To: Planning and Zoning Commission
From: Judy Anderson, Planning Director
Subject: R-07-05: Update to the Zoning Regulations for April 9, 2008 Commission Hearing
Date: March 21, 2008

R-07-05
Docket R-07-05 is an amendment to the Cochise County Zoning Regulations to: 1) to simplify the current regulations in a number of ways; 2) clarify and make the regulations more understandable; 3) build in more flexibility in the administration of the regulations; and 4) bring the regulations into conformance with revisions in the Cochise County Comprehensive Plan. In addition to this memorandum, this packet includes: a summary list of the changes; the complete February draft document; and three outdoor storage options for consideration.

The purpose of this memorandum is to highlight what the Planning staff considers to be the most significant changes. It is a long document and difficult to highlight every change so a list of the changes is attached for your convenience. It also includes a lengthy discussion on the public comment received throughout the process. Any substantive changes from the June 2007 draft reviewed by the Commission and Board and presented at the August joint work-session are discussed. This draft is not intended to be a complete rewrite of the Regulations. It is intended to address issues and concerns that have been raised by elected and appointed officials, staff and the public since the overall update in 1999. It is being sent a week in advance of our normal Commission mailing to give some extra time to review the extensive material provided. Please let me know if there are any comments that you would like presented at the Planning and Zoning Commission meeting that are not addressed in this memorandum.

Public Comment
A joint work-session between the Board of Supervisors, Planning Commission and Boards of Adjustment was held in August of 2007. Three public input meetings were held in Sierra Vista, Willcox and Elfrida. Three follow-up meetings were held with a group of individuals who requested the opportunity to go over the regulations Article by Article; two of these meetings were day long Saturday meetings. Many comments were submitted, those that seem to be the most substantive are reviewed in this memorandum.

Article 2, Definitions
1. 201 Intent: The June draft inserted Webster's Dictionary as the standard reference for common language usage. Several comments suggested that Black's Dictionary was preferable.
   Staff comment: Leave as currently written here and in other parts of the Regulations. In other words do not reference any dictionary as the intent of this statement is simply to use standard definitions to clarify if the definition is unclear or not defined thus any standard dictionary will do. Black's
Dictionary is a law dictionary and thus may be too narrow in scope.

2. Several comments suggested that site development standards in the Definition section should be in Article 18.
   **Staff comment:** This is a worthy comment but would encompass the entire document and should be addressed as part of an overall rewrite of the Regulations.

3. Accessory Living Quarters definition: Several comments suggested that the site development criteria such as 850 square feet size limitation be moved to Article 18.
   **Staff comment:** This definition was updated in 2002 with Commission approval to keep the criteria in the definition. Size criteria are integral to what defines an accessory living quarters as smaller than the principal structure and therefore should remain in the definition.

4. Animal Husbandry Services: The issue of the appropriate number of domestic animals (pets) deemed reasonably accessory to a residential use is an ongoing and controversial issue as evidenced by two recent variance requests. As a rule of thumb, the Department deems 7 dogs on a lot less than 2 acres in size and 10 dogs on a lot greater than 2 acres to be accessory; greater numbers are deemed animal husbandry. Several comments suggested that a number should be codified in the regulations and a distinction made between rural and developed areas.
   **Staff comment:** An unsuccessful effort was made to amend the regulations as suggested above. Because the issue is controversial, it is suggested that a separate amendment be processed. This draft however does propose to include animal husbandry in residential districts as a special use to offer an avenue to address this issue through a public process.

5. Guesthouse: Several comments suggested that the 6-month time frame for guests was not enforceable and difficult to monitor.
   **Staff comment:** Staff concurs and agrees that the language "temporary accommodations" is sufficient.

6. Mobile and Manufactured home parks: Several comments suggested leaving the number of manufactured homes that constitute a park at six units rather than reduce the number to 3 as proposed. The designation as a park triggers site development standards such as screening. The comment was made that in rural and agricultural areas families may choose to all live on the same large parcel and screening should not be necessary if they exceeded 3 manufactured homes on site.
   **Staff comment:** The proposed limitation of 3 is considered appropriate in the more developed areas near cities and in rural areas developed residentially. In rural/ agricultural areas a larger number could be accommodated on large parcels with few impacts. Thus the comment is to retain the "6 or more" in rural areas and adopt the "3 or more" in Category A, B and C areas and Comprehensive Plan Rural Residential designations such as St. David or the Moson Road area.

7. Several commenters felt that Research and Testing Laboratories special uses in the Rural Zoning Districts should exclude hazardous materials & animal testing.
   **Staff comment:** These uses will always warrant close scrutiny and analysis. Since they are special uses, however, public notice is required and the Commission can evaluate the individual aspects of the case before taking action to approve.

8. Several comments suggested that the swimming pool requirements were too onerous (18" deep any point wider than 8')
   **Staff comment:** These are ARS 36-1681 requirements that the County enforces. Putting the specifics in the definitions clarifies what the requirements are without searching State statutes.

**Article 3, General Provisions**

1. Some felt that § 307 Uses Prohibited copied below should be deleted or revised to state that uses that
are not listed or can not be fit under a generic category should be allowed.

(307 Uses Prohibited Any use not permitted in a district, either as a permitted use or as a special use, is specifically prohibited from a zoning district. A use shall be permitted only if it reasonably fits under the generic category of uses and is not otherwise excepted therefrom.)

Staff comment: Staff strongly recommends that this language and similar language in Article 23 be left as is. Other County Planning Directors were polled and their Zoning Regulations contain similar language as do model ordinances put out by the American Planning Association. The County Attorney agrees. To delete this language opens the door to allowing new uses that are not yet invented and would have to be allowed be even if objectionable. If a use is not listed as permitted or can not be interpreted to reasonably fit under a generic category, due process is nevertheless afforded because the interpretation can be appealed to the Board of Adjustment or a Zoning Regulation amendment can be processed. It is very rare that a use does not fit under an existing land use category.

Article 4, Master Development Plans
1. § 403-One comment suggested that the Growth Area Descriptions be based on census data.
   Staff comment: This comment is worthy of consideration if a complete rewrite is proposed. These descriptions are now based on Comprehensive Plan descriptions thus the plan would have to be amended first as the Zoning Regulations by State law must comply with the plan.
2. One commenter suggested that the proposed requirement for water adequacy analysis was premature at the Master Plan stage and should be required as part of the subdivision process.
   Staff comment: Per the Arizona Department of Water Resources, an Adequacy Analysis is different from a Determination of Adequacy and is the appropriate language and requirement at the Master Plan stage. It gives the developer some assurance that there water needs are taken into consideration if other developments come in later.
3. Several comments related to requiring developers to analyze impact of a master development plan on exempt wells.
   Staff comment: This issue comes has been raised regarding developments proposed in the J-Six/Mescal area. It is a significant change that requires serious research and review not appropriate in this update.

Article 6, Rural
1. Several comments indicated that it was inappropriate to add 601.07 in the Rural purpose statement allowing consideration of more intense special uses that can not be sited in more densely populated areas because it makes the Rural areas a dumping ground for unsavory uses.
   Staff Comment: Staff agrees that such uses must be carefully evaluated but concludes that there are some uses that must be sited in less populated areas. The new language allows consideration of these uses as special uses while clearly stating that the use must be well-designed and located to be harmonious and off-site impacts considered.
2. Several comments indicated that the restriction to allow only one non-residential permitted principal use (e.g. if a grocery store is permitted then a bed and breakfast home-stay would require a special use) in rural zoning districts was unnecessarily restrictive.
   Staff Comment: This situation rarely happens and staff concludes that the regulations work adequately as currently written.
3. Several comments indicated that RV's on properties with a principal use should not require a temporary use permit. 
   **Staff Comment:** Stays of 15 days or less already do not require a permit. After much discussion, staff supports retaining the need for a temporary permit for longer stays to enable us to enforce this requirement in instances where RV's are used as permanent dwellings without septic systems.

4. Several comments objected to the proposed limitation of 1 RV per acre average density for rural RV Parks as being too limiting. They felt that the issue of RV parks fitting into the rural landscaped could be address with design standards.
   **Staff Comment:** Staff concurs and instead supports language stipulating design standards that ensure that RV parks fit into the rural landscape such as clustering RV sites, maintaining perimeter open space and enhancing existing vegetation using drought tolerant vegetation. Since RV parks are a special use such conditions could be imposed by the Commission.

**Article 7, Residential District**

1. Board of Adjustment members have long argued that structures such as barns should be allowed to be larger than the residence on parcels 4-acres or larger regardless of the Zoning District. Currently, this is only allowed in rural districts.
   **Staff comment:** Staff supports extending this to TR districts when the parcel size is four acres or larger as many of these parcels are in rural areas of the county and the impact should be minimal.

2. One individual objected to the new language that accessory RV's on individual properties could not be rented (705.01E).
   **Staff comment:** This language has been removed as RV rentals on individual lots have not presented a problem in the past and the existing language makes it clear that RV's are to be utilized for temporary living rather than permanent living purposes.

**Article 11 Neighborhood Business**

1. Mini-warehouses are proposed to be a permitted use and one comment suggested that they should be a special use.
   **Staff comment:** Since this district is designed for businesses that serve only the local neighborhood, staff agrees that a special use that allows public input is appropriate since even a small mini-warehouse could attract outside customers rather than serve local residents.

**Articles 12, 13, 14 (GB, LI and HI)**

1. The June draft entirely precluded billboards as a land use.
   **Staff comment:** The general consensus at the work-session and from the public was that billboards remain as a special use as there are some locations where they serve a genuine public service by providing information to travelers. The special use process allows for the public to comment on the appropriateness of the location.

**Article 17, Administration**

1. Section 1704.01 indicates when a permit is required and what items are exempt. The Department has always interpreted the $1000 value limit for requiring a permit to be based on the material market value of materials and labor even if donated. The discussion at one of the public meetings suggested that this was an imprecise method and donated materials and labor should not be counted.
   **Staff Comment:** Staff agrees that estimated market value is an imprecise but can not think of a fairer
method to ensure that similar projects are all valued consistently. When the customer provides receipts these are used to determine value. Further, many structures such as small sheds that would trigger this value determination are now exempted. Finally, building code fees are determined by square footage rather than market value. For these reasons, the need to estimate market value has become infrequent.

2. **Section 1709** addressed the length of time a permit is valid before it is voided if construction is not started. This draft proposes extending that time from one to two years. Some members of the public commented that this section should also codify time limits on how much time staff has to issue permits.

**Staff comment:** Every effort is made to issue permits in a reasonable time frame; currently 5 to 6 days for residential permits and 15 to 20 days for non-residential permits. Clearly, there are times these goals are not met. Yet to codify permit issuance time does not recognize differing circumstances for individual permits. For example, a house built on a slope has more complex building code concerns than a house on flat stable land. A power plant is more complex than a bed and breakfast. That said staff needs to continue to make the process more efficient and continue to explore the possibility of expanding over the counter permit issuance from accessory structures to possibly include manufactured homes.

**Article 18:**

1. **Section 1811 Outdoor Storage:** This section has been the subject of considerable discussion. Some members of the public commented that it is not strict enough whereas others commented that they felt the proposed changes went too far. At the August work-session there seemed to be general consensus that it was time to increase the ability to control unregulated residential outdoor storage that can give a residential property the appearance of a junkyard. Three options are included at the end of the packet. In summary: option 1 proposes no expansion of current restrictions; option 2 proposes expansion of current restrictions to Comprehensive Plan Category B areas (around incorporated cities and Sunsites) and rural-residential areas (Moson Road, St. David and Tres Alamos Plans); and option 3 proposes more restrictive limitations on residential outdoor storage and proposes expanding these restrictions to the same areas as option 2.

**Staff comment:** Staff supports option 3. This option will apply more stringent restrictions in areas where the impact of unregulated outdoor storage is greatest because the areas are growing and largely developed. It would not expand the restrictions to rural Category C communities such as Elfrida and McNeal where support is limited and to rural areas that still have vast open areas and agricultural development. As noted previously, expanding the areas covered by these restrictions would likely result in an increased violation case load and could ultimately require additional staff.

2. One individual noted that Section 1817.03F Temporary uses did not distinguish between indoor and outdoor events of public interest.

**Staff comment:** This is an excellent point. The purpose of this section is to require permits for events not ordinarily affiliated with a permitted use to ensure adequate parking, restrooms, traffic control and mitigation of off-site impacts of noise. If the event is held indoors it is assumed that these issues have been addressed as part of the original permit.

3. Several individuals suggested that the 7-day time frame for temporary uses should include a reasonable amount of time before and after the event for set-up and dismantling.
Staff comment: Again a reasonable suggestion. The proposal now includes 4-days for set up and dismantling in addition to the 7-day operating time.

4. Section 1818 allows 5 irrigated acres of turf per hole for golf course courses and one member of the public considered this too much.

Staff comment: There was time for some limited research indicating that the recommended range of turf for "desert" golf courses varied from 2.4 to 5 acres per hole. Staff suggests this change is more appropriate to be researched as part of the development of a "Green Building Program.

Article 20
1. A number of criteria for evaluating the continuing status of non-conforming uses were proposed in the June 2007 draft of Section 2003.02.

Staff Comment: In general, the consensus was that these criteria required more thought thus staff recommends leaving the language the same for now.

Major Changes Not Already Discussed in Public Input Section
This section of the memorandum highlights significant changes that have not already been discussed in the previous section.

Article 2 Definitions: We have consistently applied a policy that Bed and Breakfast uses are distinguished from guest lodging because they are designed to fit into residential neighborhoods and one of the distinguishing factors applied is that they do not have kitchens. This stipulation is proposed to be explicitly stated in the definition.

Article 6 Rural Zoning Districts: Several special uses are added to Section 607 to recognize uses that are frequently requested in rural areas. For example storage yards for impounded vehicles now require a rezoning to HI which allows for a wide range of uses; it is more appropriate to enable an applicant to ask for this use as a special use which still involves public comment. Mini-warehouses and riding stables on a site less than 10 acres are also added as these are uses that can provide a rural service if appropriately located. Also the current 2,000 sq. ft threshold for manufacturing has been increased to 5,000 sq. ft. to allow special use requests rather than HI rezoning requests for small welding and carpentry manufacturing uses.

Article 10 Multi-family Residential: At the suggestion of Board of Adjustment members the minimum setback has been reduced from 10 feet to 5 feet for those MR zoning districts which abut MR, NB, GB, LI, HI or PD-2.

Article 12 General Business: There are two major changes in the GB section.
1. Section 1202.38: Currently, the minimum lot size is 3600 square feet without a minimum per unit density limitation thus as many units as can fit on a 3600 square foot lot is allowed. Setbacks and driveways, and site coverage ratios (85%) would still have to be met. This draft proposes a density of one unit per 3600 square feet which conforms to the density requirements in the MR districts.
2. Section 1202.38: Language has been added proposing that additional non-residential principal uses shall not be allowed in manufactured/mobile home parks or on multiple-household dwelling sites; accessory uses such as laundromats or a small convenience store are permitted. This language is proposed because a retail store, a permitted use in GB, was proposed for a manufactured home in a
park raising the issue as to whether it was appropriate to attract non-residential retail traffic into an established park even though it was zoned GB.

**Article 17 Administration:**
- More flexibility is added to the permit issuance process by making issued permits valid for two years while currently they are valid for one year.
- The lot modifications allowed in Section 1715 are proposed to be liberalized. Setbacks, heights, parking and site coverage are proposed to be granted an administrative reduction of up to 20% rather than 10%. Administrative reductions of site area on lots of one acre or larger are proposed to increase from 1% to 2%. These reductions must be approved by the Planning Director and the neighbors within 300 feet of the parcel are notified to give them an opportunity to comment. Lot modifications provide some flexibility to the regulations for small adjustments to site development standards and thus reduce the need for variances while still including the neighbors in the process. This increases staff efficiency and reduces time and cost to customers.

**Article 18 Site Development Standards:**
- As noted in the three outdoor storage options Section 1811.01D is proposed to be revised to extend the restriction on storing large trucks, truck tractors, or semi-trailers having a rated capacity of more than 1 1/2 tons and the parking or storage of any construction equipment such as bulldozers, graders, and back hoes to all rural or residential zoning districts rather than only the Category A Growth Area around Sierra Vista.
- The ranching character of the County is acknowledged by proposing to allow temporary 4-H and similar projects in all zoning districts.
- The definition of feedlots has been clarified to include all concentrated animal feeding facilities unless determined to be incidental and subordinate to a grazing operation. Conditions for permitting Concentrated Animal Feeding Operations such as feed lots that have been used as conditions of special uses are proposed to be codified.

**Golf Courses:** To recognize the impact of golf courses especially on water resources, they are proposed to be special uses rather than permitted uses in the non-residential districts thus allowing public input and specific analysis related to water usage.

**Protections for Comprehensive Rural Residential Designations:** A rural-residential (RR) Comprehensive Plan Designation was adopted several years ago. This designation is designed to recognize rural areas that are now largely residential similar to the neighborhood conservation designations for areas near cities; St. David, Tres Alamos and Moson Road are currently designed RR. This draft proposes to extend screening requirements for non-residential uses if located adjacent to an area designated RR. Currently, screening is not required in areas designated Rural. Further, if outdoor storage options 2 or 3 are approved, additional restrictions on residential outdoor storage would apply to these areas.

**Recommended Motion**
I move to forward a recommendation of approval to the Board of Supervisors of the attached February 2008 draft of the Zoning Regulations with a recommendation of approval of option three of the outdoor storage proposals.
Recommended Follow-up Research for possible Future Amendments

A number of items were brought up for discussion during the staff and public review process that required more consideration than could be afforded in this draft. The following is a list of items that may warrant future amendments to the Zoning Regulations in no order of priority.

1. **Article 19**: The sign code is difficult to use and warrants reorganization and research to update it with current planning practices and evaluate if it is consistent with codes in the County cities. Since billboards are proposed to remain as special uses it is also recommended that research be completed to develop a set of polices to use to review applications to help ensure consistent evaluation.

2. **Article 12, General Business**: Over the last few years, many rezonings have been conditioned to specific uses with the concurrence of the applicant. Generally, they are less intense uses such as personal and professional services. It might be time to consider developing two levels of business zoning districts; one that encompasses the less intense uses and one that encompasses the more intense uses rather than creating a "unique" district each time a rezoning is condition to specific use thus making it more like a special use. An earlier version of the regulation had a complicated performance level system which was abandoned in the 1999 draft because it was complex and confusing. Nevertheless, the performance levels might provide a good start for determining the new business districts.

3. **Article 12, GB**: Adopt more quantifiable criteria for evaluating off-site noise and more realistic criteria for off-site odors etc.

4. **Adult Businesses**: The City of Sierra Vista updated their adult business ordinance to conform to recent State revisions. A previous County Attorney suggested that we follow suit.

5. **Discontinuance of non-conforming use**: If possible it would be helpful to provide quantitative criteria for determining when a non-conforming use is discontinued.

6. **Article 18: 1811.01**: Three outdoor storage options were provided however several other issues raised by public input were not addressed and may be appropriate for future consideration:
   - Extend restrictions to the entire County after an extensive public input effort and review of staff needs to implement;
   - Adopt a property maintenance code again after an extensive public input effort and review of staff needs to implement;
   - Adopt clearer definitions as to what constitutes refuse, rubbish, inoperative trailers and what can legitimately be considered accessory outdoor storage to a residence.

7. **Article 1818**: Review turf requirements for golf courses as part of a green building program.

8. **Agriculture districts**: Research adoption of an agricultural overlay district or some other effective method to alert new residences of what to expect if residing in an area where there is still active agriculture and ranching.

**XC**: Board of Supervisors; Board of Adjustment members; Mike Ortega, County Administrator; James Vlahovich, Deputy County Administrator; Britt Hanson, County Attorney; Planning Staff; Patricia Morris, Acting Director Highway and Floodplain; Interested Parties List

Your County Questions Answered

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