

# Clear Creek County Zoning Regulations: Section 7

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## **SECTION 7. MINING DISTRICTS - GENERAL PROVISIONS**

*The regulations in this Section apply to all Mining Districts.*

### **701. PURPOSE**

These Districts are established for the purpose of providing for mining, prospecting, exploring, milling, processing, and/or placering of mineral resources. No residential use is allowed except as provided under Sections 706 and 712.2. of this Section.

#### **Special warning to residential users of M-1 zoned mining lands:**

**Mining lands may have physical hazards and environmental issues associated with past mineral exploration, production, and processing. Additionally, patented mining properties used for residential purposes remain subject to the provisions of Colorado Mining Laws regarding rights-of-way, drainage, extralateral rights, and other provisions. Finally, mineral exploration, development, or processing may occur on adjacent or nearby lands at any time.**

### **702. AREA REGULATIONS**

#### **702.1. AREA**

702.1.1. There are no minimum requirements for mining uses in Mining Districts.

#### **702.2. SETBACK**

Setback requirements do not apply to non-residential mining structures required, used, or intended for use in connection with mining, prospecting, exploring, milling, processing, and/or placering of mineral resources.

### **703. PERFORMANCE STANDARDS FOR MINING USES**

No use shall be made of mining zoned land unless the use meets the performance standards specified for this district and other applicable Clear Creek County Zoning Regulations.

#### **703.1. SLOPE**

There are no slope requirements for mining uses in Mining Districts.

#### **703.2. FENCES**

Fencing and walls shall comply with the requirements as outlined in Section 1006- Fencing, Walls, and Landscaping Standards of these Regulations; provided, however, that any fence specifically required for safety or security purposes to prevent access to mine shafts, adits, or equipment may exceed forty-two (42) inches in height. The area contained by any such fence shall be no greater than necessary to provide for such safety and security.

#### **703.3. PARKING**

Parking associated with on-site uses shall not overflow into public rights-of-way.

#### **703.4. ROADS**

All new or reconstructed mine roads must be built to County road design standards for the first thirty (30) feet from the intersection with a County road.

#### **703.5. HEIGHT**

There shall be no height limitation for any use specifically required for the mining, prospecting, exploring, milling, processing, and/or placering of mineral resources.

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### **703.6. JUNK**

No owner, agent, or occupant of any property shall be allowed to accumulate junk, including any incomplete, extensively damaged, or unlicensed vehicles within view from adjacent private property or public rights-of-way, other than that which is of historic significance, or operable and usable in the mining operation.

### **703.7. VISUAL OBSTRUCTIONS**

No wall, fence, sign, or other structure shall be erected, or vehicle parked, and no hedge, shrub, tree, or other growth shall be permitted on any property between any setback line and any public or private road or drive that would cause danger to traffic as determined by the County.

### **703.8. MAINTENANCE OF DEFENSIBLE SPACE**

Any required defensible space shall be maintained in conformity with specifications established for the property by the Colorado State Forest Service or their designated agent.

### **703.9. ABOVEGROUND STORAGE OF HAZARDOUS MATERIALS AND PETROLEUM PRODUCTS**

703. 9.1. Above-ground storage tanks containing flammable or combustible materials shall, if painted to blend with the surrounding natural environment, be labeled conspicuously with a National Fire Protection Association (NFPA) reflective emblem;

703. 9.2. All hazardous materials and petroleum products must be handled and stored in accordance with all applicable laws and regulations.

## **704. PERMITTED PRINCIPAL USES**

A parcel of land classified for Mining may be used, subject to other federal, state, and county laws, for the following purposes only, except as otherwise herein provided:

**704.1.** Any use or structure specifically required, used, or intended for the use of mining, prospecting, exploring, milling, processing, and/or placering of mineral resources. A commercial business, other than primarily related to mining, on a mining zoned parcel of land, other than as allowed under Home Occupation regulations, is prohibited.

Examples include, but are not limited to, adits, tunnels, shafts, pits, stopes, raises, inclines, trenches, railroad tracks, conveyors, hoisting plants, headframes, tramways, roads, mills, ore bins, ore piles, waste dumps, water treatment facilities, smelters, core drill stations, ponds, pipelines, ditches, canals, wells, dams, environmental protection and monitoring facilities, laydown yards, maintenance and repair shops, lamphouses, power generation facilities, laboratories, offices, garages, storage buildings, warehouses, training centers, mine rescue stations, communications facilities, crushers, leach pads, sluices, rockers, dredges, amalgamators, roasters, concentrators, sorters, tanks, fans, explosives magazines, material bins, wash plants, bath houses, guardshacks, and other facilities actually used, required, or intended for use in connection with mining, prospecting, exploring, milling, and/or placering of mineral resources;

**704.2.** Residential use is not a Permitted Principal Use in Mining Districts, except as permitted in Sections 706 and 712.2. of this Section;

**704.3.** Building wall or roof mounted telecommunication antennas that are supported by a legally existing building or structure are a permitted principal use in this zoning district. For such facilities the applicant shall submit a site plan and demonstrate to the County Planning Department that the proposed low power telecommunication facility is in conformance with the Performance Standards established in Section 18 - Telecommunications Regulations of these Regulations;

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- 704.4.** Wind or solar energy conversion system (windmills used to generate mechanical or electrical energy); including transmission and distribution lines; said towers to be located at least a distance equal to the overall height of the system (including the maximum reach of any tower facility) from the nearest property boundary. No part of the structure shall exceed thirty-five (35) feet in height. Such system shall be compatible with the natural environment and general character of the area.
- 704.5.** Utility Scale Wind Energy Facilities and Utility Scale Solar Energy Facilities with the approval of a Permit for Areas and Activities of State Interest (1041 Permit). Setbacks for said systems shall be the distance equal to the total extended height of the system unless all owners of the property(ies) within the setback -- who, with due diligence by Applicant, can be identified -- consent in writing in a form acceptable for recording and which is binding on the land. Setbacks shall be measured from the base of the structure to the closest property line of adjacent properties located outside of the 1041 Permit area.

### **705. ACCESSORY USES AND BUILDINGS**

In conjunction with a use outlined above, a parcel of land zoned Mining may be used in support of mining, prospecting, exploring, milling, processing, and/or placering of mineral resources exclusively and subject to other federal, state, and county laws, for the following:

705.1. Utility service lines and distribution lines;

705.2. Water storage tanks.

705.3. Small Wind Energy Systems

The total extended height shall not exceed one hundred, thirty five (135) feet in height for systems **not** located within 1) a parcel listed on the National Register of Historic Places, 2) the scenic corridors of Guanella Pass Road and CO Hwy. 103, 3) the Silver Heritage Area, or 4) the Geneva Creek Basin Project Area, as described in the *Clear Creek County Master Plan 2030*, and further defined in the document, Geneva Creek Basin Project, a Project of the Clear Creek County Open Space Commission dated November, 2003.

705.3.1. General Provisions

Setbacks for said systems shall be the distance equal to the total extended height of the system. Systems may be allowed closer to a property line than its total extended height if the adjacent property owner(s) grants written permission in a form approved by the County and the installation poses no interference with public utility lines or public road and/or rail rights-of-way. Other than height, such systems are applicable to the zoning district performance standards. Systems shall not be lighted.

Methods shall be utilized on any turbine in order to prevent unauthorized climbing. If a small wind energy system ceases to perform its originally intended function for more than 12 consecutive months, the system shall be removed no later than 90 days after the end of the 12 month period.

**705.4.** Small Solar Energy Systems

No part of a freestanding system shall exceed thirty-five (35) feet in height. Such systems accessory to and part of a building shall be considered an appurtenance and comply with the maximum height allowances for appurtenances. Such systems are applicable to the zoning district performance standards. Such systems shall not be lighted. If a small solar energy system ceases to perform its originally intended function for more than 12 consecutive months, the system shall be removed no later than 90 days after the end of the 12 month period.

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### **706. USES REQUIRING SPECIAL USE PERMIT**

Pursuant to Section 12 - Special Use Permits of these Regulations, land may be issued a permit for other uses determined to be compatible with the uses in the same zoning district A financial guarantee to ensure termination of the use and removal of associated structures, reclamation and/or revegetation when appropriate, in a form acceptable to the County Attorney may be required. The following additional uses require a Special Use Permit:

- 706.1. A dwelling unit and dining facility for mine owners, employees, or caretakers. Evidence of bona fide mining activity shall be required as a condition of any permit issued;
- 706.2. Temporary uses of land;
- 706.3. Mine tours, related museums, and other educational activities open to the public and subject to County health standards, public access, and parking requirements;
- 706.4. Temporary placement of a mobile home, recreational vehicle, or trailer used for a watchman or caretaker. Evidence of bona fide mining activity, as outlined in Subsection 704.1., shall be required as a condition of any permit issued;
- 706.5. Gas regulator station;
- 706.6. Electric substation;
- 706.7. Water reservoirs;
- 706.8. Temporary freestanding telecommunications facility;
- 706.9. Uses which are consistent with the uses stated above, but that are not otherwise listed in these regulations as allowed in other districts, as approved by the Board of County Commissioners;
- 706.10. Small Wind Energy Systems that are located within 1) an area listed on the National Register of Historic Places, 2) either the Guanella Pass Road or CO Hwy. 103 scenic corridors, 3) the Silver Heritage Area, or 4) the Geneva Creek Basin Project Area, as described in the *Clear Creek County Master Plan 2030*, and further defined in the Geneva Creek Basin Project document;
- 706.11. Small Wind Energy Systems with a total extended height over one hundred, thirty five (135) feet in all unincorporated areas of Clear Creek County;
- 706.12. Distributed Solar Energy Systems;

### **707. TEMPORARY SPECIAL USE PERMITS**

Pursuant to Section 12 - Special Use Permits of these Regulations, land may be issued a permit for other uses determined to be compatible with the uses in the same zoning district A financial guarantee to ensure termination of the use and removal of associated structures, reclamation and/or revegetation when appropriate, in a form acceptable to the County Attorney may be required. The following additional uses require a Temporary Special Use Permit:

- 707.1. Sawmill - limited to uses in support of wildfire/forest management

### **708. ADMINISTRATIVE SPECIAL USE PERMITS**

Shall be in compliance with Section 12 - Special Use Permits of these Regulations.

### **709. REZONING OF M-1 OR M-2 ZONED PROPERTIES**

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- 709.1. An application to rezone a parcel from M-1 or M-2 to another zoning category requires the concurrence of all deeded owners of surface and mineral interest to the property, and other requirements as appropriate for that zoning district.
- 709.2. A standard disclosure document must be recorded as a condition of rezoning. This document will run with the deed to the property in perpetuity. The disclosure shall contain the following language:

"Former mining lands may have physical hazards and environmental issues associated with past mineral exploration, production, and processing. Additionally, patented mining properties used for other purposes remain subject to operation of the provisions of Colorado Mining Laws relative to rights-of-way, drainage, extralateral rights, and other provisions regardless of zoning. Mineral exploration, development, or processing may occur on adjacent or nearby lands at any time."

### **710. RETENTION OF MINING USES**

Patented mining claims, that are in other zoning districts, retain mining uses, subject to the regulations of this Section.

### **711. RECLAMATION PLAN, ANNUAL REPORT AND FINANCIAL GUARANTEE REQUIRED**

These regulations **do not** apply to any land or structure covered by a Reclamation Permit pursuant to the Colorado Mined Land Reclamation Act or to any land or structure to the extent covered by the Solid Waste Disposal Sites and Facilities Act (Article 20 of Title 30 of CRS) for which a Certificate of Designation has been approved by the County or, if exempt from a Certificate of Designation, to the extent for which CDPHE has approved the facility design, operations and closure plan and required a financial assurance to secure its closure.

Any other facilities for the milling, processing and storage of mineral resources such as, but not limited to, ore, waste rock, mill tailings or mine tailings shall provide the following:

- 711.1. A Reclamation Plan and Financial Guarantee** shall be submitted to the Planning Director before a building permit is issued. The Reclamation Plan shall accommodate anticipated future uses in conformity with the zoning district involved. The Reclamation Plan shall be reviewed by the Planning Director for completeness and suitability. If found to be complete and suitable, the Planning Director shall then schedule a review of the Reclamation Plan by the Board of County Commissioners at a public meeting. The Board of County Commissioners shall review and approve, approve with modifications or reject the Reclamation Plan and the Financial Guarantee as presented.

The Reclamation Plan shall include at a minimum:

711.1.1. A list of materials on site, including,

- (1) Chemical inventory and Material Safety Data Sheets (MSDS) for chemicals. Storage, use and transfer locations must be shown on the Facility Plan Map. Contact information for companies that will accept each chemical for disposal shall be included.
- (2) Identify the owner, origin and characteristics of the feedstock.

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- 711.1.2. Specify which buildings, tanks, pipes and other facilities, if any, will remain after reclamation. These features must be shown on the Reclamation Plan Map.
- 711.1.3. Where wildlife habitat is the proposed future land use, the Colorado Division of Wildlife (DOW) must be consulted and their recommendations included in the Reclamation Plan.
- 711.1.4. Provide an estimate of the actual costs to reclaim the site based on what it would cost Clear Creek County using an independent contractor to complete reclamation. The unit costs should include estimates for the following activities as appropriate to the operation: backfilling, grading, topsoil application, seeding, mulching, fertilization, and labor to complete reclamation. Determine and specify the point during the operation when the site has reached a point of maximum disturbance. The cost to reclaim the site to the specifications of the Reclamation Plan at this point must be estimated.
- (1) Unit costs (cost per cubic yard), volumes, haul or push distances, and grades must be included when backfilling and grading are part of the Reclamation Plan.
  - (2) Volume and unit costs for finish grading, subsoil and topsoil application must be provided in terms of cost per cubic yard.
  - (3) The estimated cost for fertilizer, seed and mulch acquisition and application must be provided as cost per acre.
  - (4) Equipment costs must include such factors as equipment operator wages and benefits, fuel and lubricant consumption and depreciation. The cost to mobilize and demobilize the equipment from the nearest population center known to have the required equipment availability must be estimated.
  - (5) All items referenced in the Reclamation Plan must be included in the cost calculation. In addition to earthwork, building demolition, chemical removal, fencing, monitoring well abandonment and/or stream channel reconstruction must also be included in the reclamation cost estimate.
- After the direct costs noted above have been estimated, the County may add up to an additional maximum eighteen and one-half percent (18.5%) of that total, which includes private contract, typical overhead costs. This additional cost is required to cover indirect costs that an independent contractor would incur when performing reclamation of the site.
- Five percent (5%) additional cost shall be added to cover office administration cost in the event of financial guarantee forfeiture.
- 711.1.5. Drainage Control: Describe the measures used to divert upland drainage away from the site both during and after operation. This must include design details demonstrating the capacity of ditches and impoundment structures to contain operating solutions and the volume of water generated by a one hundred (100) year 24-hour rainfall event.
- 711.1.6. The Operator/Applicant must provide maps that clearly describe the features associated with the facility and the components of the Reclamation Plan. Include one map for the facility plan and one map for the Reclamation Plan. The map must be drawn to a scale no smaller than appropriate to clearly show all elements that are required to be delineated by these requirements; show a north arrow, note any section corners adjacent to the proposed operation, and indicate the date illustrated. At a minimum, maps must include the following information.

### Facility Plan Map

- (1) Outline and label the property boundaries,
- (2) Label the names of owner(s) of record of the surface of the affected area and of the land within two hundred (200) feet of the affected area, and the type of structure and owners of record of any permanent or man-made structures within 200 feet of the property boundaries;

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- (3) Outline and label all major surface features to be used in connection with the proposed facility such as: existing and proposed roads, pit boundary, topsoil stockpiles, overburden stockpiles, product stockpiles, waste rock fills, stream channels, buildings, processing plant, underground openings such as adits or ventilation facilities, ponds, impoundments, dewatering pumps, diversions, tail or waste disposal areas;
- (4) Outline and label existing disturbance within and/or adjacent to the facility (e.g., previously mined areas, roads or excavations resulting from utility construction). Re-disturbance of previously disturbed areas, by the proposed facility, must be included on the map and addressed in the Reclamation Plan.

### Reclamation Plan Map

- (1) Show the gradient of all reclaimed slopes (horizontal:vertical) sufficient to describe the post operational topography;
- (2) Indicate where vegetation will not be established and the general area(s) for shrub or tree planting;
- (3) If ponds are a part of the Reclamation Plan, outline the final shore configuration of the ponds and shallow areas;
- (4) State the average thickness of replaced overburden by reclamation area or phase; and
- (5) State the average thickness of replaced topsoil by reclamation area; and
- (6) State measures to ensure adequate vegetation establishment on seeded areas.

711.1.7. The owner/applicant shall provide the approximate dates the proposed activity will commence and end.

### **711.2. Standards for approval of the Reclamation Plan:**

The Plan must demonstrate that

711.2.1. Post-mining use will be in compliance with the Clear Creek County Zoning Regulations.

711.2.2. Any buildings or structures that are proposed to remain on the affected land after reclamation will not conflict with the post-mining land use.

711.2.3. Habitat management and creation, if part of the Reclamation Plan, encourages the diversity of both game and non-game species, and provides protection, rehabilitation or improvement of wildlife habitat.

711.2.4. All toxic materials will be disposed of in a manner that will protect the public health and environment.

711.2.5. No release of pollutants to groundwater will occur from any materials handled or disposed of within the permit area.

711.2.6. All grading will be done in a manner to control erosion and siltation of the affected lands and will comply with Clear Creek County=s adopted Best Management Practices.

711.2.7. Minimum slopes and slope combinations are compatible with the configuration of surrounding conditions and selected land use.

711.2.8. Measures necessary to assure the stability of replaced topsoil on graded slopes will be implemented.

711.2.9. The revegetation plan provides for the greatest probability of success in plant establishment and vegetation development by considering environmental factors such as seasonal patterns of precipitation, temperature and wind; soil texture and fertility; slope stability; and direction of slope faces and will comply with Clear Creek County=s adopted Best Management Practices.

711.3. The Financial Guarantee shall be a **surety bond, irrevocable letter of credit, or other security** approved by the County Attorney adequate to ensure site demolition, removal of chemical

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residuals, removal of structures, access improvements and earthwork associated with the facility, and reclamation in accordance with an approved Reclamation Plan.

- 711.4. Upon cessation of the activity at the facility, the owner/applicant shall notify Clear Creek County and shall prepare a Final Report detailing that all the conditions of the Reclamation Plan have been met and may request release of the financial guarantee. The Final Report shall be submitted to the Planning Director who will review the report for completeness and accuracy and prepare a recommendation for the Board of County Commissioners. The Board shall review the Final Report and recommendation at their next regularly scheduled public meeting and make a determination regarding the release of the financial guarantee.
- 711.5. No later than June 1 of each year the applicant/operator shall submit an **Annual Report** as described below to the Planning Director and may include a request and justification for a decrease in the amount of the Financial Guarantee. Upon review of the Annual Report the Planning Director may recommend an adjustment (increase or decrease) in the amount of the Financial Guarantee to the Board of County Commissioners. The Board shall review the Report and recommendation at their next regularly scheduled public meeting and may require an adjustment to the amount of the Financial Guarantee.
- The Annual Report shall include at a minimum:
- 711.5.1. Operator and Owner Identification: Name, Address, Telephone, and Emergency contact information.
- 711.5.2. Plant Facilities: Describe any changes in the chemical types and quantities to be utilized, chemical storage and spill containment and emergency response plans for on-site spills. Plant operation details should include tank capacities and operating solution volumes.
- 711.5.3. Drainage Control: Describe any changes in the measures used to divert upland drainage away from the site both during and after operation. This must include design details demonstrating the capacity of ditches and impoundment structures to contain operating solutions and the volume of water generated by a one hundred (100) year 24-hour rainfall event.
- 711.5.4. Plant Operations:
- (1) Describe any changes to process, feedstocks, disposal plan, origin, amount and type of materials processed, and any other facility operations.
  - (2) Provide chemical inventory and MSDS for chemicals (not previously submitted).
  - (3) Summary of spills in quantities exceeding EPA Reportable Quantities.
  - (4) Summary of applicable Toxics Reporting Inventory data.
  - (5) Applicable Emergency Planning and Community Right-to-Know Act information
  - (6) Summary of any reclamation activities completed
  - (7) Revised reclamation cost estimate
- 711.6. The County may require the submittals listed in this Section J to be reviewed by a technical consultant for accuracy and completeness, and for purposes of inspection. The cost of such review and/or inspection shall be borne by the applicant.
- 711.7. Inspection and Enforcement B The County, upon reasonable notice, has the right to enter for purposes of verification and inspection.
- 711.8. Exemptions to this Section 711: Environmental remediation pursuant to a plan approved by the state and/or federal government, such as, but not limited to a Voluntary Clean Up or Administrative Order On Consent, or Administrative Agreement.

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## **SECTION 712. (M-1) MINING ONE DISTRICT**

*Subject to the general provisions set forth in Section 7 - Mining Districts-General Provisions.*

### **712.1. PURPOSE**

This District is established for the purpose of providing for mining, prospecting, exploring, milling, processing, and/or placering of mineral resources.

### **712.2. ADDITIONAL PERMITTED PRINCIPAL USE**

In addition to the Permitted Principal Uses specified in Section 704, a parcel of land zoned Mining One District (M-1) may be used for residential purposes, pursuant to all Mountain Residential One District (MR-1) regulations.

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## **SECTION 713. (M-2) MINING TWO DISTRICT**

*Subject to the general provisions set forth in Section 7 - Mining Districts-General Provisions.*

### **713.1. PURPOSE**

This District is established solely for the purpose of providing for mining, prospecting, exploring, milling, processing, and/or placering of mineral resources. No residential uses shall be permitted, except as provided in Subsection 706.1, which only allows such uses with a Special Use Permit in connection with a bona fide mining activity, as outlined in 704.1.

### **713.2. ADDITIONAL PERMITTED PRINCIPAL USES**

A parcel of land zoned Mining Two District (M-2) may be used to construct a residential driveway pursuant to all Clear Creek County Driveway Standards, in order to access a residence located on an adjoining residentially zoned parcel of land and following the Performance Standards, as outlined in Subsection 703. In order to effectively encourage the transfer and management of former BLM lands, such land zoned Mining Two (M-2) which has been combined with residentially-zoned lands may be used to construct a leach field for an individual sewage disposal system pursuant to the County Environmental Health Regulations for a residence on the residentially zoned portion of the combined lot.