

**AGENDA**  
**OURAY COUNTY PLANNING COMMISSION**  
**REGULAR MEETING/WORK SESSION**

June 18, 2019 5:00 – 7:00 pm  
Meeting to be held at the Ouray County Land Use Office  
111 Mall Road, Ridgway, Colorado

*If all agenda items are not covered in this time frame they may be continued until the next regular meeting. **\*Times are approximate and subject to change\***. If an item is finished early the Planning Commission will move directly to the next agenda item. If not a Public Hearing, public comment may or may not be taken during the meeting. Action may be taken at the conclusion of public hearings.*

**A. Regular Meeting – 5:00 pm**

1. Review/approve minutes from June 4 public hearing.
2. Review/approve 'reports' from June 4 public hearing and work session.
3. New business.

**B. Work Session**

1. Review current drafts of wildfire regulations.
2. Review Staff's comments on current wildfire regulations.
3. Discuss public outreach for wildfire regulations, prior to public hearing.

**C. Adjourn**

Copies of land use applications or workshop materials can be obtained at the Land Use Office at 111 Mall Road, Ridgway, CO; by calling 970.626.9775 or e-mailing [mcastrodale@ouraycountyco.gov](mailto:mcastrodale@ouraycountyco.gov). Comments on the agenda items may be sent to Mark Castrodale, County Planner, PO Box 28, Ridgway, CO 81432



# MEMO

**TO:** Planning Commission  
**FROM:** Mark Castrodale  
**DATE:** June 11, 2019  
**SUBJ:** Regular Meeting/Work Session – June 18

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Attached are the documents for the June 18<sup>th</sup> Regular Meeting and Work Session:

**To be formally approved in regular meeting to forward to BOCC:**

- Minutes from the June 4 public hearing
- Report regarding June 4 public hearing – Land Use Code, Sections 2, 3
- Report regarding draft changes to Non-Commercial Camping Ordinance

**To be reviewed in work session (informal):**

- Land Use Staff's comments to Section 16 Draft

Once these items are complete, Planning Commission and Staff need to discuss, plan, and schedule both the public outreach event(s) for wildfire as well as schedule the public hearing on the proposed draft.

**\*Note:** Courtesy minutes from the work session/discussion are attached and will not be formally approved. These minutes are provided to the Planning Commission as a courtesy from Staff to aid in future discussion.



# OURAY COUNTY PLANNING COMMISSION PUBLIC HEARING / REGULAR MEETING MINUTES

June 4, 2019 5:00 – 7:00 pm  
Meeting held at the  
Land Use/Road & Bridge Offices, Conference Room  
111 Mall Road Ridgway, Colorado

## **Attending**

**Commissioners:** Boehnke, Iuppenlatz, Miller, Parker, Snowbarger, Williams, Wilson

**PC Absent:** None

**Staff:** Castrodale, Henderson

**Guests:** King-Plaindealer, D. Kigar, E. Kigar, van West, Swartz, Calhoon, Beckhardt, A. Iuppenlatz, Shelby, Lowande, Evans, McKenney, Disser, Marlatt, Williams

## **Review and recommend revisions to Section 2: Definitions of the Land Use Code related to Non-Commercial Camping**

### *Introduction*

Castrodale explained the proposed changes to Section 2 of the Land Use Code.

### *Planning Commission Member Comments/Questions:*

1. Snowbarger - Is the public hearing on just Section 2: Definitions of the Land Use Code?
2. Parker - Non-commercial camping defined as 30-days or less, this hearing is just Page 1 definitions to be added to existing Land Use Code.
3. Williams - How can we approve something that has not been agreed upon?
4. Snowbarger - Why can't we recommend something based on approval from the BOCC?
5. Miller - This needs to be the first and final pass.

### *Public Comments:*

1. McKenney - Page 1: Non-commercial camping...delete the word "calendar year" and would like the definition of "complete removal" or complete removed.
2. D. Kiger - Represents the Colorado Yurt Company in Montrose and said windows can meet code. Can yurts be considered as a bunk house or man cave and get a building permit?
3. Castrodale - A yurt would need an OWTS permit (septic system) and can be lived in while your home is under construction.
4. Shelby - There is an acreage requirement and you need three acres.
5. Castrodale - Limited to 30-days.
6. Iuppenlatz - A deck with a yurt requires a permit.
7. Evans - Definition for short-term structure should not exceed 30-days. Why can't the yurt get a certificate of occupancy (CO)?
8. Castrodale - A yurt must meet 2006 IRC to get a CO.
9. Van West - Made comments on May 21, 2019 meeting. Requests clarification on the terms "consecutively" and "cumulatively". Can yurts stay up all season? It is a fallacy. High Alpine zone needs its own zone to lay out the regulations, exemptions, etc.
10. Nate Disser - This process feels like an HOA meeting. The PC should take much greater note of people who live up in the Alpine zone. Give more weight to landowners. Does not want the term "cumulatively" in the regulations.

11. Beckhardt - It's too early to be thinking about definitions. Recommendation should be to hold off on Definitions in Section 2. Short-term language is confusing. Not sure if less than 3-acres is appropriate. What right does county have if owner has 35-acres. You should be able to camp longer than 30-days.

Public comment period closed at 5:44 pm.

*Planning Commission Deliberation:*

1. Miller - Camping structure should be removed when not occupied. Long-term on lot with a house being built should include sanitation facilities (OWTS).
2. Wilson - Agrees references need to be cleaned up.
3. Parker - We have a lot of work to do. We are trying to protect people with long-term (health & safety) issues by including all of the zones. Let's be clear there are thousands of non-conforming lots in the high alpine. We should include the terms..."temporary" and the use by right should be for 30-days.
4. Parker - Tent space, outfitters, etc. trespass fee-what is it? You can't rent a yurt. If you can get a CO for a yurt why not make it a residential structure?
5. Parker - There are too many holes right now. Wants us to define terms after adoption of the ordinance.
6. Luppenlatz - The draft from the BOCC did not have an acreage stipulation.
7. Castrodale - Does not need to meet IRC or energy code.
8. Luppenlatz - Yurts could meet IRC with a CO and requires a building permit? Depends on level of finish. We need maximum flexibility. Have there been any complaints from land owners up there?
9. Castrodale - No complaints.
10. Luppenlatz - We need to listen to the wishes of the landowners in the high alpine. Wants landowners to be able to leave cottages up all season. The trees screen most of them. No structures in the tundra though. Hunting & fishing guides need to pay a fee to use private land.
11. Boehnke - Agrees with Miller when you are up in the high alpine, keep it up and when it is not in use, take it down. It should be judged if it can be seen.
12. Snowbarger - Agrees with Castrodale and Parker. Needs a lot of work. Was not around when Section 24 was approved. We need to let property owners use their land. Who is making the complaints, next door land owner or people in in the valley using private land?
13. Williams - Not enough time to word smith this yet.
14. Parker/Motion: Moves the Planning Commission forward a report to the BOCC stating definitions are unclear and can't be adequately evaluated until revisions to the Non-Commercial Camping Ordinance are approved.
15. Miller seconds the motion.
16. Approved 7-0.

## **Review and recommend revisions to Section 3: Zoning of the Land Use Code related to Non-Commercial Camping**

*Introduction by Williams/Chair*

*Planning Commission Members:*

1. Boehnke - I see high alpine as subsection of Alpine zone.
2. Parker - There is a note about Section 24.
3. Luppenlatz - Wants to allow commercial camping by special use permit.
4. Castrodale - It has been allowed as a pre-existing use.
5. Luppenlatz - Will we allow existing campgrounds to expand and new campgrounds?
6. Parker - Admitted to being confused. Should we have had a discussion about striking language?
7. Castrodale - Pre-existing non-conforming campground uses can't be expanded.
8. Wilson - Agrees with Parker.
9. Williams - How do we know if projects need a building permit or a special use permit?

*Public Comments:*

1. McKenney – The words “short-term” and “long-term” occurs 14 times in the text so it needs to be properly defined. Does not agree with many of the definitions. He has written letters to Planning Commission and the BOCC. One size does not fit all.
2. Beckhardt - I think it is premature to adopt Section 3. No reason to make such changes until we approve the new ordinance.
3. E. Kiger - Agrees with Beckhart's comments.

Public comment period closed at 6:18 pm.

*Planning Commission Deliberation:*

1. Snowbarger - We can't add definitions when they have not been defined yet.
2. Luppenlatz - I agree and noted that the ordinance and definitions are controversial.
3. Randy - I would separate short and long-term uses. Whatever we recommend to BOCC should be defined once it has been adopted. We need to separate the permits.
4. Wilson - I agree with the comments made. We are in middle of fire mitigation efforts. We can't satisfy everyone so we should save lives and property.
5. Miller - Is non-commercial camping the only one that requires a SUP? Needs to be defined before approving Section 3.
6. Williams – We need to move forward when we have all the pieces.
7. Parker - Do we have consensus with the Planning Commission?
8. Parker/Motion: Moves that the Planning Commission recommends the BOCC not to approve the changes to Section 3 of the Land Use Code and the changes only be approved after the Non-Commercial Camping Ordinance has been adopted.
9. Wilson - Seconds the motion
10. The motion is approved 7-0.

**Call to Order – Regular Meeting**

1. Call to Order at 6:45 pm
2. Discussion of New Business
3. Future Wildfire Mitigation Public Outreach and Public Hearing
4. New Special Use Permit at the next Planning Commission meeting
5. Approval of minutes from the 05/21/19 PC meeting
  - a. Motion by Snowbarger to approve the minutes
  - b. Seconded by Boehnke
  - c. Vote: 7-0
6. Adjourned Regular Meeting at 7:10 pm

**Submitted By:**

**Approved By:**

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**Staff Member**

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**PC Chair or Alternate**



**Report from the Ouray County Planning Commission (OCPC) to the Ouray County Board  
of County Commissioners (BOCC) Regarding the Planning Commission's**

Recommendations for Proposed Modifications to Land Use Code (LUC) Section 2, Definitions and Section 3, Zoning, specifically as concerns non-commercial camping.

The Planning Commission based these two resolutions on discussions held at workshops on May 21 and June 4, 2019. There was considerable public input including a Public Hearing specifically on the BOCC proposed changes to LUC Sections 2 & 3 (June 4, 2019). In the public input much of the public discussion focused on the High Alpine Zone with considerable input from property owners in that zone, as well as from residents of Ouray County who do not own property in this zone, but who recreate regularly in the High Alpine / Alpine Tundra and/or from Ouray County residents concerned with the possible effects of camping in the Alpine and High Alpine Zones on our native fauna and flora.

The following report documents the discussions specific to the proposed changes in LUC Sections 2 & 3. An additional report is being submitted to the BOCC which will address OCPC thoughts/recommendations (including input from the public) specifically on the Draft BOCC 2019 Ordinance on Non-commercial camping.

1)The BOCC proposed changes to LUC Section 2 included removing the current Definition of Non-Commercial Camping and then adding 4 new Definitions 1) Non-Commercial Camping – Short Term, 2) Non-Commercial Camping – Long Term, 3) Commercial Camping and 4) Yurt or Yurts.

2) The BOCC proposed changes to LUC Section 3 involved adding the descriptor “short – term” to each zone (except Colona Zone) where previously the applicable line read only “Non-commercial camping” as a “use by right” and adding “Non – commercial camping – long term” as a use available by “Permit” (except in Colona Zone).

3) In the discussions/ deliberations some of the issues raised by OCPC and members of the public who expressed their views in person /in writing included considerable concern for confusing/ unclear parts of the draft ordinance, portions of the draft ordinance which seem inconsistent with other portions, concern for health and safety issues for camping structures (including wildfire safety issues), concern for better delineation of temporary, semi-permanent and permanent “camping structures”, question of possible required removal of some or all of those structures at some point in time, and enforcement of the requirements of the draft ordinance. These issues are to be further delineated in the additional report addressing the Draft Ordinance itself.

4) One specific item noted in the proposed changes to LUC Section 3 is that it would seem to be less confusing if the “Permit” for non-commercial, long – term camping was listed separately rather than with the other, already listed, activities which require, specifically, a “Special Use Permit” because of the seeming difference in the type of document (Permit versus Special Use Permit) required.

5) As concerns both BOCC recommended changes to LUC Section 2 and Section 3 each proposed LUC Section changes were independently discussed, motions made, seconded and unanimously (7/7 OCPC members present) passed as to the recommendation back to the BOCC from the OCPC. For each of the two LUC Sections under discussion it was seen by the OCPC members that given the significant, complex issues with the Draft Ordinance that it is premature to recommend to the BOCC approval of the LUC Sections 2 and 3 changes at this time. Therefore approval of the proposed changes to LUC Sections 2 and 3 is not recommended by the OCPC at this time.

**To:** Ouray County Board of County Commissioners  
**From:** Ouray County Planning Commission  
**Date:** June 11, 2019  
**Subject:** OCPC Report on the draft ordinance establishing regulations for non-commercial camping

On May 15, 2019 the Board of County Commissioners completed work on a draft ordinance to establish regulations for non-commercial camping and forwarded the draft to the Planning Commission. The Planning Commission was asked to review and comment on the draft ordinance and hold a public hearing on Sections 2 and 3 of the Land Use Code to incorporate any changes required to conform with the draft ordinance. Staff included the existing non-commercial camping ordinance, 2014-01 and revised application forms for long term camping and long term camping in the High Alpine area for review by the Planning Commission.

The Planning Commission held public workshops on May 21, 2019 and June 4, 2019. There was considerable public input on the draft ordinance at the May 21 and June 4, 2019, workshops. Staff has incorporated all changes to the draft ordinance that were identified and agreed to by the Planning Commission. On June 4, 2019 the Planning Commission held a public hearing on Sections 2 and 3 of the Land Use Code.

### **Summary**

The Planning Commission has made several changes to the draft ordinance which can be generally categorized as:

- 1) Additional constraints, for example, the requirement for bear resistant containers for trash storage,
- 2) Clarification, for example, the addition of clients to the exemption for outfitters and additions to the list of camping types, and
- 3) Consistency, for example, between the draft ordinance and the applications and the use of "parcel" instead of "lot".

This report focuses on areas of concern raised by the public, staff and members of the Planning Commission.

### **Enforceability**

The public, Staff and members of the Planning Commission are concerned that the ordinance is not enforceable. Documenting days of use is virtually impossible. Hoping that people comply is not a good basis for regulation.

Some members of the public stated that property owners' opinions should be given more weight than non-property owners.

One member of the public noted that snowplowing is occurring on High Alpine roads (Corkscrew) despite the prohibition.

### **Temporary vs Permanent**

Some members of the public and the Planning Commission object to “temporary” camping structures being allowed to stay essentially permanently and would like camping structures removed when not in use. Some members of the public and the Planning Commission had no objection to permanent camping structures.

### **Safety**

Section 7 A 4. Says that camping structures must be in conformance with “Land Use, Building and OWTS requirements”. However, camping cabins and yurts do not necessarily meet that requirement and so don’t get a Certificate of Occupancy (CoO). If camping structures don’t have to meet all the provisions of the Land Use Code and the Building Code and so do not get a CoO, the provisions that they do and don’t need to meet need to be specified. Some Planning Commission members are concerned that any structure designed for human habitation should be safe. Is safety assured?

Decks 19” or less in height with no poured foundations would be exempt from a building permit. Some members of the public advocated for a higher deck height limit due to slope angles and snow depth. Yurts and other camping structures such as outfitter tents and camping cabins are typically large and heavy. If no permit and review is required, how is the County assuring the safety of its citizens? The owners of the Colorado Yurt Company said during public input that they manufacture a modular deck with double helix supports that can be installed and removed with minimal impact to the terrain.

A member of the public pointed out that while the long term camping applications required documentation of hazardous conditions such as wildfire, flood, avalanche and snow slides, there’s nothing in the draft ordinance which would allow Staff to deny the application if such hazards exist.

A member of the public noted that there are no sanitation requirements for short term camping up to 30 days per year. “Catholes” for this length of time could be problematic. Also, trash could be problematic.

### **Fire Mitigation**

The Planning Commission has recently been focused on fire mitigation and has nearly completed a major revision of the Land Use Code to require specific fire mitigation. The owners of the Colorado Yurt Company said during public input that yurts can be

engineered to meet fire mitigation standards. For safety reasons, this should be required. Should camping cabins also be required to meet fire mitigation standards?

### **Section 9 compliance/visual impacts**

It is unclear how camping structures should be assessed for compliance with Section 9. There's no application submittal requirement to provide color, distance from roads, etc. Do they need to comply with the point system? Also, there was disagreement whether camping structures such as yurts should blend during winter months or summer months (as required by Section 9). There was general consensus that on large parcels where the camping structure is not visible from other parcels or public roads/trails, restrictions should be minimal.

The long term camping applications require that sanitation facilities (porta-potties) be screened but there's nothing in the draft ordinance to support that requirement.

### **Parcel Size/Density**

Per the Ouray County Plaindealer May 2-9, 2019 Commissioners near decision on camping rules, Staff estimated that there are about 1000 mining claims that are 3 acres or more in size. Some Planning Commission members said that this density of structures which could remain in place permanently in a zone with one residence/35 acres baseline density is not appropriate.

Are camping structures allowed above tree line? The USFS does not have camping restrictions above tree line except that yurts and outfitter tents are limited to 14 days and camping cabins cannot be built. Some Planning Commission members think only temporary tents should be allowed above tree line. If this restriction is adopted, then there may be some appropriate exemptions such as shepherd camping structures.

Planning Commission members pointed out that for short term, truly temporary camping, several tents would be appropriate. This is not allowed in the draft ordinance.

### **Definitions**

The owners of the Colorado Yurt Company objected to the definition of yurt which precludes engineered yurts which can and do meet building code requirements in other jurisdictions. Staff said that yurts cannot get a building permit, just the underlying deck. One member of the Planning Commission said that the 500sq ft size limit was based on a 24' diameter yurt. That size would permit a travel trailer 50' in length.

Additional definitions are needed, such as camping cabin and camping structure. Staff prepared an excellent visual explaining the range from toolsheds 200sq ft or less to camping cabins to single family residences. If camping cabins are not a dwelling unit,

then some Planning Commission members expressed concern that the standards which must be met are unclear.

The definition for commercial camping should state that this is a legal non-conforming use which means that it can be maintained but not expanded and no new commercial camping is permitted. Some members of the Planning Commission pointed out that during the discussions surrounding Section 24 the need for commercial b&bs or camping structures (huts) available for public use was positively received. There's no provision in the draft ordinance for this new use. There was consensus that this should be considered, perhaps by adding it as a use requiring a Special Use Permit.

The definition for mobile home should be reviewed to ensure that it's clear that they are not considered "camping structures".

One member of the public and some members of the Planning Commission suggested that yurts and camping cabins should be treated differently than other "camping structures" like trailers. One member of the Planning Commission asked about motorhomes which are designed as much for camping as an RV, 5<sup>th</sup> wheel or travel trailer.

Deck height needs clarification. Is it average height or something else? Is excavating allowed to meet the proposed height limit. If so, is this a good idea in the High Alpine Zone?

The draft ordinance is unclear as to whether an OWTS is allowed on a parcel without an existing dwelling unit or an active building permit to construct a single family residence?

Section 7 A heading says "all camping". It was unclear to some members of the public and the planning commission that this includes short term camping.

NOTE 1: High Alpine Zone property owners felt that long term camping is their only viable option since their right to build was severely restricted by Section 24.

NOTE 2: Some Planning Commissioners questioned why this is an ordinance instead of a LUC section.

# OURAY COUNTY PLANNING COMMISSION GENERAL DISCUSSION AND PUBLIC COMMENTS FROM THE WORKSESSION

June 4, 2019 5:00 – 7:00 pm  
Meeting held at the  
Land Use/Road & Bridge Offices, Conference Room  
111 Mall Road Ridgway, Colorado

## Attending

**Commissioners:** Boehnke, Iuppenlatz, Miller, Parker, Snowbarger, Williams, Wilson

**PC Absent:** None

**Staff:** Castrodale, Henderson

**Guests:** King-Plaindealer, D. Kigar, E. Kigar, Van West, Swartz, Calhoon, Beckhardt, A. Iuppenlatz, Shelby, Lowande, Evans, McKenney, Dissler, Marlatt, S. Williams, Englemann

## WorkSession addressing Non-Commercial Camping

### *Planning Commission Member Comments/Questions:*

1. Parker - He needs to finish listening to the recordings. We just had two public hearings. Should the Planning Commission draft one or three separate reports?
2. Williams - Said she prepared a draft memorandum from the Planning Commission to the BOCC containing a description, public input, and recommendations.
3. Parker - There were many comments about the need for a yurt and back country ski-in system. Public was asking about it and it needs to be included.
4. Iuppenlatz - Should be added as a Special Use through the Special Use Permit process.
5. Boehnke - I see a need for short and long-term timeframes for families.
6. Wilson - Agrees with Boehnke.
7. Castrodale - Asked who is going to write the report to BOCC? We need an e-mail or a letter from the Planning Commission.
8. Boehnke - Will listen to the recording and then draft a report.
9. Williams - Asked if she has a general agreement to summarize our comments?
10. Snowbarger - Should we do a broad sweep on Section 2 & 3?
11. Williams - Makes sense to continue where we left off. It is appropriate to accept public input.
12. Parker - We need to decide if talking about a lot or a parcel, then be consistent throughout.
13. Parker - **On Page 3 (B.2) under C...**shouldn't we be talking about less than 35 acres for a camping structure? **Does a 3-acre site cover it?**
14. Williams - We are not undoing it.
15. Parker - In regards to the term "removal" it should be "temporary" if they take it down, we are holding to the 35-acres. Takings issue mentioned last meeting. There could be a compromise.
16. Castrodale - There was a discussion about 35-acres and the height of decks to be 19 inches.
17. Williams - Start at B.6.

18. Iuppenlatz - Compromise the BOCC allowed 500 sf camping cabin.
19. Williams - Not just camping, what if they use it for storage?
20. Castrodale - 500 sf solely without a permit. What could be allowed without a permit?
21. Williams - A 24-foot in diameter yurt is 450 sf.
22. Iuppenlatz - Delete the term "solely".
23. Boehnke - A round yurt needs a building permit for a deck. Square camping cabin also needs a building permit.
24. Castrodale - 35-acre requirement.
25. Boehnke - Putting something on top should not be a visual disturbance.
26. Wilson - White vs. green structures issue.
27. Boehnke - Visibility an issue and we need to enforce it if it is visible.
28. Williams - On to Section 7.
29. Snowbarger - We need to catch all terms and be consistent.
30. Wilson - Brought up the issue of tiny houses.
31. Castrodale - "Tiny house" is not a term. It falls into another group of stick built structures. The language was written so people can't live in a 57 Chevy or a bus.
32. Iuppenlatz - Tiny home should be included as a structure. A Park Model is a trailer with a license plate.
33. Castrodale - Tiny homes and trailers require permits.
34. Snowbarger - What about motor homes and busses?
35. Wilson - No converted busses.
36. Williams - Concerns about what is and is not included.
37. Boehnke - It matters where in the county it is. Should it be regulated under the visual regulations section of the Land Use Code?
38. Parker - In Section 7, should we strike the term "solely"? Can I have six RV's on my parcel?
39. Iuppenlatz - Yes you can have multiple RVs (storing them when not in use).
40. Williams - Two different point of views, just note it in the report.
41. Parker - First time "temporary" is used.
42. Castrodale - Should it be removed or not?
43. Boehnke - What happened if six people complain?
44. Iuppenlatz - Referring to removing the structure, the BOCC was trying to satisfy people who can't build in the high alpine.
45. Snowbarger - Agrees with "up to" 60-days.
46. Parker - What about after a house is built? Does it stay up or do they need to take it down?
47. Boehnke - Do we allow Porta-potties? If so, they need to be screened.
48. Williams - Agrees that sanitation facilities need to be screened and to add to the ordinance.
49. Boehnke - Porta-potties must be commercially maintained at least once a month.
50. Williams - We should request the service records when they renew the permit.
51. Snowbarger - Screen a camping structure as well as portable sanitation facilities.
52. Williams - It would be fair to say #5 would be difficult to enforce although they could use camouflage netting similar to what they used in the Iraq war.
53. Parker - Yurts and camping cabins are not temporary structures. We need to compromise.
54. Iuppenlatz - Yurts should be classified as a semi-permanent structure. Permanent vs. temporary definitions are needed.



*Public Comment Period:*

1. Van West - My concern is sanitation and it being “proper” or “adequate”. You can’t just be digging holes for sanitation.
2. Luwande - Long term is addressed adequately but short-term is not. Agrees with Van West.
3. Beckhart - Is this the last time to comment on this issue?
4. Williams - BOCC will hold another public comment period?
5. Beckhardt - Is a building permit required for a man cave? Who does the building inspector report to? Solution might be to not require a permit. Lot of duplication between applications and the ordinance. Leads to conflict and confusion.
6. A. Luppenlatz - In regards to the color of yurts, if property owners are not complaining, who is making the complaint? We are private landowners and we all respect the land. We have a community in the high country. I know friends who can’t afford to purchase additional mining claims because they are too expensive.
7. Disser - It’s worth the Planning Commission taking the time to understand it. Reminding folks they are committing a crime if they trespass on private property. Why are we going through this laborious process if you commit a crime to verify the color of a yurt? We need to be careful with wording in ordinance. Think about people’s property rights and keep this in mind as you move forward.
8. Calhoon - Agrees with Beckhardt and Parker. Would like to see the camping cabin and yurts be separate structures. Sanitation is important. Question, I am confused about whether a yurt deck is to be permitted.
9. Castrodale-19 inches or less doesn’t need a permit.
10. D. Kiger - Agrees with previous two commenters. You need to define grading, 19-inches to the high point would be a good specification.
11. E. Kiger - Has lived in Ouray County since 1980. Yurts should be permanent structures. It is fluid depending on snow pack and wind. Welcomes folks to visit their factory in Montrose. Yurts can be engineered.
12. Evans - Yurts are great. They do less damage to the land vs. houses. One (1) structure per 35-acres should be the standard because of the watershed. We shouldn’t mess with the 35-acre number.
13. Englemann - Suggestion to clarify the definitions. Please define temporary vs. permanent structures. We need a definition for a yurt. We need to define it and decide whether it is a temporary or permanent structure. Visual impact is critical...we don’t want to see everything. It is hard to enforce. How can we enforce color? Question about one structure per lot. Short-vs. long-term with multiple structures and vehicles. Road access and plowing, can anyone start a new road to access their property?
14. S. Williams - I share with others this ordinance needs to be revised and defined. If a camping structure is in an avalanche path, the permit should be denied.

Public comment was closed at 8:00 pm.

*Planning Commission Deliberation:*

1. Williams - We must get back to the issue of Fire Mitigation at the next Planning Commission meeting. She also suggested they do a draft and circulate to all Planning Commission members. We will have differing opinions and the report should be neutral. We need to agree to disagree and move forward.
2. Luppenlatz, Miller, and Williams volunteered to help with a draft.
3. Boehnke volunteers to produce the first draft report?
4. Motion by Parker to close the public workshop.
5. Seconded by Wilson.
6. Motion approved 7-0.
7. Motion by Snowbarger to approve the minutes to the June 4, 2019 meeting.
8. Seconded by Boehnke.
9. Motion approved 5-2 (Parker and Williams were absent).
10. Castrodale - Reminds everyone that on June 21, 2019, the Planning Commission needs to agree on dates, times, and locations for public outreach.

**- DRAFT ONLY W/ LAND USE STAFF COMMENTS IN YELLOW -**

## SECTION 16

### WILDFIRE MITIGATION REGULATIONS APPLICABLE TO STRUCTURES AND COUNTY APPROVED SUBDIVISIONS

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#### 16.1 PURPOSE AND LEGISLATIVE INTENT:

The purpose of these regulations is to ...

- Regulation is based on current science...
- One regulation for the entire county, not multiple 'risk' zones...
- Based on current advice from wildfire experts and review of scientific studies...
- Note that embers may travel as far as 13 miles, do not respect 'zones'...
- PC worked to balance protection of life and property with individual property rights...

#### 16.2 APPLICABILITY:

A. These regulations apply to:

- (1) All new residential construction requiring a building permit.
- (2) All additions and exterior remodels to existing residential structures requiring a building permit.
- (3) All new accessory dwelling units and accessory structures requiring a building permit.
- (4) New *Limited, Regular, Resort/Conference Center, and Vested Property Rights* County-Approved Subdivisions/Planned Unit Developments (PUD's) initiated after the date these regulations are adopted.

B. These regulations do not apply to:

- (1) Vacant land. (*Prior to issuance of a building permit.*)
- (2) Commercial structures. (*All Commercial construction shall meet the Uniform Building Code and the Uniform Fire Code provisions relating to fire mitigation as adopted by Ouray County.*)

#### 16.3 NON-CONFORMING STRUCTURES

- A. Land Use Code Section 4.4 – *Restoration or Replacement* addressing non-conforming structures where there is no expansion, shall not trigger the requirement for compliance with this Code Section. (*Other Land Use Code and Building Code provisions/restrictions may still apply.*)
- B. If the proposed restoration or replacement of the structure is more than 50% and at least 1000 square-feet, then the entire structure must comply with all provisions in the Wildfire Mitigation Vulnerability Rating System Worksheet.
- C. If the proposed restoration or replacement of the structure is less than 50%, then the entire new addition must comply with the *Required Elements* as listed in the Wildfire Vulnerability Rating System Worksheet.

#### 16.4 **DEFINITIONS**

**Wildland Urban Interface (WUI).** Areas where homes are built near or among lands prone to wildland fires.

**Defensible Space.** In the context of fire control, a natural and/or landscaped area around a structure that has been designed and/or maintained to reduce wildfire danger.

**Ignition Resistant (*materials*).** Those products that meet or exceed the standard for being non-combustible/fire-retardant as defined by **ASTM E-84 standards???** **Does this include composite decking for example???** **Question for WRWC!!!**

#### 16.5 **REGULATIONS AND REQUIREMENTS:**

##### A. NEW RESIDENTIAL CONSTRUCTION

All building permit applications for new residential construction shall include a completed and staff-approved - Ouray County Wildfire Vulnerability Rating System Worksheet. No building permit will be issued without a staff-approved worksheet.

- A. Required elements for all new residential structures addressed in the rating worksheet include:
  - (a) Class A Roof Covering
  - (b) Ignition Resistant Siding OR Non-Ignition Resistant Siding with Ember Mitigation and Defensible Space
  - (c) Ember-Resistant Screening
  - (d) Five-Foot Hardened Zone
  - (e) Ignition-Resistant Doors
  - (f) Emergency Vehicle Compatible Driveway

- (g) Driveway Width
- (h) Interior Radii
- (i) Driveway Opening
- (j) Grade
- (k) Adequate Site-Distance
- (l) Non-Combustible Gutter System
- (m) Proper Address Signage

**B.** Scored Elements for all New Residential Structures addressed in the rating worksheet include:

- (a) Defensible Space
- (b) Building Site Elements
- (c) Forest & Fuel Density
- (d) Ignition-Resistant Decking/Fencing
- (e) Eaves, Overhangs, Structural Projections
- (f) Windows
- (g) Driveway Clearance
- (h) Near-Home Combustibles

**B. REQUIREMENTS FOR DEFENSIBLE SPACE**

- (a) Building permit applications shall include a detailed site plan showing the location of all proposed structures as well as the location of significant adjacent vegetation. Aerial photographs are highly encouraged.
- (b) [If required to meet the ‘Scored Elements’ in the Wildfire Vulnerability Rating system, Aa](#) proposed Defensible Space plan must be prepared by a qualified representative from the Colorado State Forest Service, the Western Region Wildfire Council, or other person/entity approved by the Land Use Department. *(Applicants are strongly encouraged to make contact with one of these agencies as early on in the application process as possible!)*

- (c) Proposed defensible space elements as provided for in Sections **B1.1, 1.2** and **1.3** of the Ouray County Wildfire Vulnerability Rating System Worksheet.
- (d) All trees/vegetation intended for removal must be clearly marked.
- (e) If Defensible Space is proposed as part of an approved Wildfire Vulnerability Rating System Worksheet, all work must be completed prior to final inspection and issuance of a 'Certificate of Occupancy'.

**C. EXTERIOR ADDITIONS AND EXTERIOR REMODELS TO EXISTING RESIDENTIAL STRUCTURES**

**A. ADDITIONS:**

- (a) Section **16.5(A)** of this Section shall apply to any proposed addition to a residential structure. (ie. the proposed new portion of the structure only)
- (b) For the purposes of this Section, any garage or new deck requiring a permit attached to the residential dwelling is considered an *addition*.
- (c) Any building permit application for an addition to an existing residential structure shall trigger the requirement for an audit site visit/evaluation<sup>2</sup> of the entire structure and surrounding land area by the Colorado State Forest Service, Western Region Wildfire Council, or other qualified agency. The purpose of the audit site visit/evaluation is to identify and communicate to the homeowner, areas of concern and possible opportunities to implement changes or upgrades to reduce the structures ignition vulnerability due to wildfire. Audits Site visit/evaluations conducted by a qualified/accepted agency shall be good for a period of 5-years.
- (d) Any proposed addition to a residential dwelling unit, equal to or greater than 50% in size of the existing structure, and at least 1000 square feet, shall require the entire existing structure to meet the 'Required Elements' of the *Wildfire Vulnerability Rating System Worksheet*.

**B. REPAIRS AND REMODELS REQUIRING A BUILDING PERMIT:**

- (a) The replacement of existing roofing material shall require an approved building permit as well as the following:
  - 1. Newly installed roofing material must be 'Class-A' fire resistant.

2. Replacement of all vent screens with 1/8” screening or screening otherwise specifically designed to prevent the intrusion of fire embers. *(if not already installed)*
3. Installation of an approved spark arrestor. *(if not already installed)*
4. **If gutter system installed then non-combustible gutter system.**

**D. ACCESSORY DWELLING UNITS** (requiring a building permit)

- A. Building permit applications for *accessory dwelling units* shall be required to comply with Section 16.5(A) of this Code Section.

**E. ACCESSORY STRUCTURES** (requiring a building permit)

- A. Building permit applications for *accessory structures* shall be required to comply with the mandatory (ie. non-scored) elements of the Wildfire Vulnerability Rating System Worksheet. **This requirement includes building permits issued subject to the county’s High Alpine regulations.**

**16.6 PLANNED UNIT DEVELOPMENTS**

- B. All new Planned Unit Developments proposals including *Limited, Regular, Resort/Conference Center, and Vested Property Rights Subdivisions* shall include the following elements regarding wildfire mitigation:

- (a) A secondary egress method *(if feasible)* including road width and adjacent cleared areas, or an internal access road built to accommodate access for emergency response vehicles, including both horizontal and vertical clearance. *(ie. road width and adjacent clearing allows adequate clearance for 2 typical size emergency vehicles to pass) ?*

- (b) Prior to submittal of a Sketch Plan, the application for PUD shall be referred to the Colorado State Forest Service (CSFS) or Western Region Wildfire Council (WRWC), and the local fire department or fire district for review and recommendations regarding vegetation management outside of the building envelope areas.

1. Applicant shall incorporate recommendations from the CSFS or WRWC in development of the Sketch Plan.
2. The Board of County Commissioners may require some or all recommendations from CSFS or WRWC be implemented in the development plan.
3. Open space, or alternatively, non-building area, shall be arranged to allow for design and implementation of a fuel break, as recommended by CSFS or WRWC. **(Note: Fuel breaks are typically best achieved by providing for a strip of land area on the**

*perimeter of the PUD that is at least 30-50 feet wide per the 2013 NFPA guidelines.)*

4. PUD covenants shall include a provision that require, and provides for, on-going perpetual maintenance of the area designated as a *fuel break*.
- (c) In addition to the site layout and design provisions stated in the ‘Planned Unit Development’ section of this Code, applicants for new PUD’s shall be required to:
1. confirm that overall PUD design, and layout of lots and building envelopes, is done in such a manner where no houses may be constructed with less than a 30-foot separation as measured from each home’s exterior edge.
  2. confirm that design and layout for all residential lots shall allow for the implementation of a minimum of 100-feet of defensible space (*or to the edge of the property*) around all residential dwelling units and all accessory dwelling units.
  3. confirm that all residential lots are located with the specific intention to avoid high wildfire risk topography.

## **16.6 PROCEDURES**

- A. All building permit applications shall be submitted to the Ouray County Land Use Department.
- B. Building permit applications and related reviews regarding wildfire mitigation will be conducted by the Ouray County Land Use Department.
- C. Applications requiring assistance by the Western Region Wildfire, Colorado State Forest Service, should be copied to those agencies as early on in the process as possible to avoid any potential delays.

## **16.7 EXCEPTIONS/VARIANCES/APPEALS**

Any request for an exception, variance, or appeal related to the provisions of this Code Section shall be addressed as provided for in the *Exceptions, Special Exceptions, Exemptions, and Variances* section of this Code.

## **16.8 ENFORCEMENT/FEES:**

This section of the code will be administered by the Land Use Department and the costs of implementation will be recovered through fees established by the Board of County Commissioners as a part of PUD, RST and building permit fees.

## **16.9 CONFLICT WITH OTHER LAWS**



If the County codes or regulations are in conflict with Federal law or regulations, Federal law or regulations shall control.

#### **16.10 SEVERABILITY**

- A. In the event any article, section, sentence, clause or phrase of this Section shall be declared or adjudged invalid or unconstitutional, such adjudication shall in no manner affect the other articles, sections, sentences, clauses or phrases of this Section, which shall remain in full force and effect, as if the article, section, sentence, clause, or phrase so declared or adjudged invalid or unconstitutional were not originally a part thereof.
- B. The BOCC hereby declares that it would have adopted the remaining parts of this Section if it had known that such part or parts thereof would be declared or adjudged invalid or unconstitutional.

#### **GENERAL STAFF COMMENTS**

- WRWC will develop Section 16 ‘companion guide’. (idiots guide to section 16)
- Building permit to install a fireplace (wood, pellet) in an existing home should trigger the requirement for spark arrestors.
- Staff will train with WRWC to do ‘building slope’, ‘proximity to high wildfire risk topo features’, ‘forest and fuel density’ assessments. (building inspector)
- We still anticipate a lot of questions regarding windows.
- If there is a D-Space Plan as part of submittal, it MUST be developed by WRWC or CSFS.
- Staff can use Google Earth to determine building area slope.
- How can we avoid stockpiled trees and limbs (ie. fuel) when driveways are cleared???
- For the triggered ‘site visit & evaluation’ on a repair/remodel, we just need an email from WRWC saying that site visit has or will take place.
- Need to make sure a bathroom remodel (for example) does NOT trigger the requirement for the site visit/evaluation. Make sure this requirement is for exterior remodels only.
- A permit for a re-roof, no structural, should be a flat-fee.

