



**CHAFFEE COUNTY  
POLICIES AND PROCEDURES  
RIGHT TO RANCH CONFLICT RESOLUTION PROCEDURES**

<b>TITLE:</b> Right to Ranch Conflict Resolution Procedures	<b>Approval Date:</b> May 2, 2017
<b>PURPOSE:</b> To create an agricultural land use conflict resolution program.	<b>Revision Date:</b> n/a

The following procedures are adopted pursuant to Section 3.1.6 of the Chaffee County Land Use Code (“LUC”) adopting a “Right to Farm and Ranch” policy and related land use standards and penalties and creating an agricultural land use conflict resolution program.

1. **Applicability/Scope**. These procedures shall apply to the resolution of disputes between or among landowners, operators, and/or residents regarding agricultural uses, practices operations or activities occurring on land in Chaffee County. To qualify for mediation under Article 3 of the LUC, such uses, practices, operations or activities, by at least one party to the proposed mediation, must: (a) in the sole discretion of the Chaffee County Assessor, cause the subject property to be eligible for taxation as agricultural property, whether or not it is so taxed at the time of the mediation, or (b) be included in a Federal Internal Revenue Service Form 1040 Schedule F filed for the prior tax year or plan to be filed for the current tax year, or (c) relate to the operation and maintenance of an adjudicated water right and/or irrigation ditch.
  
2. **Initiation of Mediation Process**. Mediation under Article 3 of the LUC is intended to be a voluntary process. Mediation will take place only if all parties who are necessary to resolve a dispute agree to take part in the process. A person or entity wishing to initiate mediation pursuant to these procedures and Article 3 of the LUC shall submit, by First Class U.S. Mail or hand delivery, a written demand for mediation to the County Administrator. The person or entity wishing to initiate mediation shall also submit proof that a copy of the written demand was sent by First Class U.S. Mail return receipt requested or hand delivery, to each person or entity identified as having an interest in the dispute (see item b. below). The written demand must include the following information:
  - a. The identity, including the mailing address, telephone number and email address (if known), of the person or entity demanding mediation.
  - b. The identity, including the mailing address, telephone number and email address (if known) of any persons or entities the demanding party believes to be affected by the dispute and who might desire to participate in the mediation. This item must include the names and addresses of all owners of property with a boundary that adjoins the property at issue.
  - c. The physical address of the property involved in the dispute.

- d. A description of the use, practice, operation or activity that forms the basis for the dispute.
3. **Initial Screening.** Upon receipt of a demand for mediation, County Administration will make written inquiry of each owner of property with a boundary that adjoins the property at issue, as identified in the written demand for mediation, to determine if they agree to mediate. Further, County Administration will confirm that the property at issue is taxed as agricultural, or is eligible to be taxed as agricultural, because the use or activity that forms the basis for the demand for mediation is an “agricultural activity or operation,” including the operation and maintenance of an irrigation ditch. If either of these criteria is not met, then mediation will not be scheduled and notice that mediation will not take place will be provided by the County.
4. **Mediation Statements.** If all affected property owners agree to mediate and the dispute otherwise qualifies for mediation under Article 3 of the LUC, then County Administration will mail each mediation participant, by certified mail, return receipt requested, a form to complete and return within ten days of mailing. The form shall include a request for the following information:
  - a. A statement of the issue(s) to be resolved through mediation;
  - b. A statement of the injury or harm that any party may be experiencing because of the disputed use, practice, operation or activity, or that any party would experience if the disputed use, practice, operation or activity were stopped or changed;
  - c. A proposal for resolving the dispute, taking into consideration the needs of all participants and the policies stated in Article 3 of the LUC;
  - d. Any other information the participant may wish to provide.

Each participant’s mediation statement will not be shared with the other participants.

5. **Selection of Mediators and Scheduling.** Within ten days after receiving written confirmation from all parties necessary to mediate a dispute and confirming the dispute qualifies for mediation under Article 3 of the LUC, County Administration will select no fewer than three persons from the Member Pool to serve as a Mediation Panel, as set forth in Sections 3.1.6. B., C., and D. of the LUC. The identity of the panel members and the date of mediation shall then be provided to the participants by County Administration. Participants shall have five days from the date of written notice of the panel members to make an objection to the service of any panel member on the grounds of conflict of interest. If such an objection is raised, the panel will decide the issue within five days of the objection. If necessary, a new panel member will be chosen and the schedule confirmed. Within five days from the expiration of the objection period, the members chosen shall select a chair of the Mediation Panel and schedule a date for mediation with County Administration. The Mediation Panel shall endeavor to select a date within ten days from the expiration of the objection period. Mediation dates will generally not be rescheduled and may be rescheduled by the Panel only if pressing circumstances requiring rescheduling exist.

6. **Mediation Process.** The goal of mediation is to assist the parties to reach a voluntary resolution of the dispute. The mediation process shall be informal and shall not involve testimony or formal evidence. Appearance before the Panel shall be by the parties themselves or, in the case of an entity, 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.

The Chair of the Panel will have the duty to ensure that these procedures are followed sufficiently to enable the parties to fully share their positions with the Panel, and to enable the Panel to make informed recommendations.

Mediation proceedings shall be closed to the public. No record will be made of the proceedings.

The mediation process will generally adhere to the following format. However, variations in the process may be appropriate in the discretion of the Panel. The parties will collectively appear before the Panel and each will be given a specified period of time - to be determined by the Chair based upon the issues and number of parties involved - to present its position. The party demanding mediation will present first. After each party presents its position, the Panel members may take turns asking questions of the parties. Once questions have concluded, the parties may again each be given additional time to summarize their positions. Panel members may interject with additional questions at any time, including during the initial presentations. After the presentations and questions have concluded, the Panel will adjourn the proceeding and deliberate. Following deliberations, the Panel shall convene the proceedings to announce its recommendations. A period of discussion of the recommendations by the Panel and the parties may follow.

No party is required to accept any recommendation of the Panel. Recommendations are not binding on the parties unless the parties enter into an agreement to be bound by the Panel's recommendations.

Mediation is a confidential process and no information that is shared during the mediation proceedings shall be disclosed to the public or useable in a court of law. Mediation Panel members may not be compelled to testify concerning any aspect of the proceedings.

7. **Conclusion of the Process.** Following the announcement of the Panel's recommendations and any further discussion, the Panel will adjourn the proceedings. The parties are free to take whatever action they deem appropriate with respect to the recommendations and the dispute, generally.

Notes of the proceeding maintained by any Panel member shall be destroyed immediately following the conclusion of the proceedings unless all parties agree that additional proceedings may assist them to reach a resolution of the dispute. In the latter case, a follow-up meeting will be scheduled while all parties are present prior to the adjournment of the initial meeting. If a follow-up meeting is scheduled, any Panel member's notes shall be

retained in confidence by County Administration and shall be destroyed immediately following the conclusion of the follow-up meeting, or on the business day following the date of the follow-up meeting if it is not held.

