which identifies any impact of the operation on surface and ground water as addressed in the Official Development Plan and/or Special Exception, and/or Special Use. (orig. 2-20-80; am. 6-1-93)

(7) Community Relations Summary: A report on any community relations activities that have occurred during the past year. (orig. 6-1-93)

(8) Other: Any other data required by the Board of County Commissioners at the time the Special Use or Official Development Plan was approved. (orig. 6-1-93) (9) Violation of any standard in the Official Development Plan, and/or Special Use, and/or Special Exception that has been brought to the attention of the operator shall be identified and measures taken to prevent reoccurrence shall be provided. (orig. 6-1-93)

c. Mining Operation Review

The Zoning Administrator or his/her appointed designee shall review the annual report for all mining operations and determine compliance with the conditions and restrictions of the resolution granting the Special Exception or Special Use or the conditions and restrictions of the Official Development Plan. Notification will be provided, in writing, to the operator of such determination. (orig. 6-1-93; am. 12-17-02)

d. Community Analysis

During the period of the mining operation, the operator shall designate a staff person (and phone number) who shall be available to meet with citizens and County officials concerning problems and address these issues on behalf of the operator. (orig. 6-1-93)

6. Enforcement Measures for Landscaping (orig. 8-17-99)

a. Periodic inspections of landscaping made by personnel from the County shall be allowed by the landowner. (orig. 8-17-99; am. 12-17-02)

b. Landscaped areas shall comply with and be maintained in accordance with this Zoning Resolution, unless the Board of Adjustment has, by resolution, authorized a Special Exception of this Zoning Resolution. In addition, if a Landscape Plan has been approved as a part of a development application, then the landscaped areas shall be maintained in accordance with the approved plan. All aspects of the approved Landscape Plan, such as landscaping, fencing, signage, etc., shall be enforceable even if the standards are more stringent than the requirements of this resolution. (orig. 8-17-99; am. 12-17-02; am. 4-20-10)

c. Owners shall cut, or cause to be cut, all weeds growing on their property and remove or cause the removal of the cut weeds to a legal refuse disposal site. (orig. 7-6-04)

d. Any deviation from the provisions and terms of a Board of Adjustment's resolution authorizing a Special Exception to landscaping requirements, or any deviation from the County-approved landscape plan(s) is a violation of this Zoning Resolution. In addition to all other remedies as provided by law, this may result in the issuance of a notice of zoning violation. . (orig. 8-17-99; am. 12-17-02)

7. Enforcement Measures for Defensible Space and Associated Fuel Break Thinning (orig. 6-18-02)

a. Periodic inspections of defensible space and associated fuel break thinning made by personnel from the County shall be allowed by the landowner. (orig. 6-18-02)

b. Defensible space and associated fuel break thinning shall comply with and be maintained in accordance with this Zoning Resolution and Colorado State University's Cooperative Extension Fact Sheet 6.302 unless the Board of Adjustment has, by resolution, authorized a Special Exception to this Zoning Resolution and Colorado State University's Cooperative Extension Fact Sheet 6.302. (orig. 6-18-02; am. 12-17-02)

c. Any deviation from the provisions and terms of a Board of Adjustment's resolution authorizing a Special Exception to defensible space and associated fuel break thinning requirements, or any deviations from the County approved defensible space and associated fuel break thinning plans is a violation of this Zoning Resolution. In addition to all other remedies as provided by law, this may result in the issuance of a notice of zoning violation. (orig. 6-18-02; am. 12-17-02)

8. Enforcement Measures for Floodplain Overlay District

a. Suspension and Revocation of Permit: The County may suspend or revoke a permit for violation of any provision of the floodplain regulations, violation of the permit or misrepresentations by permit holder, his agents or his employees or independent contractors under contract with the permittee. The decision of the County to suspend or revoke a permit may be appealed to the Board of Adjustment. No work shall be performed while an appeal is pending except as authorized by the County. (orig. 8-27-13)

b. Court Action: Nothing in the floodplain regulations shall be construed to prevent the County Attorney, at the County Attorney's discretion, from filing a court action based upon a violation or potential violation of the floodplain regulations. (orig. 8-27-13)

c. Right of Entry: As necessary, the County may enter the premises to inspect or perform any duty imposed by the floodplain regulations. If such entry is refused, the County shall have recourse to every remedy provided by law to secure entry. (orig. 8-27-13)

d. Stop Work Orders: When any work is being done which is not in compliance with an approved permit and/or the provisions of the floodplain regulations or any other applicable

law, rule or regulation, the County can order the work stopped by serving written notice on any persons engaged in doing or causing such work to be done. Such person shall immediately stop such work until authorized by the County to proceed with the work or until approval to proceed has been obtained from the Board of Adjustment or other legal process. If there are no persons present on the premises, the notice may be posted in a conspicuous place. The notice shall state the nature of the violation. The notice shall not be removed until the violation has been vacated or authorization to remove the notice has been issued. Failure to comply with any Stop Work Order is a violation of the Zoning Resolution and the County may proceed with Court Action and/or the actions listed below: (orig. 8-27-13)

e. The County may contact the U.S. Army Corps of Engineers to notify them about any violation of Section 404 of the Clean Water Act. (orig. 8-27-13)

f. The County may contact the Colorado Parks and Wildlife to determine and/or notify them about any violation to the Endangered Species Act. (orig. 8-27-13)

g. The County may issue a declaration of violation, under Section 1316 of the National Flood Insurance Act of 1968 to the Federal Emergency Management Agency to deny flood insurance on the property in violation. The effects of having a Section 1316 violation are non-availability of flood insurance for any buildings, possible reduction of market value, risk of damage without compensation, possible mortgage foreclosure, and denial of disaster assistance for repair of structural damage. (orig. 8-27-13)

C. Administrative Exceptions

1. The Zoning Administrator or his/her appointed designee may permit certain Administrative Exceptions to the requirements for lot area, front, side and rear setbacks, building height, sign height and sign face area. Said Administrative Exceptions shall be for the purpose of relieving difficulties or hardships due to narrowness, shallowness, shape or topographic condition of a specific piece of property, or to provide limited flexibility to lot standards when it is determined that no substantial detriment to the public good nor harm to the general purpose and intent of this Zoning Resolution will be caused thereby. (orig. 9-6-77; am. 12-12-78; am. 11-6-79; am. 1-17-84; am. 12-5-95; am. 12-17-02; am. 7-12-05)

2. Administrative Exceptions may be permitted only after a site inspection has been made by the County and it has been determined by the County that no substantial detriment will be caused to the general public welfare or local community character. If granted, Administrative Exceptions shall be issued in writing. (orig. 12-12-78; am. 1-17-84; am. 12-17-02)

3. The Zoning Administrator or his/her appointed designee may revoke any Administrative Exception granted under this section by issuing a Zoning Violation Notice if, in the Zoning Administrator's or his/her appointed designee's opinion, the use is not in compliance with the intent and purpose for which the Administrative Exception was granted. (orig. 12-12-78; am. 6-14-88; am. 12-17-02)

4. Administrative Exceptions shall only be permitted when the request falls within the parameters set forth below: (orig. 9-6-77; am. 12-12-78)

   a. Lot Area

   Under the following conditions, the Zoning Administrator or his/her appointed designee may permit the following Administrative Exceptions to the lot area requirement of any zone district. (orig. 5-6-46-§23; am. 9-6-77-§28; am. 11-6-79; am. 12-17-02)

   (1) If a lot, platted and recorded <u>ON or BEFORE April 1, 1946</u>, has less lot area than current minimums require, the Zoning Administrator or his/her appointed designee may permit the use of such lot as though the area conforms to minimum requirements, provided that: (orig. 5-6-46-§23; am. 9-6-77-§28; am. 11-6-79; am. 12-17-02)

   (a) Current setback and height regulations shall be complied with for any new construction or structural alteration; and (orig. 9-6-77)

   (b) Current use regulations shall be complied with for any new construction or structural alteration. (orig. 9-6-77)

(c) The applicant shall present the Zoning Administrator or his/her appointed designee with a written statement from owners of immediately adjacent lots indicating their position as to the Administrative Exception requested, or the County shall notify all owners of adjacent lots in writing. Those owners will have 10 calendar days to reply in writing before a decision is rendered. (orig. 12-12-78; am. 1-17-84; am. 12-17-02)

(2) If a lot was platted and recorded AFTER April 1946; OR IF the property is unplatted with a metes and bounds legal description, and such parcel has less lot area than the current minimum required, the Zoning Administrator or his/her appointed designee may permit the use of such parcel, provided that: (orig. 9-6-77; am. 11-6-79; am. 12-17-02)

(a) All current setback and height regulations shall be complied with; and (orig. 9-6-77)

(b) Current use regulations shall be complied with for any new construction or structural alteration; and (orig. 9-6-77)

(c) The area is not less than 75 percent of the minimum required. (orig. 9-6-77; am. 11-6-79; am. 7-1-03)

(d) The applicant shall present the Zoning Administrator or his/her appointed designee with a written statement from owners of immediately adjacent lots indicating their position as to the Administrative Exception requested, or the County shall notify all owners of adjacent lots in writing. Those owners will have 10 calendar days to reply in writing before a decision is rendered. (orig. 12-12-78; am. 1-17-84; am. 12-17-02)

b. Front, Side and Rear Setbacks, Building Heights, and Sign Height and Sign Face Area

Under the following conditions, the Zoning Administrator or his/her appointed designee may permit, in writing, certain Administrative Exceptions to setback, building height, and sign height and sign face area requirements in any zone district as set forth below. (orig. 9-6-77; am. 12-12-78; am. 1-17-84; am. 12-17-02; am. 7-12-05)

(1) Front Yard Setback

(a) A front yard setback of up to 75 percent of the minimum required, providing the applicant presents the Zoning Administrator or his/her appointed designee with a written statement from owners of immediately adjacent lots indicating their position as to the Administrative Exception requested, or the County shall notify all owners of adjacent lots in writing. Those owners will have 10 calendar days to reply in writing before a decision is rendered. (orig. 12-12-78; am. 1-17-84; am. 12-17-02)

(b) Administrative Exceptions to setbacks on corner lots cannot be granted by the Zoning Administrator or his/her appointed designee in the area required for vision clearance at corners and railroad crossings unless it is specifically found by the County that no potential traffic problem is created because of diminished sight distances. (orig. 12-12-78; am. 1-17-84; am. 12-17-02)

(2) Side Yard Setbacks

(a) A side yard setback up to 75 percent of the minimum required, providing the applicant presents the Zoning Administrator or his/her appointed designee with a written statement from owners of immediately adjacent lots indicating their position as to the Administrative Exception as requested, or the County shall notify all owners of adjacent lots in writing. Those owners will have 10 calendar days to reply in writing before a decision is rendered. (orig. 5-6-46-§23; am. 9-6-77-§28; am. 12-12-78; am. 1-17-84; am. 12-17-02)

(b) Chimneys, open fire escapes or stairways to extend not more than 5 feet into a required side yard if they can be so situated as not to unreasonably obstruct light and ventilation of an existing dwelling or other main building on an adjoining lot. (orig. 5-6-46-§23; am. 9-6-77-§28)

(c) Administrative Exceptions to side setbacks on corner lots cannot be granted by the Zoning Administrator or his/her appointed designee in the area required for vision clearance at corners and railroad crossings unless it is specifically found by the County that no potential traffic problem is created because of diminished sight distance. (orig. 12-12-78; am. 1-17-84; am. 12-17-02)

(3) Rear Yard Setback

(a) A rear yard setback of up to 75 percent of the minimum required, providing the applicant presents the Zoning Administrator or his/her appointed designee with a written statement from owners of immediately adjacent lots indicating their position as to the Administrative Exception requested, or the County shall notify all owners of adjacent lots in writing. Those owners will have 10 calendar days to reply in writing before a decision is rendered. (orig. 12-12-78; am. 1-17-84; am. 12-17-02)

(b) Chimneys, open fire escapes or stairways to extend not more than 5 feet into the required rear yard if such rear yard abuts on an alley which is not less than 16 feet in width. (orig. 5-6-46-§23; am. 9-6-77-§28)

(4) Building Height

(a) The maximum height of a building may be increased by 5 feet over the allowable maximum, providing that the applicant presents the Zoning Administrator or his/her appointed designee with a written statement from owners of immediately adjacent lots or tracts indicating their position as to the Administrative Exception, or the County shall notify all owners of adjacent lots in writing. Those owners will have 10 calendar days to reply in writing before a decision is rendered. (orig. 1-17-84; am. 12-17-02)

(b) Administrative Exceptions shall not be granted for both setback and building height requirements on a given lot. (orig. 1-17-84; am. 7-12-05)

(5) Sign Height and Face Area

A sign height or sign face area may be increased up to 25 percent of the allowable maximum, providing the applicant presents the Zoning Administrator or his/her appointed designee with a written statement from owners of immediately adjacent lots indicating their position as to the Administrative Exception as requested, or the County shall notify all owners of adjacent lots in writing. Those owners will have 10 days to reply in writing before a decision is rendered. (orig. 7-12-05)

(6) Vertical Height Disturbance for Private Roads and Driveways

The maximum height of a vertical cut or fill slope may be increased by 5 feet over the allowable maximum upon approval by the Zoning Administrator or his/her appointed designee. In determining whether to approve or disapprove the request, the Zoning Administrator or his/her appointed designee shall consider all technical evaluations, relevant factors, standards specified in other sections, and whether the applicant has adequately addressed the provisions of Section 4 of this Zoning Resolution (orig. 11-12-02; am. 12-17-02)

c. Improvement Location Certificate (ILC) Survey

(1) Prior to obtaining a framing inspection for the building allowed by an Administrative Exception, it shall be the responsibility of the applicant to furnish the Zoning Administrator or his/her appointed designee with a survey, certified by a registered surveyor, licensed in the State of Colorado, depicting the improvement in relationship to the lot line(s) affected by the Administrative Exception. (orig. 12-12-78; am. 12-17-02)

(2) In the event the applicant fails to provide this survey, the Administrative Exception shall be void and the applicant shall be in violation of the Zoning Resolution. (orig. 12-12-78; am. 7-1-03)

D. Temporary Uses:

Upon written request by the property owner or his/her representative, submission of a plot plan and proof of property ownership, the Zoning Administrator or his/her appointed designee may permit in any zone district a temporary use (excluding firework stands), including but not limited to: greenhouses, seasonal sales, temporary structures and those uses not covered by the Special Events Section of this Zoning Resolution provided the use is permitted in that zone district: (orig. 12-17-02; am. 12-14-04)

1. In making a decision, the Zoning Administrator or his/her appointed designee shall evaluate parking, location of structures and buildings, access, adequacy of road system, hours of operation, length of operation, dust, noise and vibration beyond the property boundaries and any other items deemed necessary. (orig. 12-17-02)
2. The property owner or his/her representative must reapply for the temporary uses on an annual basis. A maximum of 5 total years, beginning from the date that the first exception was granted, shall be allowed. (orig. 12-17-02; am. 12-14-04)

E. Temporary Living Quarters

1. Upon written request by the property owner or his/her representative, submission of a plot plan and proof of property ownership, the Zoning Administrator or his/her appointed designee may permit in any zone district the temporary occupation, for residential purposes, of a temporary living quarter. Temporary living quarters may be permitted only in circumstances where a permanent dwelling is being constructed on the same property. Such permit may be granted only when the following requirements have been met. (orig. 6-14-88; am. 12-17-02)
   a. An affidavit has been submitted stating that the occupant of the temporary living quarters will be the property owner, contractor or builder. (orig. 6-14-88; am. 12-17-02)
   b. Proof of financing has been presented for the permanent dwelling. (orig. 6-14-88)
   c. A Building Permit has been obtained for the permanent dwelling. (orig. 6-14-88)
   d. A permit for an Individual Sewage Disposal System or other sewage disposal facility, approved by Public Health, exists for such temporary living quarters. (orig. 6-14-88; am. 12-17-02; am. 10-25-05; am. 4-20-10)
   e. A well permit has been obtained or public water supply exists for such temporary living quarters. (orig. 6-14-88; am. 12-17-02)
   f. Any other restrictions as may be deemed necessary by the Zoning Administrator or his/her appointed designee. (orig. 6-14-88; am. 12-17-02)
2. The permit may be granted only to the true fee owners of the property on which the permanent home is to be constructed. Only 1 temporary living quarter may be permitted on the property and may be occupied by either the true fee owner or the contractor or builder, as approved by the Administrative Exception. (orig. 6-14-88; am. 12-17-02)
3. The permit may be granted for a period of up to 1 year and may be renewed for up to 6 months. Any extension beyond the maximum period must be granted by the Board of Adjustment. (orig. 6-14-88; am. 12-17-02)
4. A temporary living quarter permitted as an Administrative Exception by the Zoning Administrator or his/her appointed designee must be removed from the property prior to the expiration of the permit or within 60 days after a certificate of occupancy is issued, whichever date occurs first. (orig. 7-22-97; am. 12-17-02)

F. Home Occupations

Under the following conditions, the Zoning Administrator or his/her appointed designee may permit, in writing, certain Administrative Exceptions to home occupations for hair, nail or similar beauty salon or barber shop, mail order businesses and large day-care homes. (orig. 7-1-03 am. 7-12-05)

1. Such home occupation shall be approved initially for a period of up to one year and may be renewable for periods of greater duration after complete resubmittal thereon through the Administrative Exception process. (orig. 7-1-03)

2. The Administrative Exception shall establish restrictions on location, access, water and sewer facilities, parking and any other reasonable stipulations deemed necessary for the protection of the health, safety and welfare of the citizens of Jefferson County. (orig. 7-1-03; am. 7-12-05)

3. In approving or denying such home occupations, the Zoning Administrator or his/her appointed designee shall consider all uses incidental to such home occupations, including retail sale of commodities, if any. (orig. 7-1-03)

4. Such home occupation shall be approved only if it would not have a detrimental impact on the public good and would not substantially impair the intent and purpose of this Zoning Resolution. (orig. 7-1-03)

G. Minor Modifications

The Zoning Administrator or his/her appointed designee may permit minor modifications within any given zone district to provide limited flexibility when it is determined that no substantial detriment to the public good nor harm to the general purpose and intent of this Zoning Resolution will be caused thereby. (orig. 7-12-05)

1. Upon written request by the property owner or his/her representative, submission of supporting documentation and proof of property ownership, the Zoning Administrator or his/her appointed designee may permit in any zone district such modification(s) only after a finding that: (orig. 7-12-05)

   a. Such modification does not constitute a substantial change to the intent of the underlying zoning on the subject property. (orig. 7-12-05)

   b. The modification will comply with the minimum zoning requirement of the underlying zone district and will also comply with all other applicable requirements. (orig. 7-12-05)

   c. Careful review of pertinent records, files and documentation has been completed showing that such modification will not contradict or invalidate approval previously granted by a decision making body. (orig. 7-12-05)

   d. The modification will not be incompatible with existing or surrounding uses adjacent to the proposal. (orig. 7-12-05)

   e. The modification will not increase the density allowed in the underlying zone district. (orig. 7-12-05)

   f. The modification will not create adverse impact to adjacent properties such as dust, noise, vibration, odor or visual impacts. (orig. 7-12-05)

   g. The modification will not result in undue traffic congestion or traffic hazards. (orig. 7-12-05)

   h. The modification will be adequately landscaped and screened. (orig. 7-12-05)

2. Such modification(s) shall not constitute grounds for disapproval by the Board of Adjustment of any permit or interpretation made by the Zoning Administrator or his/her appointed designee, unless the Board of Adjustment specifically finds such modification(s) constitutes a substantial change to the underlying zoning on the property or causes a substantial detriment to the public good or harm to the general purpose and intent of the Zoning Resolution. (orig. 7-12-05)

3. Review and Approval

   a. The applicant shall present the Zoning Administrator or his/her appointed designee with a written statement from owners of immediately adjacent lots or tracts indicating their position as to the modification or the County shall notify all owners of adjacent lots in writing. Those owners will have 10 calendar days to reply in writing before a decision is rendered. (orig. 7-12-05)

   b. The Zoning Administrator or his/her appointed designee shall review all pertinent information pertaining to the request and render a decision in writing. Such determination may be appealed to the Board of Adjustment as outlined in Section 4 of this Zoning Resolution. (orig. 7-12-05)

   c. The following information may be required as part of the Minor Modification review process as determined by the Zoning Administrator or his/her appointed designee to adequately review the proposed modification(s): (orig. 7-12-05)

(1) Application Form: A fully completed and executed application form. (orig. 7-12-05)

(2) Referral fees as required by reviewing agencies. (orig. 7-12-05)

(3) Site Plan: A neat and legible drawing of the proposed site layout showing the required information at a scale of 1 inch to 50 feet or larger, or another scale as required by these regulations or as approved by Planning and Zoning which allows for maximum clarity of the proposal. (orig. 7-12-05; am. 5-20-08)

(4) Survey: A survey shall be provided for one of the following: for metes and bounds properties, portions of lots or multiple lots, a survey including a legal description in compliance with the requirements of Part I of the Land Development Regulation. (orig. 7-12-05)

(5) Landscape Plan. (orig. 7-12-05)

(6) Architectural Elevations. (orig. 7-12-05)

(7) Grading and Erosion Control Plan. (orig. 7-12-05)

(8) Civil Construction Plans. (orig. 7-12-05)

(9) Parking Plan: A parking plan (which may be combined with the civil construction plans.) (orig. 7-12-05)

(10) Supporting Documents such as: Proof of Ownership, Proof of Water and Sewer, Proof of Access, Fire Protection, Geotechnical Report, Floodplain Overlay Zone District Report, Deeds, Performance Guarantees. (orig. 7-12-05)

(11) Additional Documentation: Other reports, studies, or plans and evidence of compliance with Plat or Exemption from Platting restrictions as deemed necessary by Planning and Zoning to address issues unique to the application. (7-12-05; am. 5-20-08)

d. Upon an affirmative decision, a Site Development Plan, Grading Permit, Floodplain Permit, Building Permit, or Miscellaneous Permit may be required prior to commencement of the approved modification. (orig. 7-12-05)

e. The Zoning Administrator or his/her appointed designee may revoke any Minor Modification granted under this section by issuing a Zoning Violation Notice if, in the Zoning Administrator's or his/her appointed designee's opinion, the use is not in compliance with the intent and purpose for which the Minor Modification was granted. (orig. 7-12-05)

f. If the appropriate development permit(s), has not been issued for the modification or, if no permit is necessary, if the approved modification is not commenced within 12 months of approval, the approved modification shall become void, unless a six month extension is requested and approved by the Zoning Administrator or his appointed designee at least 30 days prior to the 12 month expiration date. Only one such extension shall be granted. (orig. 7-12-05)

h. Review and Referral

Upon review of any request for an Administrative Exception, the Zoning Administrator or his/her appointed designee may refer the request to the Board of Adjustment if, in the Zoning Administrator's or his/her appointed designee's opinion, circumstances are such that a public hearing is warranted, or if there is adequate need to satisfy adjoining property owners' concerns or objections. (orig. 12-12-78; am. 6-14-88; am. 12-17-02)

i. Application Fee

Accompanying each application for an Administrative Exception shall be a nonrefundable processing fee in an amount established by the Board of County Commissioners. (orig. 12-12-78; am. 1-17-84; am. 5-3-94)

j. Review and Referral

Upon review of any request for an Administrative Exception, the Zoning Administrator or his/her appointed designee may refer the request to the Board of Adjustment if, in the Zoning Administrator's or his/her appointed designee's opinion, circumstances are such

that a public hearing is warranted, or if there is adequate need to satisfy adjoining property owners' concerns or objections. (orig. 12-12-78; am. 6-14-88; am. 12-17-02)

H. Property in Agricultural-One and Agricultural-Two and Agricultural-Thirty Five Zone Districts

1. The Zoning Administrator or his/her appointed designee shall only permit the use of any unplatted Agricultural-One, Agricultural-Two, or Agricultural-Thirty Five zoned tract or parcel that is less than 5 acres, 10 acres, or 35 acres respectively, provided that all of the following provisions are met. (orig. 9-6-77; am. 11-6-79; am. 6-16-80; am. 7-2-97; am. 12-17-02)

   a. The property existed in single and separate ownership on or before March 6, 1972. (orig. 9-6-77; am. 6-16-80)

   b. The property is 1 acre in size or greater. (orig. 6-16-80)

   c. Use of the property shall conform with current use regulations in effect for the respective Agricultural-One, Agricultural-Two, and Agricultural-Thirty Five Zone Districts. (orig. 9-6-77; am. 7-2-97)

   d. Any new construction or structural alteration shall conform with current setback and height regulations in effect for the respective Agricultural-One, Agricultural-Two, and Agricultural-Thirty Five Zone Districts. (orig. 9-6-77; am. 7-2-97)

   e. Requirements of Public Health for water and sanitation shall be complied with prior to the Building Permit being issued. (orig. 9-6-77; am. 12-17-02; am. 4-20-10)

2. The Zoning Administrator or his/her appointed designee shall only permit the use of any Agricultural-One, Agricultural-Two, or Agricultural-Thirty Five zoned lot which was platted without County approval provided that the provisions of paragraphs H.1.a through H.1.e above, are complied with. (orig. 6-16-80; am. 7-2-97; am. 12-17-02)

3. The Zoning Administrator or his/her appointed designee shall only permit the use of any Agricultural-One, Agricultural-Two, or Agricultural-Thirty Five zoned lot which was platted with County approval prior to time said lot was zoned, provided that the provisions of paragraphs H.1.b. through H.1.e. above, are complied with. (orig. 6-16-80; am. 7-2-97; am. 12-17-02)

4. The Zoning Administrator or his/her appointed designee shall only permit the use of any zoned lot which was platted with County approval subsequent to the date it was zoned provided that the provisions of paragraphs H.1.c. through H.1.e. above, are complied with. (orig. 6-16-80; am. 7-2-97; am. 12-17-02)

5. Single and separate ownership means that no contiguous property is owned exclusively or in co-ownership with others by the owner or any owner of said property. Contiguous properties held by different persons as the result of a common plan or transaction entered into in order to evade this merger requirement, i.e., "checkerboard plans," do not meet this single and separate ownership requirement. In addition, ownership of contiguous property by persons related by blood, marriage or adoption is presumed to be a checkerboard plan and therefore not single and separate ownership. (orig. 6-16-80; am. 7-2-97)

I. Minor Variations

1. Minor variation(s) from strict application of the provisions of a zoning requirement may be allowed at the discretion of the Director of Planning and Zoning in order to facilitate the reasonable and expeditious processing of a development application. A minor variation may be granted for both onsite and offsite requirements for the following: Plats, Exemptions, Minor Adjustments, Residential Structure Exclusions, Land Disturbance Permits, Floodplain Permits, Oil and Gas Production Drilling, and Site Development Plans. A minor variation may be granted for the offsite requirements of the following: Zonings, Special Uses or Site Approvals. Such variations shall be allowed only after a finding by the Director of Planning and Zoning that: (orig. 1-17-84; am. 6-14-88; am. 12-17-02; am. 5-20-08; am. 4-20-10; am. 12-21-10)

   a. Such variation(s) does not constitute a substantial change to the permitted land use(s); and that (orig. 1-17-84)

   b. No substantial detriment to the public good nor harm to the general purpose and intent of this Zoning Resolution will be caused thereby. (orig. 1-17-84)

2. Such variation(s) shall not constitute grounds for disapproval by the Board of County Commissioners of any Plat, Exemption, Rezoning or Special Use, unless the Board specifically finds that such variation(s) constitutes a substantial change in the permitted land use(s) or causes a substantial detriment to the public good or harm to the general purpose and intent of this Zoning Resolution. (orig. 1-17-84; am. 4-20-10)

J. Flood Plain Authority of the Zoning Administrator

The Zoning Administrator or his/her appointed designee may grant a Flood Plain Development Permit for those uses allowed in the underlying zone districts subject to the restrictions and conditions of Section 47 of this Zoning Resolution. The Zoning Administrator or his/her appointed designee shall decide on Flood Plain Development permits pursuant to the Policies and Procedures Manual. (orig. 5-31-88; am. 12-17-02)