

Concerned Citizens of Custer County—C4
Information briefing ref:

Colorado Model Land Use Code

For small and medium sized counties

2 Jun 09

Source: Colorado Office of Smart Growth
Released November 2008

Briefing Outline

- Briefing purpose and orientation to Model Land Use Code (MLUC)
- MLUC purpose and contents
- Pros and cons for Custer County ref the MLUC
- Specific purposes and intent of the MLUC
- MLUC applications and contents of the 16 articles
- Conclusions and Recommendation

Bottom line upfront:

- The MLUC looks promising but more research is needed
- C4's role: to provide information and offer a recommendation

Briefing Purpose: to provide an overview of the model and how it can be used by Custer County

- This orientation briefing is a first step. More research and analysis needed to determine how this will benefit Custer Co.
- Application: adopt as a whole or cherry-pick parts that best fit

Intent: the Office of Smart Growth is providing a tool for small and medium size counties to assist them in land use planning, regulations and enforcement

Benchmark: Parts of the code are being used in Chaffee Co

Vision: take a long term, 20+ year view of the code when deciding what to do with it

MLUC Purpose: Use as template to guide preparation of land use regulations (specific purposes on next chart)

MLUC Contents:

- Provides procedures & standards to craft county unique code-tailored to the County
- Meets statutory requirements, consistent with current land use law-county should still get its own legal advice
- Is a unified development code-integrates zoning regs, subdivision regs, PUD regs, sign code, and other land use regs into one coherent document
- Organized to facilitate applicant's and decision-maker's understanding of the process & requirements for land use permits
- Application requirements, review procedures, standards, approval criteria, definitions, etc., are grouped together

Specific purposes and intent of the code

- Protect quality of life: health, safety and welfare of citizens
- Protect the environment & environmental resources
- Regulate land use based on impacts
- Simplify land use planning & regulatory review process
- Encourage innovations: residential, commercial & industrial development
- Promote the economic well-being of the community
- Provide for orderly development of the County: managed growth
- Protect property rights: property value, tax base & rights of citizens
- Protect and enhance agriculture and rural character

Land Use Applications

- Code envisions a development permit required for all land use applications
- Some land use applications may be addressed thru separate permit process:
 - Land uses subject to regulation as an area or activity of state interest: 1041 permits, oil and gas operations, signs, etc.
- Some applications trigger unique process review e.g., PUD and affordable housing
 - Above examples are contained in stand-alone regulations with application requirements, review procedures, approval standards, etc.

Overview of each article in the code

- **Art 1: General admin procedures.** Relates to the code as a whole.
 - County's statutory authority
 - Repeal the previous land use codes
 - Describes maps that are incorporated
 - Provides for vested rights
 - Describes boards and commissions involved in land use application process
- **Art 2: Land use change permit.** Required for a change in land use
 - Provides overview of permit requirements
 - Examples of exemptions to land use change permit requirements and description of the levels of permit review
 - Provides cross-references to code sections that describe each permit review process
- **Art 3: Zoning.** Establishes zone districts & includes specific zoning regs like lot size, setback requirements, & height restrictions in each district
 - Includes min requirements for specific types of land use like accessory structures, campgrounds, home occupation and manufactured homes

- **Art 4: Permit application and review procedures.** Describes those common to all land use change applications; review and submittal requirements for land uses that do not involve division of land.
 - Common review procedures such as pre-application conference, determination of completeness, review by referral agencies, evaluation by staff and general public notice rqmts, are grouped together in one section and cross-referenced instead of being repeated each time the procedure is referenced in the review process.
 - Flowcharts are used to illustrate each review process
- **Art 5: Division of land.** Review and submittal requirements for land use requiring the division of land.
 - Addresses types of subdivision, identifies types exempt from subdivision
 - Describes review and submittal requirements for subdivision exemptions and exempt cluster subdivisions
 - Includes flowcharts to illustrate processes
 - Opportunity for simplified review process with final plat review

- **Art 6:** PUD: Stand-alone PUD reg. Code cross references common review procedures but they may be fully described in the county regulation if desired.
- **Art 7:** Standards: Groups all approval stds together in one section to simplify the process, facilitate understanding, and minimizes legal uncertainty.
 - Std are organized into groups of general approval stds that all applications must satisfy, groups of more specific stds such as site planning, development stds, division of land stds, exempt subdivision stds, cluster development stds, and overlay district stds.
 - Std for specific uses: accessory structures, home occupation, group utilities, storage areas/facilities and telecommunication facilities
 - Includes approval criteria for plats, rezoning, and administrative appeals
- **Art 8:** Affordable Housing. Provides stand-alone affordable housing program based on the “inclusionary zoning” concept

- **Art 9: Oil and Gas Regs.** Stand-alone regs for exploration and production of oil and gas in the County.
 - Based on the Gunnison County Oil and Gas Regs which were upheld by Colo Court of Appeals.
- **Art 10: Nonconforming Land Use.** Provisions and regs for non-conforming land uses including signs and divisions of land.
- **Art 11: Signs.** Stand-alone sign code including enforcement process
- **Art 12: Enforcement.** General provisions for enforcing land use regs and the process for abatement of violations by the County.
- **Art 13: Financial Guarantee.** Provisions for a guarantee of financial security for certain land uses.

- **Art 14:** Areas and Activities of State Interest. Regs and guidelines for admin of areas and activities of state interest under CRS sect 24-65.1.101 (1041 regs)
 - Identifies areas that can be designated by the County, describes the designation process, application and review process and specifies the permit approval stds for 1041 permits.
 - includes sects 24-65.1-201 & 203, most commonly used by counties in Colo
- **Art 15:** Rubbish, Junk, Weeds & Brush, and Unsafe Structures. Contains regs for removal of rubbish, junk, weeds & brush, and unsafe structures.
- **Art 16:** Definitions: Groups definitions of words and terms used in land use code.
 - Note: the definitions have great value since they have passed state scrutiny

Pros and Cons for using the MLUC in Custer Co

Pros:

- The work was done by the State; MLUC is tailorable to fit unique needs in the County
- The MLUC integrates all aspects of land use into one comprehensive and coherent document
- The MLUC complies with current Colorado statutes/law
- Organized into logical sections that are integrated
- Makes requirements and procedures easier to understand and more consistent for customers (applicants) and County officials (both paid and volunteers)

Cons:

- Takes time and resources to research & analyze how to use the code
- Involves change—natural resistance to change
- Requires work to incorporate what has been done in current regs & ZR into a tailored land use code

Conclusion and Recommendation

Conclusion:

- The model land use code has applicability to Custer County
- How to best use the code or portions of it is unknown without more detailed review and analysis—take a 20+ year visionary view

Recommendation:

- Form a small team to study the model land use code with the purpose of identifying the best way to capitalize on the model.
- Provide a written charter to the team.
- Consider a grant for a consultant to help analyze County use
- Benchmark Chaffee Co work on the MLUC—visit them
- Members: planning commission, board of zoning resolution, planning & zoning office, county attorney (as needed), volunteer land use expert, citizens, etc.

Back up slides

Definition example below:

Dwelling, Dwelling Unit. One or more rooms designed to function as a **single** living facility and containing only one kitchen plus living, sanitary and sleeping facilities.

1. *Dwelling, multi-unit means a building that contains three (3) or more dwelling units. The term “dwelling unit” does not include hotels, motels, fraternity houses and sorority houses and similar group accommodations.*

2. *Dwelling, single-family unit, attached, means two or more dwelling units, each with primary outside access on the ground floor; and that are attached to each other by legally divided party walls which do not have openings and do not provide for internal access between the dwelling units. This term includes townhomes and duplexes.*

Chaffee County experience

- See value in MLUC for Chaffee, tailored to county situation
- Held round table for citizen input, now into more research and code writing
- Impressed with MLUC integration of requirement, standards and procedures
- Existing zones need to be incorporated into the MLUC
- Many areas of application: natural resources, procedural outlines, permit processes, general administration, etc.
- Planning and Zoning office leading the effort