



Gunnison County, CO Planning Department
221 N. Wisconsin St. Ste. D
Gunnison, CO 81230 (970) 641-0360 Website: www.gunnisoncounty.org
Email: planning@co.gunnison.co.us

Information Sheet: Right-to-Ranch Policy

Agriculture in Gunnison County has been, and continues to be, a significant contributor to the county's economy, not just for the crops and livestock it produces, but because it provides the beautiful green valleys that contribute to the quality of life here. As the county grows, the ranching industry and Gunnison County have sought to ensure that ranching remains viable and feasible in the area, and that new residents and visitors can also enjoy the area. In that light, Gunnison County encourages homeowners to confine their dogs on their property to avoid conflicts with livestock, and has adopted within Article 15 of the *Gunnison County Land Use Resolution* its "Right-to-Ranch Policy," whose purposes are:

A. INTENT TO ENCOURAGE AGRICULTURE AND PRESERVE RANCHERS' RIGHTS. It is the purpose of this Section to conserve, protect, and encourage the continued use and improvement of traditional ranching lands in Gunnison County for the production of agricultural products. Additionally, the *Right-to-Ranch Policy* is designed to preserve the right of ranchers to produce, without unnecessary interference, agricultural products using generally accepted agricultural practices and to discourage the encroachment of non agricultural land uses into rural areas. Gunnison County in adopting this Policy intends:

- 1. TO ENCOURAGE RESPONSIBLE RANCHING.** To conserve, enhance, and encourage responsible ranching and farming, and lawful agricultural activities and operations within and throughout the county where appropriate.
- 2. TO PROTECT AGRICULTURAL ACTIVITIES FROM COMPLAINTS.** To protect agricultural operators from complaints concerning agricultural activities that are legal and responsible.
- 3. TO EDUCATE THE PUBLIC.** To educate the public and visitors and nonagricultural residents of the County about the existence, validity, and importance of the county's agricultural operations and activities.
- 4. TO ASSIST IN DISPUTE RESOLUTION.** To provide a forum for the informal and non-binding resolution of disputes between agricultural operators and nonagricultural residents and visitors to the county.
- 5. TO MINIMIZE CONFLICT BETWEEN AGRICULTURAL AND OTHER USES.** To minimize potential conflicts between agricultural and non-agricultural users of land in the county. To educate new rural residents and long-time agricultural operators alike to their rights, responsibilities, and obligations relating to agricultural activities.

The requirements of this Section apply to all Land Use Change Permit applications in Gunnison County. But is not intended to apply to general agricultural operations not related to ranching or to small-scale hobby farms or ranches. Additionally, the requirements of this Section are not allowed to prevent an owner from selling his/her land or prevent or hinder the owner in seeking approval to put the land into alternative use.

The requirements of the section are:

SECTION 15-103: EFFECTS OF ADOPTION OF RIGHT-TO-RANCH POLICY

A. ADOPTION OF THE RIGHT-TO-RANCH POLICY. Upon the effective date of this *Resolution*, and therefore the adoption of this Right-to-Ranch Policy, the Board establishes that:

- 1. RANCHING IS INTEGRAL TO GUNNISON COUNTY.** It is the policy of the Board that continued ranching and farming within Gunnison County are integral elements of and necessary for the continued vitality of the county's history, tourism, economy, landscape, open space, lifestyle, and culture.
- 2. AGRICULTURAL OPERATIONS WARRANT PROTECTION.** Given their importance to the county, the Western Slope of Colorado, and to the State, agricultural lands and operations are worthy of recognition and protection. Because, by law, Colorado is a "Right-to-Farm" State, residents and visitors must be prepared to accept the activities, sights, sounds, and smells of Gunnison County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy agricultural sector.
- 3. LAWFUL RANCHING IS NOT A NUISANCE.** People with urban expectations may perceive agricultural activities, sights, sounds, and smells as inconvenient, an eyesore, or unpleasant; however, state law and County policy provide that ranching, farming, or other agricultural activities and operations within the county

shall not be considered to be nuisances so long as operated in conformance with the law and in a non-negligent manner.

4. **OTHER LAND USERS ON NOTICE.** Residents and visitors must be prepared to encounter noises, odors, lights, mud, dust, smoke, chemicals, machinery and livestock on public roads, storage and disposal of manure, and the application of chemical and organic fertilizers, soil amendments, herbicides, and pesticides, by spraying and other mechanisms, pursuant to applicable local, state and federal laws.
 5. **FENCING RESPONSIBILITIES.** All landowners, whether agricultural operators or residential owners, have obligations under state law and County regulation, to maintain fences and adhere to Colorado laws that require livestock to be fenced out, rather than in.
 6. **IRRIGATORS' RIGHT TO MAINTAIN DITCHES.** Pursuant to Colorado law and Section 11-109: *Development That Affects Agricultural Lands* irrigators have the right to maintain irrigation ditches, head-gates and other diversion structures. Irrigation ditches are not to be used for the dumping of refuse.
 - a. **IRRIGATION DITCH EASEMENTS.** Pursuant to Section 11-109: G. 2.: *Irrigation Ditch Easements*, a maintenance easement of at least 25 feet from the edges of the ditch banks shall be preserved and indicated on a Final Plat for subdivision. For parcels that are the subject of Land Use Change Permits, Building Permits or Individual Sewage Disposal System Permits, access for maintenance of an irrigation ditch is required to be 25 feet from each ditch bank. When approved in notarized written form by the ditch owner(s), that distance may be decreased and existing historical easements used to gain access to ditches, headgates, and fences for maintenance or operational purposes shall be preserved or replaced with reasonable alternate easements suitable for continuation of the historic use.
 7. **LANDOWNERS' RESPONSIBILITIES.** All landowners are responsible for controlling noxious weeds, keeping pets under control, using property in accordance with this *Resolution* and all other applicable codes and regulations adopted by the County, and maintaining the environmental resources of their property wisely.
- B. LIMITATION ON PRIVATE ACTION.** An agricultural operation shall not be found to be a public or private nuisance if the agricultural operation alleged to be a nuisance employs methods or practices that are commonly or reasonably associated with agricultural production. An agricultural operation that employs methods or practices that are commonly or reasonably associated with agricultural production shall not be found to be a public or private nuisance as a result of any of the following activities or conditions:
1. **CHANGE IN OWNERSHIP.** Change in ownership; or
 2. **NONPERMANENT INTERRUPTION.** Nonpermanent cessation or interruption of farming or ranching; or
 3. **PARTICIPATION IN GOVERNMENT PROGRAM.** Participation in a government-sponsored agricultural program; or
 4. **NEW TECHNOLOGY.** Employment of new technology; or
 5. **PRECEDED NON-AGRICULTURAL ACTIVITIES IN THE AREA.** The agricultural operation was established before non-agricultural activities began in the area around the agricultural operation; or
 6. **IS NOT OPERATING NEGLIGENTLY.** Is not operating negligently.
 - a. **REBUTTABLE PRESUMPTION OF NON-NEGLIGENT OPERATION.** Employment of methods or practices that are commonly or reasonably associated with agricultural production shall create a rebuttable presumption that an agricultural operation is not operating negligently.
- C. INCORPORATING THIS POLICY INTO GUNNISON COUNTY PERMIT APPROVALS.** In reviewing any application for a Land Use Change Permit, the applicable review body shall, to the maximum extent feasible, ensure that such change does not adversely affect any existing agricultural operation on land not a part of the land use change, including maintenance of historic irrigation ditches and access to active agricultural operations. The following shall be included in the County's approval of permits:
1. **INFORMATION TO BE PROVIDED TO BUILDERS ADJACENT TO AGRICULTURAL OPERATIONS.** When a Building Permit is issued for new construction in unincorporated areas of the county that are adjacent to agricultural operations, Building Permit applicants shall be provided with a copy of this *Policy*, and a copy of Gunnison County's *Code of the West*
 2. **NOTIFICATION REQUIRED FOR LAND USE CHANGE PERMITS.** As of the effective date of this *Resolution*, pursuant to this *Policy*, notification of existence of this *Policy* and of Gunnison County's *Code of the West* shall be required to be included in the recorded resolution approving any Land Use Change Permit, and, as applicable, on the recorded plat of any subdivision that is located adjacent to an agricultural operation.

SECTION 15-104: CONFLICT RESOLUTION PROGRAM

- D. AGRICULTURAL LAND USE CONFLICT RESOLUTION PROGRAM.** There is hereby created an Agricultural Land Use Conflict Resolution Program for providing a forum for the resolution of conflicts between or among landowners and/or residents regarding agricultural operations or practices referenced in this Section and occurring within Gunnison County.
- 1. MEDIATION PANEL TO RESOLVE CONFLICTS.** A mediation panel shall be appointed for hearing grievances regarding agricultural land use conflicts between Gunnison County agricultural operations and other residents. The mediation panel shall have the responsibility for making recommendations for the resolution of those conflicts.
 - a. APPOINTED MEMBERS.** The panel shall be made up of a pool of four year-round residents of Gunnison County, appointed by the Board of Commissioners. Each member shall serve a term of two years, except that one member of the initial panel shall be appointed for a one year term in order to stagger the terms of the panel.
 - b. QUALIFICATIONS TO SERVE.** Priority in appointment shall be given to individuals with mediation, arbitration, and other dispute resolution skills; however, experience in ranching or farming shall be mandatory for at least one member of the panel.
 - c. COMPENSATION.** Members of the panel shall receive no compensation, but may receive reasonable expenses incurred in the carrying out of their duties, and the County shall make reasonable staff time and other in-kind resources available to the panel, as needed.
 - 2. PROCESS AND RULES.** The initial mediation panel shall draft and recommend rules or process for the hearing of grievances by the panel. Once drafted, such rules or process shall be presented to the Board for its approval and adoption. Any amendments to such rules and process shall be made in the same manner. The rules or process recommended by the panel and adopted by the Board shall conform in the minimum to the following:
 - a. INFORMAL HEARINGS.** Hearing of grievances shall be informal and appearances before the panel shall be by the parties themselves or their official representative. A party may be represented by legal counsel to receive general advice on how to proceed or whether to accept a resolution recommended by the panel, but such legal counsel may not make an appearance in person, in writing, or otherwise, before the panel.
 - b. ACCEPTANCE OF RECOMMENDATIONS.** Hearing of grievances and acceptance of any recommendation of the panel shall be voluntary; the process is not mandatory and the results are not binding on either party, unless the parties by mutual written agreement agree that they shall be bound by the decision of the mediation panel.
 - c. CONFIDENTIALITY.** All proceedings shall be confidential and no panel member or other county staff shall disclose any information discovered or made known in the course of any grievance proceeding, without consent by the parties.