

# GEM COUNTY LUDC ASSESSMENT REPORT

DRAFT JULY 2023



## Table of Contents

<b>Introduction .....</b>	<b>2</b>
Project Description .....	2
What are the Zoning and Subdivision Regulations? .....	2
Preliminary Guiding Principles .....	3
Overall Process .....	3
<b>Public Engagement Overview .....</b>	<b>4</b>
Who We Heard From .....	4
Outreach Goals .....	4
<b>Emerging Community Priorities .....</b>	<b>5</b>
General Recommendations .....	5
Formatting and Reorganization .....	5
Title 11 Zoning Regulations .....	6
General Title Updates .....	6
Definitions .....	7
Zone Districts .....	8
Permitted Uses .....	13
Performance Standards .....	14
Use-Specific Standards .....	16
Signs .....	19
Development Standards .....	21
Administration .....	21
Application Procedures .....	21
Natural and Scenic Resource Protections .....	24
Title 12 Subdivision Regulations .....	29
General Title Updates .....	29
Subdivision Review and Approval .....	30
Subdivision Standards .....	31
Other Subdivision Options .....	35
Sustainability .....	37
Historic and Cultural Resources .....	40
Conclusion and Next Steps .....	41

# INTRODUCTION

## Project Description

The objective of the Gem County Land Use and Development Code (LUDC) Update process is to combine and enhance the Gem County Subdivision and Zoning Ordinances, with the goal of aligning them with the Gem County Comprehensive Plan that was adopted in February 2023.

The LUDC Update process will focus on diagnosis, collaborative drafting, and public outreach. We began the process by talking to the community about what is working well and what is not work well with the current regulations and pairing those conversations with detailed review of existing master plan documents, such as the recently updated Comprehensive Plan, and the current zoning and subdivision regulations. This analysis will result in an assessment report that will serve as a roadmap for the update process moving forward.

Based on the assessment report findings, staff and the consultant will divide the code into modules for efficient updating of specific sections that can be reviewed in manageable portions. Our plan is to implement Module 1 as a text amendment to the current Ordinances and then proceed to revamp and update the remaining sections for final adoption towards the end of the project.

Throughout the process, we will actively involve the public, key community members, County staff, as well as the Planning and Zoning Commission (P&Z) and Board of Commissioners. Our goal is to create a LUDC that addresses community concerns and is aligned with the Comprehensive Plan, adopted County standards and policies, and sustainability objectives. Additionally, we aim to simplify the language, utilize graphics, and make the LUDC more user-friendly. Ultimately, our efforts will result in an updated LUDC that is reflective of the needs and aspirations of the community.

## What are the Zoning and Subdivision Regulations?

The Zoning Regulations and Subdivision Regulations are currently housed in the Gem County Code as Titles 11 and 12 respectively. Collectively referred to as the Land Use and Development Code (LUDC). These regulations comprise the primary regulatory document that the County uses to ensure quality development including regulations and standards that address zoning, land uses, natural resource protections, subdivision standards, building setbacks, building height, parking, landscaping, neighborhood character, and application procedures.

## Preliminary Guiding Principles

The Gem County Comprehensive Plan is a guide for future development of both private and public land and includes proposals for the use of developed or vacant land and for adjusting incompatible uses. To ensure County goals and policies are implemented in the LUDC, the following guiding principles have been developed to focus the update process:

1. **Provide Clear and Understandable Standards.** The LUDC should be easy to use for the general public, applicants, and administrators. Information should be logically arranged, easy to find, and include language and graphics that are attractive and clear to communicate design principles and/or aid in document navigation.
2. **Incentivize Desirable Development.** The County development process should include clearly stated, attractive incentives for the development the County wishes to see.
3. **Uphold the County's High Quality of Life.** Ensure that new workforce housing development seeks to maintain standards of livability and existing neighborhood character. Preservation of existing attainable housing should be a priority.
4. **Update Definitions and Allowed Uses.** In addition to updating the general formatting and structure of the LUDC, updating the definitions, and allowed uses throughout the LUDC to align with best practices and achieve County goals is a priority of Gem County. Updating outdated uses and revising definitions provides for clarity and ease of use.
5. **Simplify the Regulations and Reference Federal/State Statute.** The federal government and State of Idaho provide standards for many uses and processes. To ensure that the most accurate standards are followed, federal and state statutes and standards should be referenced so that as the federal and state regulations are updated, Gem County does not need to amend its LUDC.

## Overall Process

The assessment of the LUDC has three components:

- ✓ *Listen to the community's goals and values*
- ✓ *Review and assess the LUDC against core policy documents*
- ✓ *Provide suggestions for the update that ensure the LUDC reflects Gem County's vision for the future.*

Listening to the community was the first step in the process, occurring as a series of one-on-one interviews. The goal of these meetings was to provide an opportunity for the review team to hear directly from the community what was working and what was not with regard to

development patterns. Comments from the public have been compiled to identify specific topics for detailed review and updates within the existing LUDC. Following the community interviews, the existing LUDC was reviewed in sequence to identify additional sections to be updated throughout the process.

## Public Engagement Overview

### Who We Heard From

One-on-one community meetings were held February 13 – 16 in addition to a joint Board of County Commissioners and P&Z work session. One-on-one meetings were advertised on the County website and direct emails were sent to individuals signed up for County email notifications. The following groups have been generally represented:

- Surveyors, developers, builders, and real estate agents
- General residents and retirees, both long term and newer to the County
- Ranchers and irrigation companies
- County planning staff
- Members of the County P&Z and Board of County Commissioners

### Outreach Goals

The goal of these interviews was to obtain specific feedback on the following questions:

1. Is the LUDC easy to use? What revisions could make it more user-friendly?
2. What works well with the current LUDC? What does not work well with the current LUDC?
3. Following are some possible topics to consider when discussing these questions:
  - a. Land use impacts (e.g., noise, light, traffic)
  - b. Use standards (housing types, definitions, and standards of specific allowed uses)
  - c. Zoning and dimensional standards (density, lot size, height, setbacks)
  - d. Application procedures and process
  - e. Review criteria
  - f. Additional standards that are missing from the current LUDC



## EMERGING COMMUNITY PRIORITIES

Through a combination of community interviews, a County tour, and review of the LUDC, the following community priorities emerged (listed alphabetically, not in a particular priority order). The rest of this document is organized by existing Titles within the County Code, highlighting these topics throughout in specific subsections. Each subsection includes detailed analysis of what we heard, current policy, and specific recommendations for addressing each topic in the updated LUDC.

- Application Procedures
- General Inconsistencies
- Dark Sky Lighting
- Definitions
- Flood Zones
- Hillside Ordinance
- Housing Options
- Irrigation Districts/Water
- Road Standards
- Accessory Dwelling Units
- Reorganize, Simplify – User Friendly
- Subdivision Types/Options
- Sustainability
- Update Uses
- Zone Districts

## General Recommendations

### Formatting and Reorganization

Across both Title 11: Zoning Regulations and Title 12: Subdivision Regulations many sections could be condensed or simplified while others need to be expanded to include specific language to clarify the code. Purpose and intent statements throughout are very helpful and should be added to all sections for consistency. The tables included throughout the code are also well formatted, consistent, and helpful in outlining many of the entitlements, procedures and standards. The public also identified a need to merge Title 12: Subdivision Regulations with Title 11: Zoning Regulations to eliminate duplication and conflicting provisions, as well as to make it easier to find information.

Several of the chapters in the current Gem County Zoning Regulations in Title 11 include items that don't fit with the titles and would benefit from reorganization. Examples include having Nuisance Waiver Requirement (11-3-6) and Public Services; New Use Exemption (11-3-7) in Chapter 3, Establishment of Zones.

Improvements to the organization could include:

- Provide a General Provisions Chapter at the beginning of the LUDC.
- Combine all Zoning Districts into one chapter.
- Consolidate all Development Standards into one chapter.
- Organize Use Regulations in tables that define the allowance for each use and identify the specific standards for each use.

### *Recommendations*

- Merge Title 12 with Title 11 to form the LUDC.
- Include additional graphics, charts, and tables to clarify requirements and provide ease of use.
- Reduce the use of the word “compatible” and replace it with design standards that spell it out.
- Make stronger statements by removing the words should, encourage and may and replacing them with clearer standards requiring less interpretation.
- Provide a General Provisions Chapter at the beginning of the LUDC.
- Combine all Zoning Districts into one chapter.
- Consolidate all Development Standards into one chapter.
- Consolidate all Application Procedures into one chapter.
- Organize Use Regulations in tables that define the allowance for each use and identify the specific standards for each use.

## **Title 11 Zoning Regulations**

Title 11 of the Gem County Code of Ordinances is commonly known as the “Zoning Ordinance”. This Title includes all standards related to zoning, zone districts, allowed uses, development application procedures, and development standards. Title 11 is currently organized as follows:

- |                                    |                                      |
|------------------------------------|--------------------------------------|
| ➤ Chapter 1: General Provisions    | ➤ Chapter 5: Subdivision Regulations |
| ➤ Chapter 2: Zoning Districts      | ➤ Chapter 6: Application Procedures  |
| ➤ Chapter 3: Use Regulations       | ➤ Chapter 7: Definitions             |
| ➤ Chapter 4: Development Standards |                                      |

The following subsections detail specific recommendations based on public feedback and our professional review of the existing Title.

### **General Title Updates**

No significant changes are anticipated to the following chapter beyond reorganization and updating references:

- Chapter 1: Title, Authority, Purpose, Interpretation and Zoning Map
- Chapter 3: Establishment of Zones
- Chapter 7: Special Uses
- Chapter 8: Planned Unit Developments (PUD)
- Chapter 9: Nonconforming Uses and Lands Previously Divided

### *Recommendations*

- Combine Section 11-1-10: Zoning Map with Title 11, Chapter 3: Establishment of Zones.

- Combine Chapter 7: Special Uses with other application procedure sections to create a single Applications Chapter.
- Review Chapter 9: Nonconforming Uses and Lands Previously Divided for conformance with Idaho Code.

## Definitions

### Overview

Definitions are currently found in six sections throughout Titles 11 and 12 (11-2, 11-6-6, 11-6-7, 11-10-3, 11-20-2, 11-20-2, and 12-2-2). Concerns were expressed during the public outreach regarding definitions being in different places within the document, inconsistency between the definitions and terms, and are outdated or missing. Best practice is to consolidate all definitions into a single section at the end or beginning of the LUDC to for ease of use and to ensure that definitions are consistent.

The definitions chapter of the LUDC is critical because it gives meaning to terms of art and legal provisions in the LUDC. Definitions should never include standards, because readers will normally search the body of the Resolution for substantive requirements. Definitions should only explain terminology that lacks a generally understood meaning. In addition, the use of hyperlinks could aid in quickly finding referenced sections and definitions.

### Recommendations

- Consolidate all definitions into a single Definitions Chapter.
- Remove repetitive definitions and reconcile conflicting definitions.
- Clarify and update all definitions.
- Develop definitions for undefined terms.
- Include hyperlinks in the electronic version of the LUDC.
- Update Definition of Secondary Dwelling unit (SDU) and change to Accessory Dwelling Unit (ADU).

## Related Comprehensive Plan Goals and Actions

**Land Use Goal 1:** Balance growth, property rights, rural character preservation, and fiscally efficient delivery of public services and infrastructure.

B. Encourage clustering and compact development alternatives to minimize development impact and protect the rural character, especially if proposed development is far from available services and infrastructure.

E. Support small-scale and locally serving non-residential and civic development in Rural Centers to preserve a sense of place and serve the daily needs of the unincorporated communities such as Ola, Sweet, and Letha.

F. Discourage non-compatible commercial and industrial development within or adjacent to County Residential land use areas.



## Zone Districts

### Overview

Zoning is a tool used by municipalities to regulate the way a property is used (residential, commercial, open space, etc.) to protect community members' quality of life and provide predictability in new development. Zoning districts often specify minimum lot sizes, building setbacks, maximum structure size, and residential density.

Chapters 3 and 4 provide the establishment and minimum standards for the zone districts in Gem County. Gem County has 13 different zone districts: three agricultural, two commercial, three industrial, two residential, one mixed use, one public, and the Shadow Butte Industrial Park Zoning Overlay District. A significant portion of the land in Gem County is zoned for agricultural purposes with A1 Prime Agriculture making up 52% of the unincorporated county, A2 Rural Transitional Agriculture making up 7%, and A3 Rural Agriculture making up 38%. The remaining 3% of land is zoned residential, commercial, or industrial.

In agricultural districts single-family housing is the only permitted type of housing. Manufactured home parks and group quarters (over 8 residents) may be allowed in some cases with a Special Use Permit (SUP). Currently, the biggest difference between the three agricultural districts is the minimum lot sizes. The minimum lot size in A1 is 40 acres whereas the minimum lot size in A2 and A3 is 5 acres. The A-2 is intended for suburban development and A-3 is intended for continuing a rural development pattern due to environmental constraints such as topography.

A major tenet of the Comprehensive Plan update process was preservation of agricultural land around the edges of the Emmett Area of City Impact (AOCI) to curb the one- and two-acre subdivisions in the AOCI. To implement the Comprehensive Plan and associated future land use map, the existing MR and R-2 zone districts may need to be tailored for higher density residential development. Clustered development standards should also be developed to promote clustering of lots throughout the larger County, especially in the areas designated as "Agriculture and Ranching – small lot" on the Gem County Future Land Use Map (See [Special Subdivisions – Cluster Subdivisions](#) for additional information).

### Related Comprehensive Plan Goals and Actions (cont.)

**Land Use Goal 4:** Guide the location, intensity, and pattern of desired development through the Future Land Use Map.

A. Guide land use patterns as described in the Future Land Use Map and Categories that transition residential density outward from Emmett, conserve connected resource areas, and identify opportunities for non-residential uses based on criteria such as services and infrastructure connections.

Table 1 below shows a preliminary breakdown of how the existing zone districts fall within the Future Land Use categories. However, it is also recommended to revise the dimensional standards – minimum lot size, setbacks, etc. – and allowed uses within existing zone districts to implement the Comprehensive Plan and achieve the desired development pattern. Additionally, Table 1 indicates that there is currently not a zone district which meets the intent of the Agriculture and Ranching – Large Lot future land use, meaning an existing district either needs to be tailored, or a new zone district needs to be developed.

*Table 1. Gem County Future Land Use to Zoning Comparison*

Future Land Use Category	Existing Zoning Category
<b>Agricultural Preservation</b>	A-1*
<b>Agriculture and Ranching (large lot)</b>	A-1*
<b>Agriculture and Ranching (small lot)</b>	A-3
<b>Rural</b>	A-2, R-3 (RR)
<b>County Residential</b>	MR, A-2, R-2, R-3
<b>Transitional</b>	N/A
<b>Business Mixed Use</b>	C-2, M-1, M-2, HT
<b>Rural Center</b>	MX, MR, C-1
<b>Emmett Area of Impact</b>	Zoning per
<b>Eagle Area of Impact</b>	

\* Discuss updating zone districts to differentiate between agricultural preservation and large lot agriculture and ranching, or develop an agricultural preservation overlay per discussion later in this document

### *Agricultural Overlay*

Agriculture is a critical foundation for Gem County and adoption of regulations to safeguard valuable farmland from conversion to nonagricultural uses is a top priority. Preserving agricultural land ensures a stable food supply and supports the local farming industry. Many other benefits are provided by agricultural lands, including providing a diverse ecosystem, protecting landscapes that are the heritage of Gem County, supporting economic stability and maintaining a rural character.

Creating an agricultural land preservation overlay would be a proactive step toward protecting farmland, maintaining ecological balance, and promoting sustainable agriculture for the benefit of the present and future generations.

All the zones provide an intent statement and minimum lot size, but the Shadow Butte Industrial Park Zoning Overlay District (SBIP Overlay) also includes a list of allowed and permitted uses. The list of allowed and prohibited uses for the SBIP Overlay should be moved to the use table and other dimensional standards (setbacks, maximum building heights, maximum density, etc.) should be listed in tables for each zone, as shown in Figure 1 below. County staff have also indicated an interest in possibly including commercial and industrial parking standards in a single table for uses allowed in each zoning district, similar to Table 2.

Figure 1. Zone District Dimensional Table and Graphic (Natrona County, WY)

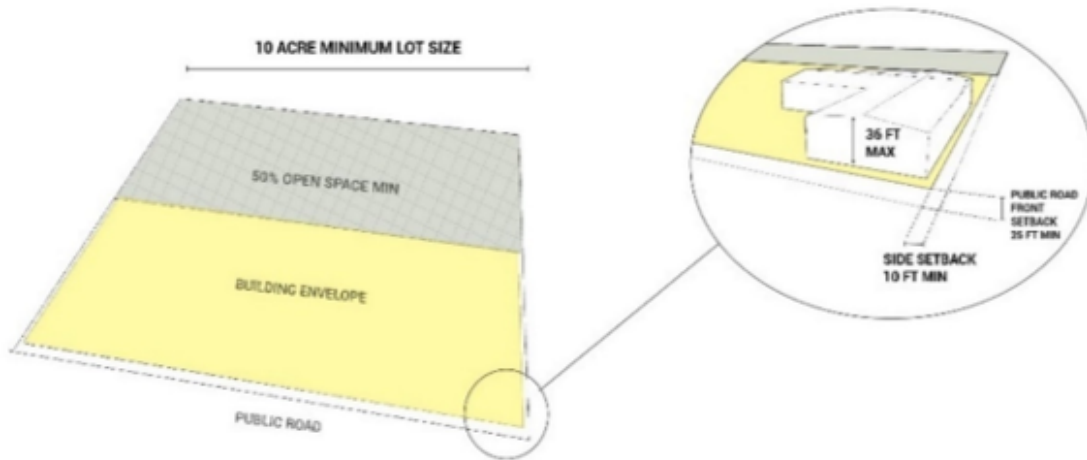


Table 2.05-1 Mountain Residential – 1 (MR-1) District Dimensional Standards	
Lot Dimensions	Standard Requirements
Minimum Lot Size	10 acres
Building Setbacks	
Minimum Setback from Public Road	25 ft.
Minimum Front Setback	10 ft.
Minimum Side Setback	10 ft.
Minimum Rear Setback	10 ft.
Site Development Standards	
Maximum Lot Coverage	50% of lot area
Maximum Building Height	36 ft.
Residential Density	1 primary residential structure per 10 acres 1 ADU per 10 acres*

\* 1 exempt ADU for agricultural properties as defined by tax status per 10 acres

Table 2. Combined Use and Parking Table (Teton County, WY)

1. Allowed Uses					2. Use Requirements	
Use	Permit	GSA (min)	Density (max)	Scale (max)	Parking (min) (Div. 6.2.)	Affordable Workforce Housing Units (min) (Div. 6.3.)
Open Space						
Agriculture (6.1.3.B.)	Y	n/a	n/a	n/a	n/a	exempt
Residential						
Detached Single-Family (6.1.4.B.)	Y	n/a	1/lot	8,000 sf habitable excluding basement	2/du	$0.000017 \cdot \text{sf} + (\text{Exp}(-15.49 + 1.59 \cdot \text{Ln}(\text{sf}))) / 2.176$
Transportation/Infrastructure						
Utility Facility (6.1.10.C.)	C	n/a	n/a	n/a	1/employee + 1/ stored vehicle	$0.000107 \cdot \text{sf}$
Wireless Communications		see 6.1.10.D.			1/employee + 1/ stored vehicle	$0.000107 \cdot \text{sf}$
Accessory Uses						
Accessory Residential Unit (6.1.11.B., E.1.)	B	n/a	see 6.1.11.B. & E.1.		1.25/du	exempt
Y=Use allowed, no use permit required B=Basic Use Permit (Sec. 8.4.1) C=Conditional Use Permit (Sec. 8.4.2.) S=Special Use Permit (Sec. 8.4.3.) *=Reference the definition of Reception Site (Sec. 6.1.3)						

The regulations section provides a description of types of standards used for managing development and explains uses. This language would benefit from an update to clarify and simplify the descriptions. Some of the items in boundaries and zones (Section 11-3-4), such as Vacation of Street or Road, would benefit from an updated description. The Conformity and General Intent has some confusing language and should be revised to improve clarity (Section 11-3-5).

The Nuisance Waiver Requirements in Section 11-3-6 require that a waiver be signed and recorded with the Gem County recorder at the time of closing on the property. This provision should be removed, since there isn't an enforcement mechanism.

Additionally, it is suggested that the Public Services; New Use Exemption in Section 11-3-7, be modified to become a standard subdivision exemption.

### *Recommendations*

- Combine Chapters 3 and 4.
- Consider revising the MR and R-2 zone districts to allow for a wider variety of residential uses specifically as related to the Areas of City Impact (Reference the Emmett IGA that was adopted in May 2023 in the Zoning Ordinance.)
- Discuss clustered development design advantages and draft standards to be considered.
- Evaluate an Agricultural Preservation District concept to support perpetual farming and agricultural uses in specific areas.
- Consider methods to support Agriculture and Ranching – Large Lot future land use.
- Revise the dimensional standards – minimum lot size, setbacks, etc. – and allowed uses within the existing zone districts to better implement the Comprehensive Plan and achieve the desired development pattern.
- Include a purpose with each district.
- Remove technical standards and reference codes.
- Incorporate listed allowed and prohibited uses from the SBIP Overlay in the use table.
- Incorporate dimensional standards (minimum setbacks, maximum building heights, maximum density, etc.) from Sections 11-5-4 and 11-5-7 into a table for each zone.
- Include parking standards and allowed uses in a single table for each commercial and industrial zoning district.
- Reorganize and update the zoning districts to improve clarity, consistency, and to support quality development in the County.
- Revise the exemptions for public services (utilities and law enforcement) to be a subdivision exemption

## Permitted Uses

### *Overview*

Chapter 5 includes the land use table, as well as various dimensional, development, and use-specific standards. Best practice is to include dimensional standards applicable to each zone district in the zone districts chapter, and to include all use-specific standards in a single chapter.

The zoning matrix in Section 11-5-5. Identifies whether certain types of housing are allowed by right, with a special use permit or prohibited in each zoning district. Staff indicated a need to update the use terminology to consolidate similar uses and more closely align with the Land Based Classification System from the American Planning Association. Updating the uses will provide clarity for users and reflect changing community dynamics and new or evolving uses that have an impact on the quality of life for residents.

### *Expanded Secondary Agricultural Uses*

During community interviews, residents also noted a need to expand the range of uses allowed in agricultural districts to support continued operation of existing farms and ranches. New uses need to be explored and considered during discussion throughout the update process.

### *Housing Options*

The current Zoning Ordinance allows manufactured homes, mobile homes, and stick-built single household units and multi household developments. In order to support County housing goals, it is recommended to expand the range of housing options allowed in each zone district. For example, it may be appropriate in some A-2 and A-3 areas to have two attached dwelling units, which is currently not allowed. Alternatively, the PUD allows a variety of housing and building types and supports increased density per acre through reduced lot dimensions, yards, building setbacks and acre requirements, but requires an extended process which may limit the feasibility of using a PUD for housing. Discussion will continue through the code development process regarding the housing type options, including clear

## Related Comprehensive Plan Goals and Actions

**Agriculture Goal 1.** Sustain existing agricultural, farm, and ranch lands.

- Identify compatible land uses that support continued agricultural operations and update the Zoning and Subdivision Ordinance accordingly.
- Support flexibility in land uses in agricultural areas such as produce stands, truck farms, event venues, agritourism, seasonal activities, and worker housing.

**Housing Goal 1:** Encourage a variety of housing types and developments to benefit all residents within the Gem County.

A. Encourage the provision of quality housing with a range of price points.

D. Encourage provisions for low-cost, affordable, and workforce housing, the siting of manufactured/ mobile homes in subdivisions and on individual lots.



graphics and descriptions, such as single-family detached, single-family attached, townhouses, duplexes and accessory dwelling units.

The two residential districts, R-2 Residential Transitional (RT) and R-3 Rural Residential (RR) have descriptions that reference needing infrastructure, such as an individual well and septic system as approved by the health department. If residences are close enough to city infrastructure, such as water and sewer lines or storm drain systems, it may be beneficial to reference that residences could connect to those services if approved by the city engineer. Annexation into the city limits is a critical factor for potentially allowing connections.

### *Short Term Rentals*

Idaho Code Section 67-6539, Limitations on Regulation of Short-Term Rentals and Vacation Rentals, forbids the County from enacting any ordinance that has the practical effect of prohibiting short-term rentals or vacation rentals. The County may implement reasonable regulations to safeguard public health, safety, and general welfare to protect the integrity of residential neighborhoods but cannot outright ban the use. Additionally, this code section states that a short-term rental must be classified as residential land use. The standards pertaining to short-terms rentals in the LUDC need to be updated to comply with State Code.

### *Recommendations*

- Move Sections 11-5-4 and 11-5-7 to the Zone Districts Chapter.
- Move Section 11-5-6 to a Specific Use Standards Chapter.
- Update the use terminology to consolidate similar uses and more closely align with the Land Based Classification System from the American Planning Association.
- Expand allowed uses in agricultural districts to support continued use of agricultural lands.
- Discuss expanding the range of housing types allowed in A-2 and A-3.
- Consider expanding the range of residential unit types allowed by right in the mixed-use district.

## **Performance Standards**

### *Overview*

Chapter 6 currently includes a myriad of standards pertaining to specific uses, including manufactured and mobile home standards, recreational vehicle living quarters, and Wireless Telecomm standards, mobile home parks, commercial and industrial standards, and yard and height regulations, as well as several development standards like landscaping and stormwater drainage. It is recommended that landscaping and stormwater be incorporated into an overall Development Standards Chapter. Additionally, details on the requirements for buffers along streets are provided in Section 11-6-6.H should be included in the road design section of the

LUDC. Definitions found in Section 11-6-6 and 11-6-7 should also be moved to the Definitions Chapter.

The Supplemental General Provisions (Section 11-6-3) should be updated to ensure they are clear, consistent with the remainder of the LUDC and not duplicated in other sections. One example would be the language referencing the lot area per family, which should be updated. The Detached Accessory Dwelling (11-6-3.A.5) references Section 11-6-5.L so there is no need to have this since it is covered elsewhere.

Section 11-6-7 Wireless Telecommunications Towers and Antennas should be largely overhauled and rewritten to comply with federal and state statutes (See [Performance Standards – Wireless Telecommunication Facilities](#) section for additional information).

Feedback from both staff and the public also indicated several residents are living in RVs on lots in the County without proper screening, length of stay, power, and water and wastewater facilities. The standards in this section should be clarified to provide detailed screening, length of stay, and water and wastewater standards and clearly identify required permits..

Section 11-6-11 addresses Stormwater Drainage Standards. Conversations with both staff and the public indicated a need to provide additional standards such as the design standards for stormwater detention and runoff, especially in areas with high flood hazard.

### *Recommendations*

- Clarify standards pertaining to RV as living quarters.
- Move definitions from Sections 11-6-6 and 11-6-7 to the Definitions Chapter.
- Incorporate landscaping and stormwater into a Development Standards Chapter.
- Develop standards for Event Venues and special events that attract large audiences and participants on a regular basis.
- Consider developing standards for school bus stops in new neighborhoods.
- Develop winery/vineyard standards and other agri-tourism uses to be discussed during the code update process.
- Discuss developing additional stormwater drainage and runoff standards to clarify requirements.
- Update the Supplemental General Provisions for clarity and consistency.
- Relocate the Emergency Vehicle, Private Roads and Public Roads, as well as the street buffer standards, to the subdivision section.
- Relocate the definitions to the centralized definition section in the LUDC.
- Update the sight visibility graphics from the landscaping section to the road standards section.

## Use-Specific Standards

### *Confined Animal Feeding Operations (CAFO)*

CAFOs are currently addressed in Chapter 20 of Title 11. It is recommended to review these standards against the Idaho Code to ensure compliance and consolidate this section with other use-specific standards.

### *Mobile and Manufactured Homes*

Mobile and Manufactured home standards are housed in Section 11-6-8 and 11-6-10. Idaho Code section 67-6509A, Siting of Manufactured Homes in Residential Areas, establishes the most restrictive requirements that the County is allowed to adopt, but the County may adopt less restrictive codes. Provisions include a requirement for manufactured homes to be multisectoral and enclose a space of not less than 1,000 square feet; have a pitched roof, except that no standards shall require a slope of greater than a nominal 3-feet in height for each 12-feet in width; have exterior siding and roofing which color, material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the community. Additionally, this code section requires adopted County standards for manufactured homes to be similar to the requirements for conventional single-family residential dwellings on the same lots. Lastly, manufactured housing communities must be treated the same as those for site-built homes. These standards in the LUDC need to be updated to comply with Idaho Code.

### *Accessory Dwelling Units*

Most communities regulate the maximum size of a Accessory Dwelling Unit (ADU) and some go beyond to regulate the form of ADUs (attached vs. detached) as well as the location on a lot. The dimensional and design standards for ADUs could vary by zone district. One example would be to allow larger ADU sizes on larger lots. Although ADU regulations vary across the nation, some are more flexible and practical than others. Gem County should consider the best regulations that provide variety of housing types and protect the overall character.

Accessory Dwelling Units are currently only allowed in the A (Agriculture) District with a minimum lot size of five acres. ADUs can be integrated into the primary dwelling or detached to the side or rear of the primary dwelling and are capped at a maximum size of 1,100 sf. However, property owners have found a work-around to the ADU maximum size and location regulations by adding additional square footage units to their home attached with a breezeway or

### **Related Comprehensive Plan Goals and Actions**

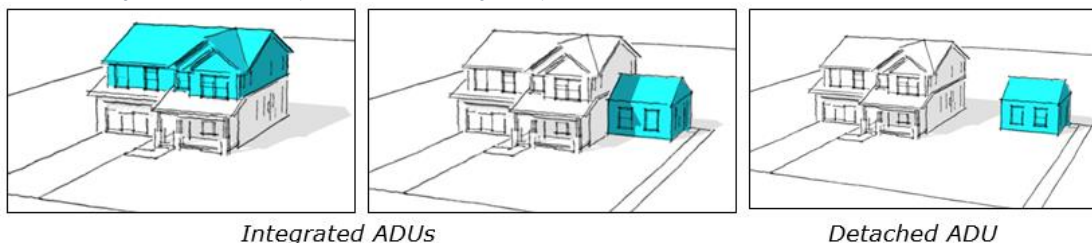
**Housing Goal 1.** Encourage a variety of housing types and developments to benefit all residents within Gem County.

A. Encourage provisions for low-cost, affordable, and workforce housing, the siting of manufactured/ mobile homes in subdivisions and on individual lots.

E. Encourage rural residential and small ranchette type development in areas where it is compatible with existing agricultural and ranching development.

similar structure. Staff has indicated that if the County were to expand the zone districts and revisit the maximum allowed size of ADUs, there would likely be fewer property owners seeking to build additions with breezeways and connected halls. Developing additional graphics to illustrate the allowed types of ADUs, like Figure 2 below, would also help clarify standards.

*Figure 2. SDU Types Graphic (Chaffee County, CO)*



The newly adopted HB-166 specifically defines accessory dwelling units and states that cities and counties cannot restrict accessory dwelling units in any residential zone district. To comply with this new state legislation, the regulations should be revised to expand the allowance of SDUs in all residential districts.

#### *Temporary Uses*

Temporary uses are covered in Chapter 19 of the current LUDC. Many of the provisions in this section are related to the Temporary Use Permit procedure and some vague use-specific standards for temporary housing, agricultural activities, and construction trailers. It is recommended that all standards pertaining to the Temporary Use Permit procedure be included in the Application Procedures Chapter and the remainder of this section be combined with the other use-specific provisions. It is also recommended to update and provide additional specifications and clarity for the existing temporary use provisions.

#### *Wireless Communication Facilities*

Telecommunication regulations should be updated to meet current federal regulations. The federal Telecommunications Act of 1996 ("TCA") preserves local zoning and regulations such as setbacks and aesthetics, but does impose the following limitations on zoning regulations (47 U.S.C. § 332(c)(7)(B)):

1. The regulations cannot unreasonably discriminate among providers of functionally equivalent services, prohibit, or have the effect of prohibiting the provision of personal wireless services.
2. The County must act on applications within a reasonable time, taking into account the nature and scope of the request. The FCC issued a 2018 order with shot clocks and limits on local aesthetic regulations relating to small cell technology for the deployment of 5G technology. The FCC set 60 days to decide applications for Denial of a request to construct a telecommunications facility must "be in writing and supported by substantial evidence contained in a written record."

3. The County cannot tie the placement, construction, and modification of personal wireless service facilities based on the environmental effects of radio frequency emissions to the extent that they comply with FCC emission regulations.
4. Courts are to hear challenges to the denial of applications on an expedited basis.

The FCC's small cell order was the subject of a recent federal 9th Circuit decision that upheld the shot clock requirements, but invalidated restrictions on aesthetic requirements for small cell facilities (*City of Portland v. United States*, 969 F.3d 1020 (9th Cir. 2020)). Parties to the decision have requested review by the United States Supreme Court. If the Supreme Court chooses to review the decision, it is possible that the legal framework for the current regulations could change soon.

Given these federal requirements and protections, the wireless regulations should include the following language:

1. An exemption for temporary wireless facility serving the general health, safety, and welfare of County residents, and
2. Approval of lighting facilities that cause "the least disturbance to the surrounding views," landscaping that "effectively screen" facilities from adjacent "residential property" and location "where the visual impact of the facility is minimal".

#### *Recommendations*

- Relocate the Temporary Use Permit procedure to the Application Procedures Chapter.
- Combine use-specific standards with the other use-specific provisions and provide additional specifications and clarity for the existing temporary use provisions.
- Update definition of Accessory Dwelling Unit to specify that if a second habitable space with kitchen, bathroom, and basic living facilities are included, it is considered an additional dwelling unit.
- Consider increasing the minimum lot size and varying the maximum allowed size of the unit per zone district or lot size.
- Allow ADUs in additional districts to comply with updated State Legislation.
- Explore allowing ADUs in the front and side yards for large properties if addressed separately.
- Include standards for breezeway connections to accessory units.
- Develop graphics to illustrate the allowed types of ADUs.
- Clarify septic and well standards for ADUs.
- Review CAFO standards against Idaho Code to ensure compliance and consolidate this section with other use-specific standards.
- Update standards pertaining to manufactured homes to comply with Idaho Code.

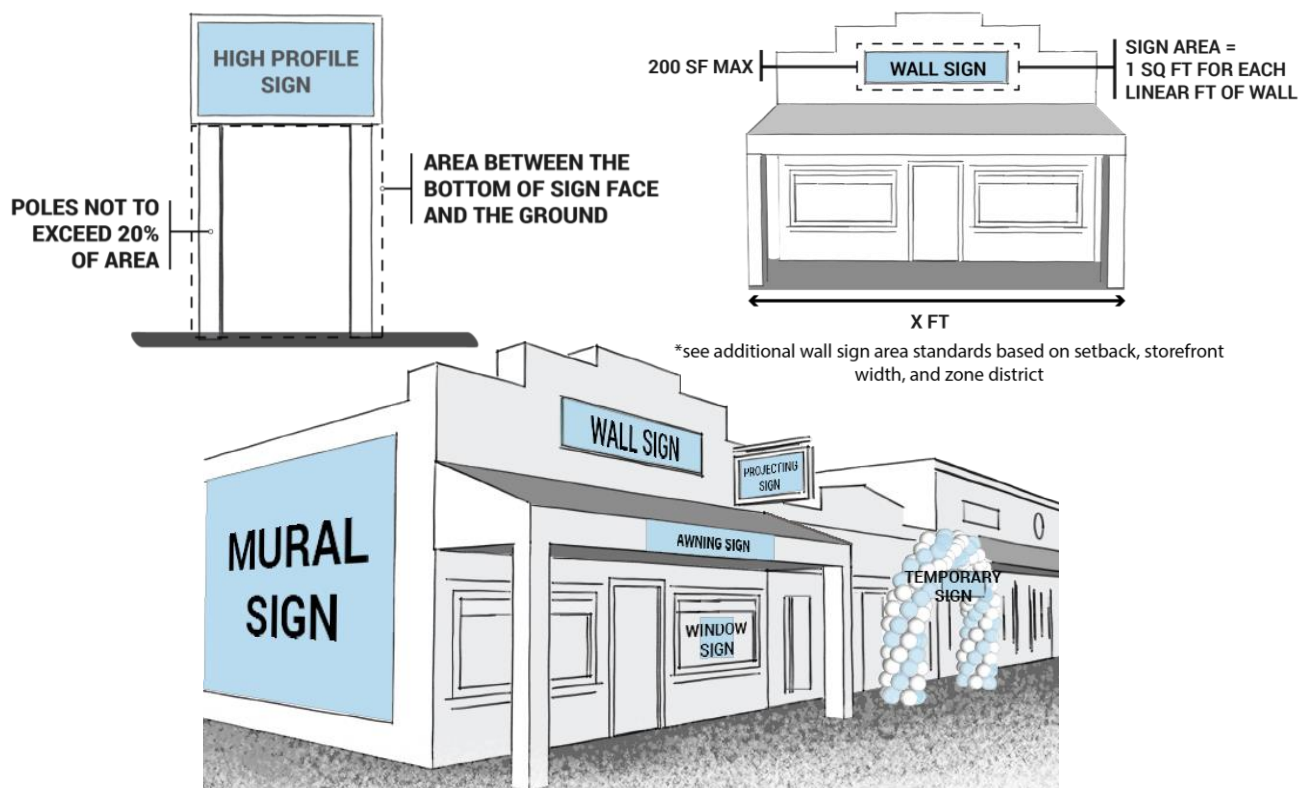
## Signs

### Overview

Signs serve important purposes, such as identifying places of business or institutions, directing traffic, and expressing opinions. Businesses rely on signs to create a street presence and to generate sales from motorists or pedestrians who might not otherwise be aware of their presence. Politicians and activists rely on signs to get the word out about their campaigns or matters of public interest. Institutions, such as churches and schools, use signs to announce events, speakers, and inspirational messages. However, some signs can also have a negative impact on the public. Signs are often identified with clutter along roadway corridors, driver distraction, and – when not properly maintained – blighting influences. Excessively bright signs can disrupt the quiet enjoyment of residential neighborhoods or distract drivers. Sign regulations should regulate signs in a way that mitigates negative impacts, while enabling freedom of expression and commerce.

The current LUDC requires all signs to apply for a sign plan to ensure compliance with the standards, but the current standards are partially based on the content of the sign. It is recommended that all references and standards tied to content – the message that the sign displays – be removed to comply with federal law and Supreme Court decision of *Reed vs Town of Gilbert*, 135 S. Ct. 2218 (2015). The sign regulations also do not contain any graphics, which are recommended to illustrate sign dimensions and types like Figure 3.

Figure 3. Sign Dimensional Regulations (Woodland Park, CO)





In addition, the LUDC should incorporate sign matrixes, such as Table 3, to house all dimensional requirements in one location. Currently, the requirements for different types of signs are confusing and can be more clearly articulated using graphics and tables. The matrix table would indicate whether the sign is allowed in the district or family of districts, sign dimensions (maximum area, height, and minimum setbacks), whether permit is required, and design characteristics such as whether and how the sign can be illuminated, digital, halo lighting, channel lettering, or similar characteristics.

*Table 3. Sign Matrix (Natrona County, WY)*

<b>Table 3.09-1 Cumulative Sign Area (maximum)</b>			
<b>Total Linear Frontage (up to number shown in feet)</b>	<b>Sign Area by Zoning District (maximum-feet)</b>		
	<b>RAM, UA</b>	<b>MR-1, MR-2, RR-1, RR-2, SR-1, SR-2, UR, UMR, MH</b>	<b>C, LI, HI</b>
25	60	40	120
125	80	50	150
275	90	60	180
375	100	70	200
450	120	80	230
500	130	90	260
≥ 501 – multiply frontage by the following ratio, up to 2,000 sf maximum area	0.2	0.3	0.4

#### *Recommendations*

- Update sign regulations to focus on content neutrality and comply with federal law.
- Develop a sign matrix and graphics to illustrate dimensional limitations.
- Ensure off-premises and billboard prohibitions remain.
- Discuss approach to number of signs versus current cumulative approach.

## **Development Standards**

### *Parking*

Currently, off-street parking and loading standards are housed in Chapter 11. It is recommended that this chapter be combined with other development standards to form a Development Standards Chapter. The addition of graphics illustrating dimensional requirements and screening requirements, such as Figure 4, would also improve readability. It is also recommended to check the current commercial and industrial parking requirements against best practices to ensure feasibility and develop parking requirements for uses without requirements currently. Engagement to date has not illustrated any issues with parking, but additional research is needed to inform which parking requirements need to be updated and right-sized.

### *Recommendations*

- Combine this chapter with other development standards into a Development Standards Chapter.
- Update the parking requirements for each use and develop rates for commercial and industrial uses without requirements currently.

## **Administration**

### *Overview*

Chapter 12 currently details the role of the administrator and the Planning & Zoning Commission. This language is not typical for a LUDC and is recommended to be removed and incorporated into a handbook or rules of procedure for the Planning & Zoning Commission.

### *Recommendations*

- Remove and incorporate the language pertaining to the role and membership of the Planning & Zoning Commission into a handbook or rules of procedure.

## **Application Procedures**

### *Overview*

Chapter 13 of Title 11 currently addresses appeals, variances, and action by affected persons. The procedures detailed in this are clear, but the findings/application criteria are unclear. Clear application findings/criteria should be developed for each application type for clarity and consistency.. Chapter 14 is titled “Enforcement” but that Chapter includes building permit standards, temporary certificate of occupancy standards, and enforcement procedures. Additional application procedure standards are also found in Chapter 15, Chapter 16, Chapter 17, Chapter 18, and Chapter 19. It is recommended to separate the enforcement procedures into a separate chapter and consolidate the remainder of Chapters 13-19 into the Application

Procedures Chapter with clear application findings/criteria for each application type and a standard procedure should be illustrated with graphics, like Figure 5 below.

Figure 4. Example Procedure Graphic (Buena Vista, CO)



All application processes should be combined into a single chapter for ease of use and each application type should have a purpose, procedure, and clear findings for approval. Additionally, language pertaining to who makes the decision regarding application changes and new evidence to allow reapplication is vague and needs to be clarified. There should also be a table detailing all the application types, the public hearing processes, and the public notice requirements, like Table 4 below.

Idaho Code Section 67-6535 requires every final decision made concerning a site-specific land use request be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis. This Idaho Code section also allows an applicant who is denied an application or aggrieved by a final decision to request a judicial review under the procedures provided by Idaho Code Chapter 52, Title 67 within 28 days of the decision. The appeal is also not limited to issues raised in the request for reconsideration. In order to comply with Idaho Code Section 67-6535 it is recommended to add clear language into the appeals section pertaining applicant's rights.

Table 4. Example Application Processes Table (Teton County, ID Land Development Code)

	Review and Final Decision-Making Authority				Public Notice Required			
	Pre-Application Meeting	Planning Administrator	Planning Commission	Board of County Commissioners	Published	Posted (On-Site)	Posted Notice (Courthouse)	Mailed
Temporary Use Permit	Y	D	N	A	Section 4-1-6	Section 4-1-6	N	Section 4-1-6
Comprehensive Plan Amendment <sup>3</sup>	Y	R	R-PH	D-PH	Y	N	Y	N
Special Use Permit	Y	R	R-PH	D-PH	Y	Y	Y	Y
LDC Text & Site-Specific Map Amendments <sup>3</sup>	Y	R	R-PH	D-PH	Y	Y/N <sup>1</sup>	Y	Y/N <sup>1</sup>
Variance	Y	R	D-PH	A	Y	Y	Y	Y
Administrative Land Division	Y	D	A	A	N	Y	N	Y
Subdivision - Concept Plan Subdivision	Y	D	A/D <sup>2</sup>	A	Y	Y	Y	Y
Subdivision - Preliminary Plat	N	R	R-PH	D-PH	Y	Y	Y	Y
Subdivision - Final Plat	Y	R	N	D	Y	Y	Y	Y
Modification - Boundary Line Adjustment	Y	D	A	A	N	N	N	N
Modification - Minor Changes to a Plat	Y	R	N	D	Y	Y	Y	Y
Appeals	See Section 4-3-3							
Key: R = Review, Recommendation D = Decision A = Appeal PH = Public Hearing Required Y = Required N = Not Required								

### *Recommendations:*

- Group all applications together in a single Chapter.
- Remove redundant application procedure language and establish a section to outline general procedure for all applications.
- Develop an application procedures chapter that includes the following:
  - Include a table detailing the review and decision-making bodies as well as public notice requirements for all application types.
  - Include a timeline and process flow chart for each application type detailing the key steps in the process.
  - Provide purpose and intent, applicability, procedure, and clear findings for approval for each application type.
- Clarify language for who makes the decision regarding application changes and new evidence to allow reapplication.
- Review and update all timeframe references to ensure feasibility with staffing.
- Update language and process for the appeals section pertaining to applicant's rights in accordance with Idaho Code and ensure the language is clear and effective.

## **Natural and Scenic Resource Protections**

### *Overview*

Gem County faces a variety of natural hazards that impact the community. As a precaution against harm, the County adopted a Hazard Mitigation Plan in 2019. This plan identified wildfires, earthquakes, flooding, and dam failure as the highest risk to people and property. There is currently not a section of Title 11 or 12 which addresses natural and scenic resource protections, but these two factors are often cited as the most treasured aspects of Gem County. Finding a balance between development needs and the conservation and protection of natural areas, wildlife, and scenic views has surfaced as a top priority for both the code update process as further supported by the comprehensive plan. Feedback from both County staff and the public, as well as direction from the Comprehensive Plan note a need to develop a specific set of standards pertaining to dark sky lighting, riparian and floodplain protections, scenic resource protections, and hillside development.

Current PUD standards also allow up to 5% increase in total residential density if the siting is done with in a manner that

### **Related Comprehensive Plan Goals and Actions**

#### **Natural Resources Goal 1:**

Maintain healthy and high-quality natural resources, wildlife habitat, and ecosystems.

B. Protect and mitigate development impacts to natural open space, wildlife habitat, and sensitive lands through sensitive area standards.

C. Mitigate development impact on scenic views through ridgeline protection standards.

D. Implement dark sky standards to minimize impacts of excess lighting and preserving Gem County's rural character.

considers existing physical features such as topography, view, sun and wind orientation, circulation pattern, physical environment, variation in building setbacks and building grouping (such as clustering) (Section 11-8-8.B). This language could be strengthened to require specific siting that preserve these features or by increasing the maximum increase in total residential density which can be achieved by preserving these features.

### *Scenic Resources and Dark Sky Lighting*

The vast scenery and vistas are one of the many aspects residents love about the County, and as such, community members have asked for protection of these views. The existing code does reference protecting views and provides some hillside development standards which limit ridgeline development at the discretion of the Commission and/or Board. Currently, hillside land must meet the standards in Section 12-7-2. For recommendations specific to the hillside subdivision section See [Special Subdivisions – Hillside Subdivisions](#).

In addition to mitigating ridgeline development, the comprehensive plan identifies the need to implement dark sky standards. Currently the Gem County LUDC references outdoor lighting limitations when in proximity to an airport (Section 11-6-3.E), drive-in restaurants (11-6-5.K.4), Confined Animal Feeding Operations (CAFO)(Section 11-20-6), Gravel extraction (Section 11-6-5.O.6.I), rock quarries; sand and clay extraction operations; natural resources of commercial value; and in Planned Unit Developments (PUD). The Higher Intensity Use definition (Section 11-2-2) also includes light as a measure of whether the use is deemed a higher intensity, but no specific light standards are identified. The LUDC references nuisances such as glare of lights and buffers to screen lighting, but there are no general standards for outdoor lighting.

Feedback from outreach indicated a desire to include standards to regulate outdoor lighting. Integrating dark sky lighting standards and guidelines in the new LUDC could have economic and quality of life benefits for the community. Many people enjoy viewing the stars and natural night sky and minimizing intrusive lighting in rural areas.



## Wildfire

The transitional zone between wilderness and land developed by human activity where the built environment meets the natural environment is known as the Wildland Urban Interface (WUI). The Comprehensive Plan references a need to not only map the WUI within Gem County, but also develop standards pertaining to future development within these high fire areas to mitigate the loss of life and property.

Currently, wildfire mitigation is generally not covered in the LUDC except for a few statements regarding the fire chief authority. For example, Section 11-6-3-I.1.a authorizes the fire chief is authorized to make and enforce -rules and regulations for the prevention and control of fires and fire hazards. This includes ensuring emergency vehicles have access to allow the fire department and other emergency services to respond safely (access, turnarounds, engineering specifications for an “all weather driveway”, and dead-end roads/driveways).

The International Wildland Urban Interface Code (IWUIC) is a widely accepted best practices document developed akin to the International Building Code. The IWUIC details requirements and guidelines for development in the WUI including using non-combustible building materials including roofing, siding, and decking; screening on all vents and gutters; vegetation and weed management; and defensible spaces located around every residence. In addition, stricter density limitations, larger setbacks from natural areas or adjacent structures, maximum square footage requirements to lessen the loss of property if destroyed, and updated access and egress standards could address the type of development and the intensity of new construction that should be allowed in these areas. It is recommended that graphics be incorporated into the LUDC with these standards to depict these mitigation techniques and assist prospective developers in better understanding unique WUI requirements.

Before wildfire mitigation standards can be established in the WUI, the most sensitive and severely at-risk areas must first be identified by the County. Once identified, the information should be made publicly available through mapping and geographic information system data layers. This widespread and easily accessible information would increase awareness of the WUI and make possible the establishment of special overlays or standards that only apply to these spatially designated areas. As a form of public education, these efforts would help to better inform current and future residents of the inevitable risks in relocating to these areas.

## Related Comprehensive Plan Goals and Actions

### Hazardous Areas Goal 1:

Mitigate and adapt to impacts from natural hazards.

A. Reference and implement the Gem County All Hazard Mitigation Plan in all public and private development activities.

B. Manage or limit development activity in known hazardous areas; take steps to identify hazards and to minimize the public’s exposure to these hazards.

C. Use Wildland-Urban Interface best practices in areas prone to wildfires and/or in high wildfire risk zones.

### *Wildlife Habitat, Riparian, and Floodplain Protection*

The need to protect wildlife migration corridors, native habitats, and in particular lower elevation winter habitat has been expressed by many community members. Protecting pockets of habitat is less effective if they are not connected. Poor connections also create conflict with wildlife and roadways, creating potential hazards. The current LUDC does require livestock easements for new development, however these easements are access-focused and do not consider habitat preservation. The Comprehensive Plan suggests creation of a natural resources overlay to help map and protect these corridors, and habitats for protection in the long term. The County could develop specific setbacks from natural resources, priority wildlife habitats, waterbodies, wetlands, and riparian areas as shown in Figure 6.

Most of the flooding potential in Gem County surrounds the Payette River and its tributaries. The LUDC has references to floodplain and flood hazards in several areas and requires additional survey and plat information if a portion is with a floodplain, as well as hydrology reports (Hillside Subdivision Section 12-7-2.C.3). The 'Subdivision Within a Floodplain' Section 12-7-7 also has a list of items applicants must provide when submitting a plat, but there are no standards or guidelines to avoid developing within a floodplain or flood hazard area. Specific building setbacks from floodplains and flood hazards areas could supplement existing standards to mitigate loss of property. The County could also require applicants to provide an environmental or habitat analysis with a site plan or plat that identifies key features, such as wash corridors, historic river flow patterns, significant stands of vegetation and potential flooding hazard mitigation.

### **Related Comprehensive Plan Goals and Actions**

#### **Natural Resources Goal 3:**

Protect watershed, waterways, and riparian areas to maintain water quality, wildlife habitat, flood protection, and other critical environmental functions.

A. Preserve the natural beauty and ecosystems of the Payette River, Black Canyon Reservoir, Butte Creek and other waterways and lands abutting these water amenities.

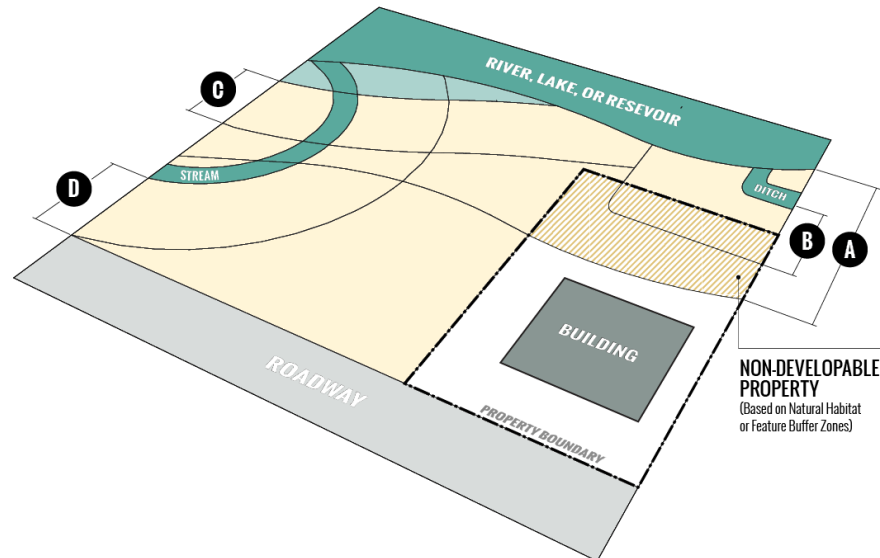
B. Promote land use and management practices that maintain, restore, and enhance natural ecologic, biological, and geologic function of watersheds, including protection of river corridor ecosystems and soil quality.

C. Mitigate potential flood damage through flood control projects that maintain ecologic and geologic function of streams and rivers.

Figure 5. Waterbody Setbacks Graphic (Chaffe County, CO)

## Buffer Measurements

- A. Lakes, Reservoirs, or Rivers - 100ft
- B. Irrigation ditches that serve as wildlife corridors- 50ft
- C. Wetlands - 50ft or 100ft depending on acreage (see table 5.02-1)
- D. Streams - 50ft



### Recommendations:

- Strengthen PUD requirements to require specific siting that preserve natural features or by increases the maximum increase in total residential density which can be achieved by preserving natural features.
- Include standards for scenic viewshed protection and dark skies standards.
- Include requirements to provide an environmental or habitat analysis with a site plan or plat.
- Develop sensitive area standards to mitigate impacts to natural resources, riparian areas, wildlife habitat, and sensitive lands.
- Develop buffers from significant waterways and habitats and clearly identify the setback width from a point that is consistent for all situations. Research how the Public Health setback standards are measured and incorporate into the updated code.
- Develop ridgeline protection standards to mitigate development impact on scenic view.
- Assess the need to develop additional wildfire mitigation standards and/or WUI standards for high wildfire risk zones.

## Title 12 Subdivision Regulations

Title 12 of the Gem County Code of Ordinances is commonly known as the “Subdivision Ordinance”. This Title includes many of the standards related to subdivision standards, process, and administration. Title 12 is currently organized as follows:

- Chapter 1: Authority, Applicability, and Amendments
- Chapter 2: Definition of Terms
- Chapter 3: Subdivision Application, Review, and Approval
- Chapter 4: Final Plat Review and Approval
- Chapter 5: Assurance of Completion and Maintenance of Improvements
- Chapter 6: Subdivision Design and Improvement Standards
- Chapter 7: Special Development Subdivisions

The following subsections detail specific recommendations based on public feedback and our professional review of the existing Title.

### General Title Updates

No significant changes are anticipated to the following chapter beyond reorganization and updating references:

- Chapter 1: Authority, Applicability, and Amendments
- Chapter 2: Definition of Terms
- Chapter 5: Assurance of Completion and Maintenance of Improvements

### *Recommendations*

- Combine Chapter 1 with Title 11 Chapter 1 to form a General Provisions Chapter.
- Consolidate all definitions in Chapter 2 and all definitions in Title 11 into a single Definitions Chapter.

## Subdivision Review and Approval

### Overview

Title 12, Chapter 3 outlines the subdivision application, review, and approval process. Chapter 4 details the Final Plat review and approval process in a similar manner to Chapter 3. Unlike the applications detailed in Title 11, the subdivision processes in Chapters 3 and 4 detail clear requirements and findings for each application. However, these findings should be reviewed for compliance with the Comprehensive Plan and State Statute. Application submittal requirements in both Chapter 3 and 4 should also be removed from the LUDC and detailed in separate FAQs/Checklists for each application type.

Public hearing notice requirements are listed in multiple sections and should be consolidated into a single section to reduce repetition and conflicting provisions. It would also benefit users to see an overall application processes and public hearing requirements table, as described in the [Application Procedures Section](#).

### Recommendations

- Remove application submittal requirements detailed in Section 12-3-6 and include them in a checklist for each application.
- Consolidate hearing notices into a single section.
- Develop an overall application processes and public hearing requirements table.
- Combine procedures in Chapters 3 and 4 into a single Subdivision Procedures Section.

### Related Comprehensive Plan Goals and Actions

**Land Use Goal 1:** Balance growth, property rights, rural character preservation, and fiscally efficient delivery of public services and infrastructure.

A. Support development in locations that utilize existing and planned infrastructure and services and minimize impact on agricultural uses.

B. Encourage clustering and compact development alternatives to minimize development impact and protect the rural character, especially if proposed development is far from available services and infrastructure.

**Public Facilities Goal 2:**

Ensure residents are adequately served by emergency services.

A. Support new standard subdivision developments to document access to fire protection and medical emergency services.

C. Discourage higher density development in places far from emergency services.

## Subdivision Standards

### *Overview*

Chapter 6 details standards applicable to all subdivisions including design standards, block lengths, natural features, water supply, sewage disposal, private roads, road standards, lot orientation, and utilities.

### *Water Supply and Irrigation Districts*

Water supply issues were noted as a priority throughout community one-on-one discussions, primarily related to improving the LUDC subdivision design and approval processes. The sprawling development patterns currently allowed by the LUDC have had major impacts on water supply due to the number of individual wells and septic systems required to service individual two-acre lots.

Additionally, feedback during outreach revealed inconsistencies in standards applied by irrigation districts during the subdivision and development process. Community members emphasized a need to protect ditches against encroachment from new residential development and ensure continued flowing without obstruction. Due to the importance of irrigation ditches for agricultural lands as well as the entire County's water supply, the LUDC should require that irrigation easements be shown on plats.. Additional setbacks should also be considered to prevent building homes or other structures, as well as changes in grade such as berms near the irrigation easements.

Community members also emphasized a need for enhanced water adequacy and supply standards through the subdivision approval process. Currently water studies and reports are required during the rezoning process. Water studies and reports should be required to provide recent data and findings, rather than allowing applicants to submit outdated studies, or only well logs, that no longer reflect current conditions. Specific requirements should be developed for water reports to mitigate inconsistent hydrology findings between County engineers and developer engineers will complicate the land use approval and public hearing processes. Rather than relieving public concerns, these confusing situations that are characterized by dueling hydrology studies and reports will continue creating conflict

### **Related Comprehensive Plan Goals and Actions (cont.)**

#### **Natural Resources Goal 2:**

Responsibly manage limited water resources and water quality.

- A. Support drought adaptation, water conservation, and efficiency measures for responsible use of limited water resources.
- B. Encourage new subdivisions to assess both the immediate and long-term cumulative impacts on water quantity and quality.
- C. Review and update development regulations to define and strengthen water usage standards.
- E. Coordinate with Southwest District Health to determine appropriate densities and setback standards for individual septic systems.



rather than addressing the situation thoughtfully. Water conservation standards should also be promoted as part of good subdivision design, as developers may be able to demonstrate a longer-term water supply by establishing how their projects will take additional steps to conserve the water utilized by residents. One important consideration for water conservation should be promoting native vegetation and xeriscape landscape standards as compared to water intensive landscaping ([See Sustainability - Landscaping](#) Section for more information).

Mapping efforts and geographic information system data layers will be essential for understanding how water supply and groundwater recharge rates vary throughout the County. This spatial understanding would allow the LUDC to establish targeted, area specific regulations and requirements rather than one size fits all prescriptions. These efforts should be utilized to protect from overdevelopment the hydrology of the highest priority areas where aquifers are located by delineating watersheds and the boundaries of sensitive areas. Clear standards and requirements in these areas will reduce impacts on water supply as well as wildlife habitat and water supply, and analyzing undeveloped lands to prioritize which pieces are most crucial for the local water supply will provide a more strategic approach for preserving these natural resources. Examples of these high priority areas include source water and water basins that feed into municipal systems and infiltration galleries.

Wells are referenced throughout the LUDC. Title 11, Chapter 4 (11-4-4) was recently changed to allow an individual well on a minimum 1-acre residential lot if approved by the health department. Applicants for a gravel extraction, rock quarry, sand and clay extraction and other natural resources of commercial value must submit a list of all documented wells located within ½-mile of the subject property boundary (Section 11-6-5.0.5.c). The P&Z may require an on-site groundwater monitoring system be installed to help provide information regarding potential impacts and drawdowns of offsite domestic wells in the vicinity of the excavation (Section 11-6-5.0.10.a). All domestic water sources are required to meet state and federal standards for drinking water, wells, separation from sewage disposal systems and any other related requirements (Section 12-6-1.D.1.a)

### *Road Connectivity*

The community outreach identified a lack of road connectivity throughout the County. The existing regulations have not been effective in managing the surge of subdivisions throughout the County in a manner that is safe, long-lasting, and consistently accessible. Minimizing the use of dead-end streets and cul-de-sacs, and encouraging multi-modal transportation adjacent to County roads, were additional priority topics for community members. Multi-modal transportation in Gem County would include multi-use trails that connect the county into the town or connect to regional trail systems. A requirement for stub roads to facilitate future connectivity will be integrated into the updated Gem County Road and Bridge Development Standards Manual. Adherence with Intergovernmental Agreements or required Development Agreements that plan for new developments throughout the County to connect to city and town infrastructure immediately after construction or in the future should be a best practice that is consistently followed.

#### **Related Comprehensive Plan Goals and Actions**

##### **Transportation Goal 1:**

Maintain existing assets in a state of good repair.

##### **Transportation Goal 2:**

Reduce fatalities and serious injuries resulting from traffic.

##### **Transportation Goal 3:**

Provide safe and accessible pathway connections.

##### **Transportation Goal 4:**

Efficiently move people and freight.

### *Private Roads*

A major priority that emerged from community discussions was the need for the County to better define its road standards, including levels of service for different road classifications and maintenance provisions to ensure the provision of high-quality roads that can accommodate inevitable new growth and development. Private roads pose connectivity issues, especially if roads are blocked off or gated. Recently, new developments have been approved utilizing private roads rather than public roads dedicated to the County. While private roads may be appropriate for single-lot or small subdivisions, maintenance agreements requiring future homeowners or HOAs to independently address maintenance issues once they become untenable have caused problems recently. Maintenance agreements for private roads will be discussed through the code update process to support and augment the requirements in the Road and Bridge Development Standards Manual.

The current regulations have a limit of 10 lots which can be accessed by a single private road. These private roads are not required to meet County public road standards since they are not dedicated roads and many don't dedicate the access easement on a plat. It is recommended that private roads should be shown on the plat as a tract or parcel, and not an easement. These private roads lead to areas that could physically be subdivided, but due to the limit on number of lots, poor construction and maintenance, and unclear rights, future development off private roads is limited. Secondary access for safety and emergency situations is often not provided.

### *Driveways*

Driveways were another frequently mentioned topic, as the width and slope of driveways determine whether fire and emergency vehicles can access isolated properties, especially those that are located on steep topography. The Gem County Road and Bridge Development Standards Manual includes driveway requirements and will be referenced in the updated LUDC

### *Recommendations*

- Consider increasing setbacks from irrigation ditches to ensure access and mitigate encroachment.
- Consider requiring a water quality study that analyzes water availability and the long-term impact on surrounding wells and aquifers.
- Assess an alternative to Traffic Impact Study thresholds that trigger improvements, so the project scopes define the trigger for improvements and maintenance responsibility. Gem County staff (Neal Capps) will create a chart of trigger points.
- Revise private road standards to clarify access and use for future development.
- Reorganize all road standards and guidelines into one section and reference the Gem County Road and Bridge Standards Manual.
- Increase the number of residential lots allowed on a private road from 10.
- Clarify that Development Services and Road and Bridge staff work together to review and make initial decision on emergency access provisions and traffic study requirements.
- Reference the Idaho Statutes and the adopted Gem County Highway& Street Guide instead of replicating language in Gem County Code.

## Other Subdivision Options

### *Overview*

During the outreach process it was made clear that one of the biggest challenges was integrating subdivision layouts with the surrounding developments and infrastructure. Strategies that help protect the natural environment, prime agricultural land, and make communities more attractive, economically stronger, and more socially diverse should be discussed and incorporated in the code update.

Planned unit and condominium, manufactured home parks, large scale developments, cemetery subdivisions, and subdivisions within floodplains are all listed as special subdivisions but the specific unique standards applicable for each subdivision are vague and unclear. Additional information is needed regarding the role of each special subdivision and whether they truly require their own processes or if they can be included in another section. Of particular concern are circulation and access requirements, which should be clarified.

### *Cluster Subdivisions*

The current LUDC only includes Standard (5 or more lots) and Minor subdivisions (4 or less lots) and special subdivisions. There is no clear flexibility for cluster subdivisions or clustering of lots within a subdivision. Cluster developments were viewed positively during the comprehensive plan and the community interviews for this process. Community members generally felt that cluster subdivisions were a good way to help concentrate development in easier to service pockets while helping keep sensitive habitat areas and views intact. While these types of subdivision were seen as far preferential to a standard 2-acre lot development, they are also seen as very underutilized by the development community. In order to implement the Comprehensive Plan, the County should develop standards that incentivize cluster development.

There is a need to provide education and discussion regarding cluster development to understand their benefits through the code update process. Graphics will be shared, along with examples to help understand what a cluster development looks like and how it works. Discussion will include other elements such as creating an expedited process for clustered

### **Related Comprehensive Plan Goals and Actions**

**Housing Goal 1:** Encourage a variety of housing types and developments to benefit all residents within the Gem County.

C. Facilitate flexible and creative subdivision and housing developments such as clustered developments that allow for reduce lot sizes in exchange for shared and preserved open space, flood plain protection, or buffering.

E. Encourage rural residential and small ranchette type development in areas where it is compatible with existing agricultural and ranching development.

**Recreation and Open Space Goal 1:** Expand opportunities and facilities for recreation, exercise, relaxation, and connection with nature.

D. Encourage dedication and integration of natural open space or park space in new developments.

subdivisions in specific areas, the ability to utilize shared water and septic systems, minimum lot size within the subdivision, minimum open space required, allowed uses within the open space, and requirements for ownership maintenance of the open space.

### *Hillside Subdivisions*

Currently, hillside land must meet the standards in Section 12-7-2 for special development subdivisions, which includes appearance and preservation of hillside considerations like skyline and ridgetops, rock outcroppings, and characteristic vistas and scenic panoramas. The language in the LUDC is vague and general, with no specific limitations, or clear requirements that ensure the proposed development is safe, environmentally responsible, and visually compatible with the surrounding landscape. Public feedback noted the desire to include additional requirements in the existing regulations. This could be established through a “Scenic Resources Overlay” which would allow minimum standards to be applied to for development in highly scenic areas to preserve the viewscape. These standards might include limitations on height based on surrounding tree lines, design standards for colors and materials that allow structures to blend in with the landscape, prohibition on ridgeline development, and limitations on vegetation removal.

### *Recommendations*

- Discuss circulation options for new subdivisions to provide connections to the area surrounding, ensuring connectivity and access in the layout.
- Ensure proposed subdivisions don’t create nondevelopable area due to inability to have road access or being cut off from water and other utilities.
- Discuss standards that incentivize cluster development.
- Clarify existing hillside subdivision standards and/or develop additional standards for hillside subdivisions to minimize impact on scenic resources.
- Provide information on what a Scenic Resources Overlay looks like and what standards it includes and discussion option of including a Scenic Resource Overlay in the code update.

## Sustainability

### Overview

Gem County has unique and convenient access to a host of natural resources which is the County's largest asset for economic development. Balancing development needs and the conservation and protection of natural areas, wildlife, and scenic views has surfaced as a top priority for both the LUDC update process as further supported by the comprehensive plan. The comprehensive plan suggests adding protection to mitigate development impacts on natural open space, wildlife habitat, and sensitive lands through sensitive land standards (See [Natural and Scenic Resources Section](#) for details). Two improvements outlined in the Assessment will address these goals. Preservation of prime agricultural lands is covered in the Agriculture Support section of the Assessment, recommending evaluating creation of an Agricultural Preservation District. The [Zone Districts Section](#) details recommendations to shift the development pattern encouraged by the LUDC to a more sustainable pattern that is conscious of active agricultural lands, water use, and provision of services.

### Landscaping

The Landscaping (11-6-6) and the Subdivision Standards (12-6-1) Sections contain several items that support sustainable development, including buffers, preservation of existing trees, hillside, and historic buildings and places.

Buffers provide a separation and a transition between incompatible land uses. The definition of Common Lot and Common Open Space both reference buffers between incompatible uses and street/road buffers. Mixed Use Development in Ola (11-4-6) is required to provide a buffer between offices, light industrial or commercial use from residential area. In addition to these standards, the County should consider adopting Low-impact development (LID) and waterwise landscaping design standards to encourage more sustainable landscaping for new developments.

### Related Comprehensive Plan Goals and Actions

#### Natural Resources Goal 2:

Responsibly manage limited water resources and water quality.

- Support drought adaptation, water conservation and efficiency measures for responsible use of limited water resources.
- Encourage new major subdivisions to assess both the immediate and long-term cumulative impacts on water quantity and quality.
- Review and update development regulations to define and strengthen water usage standards.

**Agriculture Goal 1.** Sustain existing agricultural, farm, and ranch lands.

- Discourage the development of highly productive agricultural lands and redirect non-agricultural uses to locate where not suitable for large-scale farming.

### *Sustainability Menu*

In addition to the land use recommendations previously listed, Gem County has the opportunity to develop additional standards to protect open space and natural resources to ensure quality, growth that is in harmony with the environment. One method is through a system of tiered development incentives or sustainability menu that encourage, or require, subdivisions to incorporate a certain number of sustainability standards. With this approach, a system of points would be developed associated with a variety of menu items targeted to preservation or enhancement of environmental resources. There could be a small amount of points required and/or incentive such as relief from standards or streamlined approval for meeting or exceeding a certain defined number of points. An excerpt of the Manitou Springs, CO sustainability menu is shown below as Table 5.

*Table 5. Excerpt from Manitou Springs, CO Sustainability Menu*

TABLE 18.03.7.5-1. Sustainable Site Improvements Menu of Incentives	
Menu Item	Allotted Points
Natural Resource Protection	
Employ stormwater runoff reduction strategies to slow runoff and promote infiltration, designed in accordance with <a href="#">Section 18.03.7.5.</a>	5 points per 20% of impervious area routed through bioswales, grass swales, or rain gardens by way of curb cuts
Replace a portion of the site pavement with permeable pavement options such as permeable pavers, permeable concrete, or permeable asphalt	2 points per 200 sf of permeable pavement
Exceed landscape area and vegetative requirement by at least 25%.	2 points
Plant at least 20% additional trees than otherwise required.	2 points
Incorporate native or xeric plant material for at least 50% of required landscape area.	2 points
Use drought tolerant grass in place of high water turfgrass	2 points
Install a gray water collection system to be used for landscape irrigation	2 points
Incorporate outdoor gathering amenities in required building step backs to include at least 25% of the space as pervious area such as landscape planters or rooftop gardens	3 points

### *Tree Preservation*

Another sustainability consideration is preservation of the existing tree canopy. Section 11-6-6.K. Preservation of Existing Trees and 12-6-1.B Natural Feature Areas encourage the preservation of geologic features; floodways and wetlands; areas of natural vegetation,



including unique landscapes, large individual trees, and stands of trees; areas of significant value to wildlife; historically significant structures or sites; and natural drainage channels or watercourses. Additional standards could be developed to mitigate impacts to the existing tree canopy.

### *Soil Conservation*

The Comprehensive Plan emphasizes the importance of preservation of prime agricultural lands. Limiting the impacts of development on prime soils can be an effective method of supporting active agricultural lands and mitigating further loss of these lands to development. Soil conservation ordinances are commonly developed to specify which soils are considered “prime soils” and place limitations on the amount of nonagricultural development which is allowed on prime soil or farmland on a lot within an agricultural district. These standards should be discussed to decide if this approach would work in Gem County.

### *Recommendations*

- Assess the need to develop a system of tiered development incentives or sustainability menu for new development.
- Consider adopting Low-impact development (LID) and waterwise landscaping design standards to encourage more sustainable landscaping for new developments.
- Discuss whether there is a need to mitigate impacts to the existing tree canopy.
- Discuss whether new subdivisions need to assess both the immediate and long-term cumulative impacts on water quantity and quality.
- Promote land use and management practices that maintain, restore, and enhance natural ecologic, biological, and geologic function of watersheds, including protection of river corridor ecosystems and soil quality.
- Manage or limit development activity in known hazardous areas; take steps to identify hazards and to minimize the public’s exposure to these hazards.

### **Related Comprehensive Plan Goals and Actions (Cont.)**

#### **Natural Resources Goal 3.**

Protect watershed, waterways, and riparian areas to maintain water quality, wildlife habitat, flood protection, and other critical environmental functions.

- Promote land use and management practices that maintain, restore, and enhance natural ecologic, biological, and geologic function of watersheds, including protection of river corridor ecosystems and soil quality.

## Historic and Cultural Resources

### Overview

As part of the Gem County Comprehensive Plan the County also adopted the Gem County Historic Preservation Plan, which details the rich history of Gem County and recommends specific actions to preserve historic resources within the County. Among those recommendations are allowing adaptive reuse of historic buildings rather than demolishing them and providing financial support for those who are actively preserving historic places. Title 2, Chapter 2 of the Gem County Code establishes the Historic Preservation Commission but limits their authority to designation of historic buildings and education.

The Historic Preservation Plan also details the following specific LUDC updates needed to implement the plan:

- Review development applications through a lens of criteria that promote best historic preservation practices.
- Discuss criteria for what makes a Gem County property eligible for local listing and recognition.
- Consider waivers or reductions for required on-site parking to preserve the landscape of historic properties.
- Consider relief from nonconformity requirements such as setbacks and building heights in exchange for maintaining and/or restoring a historic structure.
- Implement language that encourages the retention of original materials wherever possible in the alteration of historic properties.

### Recommendations:

- Develop historic preservation standards detailing demolition standards for historic buildings, modification allowances, and application review authority for the Gem County Historic Preservation Commission.

## Historic Preservation Plan Goals and Actions

**Objective 3.2:** Develop a quantifiable system by which decision makers can assess historic preservation and rehabilitation efforts.

*Action:* Review development applications through a lens of criteria that promote best historic preservation practices.

*Action:* Develop criteria for what makes a Gem County property eligible for local listing and recognition.

**Objective 3.3:** Consider revising the County's Zoning Code to incentivize redevelopment of historic properties while maintaining their historic character.

*Action:* Consider waivers or reductions for required on-site parking to preserve the landscape of historic properties.

*Action:* Consider relief from nonconformity requirements such as setbacks and building heights in exchange for maintaining and/or restoring a historic structure.

*Action:* Implement language that encourages the retention of original materials wherever possible in the alteration of historic properties

- Discuss development of a historic district overlay with design guidelines and where it may be beneficial.
- Develop approval criteria to review development applications through a lens of criteria that promote best historic preservation practices.
- Develop criteria for what makes a Gem County property eligible for local listing and recognition.
- Consider waivers or reductions for required on-site parking to preserve the landscape of historic properties.
- Consider relief from nonconformity requirements such as setbacks and building heights in exchange for maintaining and/or restoring a historic structure.
- Implement language that encourages the retention of original materials wherever possible in the alteration of historic properties.

## Conclusion and Next Steps

In summary, the current Gem County LUDC has some excellent and effective provisions and is generally organized well. Some sections will require significant updates or additions to realize the County's planning goals and objectives thoroughly and other sections will remain largely untouched. Further reorganizing, rewriting, and illustrating existing and revised zoning requirements will make the document easier to read, and potentially create a higher quality of public discourse and design quality.

This report is the first and very important step in a lengthy process as it sets the road map for the full LUDC update. The next step in the process includes finalization of an outline to define the new LUDC and then initial drafting of the first module. The process will include additional public input sessions to further refine the LUDC language and ensure the new regulations are in alignment with community values. The update process will build on the work completed through this first phase of the process and many of the suggestions within this report will be further discussed to determine the best approach to each of the issues presented.

The LUDC update will be drafted in modules to include reorganization and technical edits; updating existing language; and development of new language or chapters. The final document will go through the standard adoption process which includes public hearings.