

**Fremont County  
Weed Advisory Board**

January 21, 2026  
**Fremont County Garden Park Bldg.  
Garden Park Conference Room**  
*201 N. 6<sup>th</sup> Street  
Canon City, CO 81212*

The meeting was called to order at 12:00 p.m. by Rick Romano

**Board Members Present (in Person):**

Rick Romano, Chairman	12/31/2027
Ed Norden	12/31/2027
Tony Telck	12/31/2026
Paul Garrett	12/31/2028
Tom Grette	12/31/2026
John Coyle	12/31/2027
Bryan Welding	12/31/2027
Dean Brady	12/31/2028

**Board Members Absent:**

Ralph Kunselman	12/31/2026
Paul Telck	Life
Roy Roper	Life
Vacant	12/31/2026 (Donna's position)

**Others Present (in Person):**

Brittany Pierce, Fremont County Weed Management Director  
Dwayne McFall, Fremont County Commissioner  
Tony Carochi, Fremont County Administrator  
Jesse Young, City of Canon City  
Daniel Morse, Fremont Conservation District  
Greg Langer, NRCS  
Kathy Lutz, Recording Secretary  
Steve Wolfe, City of Florence  
Devin Everhart, Canon City Recreation District District

Motion to approve agenda by Tony Telck and 2<sup>nd</sup> by Ed Norden

**Minutes:**

The minutes from the November 19, 2025 meeting were distributed at this meeting and via email.

Correct the spelling of Ed Norden's last name on 2<sup>nd</sup> page  
Motion to approve minutes by Ed Norden and 2<sup>nd</sup> by Bryan Welding

### **Chairman's Report:**

Introduction of new board member, Dean Brady

Dean is a former owner of Brady Brothers Incorporated  
Retiring from Brady's Garden Center after 32 years  
Comes to us with decades of plant experience

### **Agency Reports:**

- **Commissioner's Comments**  
Dwayne McFall welcomed Dean Brady  
Airport drainage project is about to begin  
Building projects on East Main for Weed Department, Emergency Management, Search and Rescue are underway
  
- **BLM**  
Not present
  
- **CSU Extension/NRCS Small Acreage**  
Not present
  
- **NRCS**  
Greg Langer stated that the EQIP applications deadline was the 15<sup>th</sup>  
  
Snowpack report is around 45 – 46%
  
- **Fremont Conservation District**  
Daniel Morse stated that the conservation district is having Irrigation Workshops – check out their website: <https://www.fremontcd.org/irrigation-workshop-series>  
  
Noxious Weed Fund Grant for 2026 was submitted and should hear back in February  
  
Working on website consolidation for the Conservation District and the Upper Ark Cooperative board

Registration is open for the **Upper Arkansas Cooperative Weed Management Area Informational Conference** on the Fremont Conservation district website  
<https://www.fremontcd.org/uacwma-2026-individual-registration>

The Upper Arkansas Cooperative Weed Management Area Resolution was handed out. A scanned version of the handouts are included at the end of these minutes

- **City of Cañon City**

Jessie Young stated that they are spraying  
Back pack sprayers and ATV spraying

discussed ordering preemergence for 2026 and getting ready to start spraying in February

- **City of Florence**

Steve Wolfe stated that he talked with Sam in the Florence Public Works department  
They have the city property under the bridge on Highway 67 under control

- **Canon City Metropolitan Area Rec District**

Devin Everhart states that they are caught up on a lot of stuff from years past

Fire department wants to do some controlled burns

### **Weed Director's Report:**

Since the annual update was provided in November and the intervening period included the holiday break, activity over the past couple of months has focused primarily on required reporting, grant closeout, and coordination for upcoming activities.

Key updates include:

- Completion and submission of the PDMP annual report related to pesticide and water requirements for the State of Colorado.
- Participation in the UACWMA meeting, including discussion and planning for the upcoming conference scheduled for February 10 at the Pueblo Convention Center.
- Completion and submission of annual reports for the BLM and other associated entities.
- Finalization and closeout of the NWF annual grant administered through UACWMA, covering 2025 closeout documentation as we move into the 2026 cycle.

- Procurement and distribution of PlayCleanGo signage using grant funds. These signs are intended for placement at trailheads throughout the region to promote responsible recreation and awareness of maintaining healthy outdoor spaces.
  - Several signs have already been distributed.
  - A limited number remain available, and they were brought to today's meeting for anyone interested in placing one at their trailhead.

Overall, this period has been focused on closing out required reporting, maintaining compliance, and preparing for early 2026 coordination and outreach, with more substantive initiatives expected as we move further into the year.

### **Weed Board Member and Guest Roundtable:**

Dean Brady inquired about unincorporated Fremont County lands and keeping an eye out for weeds

Daniel Morse mentioned that the new position with the Conservation District will be able to do some mapping too

Ed Norden inquired about Brittany's collections from private property owners and Brittany stated they are on track for 2025

Ed also inquired about the state legislation being modified so that you don't have to own 40 acres or more to serve on a board

Also – why are nursery retail stores allowed to sell invasive species to the public?

**Commissioner McFall stated that he would follow up on these issues**

### **Colorado Revised Statutes Title 35. Agriculture § 35-5.5-107. Local advisory board--formation--duties**

(1) The governing body of each county and municipality shall appoint a local advisory board. The local governing body, at its sole option, may appoint itself, or a commission of landowners, to act as the local advisory board for that jurisdiction. The members of each local advisory board shall be residents of the unincorporated portion of the county or residents of the municipality, as the case may be, and in the case of a county, **at least a majority of the members of the local advisory board shall be landowners of over forty acres.**

Tony Carochi stated that the county has hired a new Pathfinder Events coordinator and a new DOT supervisor

Bryan Welding stated that he is interested in the differences between El Paso and Fremont County for noxious weeds and interested in weed walks

**Old Business:**

Priorities and Procedures Manual updates:

Brittany provided a copy via email and hard copies at today's meeting

John Coyle says add in the fire mitigation information

Tony Telck motioned to approved changes as presented by Brittany

Dean Brady 2<sup>nd</sup> the motion

Brittany is compiling all the modifications

**New Business:**

Brittany suggested a write up about Paul Telck to commemorate his service on the Weed Advisory Board

Rick thinks that Brittany, Ed & himself can word smith something

Kathy – look for Carie Canterbury's article about Paul Telck from a few years ago (see below)

**Adjournment / Next Meeting:**

The meeting was adjourned at 12:57 p.m.

The next meeting is set for Wednesday, March 18, 2026, at 12:00 p.m. in the Garden Park Conference Room.

Research for Paul Telck

**“4-H For Life”** newspaper article

By [Carie Canterbury](#) | Canon City Daily Record and [The Daily Record](#)

PUBLISHED: July 29, 2011 at 6:22 PM MDT | UPDATED: April 15, 2019 at 11:44 AM MDT

Paul Telck actively has been involved in Fremont County 4-H for 57 years, and now his dedication and service has landed him a spot in the Colorado Association of Fairs and Shows Hall of Fame. Its something I never expected, Telck said. I never believed I'd be in anybody's hall of fame.

Telck has been a member of the CAFS for 23 years and has served in all capacities as a member and on the board of directors as program director, showcase manager, on the trade show and facilities committees, and served as president from 1998 to 2000.

In 2002, he was the Fair Person of the Year for CAFS, and continues to serve the non-profit organization.

I couldn't get away from it really, he said with a laugh. And I don't know if I want to; as long as they want to keep me around and keep me busy (I will remain involved).

A room in his home displays his entomology collection, and an entire wall boasts other awards he has received from the local county fair board.

Telck continues to serve as showcase manager and assists with facility contracts and with meetings and functions of CAFS. His wife, Lois, serves as the executive secretary for the organization.

The couple has served as club leaders for the Champs or Bust 4-H since 1972, which was started by his parents in 1952.

Why does he continue to invest so much time and effort into the program? His answer is simple.

I like it, he said. His first 4-H competition as a 10-year-old boy was the dressed poultry show, which he won.

As a child, I had a very good 4-H experience, Telck said. That's what really counts.

Telck said Champs or Bust 4-H is the oldest club in Fremont County.

I came from a family of seven, and that was one way to keep us occupied, he said. Then, we raised eight (children) and we found that was a good way to keep them occupied.

Telck continues to teach entomology and other groups for the club.

The couple's son is gradually taking over the reins of the club, which has done a wide range of general projects including soil conservation, electricity, entomology, clothing and foods.

Now his forte is all the shooting sports, Telck said. So, it's going to be more of a shooting sports club because that's where it's at with him.

Two of the couple's grandchildren are involved in the club, as well.

Telck served as president of the Fremont County Fair Board from 1984 – 1995, and was instrumental in the formation of Fremont Fairs and Shows Association. He was president of the Fairs and Shows and chairman of the Livestock Sale committee from 1996 to 2009.

While he feels others are equally worthy of being inducted into the CAFS Hall of Fame, the award still means a great deal.

It means the world, he said. It really does.

*Publish Date: 11/24/2010*



## RESOLUTION NO. 2026-R1

### UPPER ARKANSAS COOPERATIVE WEED MANAGEMENT AREA (UACWMA)

#### A RESOLUTION EXPRESSING SUPPORT FOR THE HUERFANO COUNTY FORMERLY IRRIGATED LAND STABILIZATION AND INVASIVE SPECIES CONTROL ORDINANCE (FILSIC ORDINANCE)

**WHEREAS**, the Upper Arkansas Cooperative Weed Management Area (UACWMA) is a partnership of conservation districts, county weed managers, land management agencies, and stakeholders dedicated to the coordinated prevention, early detection, control, and management of noxious and invasive weeds across the Upper Arkansas watershed, including Huerfano County; and

**WHEREAS**, formerly irrigated agricultural lands that transition to prolonged non-irrigated conditions without timely stabilization are known to become significant sources of soil erosion, wind-blown dust, wildfire risk, and invasive/noxious weed proliferation, which can spread across jurisdictional boundaries and undermine watershed-wide weed management efforts; and

**WHEREAS**, the Huerfano County Formerly Irrigated Land Stabilization and Invasive Species Control Ordinance (FILSIC Ordinance) establishes science-based standards for vegetation stabilization, invasive species control, and monitoring on such lands, utilizing USDA Natural Resources Conservation Service (NRCS) Ecological Site Descriptions, flexible alternatives (including dryland farming); and proven reclamation practices; and

**WHEREAS**, the FILSIC Ordinance complements the goals of the UACWMA by addressing a key vector for invasive weed establishment and spread in the Upper Arkansas watershed, promoting consistent land management practices that support regional coordination and early intervention; and

**WHEREAS**, the Ordinance includes provisions for technical assistance from local experts, hardship exceptions, and phased implementation, ensuring a reasonable and collaborative approach that aligns with the partnership principles of Cooperative Weed Management Areas;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Upper Arkansas Cooperative Weed Management Area that:

1. The UACWMA supports the adoption and implementation of the Huerfano County FILSIC Ordinance as a proactive measure to enhance invasive weed prevention and land stabilization in the Upper Arkansas watershed.
2. The UACWMA commends Huerfano County for developing an ordinance that builds upon established reclamation and weed management practices and encourages coordination with regional partners for shared benefits.
3. Copies of this Resolution shall be transmitted to the Huerfano County Board of County Commissioners, the Colorado Weed Management Association, the Colorado Department of Agriculture Noxious Weed Program, and other relevant stakeholders.

**ADOPTED** this 13<sup>th</sup> day of January, 2026, by the Upper Arkansas Cooperative Weed Management Area Board of Directors.

BY \_\_\_\_\_ DATE \_\_\_\_\_

Brittany Pierce, Chair-Upper Arkansas Cooperative Weed Management Area

**Huerfano County Formerly Irrigated Land Stabilization and Invasive Species Control Ordinance (FILSIC Ordinance)  
Frequently Asked Questions (FAQ) Prepared for Upper Arkansas Cooperative Weed Management Area**

*Note: All references are to sections in the draft ordinance.*

**1. Does the ordinance regulate or affect water rights in any way?**

**No.** The ordinance governs only land surface conditions, vegetation stabilization, and invasive species management. It does not regulate the adjudication, exercise, nonuse, transfer, change, or retirement of water rights.

- Triggers are based solely on observable physical land conditions (Section 3.1).
- Multiple explicit disclaimers protect water law (Sections 1, 3.1, 9).
- Nothing requires irrigation or penalizes lawful land retirement.

**2. How does the ordinance interact with water court revegetation requirements in change decrees?**

The ordinance is **complementary**, not conflicting. Water court terms focus on preventing injury to water rights; this ordinance addresses local public nuisances (erosion, dust, weeds) and ecological health.

- If a decree's revegetation meets ordinance standards, no additional action is needed.
- The ordinance can require supplemental measures only for unresolved local impacts (e.g., ongoing invasive spread or dust affecting county resources).

**3. Will the ordinance apply to active farming, ranching, or grazing operations?**

**No.** It applies only to lands showing **Prolonged Non-Irrigation** with deteriorating conditions (Section 2.2).

- Broad exemptions protect temporary fallowing, rotation, deficit irrigation, drought response, and operations intending to resume irrigation (Section 3.2(a)–(c)).
- **Livestock grazing is expressly permitted** as long as stabilization thresholds are maintained (Section 5.4).
- Dryland farming is an approved alternate method (Section 5.6).

**4. What about lands in federal/state conservation programs (CRP, EQIP, easements)?**

**Generally exempt** with light-touch oversight to ensure ecological integrity (Section 3.2(d)).

- Periodic monitoring reports required (County-set frequency: annual max, triennial min).
- Spot inspections allowed; supplemental measures possible only if thresholds unmet—no full TVSP or bond.
- Designed to support, not burden, NRCS/USFS/conservation district programs.

**5. Are only native species required?**

**No.** Native species are preferred for self-sustaining cover, but **functional equivalents** are approved, including non-native cover crops or dryland farming systems customarily used in semi-arid regions (Sections 4.2(a), 5.3, 5.6).

- Approval based on site-specific performance data showing equivalent soil stability, erosion control, and invasive suppression.

**6. How is applicability determined? Is it arbitrary?**

**No.** The County presumes **non-applicability** and bears the burden of proof (Section 3.3).

- Written notice required with documented evidence (aerial imagery, photos, field reports, NRCS indicators) of deteriorating conditions (Section 3.1).
- Applicability is appealable via neutral arbitration panel (Section 11).

#### **7. What role do NRCS Ecological Site Descriptions (ESDs) play?**

ESDs provide the science-based benchmark for ground cover and site-appropriate vegetation (Sections 5.1(a), 6.1).

- Standards are tailored to local soils/climate—consistent with NRCS/USFS rangeland health protocols.
- Allows flexibility for functional alternatives while ensuring ecological integrity.

#### **8. Who conducts monitoring and reporting?**

**Primarily the Responsible Party**, using qualified professionals (broadly defined) (Sections 4.3, 6.1).

- Strong encouragement to use free technical assistance from **NRCS Walsenburg Field Office, CSU Extension, or County Weed Department** (Sections 4.3(b), 6.1).
- County performs limited seasonal spot checks for verification (up to 4/year) (Section 6.2).

#### **9. What about costs and the bond?**

Bond is 150% of estimated 5-year stabilization/monitoring costs, professionally calculated (Section 7).

- Phased/pro-rated release for completed management units (Sections 7.3.6, 7.3.8).
- Hardship/de minimis exceptions available (Section 7.2).
- Water districts have alternative assurance options (Section 7.1).

#### **10. How does the ordinance support invasive species prevention (EDRR)?**

It targets a major vector (disturbed formerly irrigated lands) through proactive stabilization, invasive thresholds ( $\leq 10\%$  cover, no reproducing List A/B weeds), and multi-year monitoring (Sections 5.1(b)–(c), 6).

- Aligns with UACWMA/CWMA goals for cross-boundary coordination and early intervention.

#### **11. Can decisions be appealed?**

**Yes.** Applicability, TVSP approval, and bond issues may go to a balanced arbitration panel (County appointee, landowner appointee, neutral chair) (Section 11).

- Penalties require BOCC determination with opportunity to cure (Section 8).

#### **12. What happens on property sale?**

Change in ownership is **not a violation**. New owner gets notice and opportunity to assume/amend TVSP; bond pro-rated for prior work (Sections 3.4, 7.3.6).

- Informational notice may be recorded (no lien/title impact) (Section 7.3.7).

#### **13. Is this based on proven standards?**

Yes—adapted from Colorado mining reclamation (Title 34), noxious weed control (Title 35), and water court practices, using NRCS ESDs as the benchmark. These have decades of successful implementation with minimal challenges.

**For more details or discussion, contact the Huerfano County Noxious Weed Department @ 719-989-1353 or [cbryant@huerfano.us](mailto:cbryant@huerfano.us).**

*Photo below: The result of "buy & dry" land practices. (Crowley County)-Courtesy of LAWCD*



**HUERFANO COUNTY FORMERLY IRRIGATED LAND STABILIZATION AND INVASIVE  
SPECIES CONTROL ORDINANCE (FILSIC ORDINANCE)  
ORDINANCE NO. 2026-\_\_\_\_\_**

An ordinance creating Article XX of Chapter 11 in the Huerfano County Code, establishing requirements for vegetation stabilization, native reclamation, and invasive species control on formerly irrigated agricultural lands that have transitioned to prolonged non-irrigated conditions in Huerfano County, Colorado.

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**SECTION 1. Title and Purpose**

Be it ordained by the Board of County Commissioners of Huerfano County that this ordinance shall be known and cited as the Huerfano County Formerly Irrigated Land Stabilization and Invasive Species Control Ordinance (FILSIC Ordinance).

**WHEREAS**, the lands of Huerfano County, enriched by generations of careful irrigation and agricultural stewardship, are subject to transitions from irrigated to non-irrigated conditions; and **WHEREAS**, experience—both local and statewide—has demonstrated that formerly irrigated lands, when left without timely stabilization following prolonged non-irrigation, are prone to soil degradation, wind erosion, dust emissions, wildfire risk, invasive species proliferation, and long-term diminishment of agricultural and ecological productivity; and

**WHEREAS**, scientific inquiry, including studies conducted by the USDA Natural Resources Conservation Service (NRCS), Colorado State University, the United States Geological Survey, and other reputable entities, demonstrates that proactive establishment of native perennial vegetation is essential to prevent erosion, maintain soil vitality, and reduce colonization by aggressive non-native species; and

**WHEREAS**, the soils of Huerfano County are semi-arid, fragile, and particularly susceptible to degradation once historic irrigation inputs are removed; and

**WHEREAS**, the Colorado Division of Reclamation, Mining and Safety has long required, as a matter of settled statewide practice, elimination of noxious weeds prior to seeding and strict post-reclamation vegetation standards, providing a proven regulatory template for disturbed land stabilization; and

**WHEREAS**, the Huerfano County Weed and Land Use Departments possess the expertise, local knowledge, and statutory authority to enforce comparable standards for formerly irrigated agricultural lands in order to protect public resources, agricultural viability, and ecological integrity; and

**WHEREAS**, the Board of County Commissioners has authority under C.R.S. §§ 30-11-101, 30-11-107, 29-20-101 et seq., and Title 35, C.R.S., to regulate land condition, soil stabilization, vegetation management, and noxious weed control as matters of local concern and public nuisance abatement; and

**WHEREAS**, this Ordinance is expressly limited to regulation of land condition, soil stability, vegetation, and invasive species management, and is not intended to interfere with, regulate, condition, delay, or preempt the lawful exercise, nonuse, transfer, or modification of any water right under Colorado law; and

**WHEREAS**, this Ordinance does not apply to active agricultural operations protected under C.R.S. § 35-3.5-101 et seq., and is limited to land conditions following prolonged non-irrigation;

**NOW, THEREFORE, BE IT ORDAINED** by the Board of County Commissioners of Huerfano County, Colorado, that the following provisions are adopted and shall be enforceable as written:

### **Findings Regarding Phased Stabilization and Management Units**

The Board of County Commissioners finds that permitting phased stabilization through independent management units is a reasonable and proportionate regulatory approach that accounts for parcel size, site heterogeneity, and implementation logistics, avoids unnecessary or premature financial burdens, and ensures that soil stability and invasive species control objectives are achieved without exceeding what is necessary to address demonstrable land condition impacts.

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### **SECTION 2. Definitions**

For purposes of this Ordinance, the following terms shall have the meanings set forth below:

1. **Irrigated Agricultural Land** – Land historically irrigated for agricultural production, as evidenced by cropping history, irrigation infrastructure, aerial imagery, soil characteristics, or other reliable indicators, and that has experienced irrigation cessation sufficient to result in land surface conditions consistent with Prolonged Non-Irrigation as defined herein.
2. **Prolonged Non-Irrigation** – The continuous absence of irrigation water application to historically irrigated agricultural land resulting in land surface conditions consistent with long-term irrigation cessation, including loss of vegetative cover, soil instability, or invasive species colonization, as documented by the County through aerial imagery, field inspection, landowner notification, or other reliable evidence. Prolonged Non-Irrigation shall be determined based on observable land conditions and practical effect, rather than solely on elapsed time or the legal status of any water right.
3. **Native Species** – Plant species historically indigenous to the ecological regions of Huerfano County, as identified by USDA NRCS Ecological Site Descriptions, adapted to local soils and climate, and capable of long-term self-perpetuation under non-irrigated conditions.
4. **Desirable Species** – Means native species or functionally equivalent species approved by the County that achieve soil stabilization, erosion control, and invasive species suppression consistent with Section 5. Native species are the preferred option, but approved alternatives may include non-native cover crops or other vegetation meeting functional equivalence criteria.
5. **Invasive Exotic and Noxious Plant Species** – Non-native plant species exhibiting aggressive spread, ecological displacement, or demonstrable adverse impacts to soil stability, native vegetation, or agricultural productivity, whether or not listed by the State of Colorado, as determined by reference to:
  - (a) Colorado noxious weed lists;
  - (b) USDA Natural Resources Conservation Service guidance;
  - (c) peer-reviewed scientific literature; or
  - (d) invasive species determinations published by state or federal land management agencies.County determinations under this definition shall be supported by documented scientific or technical sources and included in the administrative record.
6. **Ground Cover** – Live desirable vegetation (per approved TVSP), litter, duff, or mulch consistent with applicable USDA NRCS Ecological Site Descriptions. Invasive or noxious species shall not be counted as ground cover.

7. **Responsible Party** – The landowner or legal surface manager responsible for stabilization, monitoring, and remediation obligations under this Ordinance.
8. **Growing Season** – A period sufficient to evaluate vegetation establishment outcomes, accounting for dormant seeding, precipitation patterns, and site-specific NRCS guidance, rather than calendar dates alone.
9. **Successful Establishment** – Achievement and maintenance of vegetation and invasive species thresholds established by this Ordinance for the period specified in Section 5.1(d).
10. **Ecological Site Description (ESD)** – A USDA NRCS classification describing soil, climate, vegetation, and hydrology characteristics used to guide stabilization and reclamation practices.
11. **Management Unit** – A County-approved management area within a parcel, established for administrative phasing of stabilization, monitoring, and bond release based on surface conditions and implementation practicality.
12. **Hardship or De Minimis Exception** – A County-approved adjustment to Ordinance requirements under Section 7.2, applicable to site-specific conditions, that may reduce or modify bond or performance obligations without exempting land from Ordinance applicability.
13. **Qualified Monitoring Professional** – An individual with education, training, or experience sufficient to competently conduct vegetation, soil stability, and invasive species monitoring in accordance with USDA NRCS guidance, applicable Ecological Site Descriptions, and County-approved monitoring protocols.

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## SECTION 3. Applicability

### 3.1 General Applicability

This Ordinance applies to parcels of Irrigated Agricultural Land that have experienced Prolonged Non-Irrigation as defined herein and that exhibit land surface conditions requiring stabilization or invasive species control. Nothing in this Ordinance shall be construed to regulate, condition, delay, impair, or restrict the adjudication, exercise, nonuse, transfer, or change of any water right under Colorado law. Applicability under this Ordinance shall be triggered solely by observable land conditions meeting the definition of Prolonged Non-Irrigation. Nothing in this Ordinance requires agricultural production, crop planting, or irrigation, nor does it penalize lawful land retirement. Any County determination that land surface conditions meet the definition of Prolonged Non-Irrigation shall be supported by one or more documented indicators, which may include aerial imagery, photographic evidence, field inspection reports, NRCS soil or vegetation indicators, documented invasive species presence, or other reliable, objective evidence of land surface instability. Applicability determinations shall be based on observed physical conditions and shall be documented in the County's administrative record.

### 3.2 Exemptions

This Ordinance does not apply to:

- a. Temporary, seasonal, rotational, or split-season fallowing, crop rotation, deficit irrigation, alternate-year irrigation, or other short-duration agricultural practices conducted in good faith as part of customary agricultural management;
- b. Reductions or interruptions in irrigation caused by drought response measures, voluntary conservation, short-term leasing, infrastructure maintenance, delivery constraints, or emergency

conditions, where land surface conditions remain stable;

c. Operations retaining both the legal right and demonstrated intent to resume full agricultural irrigation;

d. Participation in federal or state conservation programs including multi-year or permanent conservation easements and land retirement programs, temporary or interruptible water transfers approved by a Colorado water court, or emergency cessation of irrigation due to natural disaster or infrastructure failure, provided that:

i. Vegetation, soil stabilization, and invasive species management obligations are being met in accordance with program standards or as otherwise approved by the County;

ii. The Responsible Party or program administrator provides periodic monitoring reports, at a frequency determined by the County, not to exceed once per year and not less than once every three (3) years, documenting vegetative cover, soil stability, and invasive species conditions;

iii. The County may conduct spot inspections to verify reported conditions, consistent with the reporting frequency. Failure to meet minimum ecological thresholds may trigger temporary implementation measures or require supplemental vegetation management, without affecting the underlying program participation or exempt status;

iv. Reporting and corrective action under this subsection are intended to ensure ecological integrity and do not create full TVSP or bond obligations.

Exemptions under this Section do not relieve any local water conservancy district or entity organized under Title 37, C.R.S., from the requirement to provide financial assurance in accordance with Section 7, except where alternative financial assurance has been approved. Non-Title 37 entities remain subject to the full bond requirement.

### **3.3 Presumption of Non-Applicability**

The County shall presume non-applicability until written notice is issued identifying observable land surface conditions consistent with Prolonged Non-Irrigation. The County bears the burden of demonstrating applicability under this Ordinance.

### **3.4 Change in Ownership.**

A change in ownership of land subject to this Ordinance shall not, by itself, constitute a violation or trigger enforcement action. Upon a documented change in ownership, the County shall provide written notice to the new owner and a reasonable opportunity to submit, amend, or assume a Transitional Vegetation Stabilization Plan and associated financial assurance based on current site conditions, without imputation of prior owner noncompliance. Bond obligations remain attached to the parcel, even if a phased bond release occurs.

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## **SECTION 4. Transitional Vegetation Stabilization Plan (TVSP)**

### **4.1 TVSP Submission and Implementation**

Within sixty (60) days after written County notice of applicability, the Responsible Party shall submit a Transitional Vegetation Stabilization Plan (TVSP). Initial stabilization measures shall be implemented at the earliest ecologically appropriate establishment window consistent with USDA NRCS guidance, site-specific conditions, and the approved TVSP.

#### **4.2 TVSP Content Requirements**

The TVSP shall include:

- a. Proposed stabilization approach, including native seed mix appropriate to applicable NRCS Ecological Site Descriptions and capable of self-establishment under non-irrigated conditions, or an approved dryland farming/non-irrigated cropping system (see Section 5.6). Native species are preferred; approved alternatives must demonstrate functional equivalence in soil stabilization, erosion control, and invasive species suppression.
- b. Stabilization and implementation timeline.
- c. Erosion control and dust mitigation measures.
- d. Invasive and noxious species management plan.
- e. Monitoring and Reporting Plan covering at least five (5) years, including:
  1. Frequency and methodology of monitoring (e.g., line-point transects, quadrats, photo monitoring, or other scientifically accepted methods);
  2. Metrics for soil stability, vegetative cover, and invasive species thresholds consistent with Section 5 and NRCS guidance;
  3. Personnel qualifications and report certification (see Section 4.3);
  4. Reporting schedule to the County, including submission format and deadlines.

#### **4.3 Personnel Qualifications and Report Certification**

- a. All monitoring and reporting under the TVSP shall be performed or supervised by qualified personnel, including individuals with professional experience, training, or credentials in one or more of the following disciplines: soil science, agronomy, ecological restoration, land reclamation, or vegetation management.
- b. Responsible Parties may utilize technical assistance from the USDA NRCS Walsenburg Field Office, the Huerfano County CSU Extension Agent, or advisory guidance from the Huerfano County Noxious Weed Department. Such guidance is advisory only; the Responsible Party remains responsible for conducting monitoring, preparing reports, and ensuring compliance with the TVSP and this Ordinance.
- c. Each monitoring report must include a signed certification by the preparer stating that:
  1. Observations and measurements are accurate and complete;
  2. Monitoring methods conform to County-approved protocols or scientifically accepted methods; and
  3. Conclusions regarding vegetation establishment, soil stability, and invasive species are supported by the data.
- d. The County may require clarification or supplemental information if reports are incomplete or prepared by personnel not meeting the competency standard.

#### **4.4 TVSP Approval**

The County shall approve, condition, or deny the TVSP within sixty (60) days. Good faith implementation of a submitted TVSP satisfies compliance obligations pending final County action. Phased stabilization may utilize independent management units. Extensions may be granted for technical evaluation or site-specific review. Hardship or de minimis exceptions may adjust timelines or requirements as provided under Section 7.2. In reviewing a Transitional Vegetation Stabilization Plan, the County shall evaluate whether the proposed measures are technically capable of achieving the performance standards set forth in Section 5, are consistent with applicable USDA NRCS Ecological Site Descriptions, adequately address erosion and invasive species risks, and include reasonable monitoring and reporting provisions. Approval, conditioning, or denial shall be based on these criteria and documented in writing.

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## **SECTION 5. Establishment Standards**

### **5.1 Soil and Vegetation Stability**

The Responsible Party may discontinue irrigation at any time. The County shall not require, request, or incentivize the application of irrigation water subject to a decreed water right. The Responsible Party shall achieve and maintain the following land surface standards:

- a. Ground cover consistent with ESD reference conditions sufficient to ensure soil stability;
- b. No reproducing populations of Colorado List A or List B noxious weeds;
- c. Invasive species cover not exceeding levels typical of surrounding undisturbed lands within the same ESD and in no case exceeding ten percent (10%);
- d. Successful Establishment for three (3) consecutive growing seasons, or up to five (5) consecutive growing seasons in areas with average annual precipitation of twenty-six (26) inches or less where the County, consistent with C.R.S. § 34-33-120(4)(t) and NRCS guidance, determines extended demonstration is necessary due to site-specific conditions. Such determination shall be documented in the approved TVSP and supported by the record. Any extended period shall adjust the monitoring and bond release timelines accordingly. Any extended period for demonstrating Successful Establishment shall correspondingly extend the monitoring and bond release schedule under Section 7, including phased bond considerations in Section 7.3.8, ensuring that bond obligations remain aligned with demonstrated site stabilization.
- e. Where the County determines that an extended demonstration period is necessary under Section 5.1(d), such determination shall be documented in writing in the approved TVSP approval letter or an accompanying County determination letter. The documentation shall specify the length of the extension, the rationale based on site-specific conditions, and any corresponding adjustments to monitoring and bond release schedules.

### **5.2 Good Faith Safe Harbor**

Failure to meet performance standards due solely to climatic variability or factors beyond the Responsible Party's control shall not constitute a violation where good faith implementation of an approved or reviewed TVSP is demonstrated and corrective measures are promptly undertaken.

### **5.3 Alternate Stabilization Methods**

Alternate stabilization methods, including non-native cover crops, dryland farming (see Section 5.6) or other approved vegetative measures, may be used provided they achieve functional equivalence with native species in soil stabilization, erosion control, and invasive species suppression. Native species are the preferred method unless the County approves an alternative based on site-specific technical evaluation. Determinations of functional equivalence shall be based on documented performance metrics, including ground cover measurements, soil stability indicators, erosion resistance, and invasive species suppression outcomes, evaluated relative to comparable Ecological Site Descriptions.

### **5.4 Grazing Compatibility**

Livestock grazing is permitted provided stabilization thresholds are maintained.

### **5.5 Voluntary Early Compliance**

Nothing in this Ordinance prohibits or discourages voluntary stabilization, reclamation, or invasive species control undertaken prior to County notice. Landowners who voluntarily implement stabilization measures consistent with NRCS guidance may request written confirmation of compliance, including native or approved alternative species under Section 5.3.

### **5.6 Dryland Farming as Alternate Stabilization Method**

Dryland farming or other non-irrigated agricultural systems may be approved as an alternate stabilization method, provided they are customarily used in arid or semi-arid regions and achieve the performance standards set forth in this Ordinance. Nothing in this Section shall be construed to prescribe, require, or discourage any specific agricultural practice. Approval of dryland farming or other non-irrigated agricultural systems as an alternate stabilization method shall be based on documented site-specific performance data or monitoring results demonstrating that the proposed system achieves the stabilization, erosion control, and invasive species suppression standards of this Ordinance at levels functionally equivalent to native perennial vegetation within the applicable Ecological Site Description.

Such systems shall be approved only where they:

- a. Achieve and maintain ground cover consistent with ESD reference conditions sufficient to ensure soil stability and erosion control;
- b. Prevent reproducing populations of Colorado List A or List B noxious weeds;
- c. Maintain invasive species cover not exceeding the thresholds in Section 5.1(c); and
- d. Demonstrate functional equivalence to native perennial vegetation in long-term soil protection and invasive species suppression, as verified through monitoring under the approved TVSP.

Dryland farming or non-irrigated agricultural system proposals shall be evaluated on a site-specific basis using NRCS guidance, soil data, and documented performance in comparable ecological sites. Once approved, ongoing compliance with performance standards under this Ordinance shall satisfy stabilization obligations, and no additional native seeding shall be required so long as thresholds are met.

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## **SECTION 6. Post-Establishment Standards and Ongoing Monitoring**

Desirable species ground cover (consistent with approved TVSP methods) shall not fall more than ten percent (10%) below median ESD reference values. Invasive species thresholds shall be maintained. Corrective action shall occur within twenty-one (21) days or as conditions allow. Temporary modifications may be approved for uncontrollable events at the discretion of the County and shall be documented in writing. Temporary modifications or approved hardship/de minimis exceptions do not suspend monitoring obligations.

## **6.1 Responsible Party Monitoring and Reporting (Primary Monitoring Mechanism)**

Consistent with reclamation monitoring practices under Title 34, C.R.S., the Responsible Party shall be responsible for conducting periodic monitoring of stabilization and reclamation areas and submitting written monitoring reports to the County.

Monitoring shall be conducted in accordance with the five-year monitoring and reporting plan approved as part of the TVSP and shall include, at a minimum:

- a. Assessment of ground cover relative to applicable ESD reference conditions;
- b. Identification and quantification of invasive or noxious species presence;
- c. Evaluation of soil stability, erosion, and dust potential;
- d. Documentation of grazing use and evidence of over-utilization, where applicable; and
- e. Photographic documentation and field data sufficient to demonstrate compliance or identify emerging issues.

Monitoring reports shall be prepared and certified by the Responsible Party or by a qualified third party, including but not limited to restoration professionals, soil scientists, rangeland specialists, agronomists, or other individuals with demonstrated technical competency in vegetation monitoring and land reclamation.

Responsible Parties may obtain technical assistance for monitoring or plan implementation from the USDA Natural Resources Conservation Service (NRCS), including the Walsenburg Field Office, the Huerfano County CSU Extension Office, or other qualified technical advisors. Use of such assistance does not transfer compliance responsibility from the Responsible Party. Monitoring outcomes under this Section shall directly inform eligibility for partial or phased bond release as described in Section 7.3.8.

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## **6.2 County Spot Monitoring and Compliance Verification**

The County shall conduct periodic spot monitoring inspections for the purpose of verifying reported conditions, identifying emerging compliance concerns, and providing early technical feedback.

County spot monitoring may occur up to four (4) times annually, as determined by the County based on site conditions, risk factors, prior compliance history, or observed land condition trends. Such inspections may be seasonally timed to include, where practicable:

- a. Springtime review (establishment success and early invasive emergence);
- b. Mid-summer review (drought stress, grazing utilization, and invasive expansion);
- c. Fall review (seed set risk, residual ground cover, and erosion exposure); and
- d. Winter or dormant-season review (bare soil exposure, wind erosion risk, and dormant grazing impacts).

County spot monitoring inspections are compliance verification tools and do not, by themselves, constitute enforcement actions or determinations of violation.

County staff responsible for administering this Ordinance may provide technical guidance or identify observed conditions during spot monitoring but shall not unilaterally assess penalties or impose enforcement sanctions based solely on inspection findings.

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### **6.3 Monitoring Methods and Standards**

Monitoring and compliance evaluations shall follow NRCS or County-approved protocols, including field observation, line-point transect, quadrat sampling, utilization measurements, photo-point monitoring, or other scientifically accepted methods.

Monitoring data shall be evaluated based on trends over time and seasonal context, rather than isolated observations, consistent with semi-arid land management principles.

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### **6.4 Noncompliance Identification and Corrective Action**

Where County spot monitoring identifies potential noncompliance or emerging risks, the County shall provide written notice describing the observed condition and allowing the Responsible Party a reasonable opportunity to implement corrective measures consistent with the approved TVSP.

Good faith corrective action undertaken promptly, and in no case later than sixty (60) calendar days from written notice of potential noncompliance (unless extended by the County for documented uncontrollable conditions), shall be considered in determining whether further enforcement is warranted. Decisions regarding partial or phased release of financial assurance for compliance achieved within individual management units shall be made by the Board of County Commissioners in accordance with Section 7.3.8. Phased bond determinations under Section 7.3.8 shall take into account the timing, scope, and effectiveness of corrective actions undertaken by the Responsible Party.

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## **SECTION 7. Bond and Financial Responsibility**

The Responsible Party shall post a bond equal to one hundred fifty percent (150%) of estimated stabilization, invasive species control, and five-year monitoring costs. Failure to post or maintain a bond does not affect the lawful use, nonuse, or transfer of any water right. The County may adopt administrative procedures for bond calculation, posting, draw, and release.

### **7.1 Alternative Financial Assurance for Water Districts**

Notwithstanding the bond requirement under Section 7, a local water conservancy district or water conservancy entity organized pursuant to Title 37, C.R.S., may satisfy the financial obligations of this Ordinance through an alternative financial assurance mechanism, subject to County approval. The County retains discretion to determine the sufficiency of any alternative financial assurance. Alternative assurance applies only to qualifying districts or entities and shall not extend to individual landowners or other entities. Acceptable alternatives may include, but are not limited to:

- a. A formal resolution of financial commitment adopted by the governing board of the district, affirming responsibility for all stabilization, reclamation, invasive species control, and monitoring obligations imposed by this Ordinance;
- b. Demonstration of existing taxing, rate-setting, or other lawful revenue authority sufficient to

fund estimated stabilization and monitoring costs;

- c. An intergovernmental agreement between the district and the County providing for performance or reimbursement of required corrective actions in the event of noncompliance; or
- d. Other equivalent financial assurance demonstrating the district's legal and fiscal capacity to meet Ordinance obligations.

## **7.2 Hardship and De Minimis Exceptions**

The County may grant hardship or de minimis exceptions to reduce or adjust bond, stabilization, or monitoring obligations on a site-specific basis. Exceptions shall not exempt a parcel from the applicability of this Ordinance and shall be documented in writing. Such exceptions may modify timelines, performance thresholds, or financial obligations as deemed reasonable by the County.

## **7.3 Bond Calculation Methodology**

### **7.3.1 Purpose**

The bond required under Section 7 ensures that adequate financial resources are available to implement, maintain, and monitor Transitional Vegetation Stabilization Plans (TVSPs), control invasive and noxious species, and perform corrective actions on parcels subject to this Ordinance.

### **7.3.2 Cost Estimation by Responsible Party**

The Responsible Party shall submit a detailed cost estimate for stabilization, invasive species control, and five-year monitoring obligations. Estimates must be prepared by a qualified restoration, soil, or ecological consultant and include:

- a. Acreage and slope of the parcel;
- b. Soil characteristics, including erosion susceptibility and compaction;
- c. Vegetation type and seeding requirements consistent with USDA NRCS Ecological Site Descriptions;
- d. Required erosion control measures, including mechanical, vegetative, or other stabilization structures;
- e. Invasive or noxious species treatment measures, including labor, materials, and follow-up management; and
- f. Monitoring and reporting costs, including County or approved third-party evaluations over five years.

### **7.3.3 Risk Multiplier**

The total estimated cost shall be multiplied by a factor of 1.5 (150%) to account for variability, unforeseen site conditions, and potential increases in implementation costs.

### **7.3.4 County Review**

The County shall review the submitted cost estimate to determine reasonableness, considering:

- a. Site-specific conditions and complexity;
- b. Technical appropriateness of proposed methods; and
- c. Consistency with applicable USDA NRCS guidance and County technical standards.

The County may approve, condition, or require revisions to the estimate but shall not unreasonably reject a professionally prepared submission.

### **7.3.5 Adjustments and Exceptions**

- a. Hardship or de minimis exceptions approved under Section 7.2 may modify the bond amount on a site-specific basis.
- b. The County may adjust the bond amount where monitoring data, documented changes in site conditions, revised stabilization methods, or other materially documented factors demonstrate that the original cost estimate no longer accurately reflects the anticipated cost of compliance.
- c. Any adjustments shall be documented in writing and provided to the Responsible Party.

### **7.3.6 Release of Bond**

The bond shall be released, in whole or in part, upon satisfactory completion of stabilization, invasive species control, and monitoring obligations as verified by the County in accordance with Section 6 and County-approved monitoring protocols. Upon change of ownership, the County shall document baseline land conditions and may release a pro-rated portion of the bond reflecting work satisfactorily completed prior to transfer, with the remaining bond securing obligations under the approved or revised TVSP for the new owner.

### **7.3.7 Notice of Vegetation Stabilization Obligation**

Upon approval of a Transitional Vegetation Stabilization Plan (TVSP) that requires financial assurance or ongoing compliance under this Ordinance, the County may record a Notice of Vegetation Stabilization Obligation with the Huerfano County Clerk and Recorder for informational purposes only.

Such notice shall not constitute a lien, covenant, easement, or encumbrance upon the property, shall not impair marketability of title, and shall not establish priority over any deed of trust or other recorded interest.

The notice shall serve solely to provide constructive notice to prospective purchasers and lenders of the existence of ongoing stabilization requirements. Upon the County's written determination that the site has achieved compliance and bond release eligibility, the County shall record a release of such notice.

### **7.3.8 Phased Bond Reduction – Board of County Commissioners Determination**

Upon written request by the Responsible Party, partial or phased release of financial assurance may be considered where one or more approved management units or stabilization phases have demonstrated compliance with the approved Transitional Vegetation Stabilization Plan (TVSP) and applicable performance standards under this Ordinance.

- a. County staff shall review submitted monitoring reports, site conditions, and compliance history and shall prepare a written technical recommendation addressing:
  1. Compliance status of the applicable management unit(s);
  2. Remaining stabilization, invasive species, or monitoring risks;
  3. Any corrective actions completed or still required; and
  4. The portion of the bond reasonably attributable to completed versus remaining obligations.
- b. The Board of County Commissioners shall determine, in its sole discretion, whether to approve, condition, or deny any request for phased bond reduction, based on the staff recommendation, the administrative record, and the public interest.

c. The Board may:

1. Approve partial bond reduction for completed management units;
2. Retain financial assurance for remaining management units or unresolved risks;
3. Condition any bond reduction upon continued monitoring or corrective actions; or
4. Deny phased bond reduction where uncertainty, noncompliance, or risk remains.

d. Achievement of minimum performance standards shall not create an automatic entitlement to bond reduction or release. All phased bond reductions are discretionary and subject to Board approval. The Board shall apply consistent technical standards and documentation requirements to all requests for phased bond reduction to ensure equitable treatment across parcels.

## **SECTION 8. Enforcement and Penalties**

### **8.1 General Enforcement**

Violations of this Ordinance that result in unmanaged erosion, invasive or noxious species propagation, increased wildfire risk, or dust emissions affecting adjacent lands or public resources constitute a public nuisance. The County may perform corrective action and recover costs from the bond or approved alternative financial assurance. Inspections are authorized with notice, except where imminent risk exists.

Monitoring reports submitted by the Responsible Party and findings from County spot monitoring under Section 6 shall serve as the evidentiary basis for any enforcement recommendation but shall not, by themselves, constitute a final determination of violation or penalty.

### **8.2 Civil Penalties (BOCC Determination)**

Consistent with county nuisance abatement practices and the Colorado Noxious Weed Act, any assessment of civil penalties under this Ordinance shall be determined by the Board of County Commissioners following review of staff findings and any information submitted by the Responsible Party.

- a. The County may impose civil penalties of \$500 to \$5,000 per day for each day a violation continues after notice of noncompliance. The Board of County Commissioners shall consider the severity, scope, duration, and recurrence of the violation, as well as corrective actions undertaken in good faith, when determining the specific penalty amount within this range.
- b. Each day a violation continues constitutes a separate offense;
- c. Penalties are in addition to corrective action costs and may be assessed cumulatively with costs recovered from bonds or financial assurance.

County staff shall not have authority to unilaterally assess civil penalties. Staff recommendations for enforcement or penalty assessment shall be advisory and subject to BOCC review and determination.

### **8.3 Opportunity to Cure**

Before assessing penalties, the County shall provide written notice of violation and a reasonable opportunity to correct the condition, except where immediate action is necessary to prevent imminent harm to public resources, health, or safety.

### **8.4 Appeals**

Enforcement actions other than civil penalties or fines assessed under Section 8.2 may be appealed in accordance with Section 11 (Arbitration Panel for Disputes). Civil penalties or fines assessed under Section 8.2 shall not be subject to arbitration and shall remain final, at the sole discretion of the Board of County Commissioners. Enforcement actions not involving fines may be stayed pending arbitration, unless imminent public harm exists.

## **SECTION 9. No Preemption of Water Rights**

Nothing in this Ordinance shall be construed to regulate water rights. This Ordinance governs only land surface stabilization and vegetation management.

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## **SECTION 10. Severability**

If any provision of this Ordinance is held invalid, such invalidity shall not affect remaining provisions.

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## **SECTION 11. Arbitration Panel for Disputes**

### **11.1 Right to Request Arbitration**

Any Responsible Party may request arbitration of a dispute with the County concerning:

- a. Applicability determinations under Section 3;
- b. TVSP approval, conditioning, or denial under Section 4;
- c. Bond calculation, review, or adjustment under Section 7.

Arbitration shall not apply to the assessment, amount, or imposition of civil penalties or fines under Section 8.2, which shall remain final and within the sole discretion of the Board of County Commissioners.

Requests for arbitration must be submitted in writing to the County within thirty (30) days of the disputed determination or action.

### **11.2 Panel Composition**

Upon receipt of a timely request for arbitration, the County shall convene a three-member arbitration panel within 30 days. Panel members shall be selected as follows:

- a. One member appointed by the County;
- b. One member appointed by the Responsible Party; and
- c. One member jointly agreed upon by the two appointed members, who shall serve as the chair.

Panel members should possess relevant expertise in weed management, soil science, agriculture, or ecological restoration, as applicable to the dispute. The jointly agreed chair shall be neutral and preferably have experience in mediation or technical arbitration. Panel members shall disclose any actual or potential conflicts of interest prior to appointment.

If the parties cannot agree on the third member within 10 days, the Board of County Commissioners shall appoint the chair within five (5) additional days.

### **11.3 Arbitration Procedures**

- a. The panel shall schedule a hearing within 45 days of its formation.
- b. Hearings shall allow both parties to present evidence, witnesses, and arguments.
- c. Panel decisions shall be based on the record, applicable technical standards (including USDA NRCS guidance), and the Ordinance's criteria.
- d. Arbitration shall not review, modify, or overturn any civil penalties or fines assessed by the BOCC under Section 8.2.

### **11.4 Decision and Implementation**

- a. The panel shall issue a written decision within 15 days of the hearing, including findings supporting the outcome.
- b. The panel may affirm, modify, or reverse the County determination, including TVSP approval or bond adjustments.
- c. Panel decisions shall be final and binding on the County and the Responsible Party with respect to matters subject to arbitration, but shall not affect civil penalties or fines under Section 8.2.
- d. Enforcement actions related to the disputed matter shall be stayed pending the panel's decision, unless imminent public harm exists.

### **11.5 Costs**

Each party shall bear its own costs of arbitration, and the panel may allocate administrative costs or hearing expenses as deemed equitable.

## **SECTION 12. Effective Date**

This Ordinance shall take effect thirty (30) days after adoption on second reading.