

DELTA COUNTY PLANNING COMMISSION MEETING
Administration Building – Board Room
560 Dodge St., Delta, CO 81416
Wednesday
March 10, 2021
@ 5:30 p.m.

Instructions for Public Participation:

The public can join the meeting remotely by registering in advance of the meeting at:

<https://us02web.zoom.us/meeting/register/tZUzd-qprDIOG9R-tqe6-Mwj0Dd64-Xbmm4>

After registering, you will receive a confirmation email containing information about joining the meeting.

REGULAR AGENDA

5:30 P.M. – CALL TO ORDER

THE PLANNING COMMISSION RECESSES FOR EXECUTIVE SESSION ITEMS:

Advice of Counsel: §24-6-402(4)(b), C.R.S.

1. Discussion and advice regarding amending the Delta County Land Use Code.
2. Discussion and advice regarding Delta County Wireless Communications Facilities Resolution.
3. Discussion and advice regarding uses that are not allowed in any zoning district.

ADJOURN EXECUTIVE SESSION

6:00 P.M. – RECONVENE ON THE PUBLIC AGENDA ITEMS

1. Approve Meeting Minutes for February 24, 2021
2. Planning Commission's consideration of Delta County Wireless Communications Facilities Resolution as a proposed amendment to the Delta County Land Use Code to be referred to the Board of County Commissioners.
3. Receive a presentation on the following items relative to implementing the 2021 Delta County Land Use Code:
 - a. Forms and Instructions
 - b. Assessing Land Uses (Similar Use, Change of Use, Nonconforming Use)
 - c. Subdivisions

ADJOURNMENT

CERTIFICATION OF POSTING

On 3/4/2021 at 9:30 AM, Kate Kelly did post the above AGENDA as public notice of the 03/10/2021 meeting. The official notice is placed on the front entrance of the Delta County Courthouse located at 501 Palmer, Delta, Colorado and a courtesy copy is sent to the Delta County website at www.deltacounty.com.



REGULAR PLANNING COMMISSION MEETING MINUTES
DELTA COUNTY
560 DODGE ST, DELTA, CO 81416
February 24, 2021

Planning Commission Members in Attendance:

Eli Wolcott (ZOOM)
Layne Brones
Kate Darlington (ZOOM)
Tate Locke

Tom Kay
Steve Schrock
Jacob Gray
Dick Gilmore

Absent Members:

Steve Shea

Planning Staff in Attendance:

Delta County Community Development & Natural Resource Director, Carl Holm
Delta County Planner, Kelly Yeager
Delta County Community & Economic Technician II, Kate Kelly

Chairman Tom Kay called the meeting to order at 5:30 p.m. in the Administration Building Commissioner's Meeting Room.

Item #1 & Item #2: Approve Meeting Minutes for January 27, 2021 & February 17, 2021

Motion/Second: Dick Gilmore moves that both minutes be approved. Layne Brones seconds the motion.

Action: Motion carried unanimously.

Item #3: SUB20-022 Prosser Fire Subdivision
Land Owner: David Prosser

Motion/Second: Jacob Gray moves to approve SUB20-022 be approved with staff recommendations that include the following conditions: #1 the 20' easement to appear on the final plat showing the main line & Lot 2's line, #2 rewrite the domestic water agreement so that it reflects a legal definitive purchase of the shares that is tied to the land, included in that agreement, a maintenance agreement, and #3 adherence to the decree that an HOA be established. Steve Schrock seconds the motion.

Action: Motion carried unanimously.

Item #4: SUB20-025 Olsen Family Split Subdivision
Land Owner: Elizabeth Olsen

Motion/Second: Jacob Gray moves to approve SUB20-025 for approval with staff recommendations to include conditions as follows: the subdivision be a 2 lot as opposed to a 3 lot subdivision and that each irrigation easement be identified on final plat. Tate Locke seconds the motion.

Action: Motion carried unanimously.

Meeting adjourned at 7:30 p.m.

Respectfully submitted by:

Community & Economic Development Technician II, Kate Kelly



STAFF REPORT

Delta County Planning Commission Meeting

Delta County Administration Building
560 Dodge Street
Delta, CO 81416

March 10, 2021

WIRELESS COMMUNICATION FACILITIES Consider adding Wireless Communications Facilities regulations to the Delta County Land Use Code

RECOMMENDATION:

Staff recommends that the Planning Commission:

- a. Consider adding Wireless Communications Facilities regulations to the Delta County Land Use Code; and
- b. Forward a recommendation to the Board of County Commissioners.

SUMMARY/DISCUSSION:

The attached document was prepared by Todd Messenger working with RPI on the Land Use Code. This document would establish regulations for wireless communication facilities in the unincorporated areas of Delta County. Wireless Communications Facility Resolution is listed as one of the Delta County Land Use Code appendices (Chapter 14, (page 172)). Amendments to the LUC require the Planning Commission to make a recommendation to the Board of County Commissioners for their consideration.

Prepared by: Carl P. Holm, AICP, Director of Community Development and Natural Resources, 970/874-2105,
cholm@deltacounty.com
March 10, 2021

Wireless Telecommunications Facilities

Table of Contents

PART 1. PRELIMINARIES	1
Division 1.01. Title, Purpose, and Applicability	1
1.01.010. Title; Short Title	1
1.01.020. Purpose and Findings	1
1.01.030. Applicability.....	1
PART 2. LOCATION AND DESIGN	3
Division 2.01. Location	3
2.01.010. Applicability; Prohibitions	3
2.01.020. Need	3
2.01.030. Siting Considerations	3
2.01.040. Setbacks.....	4
2.01.050. Public Rights of Way.....	5
Division 2.02. Design and Operation	6
2.02.010. Generally	6
2.02.020. Co-Location	6
2.02.030. Height	6
2.02.040. Footprint	6
2.02.050. Hazards	6
2.02.060. Concealment Elements.....	7
2.02.070. Operations.	8
Division 2.03. Visual Mitigation and Lighting	8
2.03.010. Visual Mitigation	8
2.03.020. Lighting.....	8
Part 3. Review Procedures.....	9
Division 3.01. General Provisions	9
3.01.010. Applicability; Application Requirements.....	9

3.01.020. Approval Process by Application Type.....	9
Division 3.02. Standardized Review Procedures.....	11
3.02.005. Standardized Review Process	11
3.02.010. <i>Ex Parte</i> Communications	11
3.02.015. Pre-Application Meeting.....	12
3.02.020. Application	13
3.02.025. Application Fees and Escrows.....	13
3.02.030. Completeness Review.....	15
3.02.035. Shot Clocks	16
3.02.040. Stale Applications	17
3.02.045. Administrative Review.....	18
3.02.050. Referrals	18
3.02.055. Public Notice.....	19
3.02.060. Public Hearings.....	20
3.02.065. - Continuances and Withdrawal.....	20
3.02.070. Form of Decision	21
3.02.075. Effect of Approvals.....	21
3.02.080. Duration of Approvals	21
3.02.085. Extensions of Approvals	21
Part 4. Enforcement and Remedies.....	23
Division 4.01. Approval Conditions.....	23
4.01.010. Failure to Comply with Conditions of Approval.....	23
Division 4.02. Abandonment and Removal.....	23
4.02.010. Obsolescence	23
4.02.020. Abandonment.....	23
4.02.030. Site Restoration	23
Part 5. Definitions.....	24
Division 5.01. Acronyms	24
5.01.010. Table of Acronyms.....	24

Division 5.02. Definitions	25
5.02.010. Definitions	25
Appendix A Application Requirements	1
General Requirements.....	1
Consolidated Application for Small Cell Antenna Facilities.....	1
Specific Requirements.....	1
Eligible Facilities Requests	1
Co-Location Information (Towers and Freestanding Communication Facilities).....	1

PART 1. PRELIMINARIES

Division 1.01. Title, Purpose, and Applicability

1.01.010. Title; Short Title

This Resolution shall be known and may be cited as the “Delta County Wireless Communications Facilities Resolution,” and may be referred to as the “WCF Resolution” or, herein, as “this Resolution.”

1.01.020. Purpose and Findings

(a) **Generally.** The purpose and intent of this Resolution is to accommodate the communication needs of residents, businesses, and institutions, while protecting public health, safety, and general welfare in the County.

(b) **Findings.** The Board of County Commissioners (“BOCC”) finds that the regulations set out in this Resolution are necessary in order to:

- (1) Facilitate the provision of wireless communication services to the residents and businesses of the County;
- (2) Minimize adverse visual impacts of towers with design and siting standards;
- (3) Avoid potential damage to adjacent properties from tower failure with structural standards and setback requirements;
- (4) Encourage and maximize the use of existing and approved towers, buildings, and other structures to accommodate new wireless communication antennae in order to reduce the number of towers needed to serve the County;
- (5) Enhance the ability of wireless communications service providers to provide such services within the County quickly, effectively, and efficiently; and
- (6) Manage the use of public rights-of-way for wireless communications facilities.

1.01.030. Applicability

(a) **Generally.**

(1) The requirements of this Resolution shall apply to all proposed new and proposed modifications to wireless communication facilities, including base stations, alternative communication facilities, towers, and small wireless facilities. The County may withhold approval of any facility that does not meet one or more of the requirements or criteria set out in this Resolution or other provisions referenced herein.

(2) Any wireless communication facilities approved on or before the effective date of this Resolution shall comply with all applicable sections herein with respect to modification of such facilities.

(b) **Exceptions.** This Resolution shall not govern any tower or wireless communication facilities owned or operated by a federally licensed amateur radio station operator or used exclusively for receive-only antennas.

PART 2. LOCATION AND DESIGN

Division 2.01. Location

2.01.010. Applicability; Prohibitions

- (a) **Generally.** All wireless communication facilities are subject to the requirements of this Division. Wireless communications facilities are allowable on public and private property within the County as provided in this Resolution.
- (b) **General Prohibition.** Wireless communication facilities are not allowed on residential lots that are one acre or less in area.

2.01.020. Need

- (a) **Generally.** No wireless communication facility shall be approved unless the decision-maker finds that the need for the facility in its proposed location has been demonstrated as provided in this Section.
- (b) **Required Demonstrations.** The applicant shall demonstrate how the proposed site fits into the overall communication network for the County. As applicable, the applicant shall also demonstrate:
 - (1) That, to the extent that the applicant seeks approval to address gaps in coverage or capacity, there are no materially preferable alternatives (in terms of compliance with this Resolution) to remedy gaps in the applicant's network; or
 - (2) That, to the extent that the applicant provides services under a license granted by a governmental authority, a failure to approve the application will result in the applicant's inability to provide the minimum coverage or capacity it is required to provide pursuant to its license and any applicable law.

2.01.030. Siting Considerations

- (a) **Generally.** The siting considerations set out in this Section shall be used to optimize the location of a wireless communication facility outside of public rights-of-way within the areas in which need is demonstrated pursuant to Section 2.01.020, *Need*, and within the setbacks set out in Section 2.01.040, *Setbacks*, except as provided therein.
- (b) **Hazards.** All wireless communication facilities must be physically sited so that they do not pose a potential hazard to nearby residences, livestock operations, or surrounding properties, buildings, or improvements.
- (c) **Topography and Vegetation.** The location and development of wireless communication facilities shall, to the maximum extent possible, preserve the existing character of the topography and vegetation.

(d) **Silhouettes and Views.** This subsection applies if the proposed wireless communications facility is a tower (of any type) and it is proposed to be located within one-quarter mile from the right-of-way of a Scenic Byway, or within a For proposed towers within these areas:

(1) The applicant shall submit a graphic illustration or photo-simulation depicting the impact of the proposed tower on the views from designated Scenic Byways or Significant View Corridors, as applicable, to include:

- a. An illustration or rendering of ground elevations, existing buildings and structures, and vegetative cover before development (the “pre-development condition”), in plan view and elevation view, taking into account the elevation of the road and the distance to the scenic resource;
- b. An illustration or rendering of the proposed tower (the “post-development condition”) in plan view, and in elevation view from the same vantage points that were used to illustrate the pre-development condition; and
- c. Annotations that label and describe the concealment elements that are proposed in order to mitigate the impact of the proposed development on the scenic resource.

(2) The County may require mitigation measures such as alternative setbacks (*see* subsection (b) of Section 2.01.040, *Setbacks*, below), increased setbacks, design, landscaping, and / or additional or alternative concealment elements.

2.01.040. Setbacks

(a) **Generally.** All wireless communication facilities that are located outside of the public right-of-way shall be set back the greater of:

(1) For towers, the lesser of:

- a. The setback that is applicable to buildings in the zoning district in which the subject property is located (see Delta County Land Use Code); or
- b. The height of the wireless communications facilities, as measured from the natural grade at the base of the facilities to the highest point of the facilities.

(2) For building or structure-mounted facilities, the lesser of:

- a. The setback that is applicable to the building or structure in the zoning district in which the subject property is located (see Delta County Land Use Code); or
- b. The actual setback of the building or structure, if it is legally nonconforming to the Delta County Land Use Code.

(b) **Alternative Setbacks.** In the alternative to the requirements of subsection (a), above, modified setbacks may be applied (subject to subsection (c), below) if the physical characteristics of the proposed site and the wireless communication facilities are such that:

(1) Mitigation of visual impacts pursuant to Section 2.02.060, *Concealment Elements*, will be materially improved through the application of alternative setbacks; or

(2) The siting considerations set out in Section 2.01.030, *Siting Considerations*, subsections (b), (c), and (d) would all be better served through the application of alternative setbacks.

(c) **Limitations.** No portion of the facility, including any antenna array, may extend beyond the property line unless the encroachment is allowed by easement or license agreement.

2.01.050. Public Rights of Way

(a) **Generally.** Wireless Communications Facilities within public rights-of-way must be installed upon, in descending order of priority:

- (1) Existing poles;
- (2) Replacement poles; or
- (3) New poles.

(b) **Wiring.**

- (1) Any necessary wiring or cabling shall be located within the pole or, if such location is not technically feasible, within fully enclosed sheathing attached to the pole.
- (2) Sheathing shall be the same color as the pole, shall be limited in size to that necessary to cover the wiring or cabling, and may not extend out from the pole more than three inches.

(c) **Volume.** The volume of wireless communications facilities on any pole, other than sheathing enclosing wiring or cabling described in subsection (b), above, shall not exceed three cubic feet for antenna enclosures and 17 cubic feet for any primary equipment enclosures, and the facilities shall add no more than 10 feet of additional height to the pole.

(d) **Ground-Level Equipment.** Any ground-level equipment shall be buried or screened by landscaping that is approved by the County along with the permit issued under this Resolution. The owner of the facilities shall provide for the maintenance of such landscaping.

(e) **Pole Spacing.** If an applicant is proposes to add to the total number of poles located in the area impacted by its application, the County may administratively approve the application only if the proposed new pole(s) is located a minimum distance of:

- (1) 300 feet from any existing pole; or
- (2) 300 feet from any other new pole proposed in the application.

(f) **Alternatives.** Alternatives to the standards set out in this Section may be approved by public hearing permit if:

- (1) The alternative standards are necessary to address a service need that cannot be addressed in any manner that is in strict accordance with this Section; and
- (2) The siting considerations set out in subsections (b), (c), and (d) of Section 2.01.030, *Siting Considerations*, would not be materially compromised by the application of the alternative standard.

Division 2.02. Design and Operation

2.02.010. Generally

All wireless communication facilities shall be designed using the criteria set forth in this Division.

2.02.020. Co-Location

(a) **General Requirement.** The shared use of existing towers or other freestanding communication facilities upon which wireless communication facilities can be mounted shall be preferred to the construction of new facilities. Wireless communication facilities shall be co-located with other wireless communication facilities or public utilities whenever technically feasible.

(b) **Tower Design.** Towers shall be designed to allow for co-location to the maximum extent possible. To ensure the structural integrity of towers and any other freestanding communications facilities upon which other wireless communication facilities may be mounted, the owner of such structure shall ensure that it is of sufficient structural strength to accommodate reasonable co-location.

(c) **Co-Location Agreement as Condition of Approval.** As a condition of approval of any tower or other freestanding communication facility, the applicant shall be required to agree to allow co-location on such facilities in the future if:

- (1) The facility is capable of supporting co-location;
- (2) The entity wishing to co-locate is willing to pay fair market value for the space; and
- (3) The County requests such co-location.

2.02.030. Height

Towers shall not exceed 100 feet in height.

2.02.040. Footprint

The total footprint of a wireless communication facility's accessory equipment shall not exceed 350 square feet per operator.

2.02.050. Hazards

(a) **Generally.** All wireless communication facilities must be structurally designed and physically sited so that they do not pose a potential hazard to nearby residences, livestock operations, or surrounding properties or improvements.

(b) **Towers and Other Freestanding Facilities.**

- (1) Any tower or freestanding communication facility shall be designed and maintained to withstand without failure maximum forces expected from wind, tornadoes, blizzards, and other natural occurrences, when the facility is fully loaded with antennas, transmitters, other wireless communication facilities and concealment elements.
- (2) Sufficient anti-climbing measures must be incorporated into each facility to reduce potential for trespass and injury.

- (3) All wireless communication facilities shall comply with the power line clearance standards set forth by the Colorado Public Utilities Commission (“PUC”).

2.02.060. Concealment Elements

(a) **Generally.** All wireless communication facilities and support equipment shall be concealed according to a concealment element plan. The concealment element plan shall address the requirements of this Section and may also address the siting considerations of Section 2.01.030, *Siting Considerations*, to the extent that such siting considerations are part of the strategy for concealing the facilities and equipment.

(b) **Concealment Elements.**

(1) *All Facilities.* Wireless communication facilities (all types) shall be concealed using colors, textures, surfaces, scale, materials, geometries, or screening materials that blend into or compliment their context and the background upon which they will be viewed (*e.g.*, tree canopy, the sky, a building wall, etc.). Applications for approval of wireless communications facilities shall specify and illustrate the concealment elements that are applied.

(2) *Facilities Integrated into Buildings or Structures.* Where possible, wireless communication facilities shall be concealed by integration into architectural features or accessory structures that are consistent with the architectural scale and character of the area.

(3) *Facilities Attached to Buildings.*

- a. Wall-mounted facilities are allowed only if roof-mounted facilities that are hidden behind screening materials cannot be installed due to physical or operational infeasibility.
- b. Wall-mounted facilities shall be mounted as flush to the building wall as possible.

(4) *Towers and Freestanding Facilities.* Towers and other freestanding facilities shall be screened with vegetation, buildings or structures, or topographical features. The facilities shall be integrated to the maximum extent possible, through its location and design, into the natural setting and the structural environment of the area.

(5) *Accessory Equipment.* Accessory equipment shall be located to minimize visual impact on adjacent properties and public rights-of-way in one or more of the following ways:

- a. Enclosure within a building;
- b. Installation in a flush-to-grade underground equipment vault;
- c. Depressed or located behind earth berms or structures to minimize its profile; or
- d. Located behind screen walls, privacy fences, buildings or structures, dense landscaping, or a combination thereof.

2.02.070. Operations.

- (a) **Generally.** The wireless communication facilities shall be designed, maintained and operated as required by applicable FCC licenses and regulations.
- (b) **Federal Emissions Regulations.** All owners and operators of wireless communication facilities shall comply with federal regulations for radio frequency ("RF") emissions.

Division 2.03. Visual Mitigation and Lighting

2.03.010. Visual Mitigation

Wireless communication facilities shall be screened or utilize concealment elements to mitigate visual impacts on adjacent properties and public rights-of-way to the maximum reasonable extent.

2.03.020. Lighting

- (a) **Generally.** Wireless communication facilities shall not be artificially lighted, unless required by the Federal Aviation Administration ("FAA") or other governmental authority with jurisdiction to mandate lighting.
- (b) **Mandated Lighting.** If lighting is required by a governmental authority, the County may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding property owners, livestock operations, or scenic views. Lighting must be shielded or directed to the greatest extent possible so as to minimize the amount of light falling onto nearby properties, particularly residences and livestock operations.

Part 3. Review Procedures

Division 3.01. General Provisions

3.01.010. Applicability; Application Requirements

Applications for approval of wireless communications facilities shall be processed according to the applicable procedures of this Part. Specific application requirements are promulgated by the Director, and may be set out in Appendix A, *Application Requirements*, or otherwise made available to the public.

3.01.020. Approval Process by Application Type

(a) **Generally.** The approval process varies depending upon the types of wireless communication facility that is the subject of the application and the location that is proposed for the siting of the wireless communication facility. The Director shall determine the type of application based on the information presented.

(b) **New Facilities on Private Property.** Unless another subsection more specifically applies, approval of a new wireless communications facility on private property requires a Public Hearing Permit

(c) **New Facilities on County Property.** Unless another subsection more specifically applies, approval of a new wireless communications facility on County property requires:

- (1) A Public Hearing Permit;
- (2) A lease or license agreement between the applicant and the County or other governmental entity that owns or controls the subject property; and
- (3) If the proposed location is within the right-of-way, a right-of-way permit.

(d) **Eligible Facilities Requests for Existing Towers and Base Stations (Wherever Located).**

- (1) The Director shall process an application as an eligible facilities request, as provided in subsection (d)(2), below, if the Director finds that:
 - a. The proposal does not result in a substantial change;
 - b. The proposal does not violate any generally applicable law, regulation or other rule reasonably related to public health and safety;
 - c. The proposal complies with the original application design elements or conditions of approval, including but not limited to colors, textures, surfaces, scale, character and siting, or any approved amendments thereto, subject to the thresholds established in subsections 1-4 of the definition of “substantial change”; and
 - d. The proposal complies with concealment elements of the eligible support structure necessary to qualify as an alternative communication facility.

- (2) Approval of eligible facilities requests requires:
 - a. An Administrative WCF Permit; and
 - b. If located within public property, including but not limited to rights-of-way:
 - i. A lease or license agreement between the applicant and the County or other governmental entity that owns or controls the subject property, that allows for such installation; and
 - ii. If the proposed site is within the right-of-way, a right-of-way permit.

(e) **Building-Mounted Wireless Communications Facilities (Wherever Located).**

(1) The Director shall process applications for building-mounted wireless communications facilities.

(2) Approval of such facilities requires:

- a. An Administrative WCF Permit; and
- b. If located within public property, a lease or license agreement between the applicant and the County or other governmental entity that owns or controls the subject property, that allows for such installation.

(f) **Small Wireless Facilities (Wherever Located).**

(1) The Director shall process applications for small wireless facilities, except those that do not qualify for administrative review due to the pole spacing requirements of Section 1-01-050(e), above.

(2) Approval of such facilities requires:

- a. An Administrative WCF Permit (except as provided in subsection (f)(1), above); and
- b. If located within public property, including but not limited to rights-of-way:
 - i. A lease or license agreement between the applicant and the County or other governmental entity that owns or controls the subject property, that allows for such installation; and
 - ii. If the proposed site is within the right-of-way, a right-of-way permit.

(g) **Temporary Wireless Communications Facilities.** Placement and use of temporary mobile wireless communication facilities or television broadcast equipment in conjunction with federal, state or local emergencies, natural disasters or major special events may be approved administratively by the Director, subject to reasonable time limitations approved by same based on the nature, scope and duration of the emergency, disaster, or special event.

Division 3.02. Standardized Review Procedures

3.02.005. Standardized Review Process

- (a) **Generally.** The standard approval procedures of this Division apply to all applications for approvals or permits under this Resolution.
- (b) **Process.** The approval procedures set out in Section 3.02.010 to Section 3.02.085, inclusive, are undertaken in sequence until an application is considered and decided by the designated decision-maker for the type of application at issue. Table 3.02.005, *Standardized Procedures*, lists the approval steps that are required, based on the type of review.

TABLE 3.02.105 STANDARDIZED PROCEDURES		
Process Step ¹	Type of Review	
	Administrative WCF Permit	Public Hearing WCF Permit
3.02.010	Not Applicable	Applicable
3.02.015	Optional	Optional
3.02.020	Required	Required
3.02.025	Required	Required
3.02.030	Required	Required
3.02.035	Applicable	Applicable
3.02.040	Applicable	Applicable
3.02.045	Required	Required
3.02.050	Applicable	Applicable
3.02.055	Not Required	Required
3.02.060	Not Applicable	Required
3.02.065	Not Applicable	Applicable
3.02.070	Applicable	Applicable
3.02.075	Applicable	Applicable
3.02.080	Applicable	Applicable
3.02.085	Applicable	Applicable
TABLE NOTE:		
¹ The references in this column are to the Sections of this Division that describe the process step.		

3.02.010. *Ex Parte* Communications

- (a) **Generally.** It is the policy and practice of the County to decide applications only on the merits presented in the application, on-record public comments, and at public hearings (if public hearings are required). Therefore, *ex parte* communications are not allowed.
- (b) **Timing.** The prohibition on *ex parte* communications begins on the date of application and ends when the appeal period for an issued development order has expired.
- (c) **Inadvertent Communications.**

- (1) It is not always possible to prevent *ex parte* communications. Elected and appointed officials who hear applications required by this Resolution shall not privately discuss the merits of a pending application.
- (2) If a communication is received outside of the record (*e.g.*, it is not in the application, agency comments, or public comments, nor was it presented at a noticed public hearing), then the official shall disclose the communication, including the speaker and the substance of the communication, on the record of the public hearing before the application is heard.
- (3) The decision-maker or recommending body must base its decision only on the evidence presented on the record. The contents of the *ex parte* communication shall not be considered part of the record for decision-making unless the information in the communication is also presented at the hearing (other than through the required disclosure).

3.02.015. Pre-Application Meeting

- (a) **Generally.** A pre-application meeting is an opportunity, at the potential applicant's option, for the potential applicant to meet with County staff before filing an application, in order to:
 - (1) Identify the applicable review procedures and timelines;
 - (2) Review preliminary materials and identify potential issues and related information requirements; and
 - (3) Identify what fees will be due, including whether an escrow payment will be required for professional consultant review.
- (b) **Limitations.** Suggestions and comments by County Staff at a pre-application meeting are advisory in nature and shall not bind the County with respect to decision-making on the subsequent application.
- (c) **Meeting Logistics.** Pre-application meetings may be conducted in person, by telephone, or by internet-based communication tools, as may be agreed between the potential applicant and the Director.
- (d) **Meeting Materials.** The potential applicant shall bring to (or submit prior to) the pre-application meeting sufficient supporting materials to explain, as applicable to the type of application to be submitted. *See Appendix A for general requirements.*
- (e) **Summary.** Upon request by the potential applicant, within 10 business days after the pre-application meeting, The Director shall deliver to the applicant:
 - (1) A checklist of submittal materials that will be necessary for the type(s) of application(s) sought; and
 - (2) A copy of the County's application fee schedule.

3.02.020. Application

(a) **Generally.** Every application for approval that is required by this Resolution shall be submitted on a form approved by the Director, along with the corresponding application fee (fees are established by resolution of the Board of County Commissioners). Unless waived by the Director, all applications shall include electronic versions of all attachments in a format approved by the Director.

(b) **Forms.**

(1) The Director shall promulgate and periodically revise, as necessary, forms for each type of application required by this Resolution.

(2) Application forms and related checklists shall include the specific information that is required to process each type of application. The specific information requirements shall be established and periodically revised by the Director, and have the purpose of facilitating:

a. The evaluation of applications for compliance with the standards of this Resolution; and

b. The administration of this Resolution.

(3) The Director is authorized to establish a standardized format for each type of required submittal, and to allow deviations from the format in instances where the Director finds that an alternative format would provide for more efficient review.

(4) Application forms and checklists shall be dated by the Director on the date that they are promulgated. Applicants may utilize the form of application that is available on the date of application, or the prior form, if the form that is available on the date of application was promulgated less than 14 days prior to the date of application.

(c) **Reporting of Updates.** If the Director promulgates an update or amendment to the application forms, the Director shall report same to the Planning and Zoning Commission and the Board of County Commissioners at their next regular meetings. The Board of County Commissioners may overrule a decision by the Director to update or amend application forms.

(d) **Waiver of Requirements.** Application checklist requirements may be waived by the Director if the nature of the application is such that the requirements would serve no useful purpose. The Director may not waive application fees.

3.02.025. Application Fees and Escrows

(a) **Generally.** Fees shall be charged to offset the cost of application processing (including any application for amendments of existing approvals), reviews, public notices, hearings, and recordkeeping. Application fees to be charged by the County shall be established, from time to time, by resolution adopted by the Board of County Commissioners.

(b) **Recording Fees.** Recording fees of the Delta County Clerk and Recorder's Office shall be paid to the County by the Applicant at the time of any required recording.

(c) **Referral Agency Fees.** The Applicant may be required to pay any fees assessed by referral agencies in advance of their review and comment. Failure to obtain comments from referral agencies due to failure to pay review fees may result in denial of an application.

(d) **Escrow for Consultant Review.**

(1) *Consultant Review Authorized.*

a. The Director is authorized to retain professional consultants at the Applicant's expense to assist in the review of applications or petitions submitted pursuant to this Resolution.

b. The Director may make an initial determination as to the use of consultants at the time of the pre-application meeting, and may revise the determination at the time of application if new or changed information in the application materials justifies the revision.

(2) *Initial Escrow Payment.*

a. If the Director determines that an application will require review by professional consultants, then the Director shall execute an escrow agreement in a form approved by the County Attorney, and make an initial escrow payment in an amount sufficient to cover the estimated review costs. A schedule of minimum required escrows for different application types may be attached to the fee resolution described in subsection (a), above.

b. The Director shall provide the Applicant with a preliminary estimate of professional consultant review fees at a time established during the pre-application meeting by agreement with the Applicant. Alternatively, the Director may advise the Applicant regarding the amount of a fixed-fee that has been established in advance for the type of application presented.

(3) *Use of Escrow Payment.* The County may draw upon the escrow, in the County's discretion, to pay the fees and expenses of professional consultants retained by the County to review the application.

(4) *Additional Escrow Funds.*

a. The Director may require additional escrow funds to be paid for additional services related to the application, should they become necessary.

b. If a balance is due at the time an application is approved, it shall be paid by the applicant as a condition of approval.

c. If a balance is due at the time an application is denied, it shall be paid by the Applicant within 30 days after delivery of an invoice to the applicant.

(5) *Return of Escrow Funds.* Escrow funds shall be returned to the Applicant as follows:

a. If the Director decides not to use consultants, then escrow funds shall be returned to the Applicant within 30 days of said decision.

- b. If the Applicant withdraws the application, then the Director shall notify the consultants to stop work within one business day after the withdrawal. Promptly after receipt of a final invoice from the consultants, the Director shall return the escrow to the Applicant, less the amount required to pay the consultants for work actually performed.
 - c. When the application is decided, any positive escrow balance shall be returned to the Applicant within 60 days.
- (6) *Account Reports.* Applicants shall be provided with a monthly accounting of the use of escrow funds.
- (7) *Delinquent Payments.*
 - a. If the Applicant does not pay additional escrow funds required by subsection (d)(4), above within 10 days after written notice from the County, then, in addition to the other remedies the County may have, the County shall be entitled to a lien on the subject property, or the County may elect to certify the assessed costs and expenses to the office of the County Treasurer for collection in the same manner as general property taxes are collected. Such lien shall be perfected and may be foreclosed upon in accordance with applicable state laws.
 - b. Nothing herein shall authorize the County to charge the applicant for costs and expenses the County incurs as a result of litigating a matter against the applicant or against a third party, unless such charges are otherwise authorized by law.
- (8) *Fixed-Fee Consultant Review.* The Director is authorized to establish:
 - a. A roster of consultants that are pre-qualified to conduct reviews of various types; and
 - b. For routine application types with predictable review fees, a schedule of fixed-fees for consultant review.

3.02.030. Completeness Review

- (a) **Generally.** The Director shall review all submitted applications for completeness. A complete application includes:
 - (1) All of the materials required on the application forms, except as waived by the Director;
 - (2) All required professional certifications and signatures; and
 - (3) All fees and escrows that are required for application processing.
- (b) **Incomplete Applications.** If the application is not complete, the Director shall deliver a Notice of Deficiency to the applicant. A timely Notice of Deficiency tolls the shot clock.
- (c) **Complete Applications.** Complete applications shall be processed according to the applicable procedures of this Part.

3.02.035. Shot Clocks

(a) **Generally.**

(1) Shot clocks are FCC-mandated time frames for review of applications under this Resolution. If the County does not act on the application on or before the expiration of the shot clock period, the County is presumed not to have acted within a “reasonable period of time” under FCC regulations.

(2) The shot clock commences upon the filing of an application. The County shall not refuse to accept an application during business hours on a business day.

(b) **Shot Clocks by Application Type; Batching.**

(1) *Generally.* The following are the presumptively reasonable periods of time (“shot clocks”) for action on applications seeking authorization for deployments in the categories set forth below:

- a. Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days.
- b. Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.
- c. Review of an application to deploy a Small Wireless Facility using a new structure: 90 days.
- d. Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.

(2) *Batching.*

- a. If a single application seeks authorization for multiple deployments, all of which fall within a category set forth in either paragraph (b)(1)a. or paragraph (b)(1)c. of this section, then the presumptively reasonable period of time for the application as a whole is equal to that for a single deployment within that category.
- b. If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within paragraph (b)(1)a. and deployments that fall within paragraph (b)(1)c. of this section, then the presumptively reasonable period of time for the application as a whole is 90 days.

(c) **Tolling of Shot Clock.** Unless a written agreement between the applicant and the County provides otherwise, the tolling period for an application (if any) is as set forth below.

(1) *Initial Application to Deploy Small Wireless Facilities.* If the Director issues a Notice of Deficiency to the applicant on or before the 10th day after submission of an initial application to deploy small wireless facilities, the shot clock date calculation shall restart at zero on the date on which the applicant submits all the documents and information identified by the Director to render the application complete.

(2) *All Other Initial Applications.* For all other applications not included within subsection (c)(1), above, the tolling period shall be the number of days from—

- a. The day after the date when the Director issues a Notice of Deficiency to the applicant until the date when the applicant submits all the documents and information identified by the Director to render the application complete;
- b. But only if the Notice of Deficiency is delivered on or before the 30th day after the date when the application was submitted.

(3) *Supplemental Submissions Following a Notice of Deficiency.* For supplemental submissions following a Notice of Deficiency, the tolling period shall be the number of days from—

- a. The day after the date when the Director issues a second Notice of Deficiency based on the Director's original notice under paragraph (c)(1) or paragraph (c)(2) of this Section (or a subsequent Notice of Deficiency), until the date when the applicant submits all the documents and information identified by the Director to render the application complete;
- b. But only if the second or subsequent Notice of Deficiency is delivered on or before the 10th day after the date when the applicant makes a supplemental submission.

(d) **Shot Clock Date.** The shot clock date for a siting application is determined by counting forward, beginning on the day after the date when the application was submitted, by the number of calendar days of the shot clock identified pursuant to paragraph (b)(1) of this Section; provided that if the date calculated in this manner is a "holiday" as defined in 47 C.F.R. § 1.4(e)(1), or a legal holiday within the State of Colorado or Delta County, Colorado, the shot clock date is the next business day after such date.

(e) **Shot Clock Period.** Action shall be taken on applications under this Resolution within the shot clock period. The shot clock period is the shot clock date, plus the number of days that the shot clock is tolled (if any); provided that if the date calculated in this manner is a "holiday" as defined in 47 C.F.R. § 1.4(e)(1), or a legal holiday within the State of Colorado or Delta County, Colorado, the shot clock date is the next business day after such date.

3.02.040. Stale Applications

(a) **Generally.** This Section is intended to extinguish applications that become stale due to inaction by the Applicant.

(b) **Expiration of Stale Applications.** When an action by the Applicant is required for further processing of an application, the application shall become void one year after the date that the action is requested if the Applicant either fails to take action or fails to request an extension of time pursuant to subsection (c) below.

(c) **Extension of Time.** The time for expiration of an application may be extended by up to six additional months upon written request of the Applicant before the end of the period set out in Subsection (b), above.

3.02.045. Administrative Review

(a) **Generally.** Upon determination that an application is complete and sufficient, the Director shall cause the application to be reviewed for technical compliance with all applicable requirements of this Resolution, as follows:

- (1) Appropriate County staff or consultants shall review the application; and
- (2) The application may be referred to applicable referral agencies and individuals for review and comment pursuant to Section 3.02.050, *Referrals.*, provided that such referrals do not toll the applicable shot clocks except by agreement with the Applicant.

(b) **Staff Comments.** Before the shot clock period expires, the Director shall provide comments from County staff or consultants (collectively, "STAFF COMMENTS"), if any, to the Applicant. The staff comments shall provide Staff or consultant input and address or include comments by referral agencies. The Applicant may revise and resubmit the application with appropriate changes based on staff comments (executing an agreement to toll the shot clock, if appropriate to allow for further review), or the Applicant may request action on the application.

(c) **Administrative Recommendation, Decision, or Referral.** After revisions are received or action is requested according to subsection (b), above, and within the shot clock period—

- (1) If the application is for an administrative permit, then the Director shall approve, approve with conditions, or deny the application, as appropriate, and promptly provide written notice, including the reasons for the decision, to the applicant; or
- (2) If the application is for a public hearing permit, then the Director shall make a recommendation regarding the application and forward the recommendation and the application materials and staff comments to the next body that will consider it for further recommendation or approval.

(d) **Meeting Logistics.**

- (1) If the application is for a public hearing permit, then the Director shall set the application on the agenda of the next body that will consider the application. The Director shall coordinate with recommending and decision-making bodies to fix reasonable times for hearings. The Director may request a special meeting of that body if necessary to act upon the application within the shot clock period.
- (2) The Director, or a designee, shall notify the Applicant regarding the time and place of scheduled public hearings.

3.02.050. Referrals

(a) **Generally.** Applications may be referred for additional review by agencies or consultants according to the procedures set out in this Section.

(b) **Inter-Jurisdictional Referrals.**

- (1) As part of the review process, the County may seek review and comment by referral agencies that have expertise in the subject matter impacted by the application, that have jurisdiction over one or more aspects of the proposed wireless communications facility, or

whose operations will likely be affected by the proposed facility. Referral agency comments are advisory to the County.

(2) The Director may refer an application to any agency, jurisdiction, ditch company, land management entity, utility, or department that the Director determines is likely to be materially affected by the application. The Director's determination regarding referrals is not appealable.

(3) The Director shall advise the referral agency of the applicable shot clock, and shall set a time for response that provides the Director with a reasonable time period to consider the referral agency's comments.

(4) Failure of an agency to respond within the prescribed time period (or extended period) is interpreted as consent by that agency to the contents of the application. However:

- a. Such consent does not waive the authority of agencies which have concurrent jurisdiction with the County; and
- b. Such consent is not implied if the Applicant fails to pay the agency's required review fees.

(c) **Consultant Review.** Upon notice to the Applicant, the Director may refer the application to consultants selected by the County, in order to obtain technical review and recommendations. The cost of such referrals shall be borne by the Applicant.

3.02.055. Public Notice

(a) **Generally.** For public hearing permits, public notice shall be provided according to the standards of this Section for a public hearing of the Planning and Zoning Commission, which shall make a recommendation to the Board of County Commissioners; and for a public hearing of the Board of County Commissioners, which shall act upon the application.

(b) **Contents of Public Notice.** Public notice shall include the following elements:

- (1) The phrase "PUBLIC NOTICE" or "NOTICE OF PUBLIC HEARING" at the top of the notice. For posted notice, these letters shall be not less than two inches in height.
- (2) A brief description of the type of application.
- (3) The date, time, and place of the hearing.
- (4) A brief summary of what the Applicant is requesting.
- (5) The physical address of the subject property, or if an address is not available, a location map of the property or a statement that the legal description is on file with the Director.
- (6) A notice that interested persons may obtain more information from the Director.
- (7) Contact information for the Director.

(c) **Required Notice Types.**

(1) *Generally.* Public notice of hearings shall be posted and mailed not more than 21 days, and not less than 14 days, prior to the date of the hearing.

(2) *Posting.* Posted notice shall be on a sign in a form approved by the County.

(3) *Mail.* Mailed notice shall be sent via first class U.S. Mail to all owners of property within 1,000 feet of the proposed site.

(d) **Optional Notices.**

(1) *Electronic Mail.* Electronic mail notice may be delivered to an opt-in distribution list that is created for the purpose of notifying people about applications for approvals and permits in the County. Electronic mail notice shall include the subject line "PUBLIC NOTICE OF PROPOSED WIRELESS COMMUNICATIONS FACILITY," and the statement in the body of the e-mail that "Electronic mail notice is provided as a courtesy to opt-in subscribers. Failure of an e-mail communication to reach a subscriber does not constitute failure of public notice."

(2) *Internet.* Internet notice may be posted on the official web site of the County, on a page or pages that are designated for such notices. However, internet notice is also provided as a courtesy and is not official notice. Therefore, failure of internet notice shall not constitute a failure of public notice.

(e) **Errors in Notices.** The standard for compliance with this Section shall be "substantial compliance." If the Director determines that there has been substantial compliance with the requirements of this Section, despite any particular technical error, then the decision or recommendation reached at the noticed hearing shall be final. If the Director determines that there has not been substantial compliance with the requirements of this Section due to an error, then the decision or recommendation reached at the noticed hearing shall be vacated (or the hearing on the item cancelled), and a new hearing shall be scheduled with proper notice provided.

3.02.060. Public Hearings

(a) **Generally.** Public hearings are required for public hearing permits. Public hearings shall be carried out in accordance with the procedural rules of the body conducting the meeting or hearing.

(b) **Planning and Zoning Commission.** The Planning and Zoning Commission shall review the application and Director recommendation, hear evidence at public hearing, and thereafter make a recommendation to the Board of County Commissioners regarding whether the application complies with the requirements of this Resolution.

(c) **Board of County Commissioners.** The Board of County Commissioners shall act upon the application.

3.02.065. - Continuances and Withdrawal

(a) **Continuances.** Requests for continuance by the Applicant of any proceeding called for in this Resolution may be granted at the discretion of the body holding the public hearing. If granted, the Applicant shall pay all additional costs associated with the rescheduling of the proceeding.

(b) **Withdrawal.** Any application may be withdrawn, either in writing or on the record, prior to or during the hearing at which the application is considered, provided that it is withdrawn before official action is taken on the application.

3.02.070. Form of Decision

(a) **Approval of Application.** All approved permits shall be in writing and shall specify all design elements that are intended to conceal the wireless telecommunications facility.

(b) **Denial of Application.** All denials of applications under this Resolution shall be in writing and shall specify the reasons for denial, including reference to substantial evidence in the record that supports the denial.

3.02.075. Effect of Approvals

(a) **Generally.** It is the intent of the County that development approved pursuant to this Resolution be carried out in a timely manner pursuant to the specifications, terms, and conditions of approval; and that the steps within each approval process be carried out with diligence.

(b) **Effect of Approval or Permit.**

(1) Approval of an Administrative WCF Permit or Public Hearing WCF Permit means that the County consents to the particular wireless communications facility for which the approval was granted, provided that it is constructed in accordance with the approval

(2) Supplemental materials that are provided in support of an approval become part of the approval (*e.g.*, elevations, concealment elements, lists of building materials, etc.) unless otherwise noted in the approval itself.

(3) Approvals and permits may be transferred to a subsequent owner of the property for which the approval or permit was issued. Transferred permits shall continue to be valid for the duration of their original terms, and the transferee may apply for an amendment to the approval or permit in the same manner as the original Applicant.

3.02.080. Duration of Approvals

Permits granted under this Resolution shall expire one year from the date of approval if they are not utilized, except that a lease, license, or development agreement is valid for the term set out therein.

3.02.085. Extensions of Approvals

(a) **Generally.** The term of permits may be extended by written request according to the standards and procedures of this Section.

(b) **Timing of Application for Extension.** Expired permits cannot be extended. Written requests for extensions shall be received not later than 30 days prior to the expiration of the permit. Untimely requests for extensions will not be granted unless it is demonstrated that extraordinary circumstances (*e.g.*, an unusual severe weather event) justify the request.

(c) **Administrative Extensions.** Unless otherwise provided in the permit, the Director may grant one extension of any permit for a period not to exceed 12 months. Such extensions may be granted upon timely written request with good cause shown.

(d) **Extensions after Hearing.**

- (1) Unless otherwise provided in the permit, a hearing is required for:
 - a. Extensions for terms that are longer than those which can be granted by the Director pursuant to subsection (d), above; and
 - b. Second (and subsequent) extensions.
- (2) Extensions may be granted after hearing if it is demonstrated that:
 - a. There is good and reasonable cause for the request; and
 - b. The Applicant has provided reasonable assurances that it will perform (or cause to be performed) the work authorized by the permit or approval within the extended term.

(e) **Extensions Pursuant to Permit or Approval Terms.** If a method of extension is provided within a permit or related agreement between the Applicant and the County, then such method of extension shall supersede this Section with respect to said permit.

(f) **Effect of Appeals, Litigation, or Mediation.**

- (1) If there is an appeal, litigation, or mediation during the time period that limits the Applicant's ability to deploy a facility pursuant to a permit, lease, or license granted by the County, then the term of the permit shall be tolled for the duration of the appeal, litigation, or mediation, and the date shall be recalculated upon conclusion of the appeal, litigation, or mediation.
- (2) The new expiration date shall be established by adding the number of days that the approval would have remained valid before the appeal, litigation, or mediation commenced to the date the appeal, litigation, or mediation was concluded by:
 - a. The expiration of the subsequent appeal period after final judgment or order in the initial appeal or litigation, or, if no appeal is available, after issuance of the final judgment or order; or
 - b. The termination of mediation by resolution of the conflict or impasse.
- (3) This subsection does not apply to litigation that is related to enforcement of a violation of Delta County ordinance or resolution.

Part 4. Enforcement and Remedies

Division 4.01. Approval Conditions

4.01.010. Failure to Comply with Conditions of Approval

If, upon inspection, the County determines that a wireless communication facility fails to comply with any applicable conditions of approval, or constitutes a danger to persons or property, then, upon written notice, the owner shall have 30 days to bring such facility into compliance or mitigate the danger. If the owner fails to bring such facility into compliance or mitigate the danger within said 30 days, the County may remove the facility at the owner's expense.

Division 4.02. Abandonment and Removal

4.02.010. Obsolescence

At the time of submission of the application for a wireless communication facility, the Applicant shall execute an agreement in a form acceptable to the County, to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower or freestanding communication facility used as a wireless communication facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than 180 days.

4.02.020. Abandonment

Any wireless communication facility that is not operated for any continuous period of 180 days shall be considered abandoned. The County, in its sole discretion, may require any abandoned wireless communication facility to be removed within 90 days of receipt of notice from the County notifying the owner of alleged abandonment. If there are two or more users of a structure upon which wireless communication facilities are mounted, then this provision shall not become effective as to the structure until all users cease using the structure.

4.02.030. Site Restoration

Upon removal of a facility as provided in this Division, the site shall be restored and revegetated in a manner that is consistent with the surrounding context.

Part 5. Definitions

Division 5.01. Acronyms

5.01.010. Table of Acronyms

TABLE 5.01.010 TABLE OF ACRONYMS	
Acronym	Meaning
ac.	Acre
Art.	Article
ASTM	American Society for Testing and Materials
BOCC	Board of County Commissioners
CATV	Cable Television
CCR	Colorado Code of Regulations
CDOT	Colorado Department of Transportation
CDPHE	Colorado Department of Public Health and Environment
C.F.R.	Code of Federal Regulations
C.O.	Certificate of Occupancy
C.R.S.	Colorado Revised Statutes
DAS	Distributed Antenna Systems
dBA	A-weighted Decibels
Div.	Division
e.g.	exempli gratia (translation: “for example”), which is followed by illustrative, non-exclusive examples
EPA	United States Environmental Protection Agency
ESMR	Enhanced Specialized Mobile Radio
FCC	Federal Communications Commission
ft.	Feet
i.e.	id est (translation: “that is”), which is followed by an elaboration of the topic
lf.	Linear Feet
LAN	Local Area Network
Max.	Maximum
Min.	Minimum
MSDS	Material Safety Data Sheet
N/A	Not Applicable
NOV	Notice of Violation
PZC	Planning and Zoning Commission
PCS	Personal Communications Services
RF	Radio frequency

TABLE 5.01.010 TABLE OF ACRONYMS	
Acronym	Meaning
ROW	Right-of-Way
Sec.	Section
sf.	Square Feet
U.S.C.	United States Code
WTF	Wireless Telecommunications Facilities

Division 5.02. Definitions

5.02.010. Definitions

A

Action or To Act on an application means to approve the application or to deny the application in writing.

Alternative Communication Facility means a wireless communication facility with an alternative design that camouflages or conceals the presence of antennae or towers; such as, but not limited to, artificial trees, clocks, light poles, bell towers, and steeples. A stand-alone pole in the public right-of-way upon which small cell antenna facilities are installed is considered an alternative communication facility to the extent it meets the camouflage and concealment standards of this definition.

Antenna means an apparatus designed for the purpose of emitting radiofrequency (“**RF**”) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission (“**FCC**”) authorization, for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term “antenna” does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. part 15.

Antenna Equipment means equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when collocated on a structure, is mounted or installed at the same time as such antenna.

Antenna Facility means an antenna and associated antenna equipment.

Applicant means a person or entity that submits a siting application and the agents, employees, and contractors of such person or entity.

Application. *See* Siting Application.

Authorization means any approval that the County must issue under applicable law prior to the deployment of personal wireless service facilities, including, but not limited to, approval under this Resolution.

B

Base Station means a structure or equipment at a fixed location that enables FCC-licensed or authorized wireless communications between user equipment and a communications network. The phrase “base station” includes, but is not limited to:

- (1) Equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul;
- (2) Radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including distributed antenna systems and small-cell networks).
- (3) Any structure other than a wireless communications tower that, at the time an application is filed, already supports or houses equipment described in items (1) or (2), above (for the purposes of this definition, “WIRELESS EQUIPMENT”), that has been reviewed and approved by the County, even if the structure was not built for the sole or primary purpose of providing such support.

The phrase “base station” does not include:

- (1) A wireless communications tower or any equipment associated with a wireless communications tower.
- (2) Any structure that, at the time an application is filed, does not support or house wireless equipment.

Business Day means any day that is not a holiday as defined in 47 C.F.R. § 1.4(e)(2), and any day that is not a legal holiday as defined by the State of Colorado or Delta County, Colorado.

C

Code of Federal Regulations (“CFR”) means the codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

Co-location, in general, means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

Commercial Mobile Services means any mobile service (as defined in 47 U.S.C. § 153) that is provided for-profit and makes interconnected service available:

- (3) To the public; or
- (4) To such classes of eligible users as to be effectively available to a substantial portion of the public, as specified by regulation by the FCC.

County means Delta County, Colorado.

D

Deployment means placement, construction, or modification of a personal wireless service facility.

Director means the Director of Planning and Community Development or designee thereof.

E

Eligible Facilities Request means any request for modification of an existing wireless communications tower or base station that does not substantially change the physical dimensions of such tower or base station as measured from the original tower or base station zoning or siting approval, involving: co-location of new transmission equipment; removal of transmission equipment; or replacement of transmission equipment.

Eligible Support Structure means any existing wireless communications tower or base station.

Existing, in reference to wireless communications towers or base stations, means a constructed tower or base station that was reviewed, approved, and lawfully constructed in accordance with all requirements of applicable law as of the time of an eligible facilities request; or wireless communications tower that exists as a legal, non-conforming use which was lawfully constructed.

F

Federal Register means the official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

Fence means a structure that serves as an enclosure, barrier, screen, or boundary, or that serves to mark a boundary, enclose a piece of land or divide a piece of land into distinct portions and that is usually constructed from wood, metal, wire, vinyl, masonry, stone, or other manufactured material.

Freestanding Communication Facility means a communication facility that consists of a stand-alone support structure or tower, antennas and accessory equipment.

H

Height means the height of a building, pole, tower, or other structure, measured: for buildings, from the average grade along the front of the building (closest to the front property line) to the highest point of the building; and for structures, from the base of the structure to the top of the structure, including any attached antennae or other appurtenances.

N

Notice of Deficiency means a written notice from the Director to the Applicant that the application is materially incomplete, clearly and specifically identifying the missing documents or information and the specific rule or regulation creating the obligation to submit such documents or information.

O

Other Wireless Communications Facility means:

- (1) Communications facilities that are mounted on a base station; or
- (2) Modification of an existing wireless communications tower or base station that involves:
 - a. Collocation of new transmission equipment;
 - b. Removal of transmission equipment; or
 - c. Replacement of transmission equipment.

Owner means an individual or entity holding a fee-simple or leasehold ownership interest in property that is subject to this Resolution, and includes an applicant for approval under this Resolution who is acting with the consent or direction of a fee-simple owner. The term “owner” also includes operators, managers, or any other person or entity who have responsibility for the approved facilities, as authorized by a fee-simple owner.

P

Personal Wireless Service means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

Personal Wireless Service Facility means an antenna facility or a structure that is used for the provision of personal wireless service, whether such service is provided on a stand-alone basis or commingled with other wireless communications services.

Public Right-of-Way means a strip of land, generally located between private property boundaries, which is owned by a governmental entity, dedicated to public use, or impressed with an easement for public use, which is primarily used for pedestrian or vehicular travel, and which is publicly maintained, in whole or in part, for such use. Public right-of-way may include without limitation the street, gutter, curb, shoulder, sidewalk, sidewalk area, on-street parking area or parking strip, drainage swale, planting strip, and any public way.

R

Right-of-Way means any public street or road that is dedicated to public use for vehicular traffic except for those rights-of-way owned by the Colorado Department of Transportation (“CDOT”). Right-of-way excludes any trails or recreational paths used for pedestrian, bicycle, or equestrian use.

Roof-Mounted Communication Facility means a communication facility that is mounted and supported on the roof or any rooftop appurtenance of a legally existing building or structure.

S

Site means the specific boundaries of the leased or owned property or specifically defined area of the wireless communication facility subject to review under this Resolution and any access or utility easements related to same. For towers, base stations and alternative communication facilities in the public rights-of-way, a “site” is limited to that area comprising the base of the structure and to associated transmission equipment located on the ground.

Shot Clock means a period of time set by the Federal Communications Commission that is presumptively reasonable for the processing of various types of applications under this Resolution.

Siting Application means a written submission to the County requesting authorization for the deployment of a personal wireless service facility at a specified location.

Small Cell Antenna Facility means a communication facility where each antenna is located inside an enclosure of no more than three cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than three cubic feet; and primary equipment enclosures are no larger than 17 cubic feet in volume. The following associated equipment may be located outside of the primary equipment enclosure and, if so located, is not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation box, ground-based enclosure, back-up power systems, grounding equipment, power transfer switch and cut-off switch.

Small Wireless Facilities are facilities that meet each of the following conditions:

- (3) The facilities—
 - a. Are mounted on structures 50 feet or less in height including their antennas, or
 - b. Are mounted on structures no more than 10 percent taller than other adjacent structures, or
 - c. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- (4) Each antenna associated with the deployment, excluding associated antenna equipment is no more than three cubic feet in volume;
- (5) All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- (6) The facilities do not require antenna structure registration under 47 C.F.R. part 17; and
- (7) The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in 47 C.F.R. § 1.1307(b).

Substantial Change, in reference to telecommunications towers or base stations, means A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

- (8) For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10 percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10 percent or more than 10 feet, whichever is greater;

- a. Changes in height shall be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height shall be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to February 22, 2012.
- (9) For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
- (10) For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10 percent larger in height or overall volume than any other ground cabinets associated with the structure;
- (11) It entails any excavation or deployment outside the current site;
- (12) It would defeat the concealment elements of the eligible support structure; or
- (13) It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds enumerated in provisions numbered (1) through (4), inclusive, above.

Structure means a pole, tower, base station, or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or comingled with other types of services).

T

Temporary Mobile Wireless Communication Facility means a wireless communication facility that is capable of being moved and consists of a cellular antenna tower and electronic radio transceiver equipment on a truck or trailer designed to provide expanded cellular network coverage or capacity.

Tower means any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

Transmission Equipment means equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable and regular and backup power supply. The phrase “transmission equipment” includes equipment associated with wireless communications services including, but not limited to, private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

U

Unlicensed Wireless Service means the offering of telecommunications services using duly authorized devices which do not require individual licenses, but does not mean the provision of direct-to-home satellite services (as defined in 47 U.S.C. § 303(v)).

W

Wall-Mounted Communication Facility means a communication facility that is mounted and supported entirely on the wall of a legally existing building, including the walls of architectural features such as parapets, chimneys and similar appurtenances.

Wireless Communication Facilities mean facilities that transmit and/or receive electromagnetic wireless communication signals. It includes antennas, microwave dishes, horns and other types of equipment for the transmission or receipt of such signals, communication towers or similar structures supporting said equipment, equipment buildings, parking area and other accessory development. A wireless communication facility does not include a facility entirely enclosed within a permitted building where the installation does not require a modification of the exterior of the building; nor does it include a device attached to a building, used for serving that building only and otherwise permitted under other provisions of this Resolution.

Wireless Communications Tower. *See* “Tower.”

Appendix A Application Requirements

General Requirements.

- (a) Applications must contain an applicant's name, address, general contact telephone number and an emergency number where a representative of the applicant can be contacted 24 hours per day, seven days per week.
- (b) Should any information represented on the application change, the applicant must contact the County in writing and provide the updated information.

Consolidated Application for Small Cell Antenna Facilities.

An applicant for small cell antenna facilities involving multiple individual small cell antenna facilities may submit a consolidated application to the County that covers all individual small cell antenna facilities.

Specific Requirements.

- (a) All applications shall specify concealment elements as required by Section 2.02.060, Concealment Elements, and illustrate how such elements contribute to concealment of the facility.
- (b) At the time of application for approval of a wireless communication facility the owner or operator shall submit a project implementation report that provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and that compares the results with established federal standards.

Eligible Facilities Requests

The County shall prepare, and from time to time revise, and make publicly available an application form which shall be limited to the information necessary for the County to consider whether an application is an eligible facilities request.

Co-Location Information (Towers and Freestanding Communication Facilities).

- (a) The application for any wireless communication facility involving a new tower or other freestanding communication facility shall include evidence that reasonable efforts have been made to co-locate within or upon an existing wireless communication facility within a reasonable distance of the proposed site, regardless of municipal boundaries.
- (b) The applicant for a new tower or freestanding communications facility must demonstrate that the proposed wireless communication facility cannot be accommodated on existing facilities due to one or more of the following reasons:
 - (1) The planned equipment would exceed the structural capacity of existing and approved wireless telecommunication facilities, considering existing and planned use for those facilities.
 - (2) The planned equipment, if co-located, would cause radio frequency interference with other existing or planned equipment, or exceed radio frequency emission standards which cannot be reasonably prevented.

- (3) Existing or approved wireless communication facilities do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
- (4) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures.
- (5) The landowner or owner of the existing wireless communication facility refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates.
- (6) No existing wireless communication facilities upon which the applicant's facilities can be mounted are located within the geographic area required to meet the applicant's engineering requirements.
- (7) Existing wireless communication facilities are not of sufficient height to meet the applicant's engineering requirements.
- (8) Existing wireless communication facilities upon which the applicant's facilities can be mounted do not have sufficient structural strength to support the applicant's proposed antennas and related equipment.
- (9) Any other reason, in the reasonable discretion of the Director or Director's designee.



DELTA COUNTY PLANNING DEPARTMENT

STAFF REPORT

Delta County Planning Commission Meeting

**Delta County Administration Building
560 Dodge Street
Delta, CO 81416**

March 10, 2021

2021 DELTA COUNTY LAND USE CODE Informational Report

Forms & Instructions

**Assessing Land Uses (Similar Use, Change of Use, Nonconforming Use)
Subdivisions (Standard, Clustered)**

RECOMMENDATION:

Staff recommends that the Planning Commission receive a report on implementing the 2021 Delta County Land Use Code:

- a. Forms and Instructions
- b. Assessing Land Uses (Similar/Change of Use, Nonconforming Use)
- c. Subdivisions (Standard, Clustered)

SUMMARY:

People can start submitting applications under the new Land Use Code (LUC) on April 1, 2021. Staff's intent is to have application forms and instructions available (physically and via our website) by mid-March so people can submit when they are ready. In addition, we are working toward having fillable forms that can be submitted electronically as that can be helpful to members of the public that would not otherwise come/drive in from more rural areas.

Planning staff meet weekly to review components of the land use process. Staff has created procedural Instructions or Standard Operating Procedures (SOPs) to help inform about steps involved in the process. We are presenting draft forms and instructions to the Planning Commission for review and comment before releasing (posting) them for public use. *Documents attached to this report are not for public use.*

Staff is seeking input from Commissioners if the documents are understandable. If not, we seek input in possible changes to add clarity. The general concept is to limit the number of forms as much as possible. With the new regulations and forms, we anticipate there could be adjustments needed once we get into processing permits.

Meanwhile, staff has identified about 20 outstanding applications that qualify to be processed under prior regulations. Timing for completing these applications depends in part on the applicant providing required information. As such, staff has been contacting applicants or their representatives to assess the time needed to complete these applications. While staff wants to accommodate these applications as much as possible, an application should be expired if there is no activity from the applicant for a long period. Pursuant to the new land use code, an application is considered stale if there is not action for six (6) months. At that point, a letter would be sent informing the applicant that their application will be expired in 10 days from the letter unless they provide justification that the Director finds warrants an extended period of time. If an application expires, then a new application would be required to be processed pursuant to the new Land Use Code.

Also included with this report is a discussion about the process to assess land use. The types of actions include assessing if the proposed use is similar to a listed use or constitutes a change of use. In addition, adopting/revising a Land Use Code and/or Zoning Maps can result in an existing use/structure becoming nonconforming to the zoning designation applied to that parcel. This report includes an example (case study) for working through a Change of Use request under the new Land Use Code.

The Planning Commission report on February 17th provided a brief explanation of the subdivision process under the new Land Use Code. There was interest expressed for additional information that is provided in this report.

DISCUSSION:

FORMS & INSTRUCTIONS

The Land Use Code authorizes the (Planning) Director to create and periodically revise forms for each type of application required. Planning (Department) has been assigned as the point for of contact for all types of land use activities. This is referred to as a *One-Stop Permit Center*, so citizens do not have to try to figure out where to start or who to talk to. Where Planning serves as the point for other departments, we generally receive an application/fee, check it for completeness, and route it.

Planning drafted a number of documents for review and comment by the Planning Commission before releasing (posting) them for public use. In addition, some form letters have been created for consistent communication where it is warranted at various points in the process. Since some forms are routed to other departments, updating forms involves coordination with applicable departments. Most of that involves meeting with individuals but also can be done as a group when needed.

Attachment 1 provides a matrix that summarizes each type of permit and a general overview of the process. Instructions outlining the process in more detail are provided in **Attachment 2**. A couple areas are highlighted in the instructions because staff is still developing those components. However, there should be enough for the Planning Commission to review and provide input.

The first step will be to submit a form requesting a pre-application meeting (**Attachment 3**). Following the pre-application meeting, a letter is sent (**Attachment 4**) that includes a checklist of materials required (**Attachment 5: Site Plan Checklist**), required application form(s), and fees. A general Land Use Checklist is also being developed, but is not completed at this time. One general Land Use Form was developed for all types of permits (**Attachment 6**), which reduces redundancy of the same information requested in multiple forms and consolidates the information in one place. This is especially effective if an application requires multiple permits. In certain cases, a separate form/checklist might be included where it is beneficial to provide additional detail (**Attachments 7-9: Final Plat Review Form, Lot Line (Boundary) Adjustment/Surveyor Statement, Pre-HUD Mobile Home Application Form, respectively**). A Zoning Permit Form is also being developed, but is not completed at this time. This initial phase can take about one month based on timelines outlined in the Land Use Code.

After an application is submitted, staff makes a determination if it is complete or incomplete, based on checklist with the pre-application follow up letter (**Attachments 10&11**). At that point, the application goes through a technical and sufficiency review by staff, referral agencies and adjacent neighbors. Based on comments, the application is either deemed complete (ready to set for action), or a letter with recommended revisions (changes, clarifications) is sent to the applicant (**Attachment 12**).

As we move into the new permit process, the Director would like feedback on a standard format for staff reports (written and presentations) to the Board of Adjustments, Planning Commission, and Board of County Commissioners. For reports, the title will provide enough detail for the general public to clearly understand the action(s) being considered, and staff's recommendation(s) will be stated up front. A summary will give a brief explanation of the matter and major issues related to the project. Then a discussion can provide more detail explaining the project and any issues. The report will include the agencies who reviewed the application (referrals), any comments received and how those comments were addressed (or why not). Attachments will be limited to documents that supplement the discussion as needed. Presentations will provide key information leading

to staff's recommendation without getting into details of the report, and include a powerpoint where value is added to the presentation.

Enforcement is initiated through a Citizen Complaint Form (**Attachment 13**). This form can be used for reporting any type of complaint, not just land use. A signed form is required to initiate the process. Forms can be obtained from, and submitted to, the Planning Department as part of the One-Stop Permit Center. Planning will log the complaint, assign a case number and route it to the appropriate department(s).

Staff is drafting a new fee schedule that reflects the new permits types from the LUC, but remains consistent with the current level of fee. A resolution will be presented to the BOCC for their consideration on 3/16/2021. In addition, staff is working on a BOCC Resolution that would establish general rules and procedures for the BOA. Once that is completed, staff will begin scheduling meetings with the BOA to review the LUC and their role.

Other activities include the Director speaking with the Board of Realtors about the LUC at their general meeting on 3/10.

ASSESSING LAND USES

Generally, Land Use Codes include a limited list of uses, and new uses tend to evolve over time. When a use is presented, the first step is to see if the use is listed in the Land Use Code (Table 2.b). If the use is listed, then we follow the process laid out in the LUC based on the classification:

- Uses classified as "Allowed" ("A") are allowed as-of-right where no permit is required but the owner is responsible to comply with the standards.
- Uses classified as "Permitted" ("P") are considered to be ministerial, meaning a permit is issued once the Director determines that they meet the applicable criteria set forth in the Land Use Code.
- Uses classified as Limited ("L") or Conditional ("C") are considered to be discretionary meaning they can be approved, conditionally approved, or denied.
 - o Section 5.B identifies Use Specific Standards for certain Limited Uses.
- Subdivisions are discretionary.

In addition, there are certain Temporary/Accessory Uses (Chapter 2, Section 3 - starting on page 33) to consider. Most of Temporary Uses in the LUC specify that they are allowed; however, Special Events does not specify. Based on the extent of criteria, staff's interpretation is that Special Events could be processed as a Permitted Use (ministerial) - meet the criteria and get a Zoning Permit (no conditions). Alternatively, it could be processed as a Limited Use (discretionary) where conditions can be added.

If a use is not listed, staff will assess if it is similar to a use that is listed. Definitions can help provide some guidance in this assessment. If it is not clear where the use fits after going through this process, then there is a process for the Director to make a

determination. The first step at this point is to determine the most appropriate category using the list on page 32 of the LUC, which generally is as follows:

- Principal use; used on an on-going basis
- Seasonal use; not more than six (6) continuous months within a 12 month period
- Temporary use; related to a special event (short period of time)
- Accessory use; subordinate to the main use.

A new or changed principal use must meet a list of criteria found on pages 32-33 of the LUC in order to be determined to be similar. The Director's determination can be appealed to the Board of Adjustments.

If it is determined that a use does not fit, an alternative process could be to request a change of the zoning designation. When considering a zone change, staff would look at consistency and connectivity with surrounding zoning designations as well as the Master Plan.

Chapter 11 addresses nonconforming conditions. For clarification, a *legal (lawfully) nonconforming* condition is where the use/structure was established in accordance with the rules in place at the time (lawfully), but then a change in the code created nonconforming condition(s). If the use/structure was created in conflict with the regulations in place, it is considered unlawful. A legal (lawful) nonconforming use can be continued, but is limited to change/expand depending on the conditions (See Chapter 11 for various scenarios). In addition, the process noted above could be used to determine when/if a use changes such that a permit is required.

CASE STUDY - *Similar Use*

Staff received an inquiry where they could operate an RV Park, which is use that is *not* listed in Table 2.b. Chapter 2, Section 2.D.2 establishes criteria to evaluate a specific application (use). The first step is to determine if the land use is:

- Principal; Permanent (e.g. Residence, Tasting room open all year)
- Seasonal; Six months or less during a 12-month period (e.g. Farm Stand open during harvest season)
- Temporary; Temporary use of land, then removed (e.g. Special Event)
- Accessory; associated with, but subordinate to a principal use (e.g. Farm Stand selling produce from that property)

When it is determined to be a principal use, there are additional criteria to assess how the operation works to help evaluate what is might be most similar to.

Developing a site for a RV Park would qualify as a principal land use. Seems most similar to the general land use category of "Rural Recreation and Hospitality Category" based on the following definitions:

Campground – includes parking or placement of RVs. Temporary occupancy not to exceed six (6) months in any calendar year.

Camping Unit – includes RVs

Lodging – No specific reference to RVs. Building or group of buildings that provide guest rooms for overnight lodging. Temporary occupancy (max 30 days). Might include other amenities like food services, conference rooms, etc.

Rural Recreation and Hospitality – outdoor recreation, overnight accommodations, and entertainment in the rural environment.

As a principal land use, the application would be subject to criteria in Section 2.D.3. The type of permit required would be based in part on how the RVC Park is operated:

ZONING DISTRICT	LODGING (max 30 days)	CAMPGROUND (max 6 mo)
A5	Limited Use	Limited Use
A20	Limited Use	Limited Use
A35	Limited Use	Limited Use
RI/C	Conditional Use	Not Allowed
UGA	Limited Use	Limited Use

In this case study, the type off permit is the same in either case, except in the RI/C zone. The State has additional criteria for campgrounds.

CASE STUDY - Change of Use

A parcel zoned A5 has an existing Farm Stand. The owner is interested to and an art studio and/or café. In summary, adding an Art Studio and/or Café to an existing Farm Stand would change/expand the existing temporary/accessory use to principal commercial/retail and/or restaurant uses.

Looking at other uses and their definitions for reference (Change of Use, Commercial, Farm, Restaurant, Retail Sales and Services), Farm Stands are allowed in any zoning district as a seasonal use that is accessory to the principal use (residence/farm). In that context a Farm Stand sells products from that property or the immediate area (e.g. Stand in Cedaredge sells sweet corn or dairy products from Olathe), and it does not operate year-around. Adding an art studio, cafe, or purchasing general retail goods (e.g. jewelry) from other areas would be a Change of Use expanding the Farm Stand as a temporary or accessory use into a principal land use. As a principal use, it must meet the list of criteria found on pages 32-33 of the LUC.

A *Cafe* is not listed in Table 2.b; however, based on uses that are listed and definitions, a cafe would be most-similar to a "restaurant" which is identified as a Permitted Use in all zoning designations (meaning adding a cafe would need a Zoning Permit- Administrative). An *Art Studio* is not listed in Table 2.b; however, based on uses that are listed and definitions, an art studio is most-related to "retails sales and services" which would either be a Limited Use or Permitted Use depending on the zoning designation (both types of uses require a Zoning Permit- Administrative). In the A-5 zoning designation, that would be a Limited Use. In this case, changing from A-5 to RI/C would change from a Limited Use to a Permitted Use so a zoning permit is still required.

Retail sales and services is a broad category that allows a lot of latitude once such a permit is obtained. However, there are regulations that could affect the design when changing use. With a cafe or sale of prepared foods, health regulations must also be met. Also, the new use would need to meet parking standards (Table 4.a LUC). For example, if the existing building is 1,000 sf, a cafe use requires 4 parking spaces, and the

same building for retail sales would require 3 spaces. The parking area would also need to accommodate accessible parking and access. When there are multiple uses, parking is not cumulative, but we will try to establish the appropriate number of spaces (may involve a traffic/parking study).

SUBDIVISION

As previously reported, minor plats (2-lots) will be processed administratively. However, the Director has an option to refer the matter to the Planning Commission if there is controversy. All other subdivisions (3+ lots) go to the Planning Commission for recommendation to the Board of County Commissioners. Sketches will no longer go to the Planning Commission, but rather a Preliminary Plat that would resemble a more final product. Subdividing a parcel with all lots of 35+ acres can be processed administratively through a Boundary Adjustment. Someone wanting to amend a Final Map (lot line adjustment, amending/removing notes, etc) would apply for a Replat.

CASE STUDY – Standard Subdivision

For a standard subdivision map, all lots in the subdivision must meet the standards of the Land Use Code (LUC). Under the LUC, the zoning designation establishes the minimum parcel size [UGA = 7,500 sf; RI/C = 2.0 Ac; A5 = 5 Ac; A20 = 20 Ac; A35 = 35 Ac]. Zoning establishes the maximum number of lots allowed, but should not be interpreted to guarantee approval of the maximum number of lots. When creating lots, good planning dictates that we evaluate the site conditions for the appropriate size and number of lots. For example, we do not want to create lots that due to topography, floodplain and/or soil conditions cannot establish a septic system or a reasonable access. In addition, lot lines should be logical in relation to the conditions of the property and surrounding area (not just the parcel in question).

CASE STUDY – Clustered Design Subdivision

Larger lots have an option to explore a cluster subdivision design. This option offers the ability to use a portion of the property to create lots smaller, and may allow for more lots, than the minimum allowed by zoning. In exchange, a significant part of the property would protect (easement, deed restriction) significant resources (agricultural, natural, scenic, etc). For example, a 100-acre lot designated as A20 would allow a maximum of five, 20-acre lots. With a cluster design, a portion of the property could be subdivided into six, 5-acre parcels with the remaining 70 acres restricted (by deed or easement) for open space (requires habitat value) or as continued agriculture (requires assignment of water).

In the case of a cluster design, the pre-application meeting would be used to explore the area that could support development, and there would need to be lands that are significant for protection. The location, size of area, and number of lots is subject to review by staff. Staff would make a recommendation to the Planning Commission, who in turn would make a recommendation to the Board of County Commissioners.

Prepared by: Carl P. Holm, AICP, Director of Community Development and Natural Resources, 970/874-2105, cholm@deltacounty.com



LAND USE GUIDELINES

ALL USES - Land uses, including subdivisions, must comply with all applicable standards of the Land Use Code, generally found in: - Chapter 3, <i>Lots, Buildings, and Structures</i> - Chapter 4, <i>Site Design and Environmental Stewardship</i> - Chapter 5, <i>Public Facilities, Infrastructure, and Services</i> - A pre-application meeting is required for all land use applications to determine the process and materials required. An application and fee is required to initiate a pre-application meeting. - Following the pre-application meeting, a letter will be sent with a checklist of materials required for an application, including application forms and fees. - The fee for the pre-application meeting will be applied (credited) to the application fee if an application is submitted within three months. - County refers projects within an Urban Growth Boundary to the appropriate municipality for comment relative to their regulations. - Public notice (if applicable) shall be made at least 14 days prior to the hearing date in accordance with Chapter 7, Section 4, <i>Public Notice</i>.	LAND USES ALLOWED-BY-RIGHT - Land uses listed as being allowed-by-right do <u>NOT</u> require a permit, however, landowners must comply with all applicable standards of the Land Use Code. - Other types of permits may be required (e.g.; well, septic, access)
PERMITTED USES - Permitted Uses are subject to Administrative Review of a Zoning Permit (ministerial permit). - Applications for a Zoning Permit are reviewed for compliance with all applicable standards of the Land Use Code. - Once the application is determined to comply with the applicable standards, the Director shall approve the Zoning Permit. An Aggrieved Party can appeal the Director's decision to the Board of Adjustments. - Other types of permits may be required (e.g.; well, septic, access).	LIMITED USES - Limited Uses are subject to Administrative Review of a Zoning Permit and Site Plan (discretionary permit). - Applications for a Zoning Permit are reviewed for compliance with all applicable standards of the Land Use Code. - Applications for Limited Uses may be referred to specific referral agencies. - Certain Limited Uses require public notice 14 days prior to a final determination. - Once the application is complete, and notice provided (as applicable), the Director shall approve, conditionally approve, or deny the Zoning Permit. An Aggrieved Party can appeal the Director's decision to the Board of Adjustments. - Other types of permits may be required (e.g.; well, septic, access).
SPECIFIC USES Chapter 2, Section 5(B) identifies <i>Use Specific Standards</i> for:	CONDITIONAL USES Conditional Uses are subject to Public Hearing Process (discretionary permit).

➤ Intensive Agriculture ➤ Rural Residential ➤ Ag Support & Rural Industry ➤ Community Uses ➤ Commercial Uses ➤ Rural Recreation & Hospitality ➤ Utilities, Communications, Mining, Energy, Transportation, Disposal • Specific Uses are generally processed as a Limited Use. • If the use-specific standards cannot be met, a Specific Use is processed as a Conditional Use • Other types of permits may be required (e.g.; well, septic, access).	• Applications for a Conditional Use Permit are reviewed for compliance with all applicable standards of the Land Use Code. • Applications for Conditional Use Permits are submitted to specific referral agencies and adjacent property owners. • Following review of the application, the Director will send a letter with comments that could include Recommended Revisions. • Once the application is complete, and notice provided, the Planning Commission shall conduct a public hearing and make a recommendation to the Board of County Commissioners. • The Board of County Commissioners shall conduct a public hearing to approve, conditionally approve, or deny the Conditional Use Permit. • Other types of permits may be required (e.g.; well, septic, access).
VARIANCES • Variances are considered an extraordinary remedy to diverge from quantifiable standards (lot size, setbacks, etc.). Neither a nonconforming use of neighboring lands or structures in the same zoning district, nor a permitted or nonconforming use of lands or structures in other zoning districts shall be grounds for the issuance of a variance. Under no circumstances shall the BOA grant a variance to allow a use that is prohibited by this Code in the zoning district in which the subject property is located. • No variance shall be authorized unless all of the findings in Chapter 10, Section 2(A)(2) can be made: ➤ Unusual Conditions (lot size/shape, exceptional topographic conditions, etc.); ➤ Special Circumstances (unique difficulties or hardship, not a special privilege); and ➤ Consistent with Master Plan and Land Use Code (not detrimental to the public good). • Variation to Lot Size also requires meeting the findings in Chapter 3, Section 1(A)(3). • The Board of Adjustments (BOA) is the authority to consider variance requests. An Aggrieved Party can appeal the Director's decision to the Board of County Commissioners.	MINOR PLAT, REPLAT/LOT LINE ADJUSTMENT • Minor Plats and Replats are subject to Administrative Review. • Minor Plat is a 2-lot subdivision. Replat consists of <i>minor</i> amendments to an approved final plat (lot lines, map notes, right of way, or easements) - all lands must be part of a previously approved plat, no additional lots or building site are created, no impacts to county roads or other service providers is created, or the revision corrects minor errors on the plat. • Applications for a Minor Plat or Replat/Lot Line Adjustment are reviewed for compliance with all applicable standards of the Land Use Code. • Applications for Minor Plat may be referred to specific referral agencies. • Minor Plats where one lot does not meet the minimum lot size requires approval of a variance in order to find the map in compliance. • Once the application is determined to comply with the applicable standards, the Director shall issue an approval. An Aggrieved Party can appeal the Director's decision to the Board of Adjustments. • The Director may refer the application to the Planning Commission for review and recommendation to the Board of County Commissioners if determined there could be material impacts or disagreement relative to compliance. • Other approvals may be required in accordance with Chapter 7, Section 3(A)(2) • Minor (Final) Plats may be recorded when County accepts all public improvements shown on the map and conditions are met to the satisfaction of the Director.

PRELIMINARY PLAT • Preliminary Plats are subdivisions with 3+ lots. • Subdivisions are reviewed for compliance with all applicable standards of the Land Use Code, including Chapter 6, Land Dedication, Fire Impact Fees, Development Improvement Agreements • Applications for Subdivisions are submitted to specific referral agencies and adjacent property owners. • Once the application is complete, and notice provided, the Planning Commission shall conduct a public hearing and make a recommendation to the Board of County Commissioners. • The Board of County Commissioners shall conduct a public hearing to approve, conditionally approve, or deny the Conditional Use Permit. • Final Plats may be recorded after the Board of County Commissioners, at a noticed meeting, accepts all public improvements shown on the map and determines that conditions are met.	BOUNDARY ADJUSTMENTS • Boundary Adjustments are intended for adjustment or revisions of established, undisputed, existing boundary lines between parcels not previously subdivided, and where such adjustment does not result in the creation of an additional lot less than 35 acres. • All parties interested in a Boundary Adjustment shall complete an application provided by the Planning Department and provide a draft plat from the applicant's surveyor showing the existing boundary and the proposed boundary adjustment of all affected parcels. • Once the Director verifies that no new lots are being created and no violation of Codes is being created, they shall forward the draft Plat to the County Surveyor. • The County Surveyor shall review the Plat for accuracy.
APPEALS • The Board of Adjustments (BOA) shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Director in the administration of this Code. • An Aggrieved Party must file their appeal in writing with the Director within 30 days following the action or decision of the Director from which the appeal is taken. • The BOA hearing is de novo, meaning the matter is reviewed as if no prior action has been taken. • An appeal determination by the BOA may be appealed to the Board of County Commissioners. The BOCC may reverse or affirm, wholly or partly, or may modify the BOA order, requirement, decision or determination based on the record (no new information following the BOA hearing).	REZONING • Rezoning changes the land use designation of a parcel or parcels (legislative action). • Once the application is complete, and notice provided, the Planning Commission shall conduct a public hearing and makes a recommendation to the Board of County Commissioners relative to the proposed rezone consistency with the Master Plan and any adopted Special Area Plans. • The Board of County Commissioners shall conduct a public hearing to approve or disapprove a rezone, based on standards/criteria laid out in Chapter 8, Section 2(B). No lot, tract, or unplatted land will contain multiple zones within its boundaries as a result of the rezoning.



General Development Application Instructions

Pre-Process Investigation: Prior to initiating an application for a land use permit.

- 1) A property owner must have a permitted access and address in order to initiate application for a land use entitlement. See *Access/Address Application Instructions*.
- 2) Identify the zoning designation of the subject parcel. Zoning maps can be found on the County website at: [www. \[www.deltacounty.com/6/Planning-and-Community-Development/...\]\(http://www.deltacounty.com/6/Planning-and-Community-Development/...\)](http://www.deltacounty.com/6/Planning-and-Community-Development/...)
- 3) Review the Land Use Category table in the Land Use Code (LUC). This table can be found in Chapter 2, Section 2.B, Tables 2.b, pages 30-31, or on the County website at: [www. \[www.deltacounty.com/6/Planning-and-Community-Development/...\]\(http://www.deltacounty.com/6/Planning-and-Community-Development/...\)](http://www.deltacounty.com/6/Planning-and-Community-Development/...) The following is a summary of the types of permits and processes:
 - a. Allowed Uses (“A”) and Temporary Uses do not require any permit from the County but must comply with applicable standards in the Land Use Code (Chapters 2, 3, 4, 5 LUC)
 - b. Permitted Uses (“P”) require consideration of a Zoning Permit by the Community Development Director. A permit is approved if all standards are met (ministerial).
 - c. Limited Uses (“L”) require a Zoning Permit and Sketch/Site Plan from the Director. Uses that include “n” in the table will require a public notice. These permits are discretionary meaning they can be approved, conditionally approved, or denied.
 - d. Conditional Uses (“C”) require consideration of a Conditional Use Permit by the Planning Commission and Board of County Commissioners. These permits are discretionary meaning they can be approved, conditionally approved or denied.
 - e. Uses not listed in the table are not allowed unless determined to be similar in nature to a listed use by the Community Development Director.
 - f. Rezoning, and/or text amendments to the Land Use Code, requires consideration by the Planning Commission and Board of County Commissioners. These are legislative actions at the discretion of the County if a change is desired.
 - g. Variances require consideration by the Board of Adjustments.
 - h. Minor Plats (2-Lots), Replats, Lot Line (Boundary) Adjustments require Administrative Review by the Community Development Director; and are discretionary meaning they can be approved, conditionally approved or denied. Upon completion of improvements and condition compliance for Minor Plats, a Final Map must be accepted by the Director.
 - i. Subdivisions (3+ Lots) require consideration off a Preliminary Plat by the Planning Commission and Board of County Commissioners; and are discretionary meaning they can be approved, conditionally approved, or denied. Upon completion of improvements and condition compliance, a Final Map must be accepted by the Board of County Commissioners (public notice).

Pre-Application Meeting: First step in the Review Process for all land use entitlements. The purpose is to review preliminary information to provide guidance on the next steps.

- 1) Pre-application forms for all land use permits are available and can be filled out on line. Application Form: [S\Planning\Applications/...](#)



- 2) Owner/Representative submits a pre-application form with preliminary plans/plats and materials, including a review fee, to the Community Development (Planning) Department. Information provided should include preliminary information about the site (existing structures, access, ditches, waterways, utilities, easements, etc).
NOTE: See instructions for submitting applications/materials.
- 3) In preparation for the meeting, staff will print an aerial photo of the site and surrounding area and review information provided. Staff will perform a site visit to get familiar with the area and take photos. Ask the applicant for additional information if needed to help clarify what is being proposed (e.g. staking and/or flagging).
- 4) Within one week of receiving a pre-application:
 - a. Schedule a pre-application meeting between the applicant and the assigned staff.
 - b. Meetings may also include the Director and/or other staff/agencies (Environmental Health, Roads & Bridges, Engineering, Fire, etc) as determined by the Director.
 - c. Consider application relative to Inter-Government Agreement(s) (IGAs) between County and municipalities, including the following key, common points:
 - Urban Growth Boundary (UGB) and Sphere of Influence (SOI) boundaries shall be mapped using GIS such that the data can be used to help identify parcels subject to the IGA.
 - For all Subdivision (minor plat, preliminary plat), Limited Use, Conditional Use, and Rezone applications located within the Growth Management Boundary:
 1. County informs a municipality as part of the pre-application stage in the County's land use review process.
 2. County invites the applicable municipality to attend the pre-application meeting which is to identify applicable review procedures (by County or municipality) and potential issues before an application is filed.
 - All subdivision (minor plat, preliminary plat) requests to the County within the municipality's Sphere of Influence (maps attached) shall be redirected to the municipality for processing. If the municipality declines to process the request, the County will process the request, subject to terms of the IGA.
 - A property owner applying for a Limited Use, Conditional Use, and/or Rezoning within the Sphere of Influence will be required to consult with the municipality as to the ability to annex.
 - No Medium or Large Animal Feeding Operations are allowed within the Growth Management Boundary regardless of the underlying zoning.
- 5) Pre-Application meeting format:
 - a. Applicant presents and explains their request.
 - b. Planner asks clarifying questions to understand the request.
 - c. Planner provides direction if the plan needs to be amended to meet LUC requirements, and could offer possible suggestions to amend the project to better meet standards of the LUC and/or good planning/design.
 - d. Planner explains the review process, and that a letter will be sent including a development application form and a checklist of materials needed for the application.
- 6) Within three (3) weeks from the meeting, Planner sends a package to the applicant that includes:
 - a. General Land Use Application form, note where the form can be found and filled out on line. Application Form: [S\Planning\Applications/...](#)



- b. Checklist of materials and information required to be included with the application. Checklist Form (to be completed by staff): [S:\Planning\Applications/...](#)
- c. Required fee to process the application. Note that the pre-application fee will be credited to the application fee if a complete application is submitted within three (3) months.

Application: The formal review process for all land use entitlements is initiated with submittal of an application package.

- 1) Owner/Representative submits an application package completed in accordance with the pre-application letter and Application Checklist. The General Land Use Application Form is available on the County website at: [www. https://www.deltacounty.com/6/Planning-and-Community-Development/...](https://www.deltacounty.com/6/Planning-and-Community-Development/...)
NOTE: See instructions for submitting applications/materials.
- 2) Completeness Review (1 week). Planner reviews the package to assess if all materials required in the checklist have been submitted, including the processing fee. Review to be completed within one (1) week of submittal.
- 3) Planner sends a letter notifying the applicant that the application is
 - a. Incomplete. Return the entire package including the fee to the applicant. Include a description of what is needed to make the application complete.
 - b. Complete. The application moves on to Sufficiency/Technical review.*NOTE: An incomplete application is not considered filed.*
- 4) Sufficiency/Technical Review (3 weeks).
 - a. Planner reviews application materials for consistency of information and adequacy to demonstrate compliance with the applicable Land Use Code requirements.
 - b. Concurrent with Planner's review, refer applications to agencies, consultants and adjacent property owners. The referral period can be extended for up to one month with mutual consent of the applicant and Director.
 - c. All reviews to be completed and comments received within three (3) weeks of submittal.
- 5) Planner sends a letter notifying the applicant that the sufficiency/technical review is complete, and informs them any fees required to be paid to the referral agencies and/or consultants must be paid before proceeding. Letter to include recommended revisions to address comments received, and date when materials are to be submitted.
- 6) Applicant resubmits materials addressing recommended revisions and comments.
- 7) Planner reviews the resubmitted materials and may refer back out to the commenting agency.
NOTE: Additional fees may be assessed with more than three rounds of resubmittal. Action by the applicant is required within 10 business day. If not, the application is deemed to be stale unless the applicant submits a request for, and the Director agrees to, additional time (up to six months maximum).
- 8) If the item requires notice, the assigned planner prepares a draft notice for review by the Director. *See Public Noticing instructions below.*
- 9) If there are no recommendations or when the recommendations have been addressed sufficiently, the item is scheduled for action:
 - a. Administrative. The assigned planner prepares a letter (addressed to the applicant) notifying them of the action, including any conditions. A draft letter is submitted to the Director for review and approval.



- b. BOA. The assigned planner prepares a staff report and resolution recommending conditions and findings supporting staff's recommendation, and schedules a hearing date with the BOA.
 - c. PC/BOCC. The assigned planner prepares a staff report and resolution identifying findings supporting staff's recommendation, and schedules a hearing date with the PC. Following action by the PC, the assigned planner prepares a staff report and resolution identifying findings/conditions recommended by the PC, and schedules a hearing date with the BOCC.
- 10) Final Maps. All Final Maps routed to departments with conditions applied to verify that applicable conditions have been met (cleared). Once the applicant complies with all of the conditions (all departments) and completes the required public improvements (R&B, Engineering):
- a. Preliminary Plat. Planner schedules and notices for the BOCC to accept the final map, including any right of way dedication.
 - b. Minor Plat. If applicable, planner schedules acceptance of right of way dedication by the BOCC prior to Director accepting the Final Map. Planner issues a public notice for the Director to accept the map (*see Public Notice instructions below*).
- 11) **Recording...**

Instructions for Public Noticing

- 1) Chapter 7, Section 4 of the LUC identifies the noticing requirements.
- 2) Review Table 7.c to identify the type of notice required, based on the type of application (Publication, Posting, Mail1, or Mail2).
- 3) Standards for what is required based on the type of notice is identified in Section 4.E
- 4) Table 7.b identifies the duration of noticing, which is required at least 14 days before the hearing.
- 5) There are two types of mailing:
 - a. Mail1 goes to adjacent property owners
 - b. Mail2 includes all property owners where their property is touched by drawing a 1,000 foot radius from the project property boundary.
- 6) Contents of the notice is provided in Section 4.B
- 7) Retain an email list of people that express interest to receive notice. This list receives all public notices for land use applications.
- 8) Create a Public Notice page on the Planning & Community Development website. Post all notices on this page for the duration prescribed by the LUC (14 days prior to the hearing).

Instructions for submitting materials (TBD)

- 1) Electronic submittal. **To submit electronically ... If materials are submitted electronically, no hard copy is required.**
- 2) Hard Copy submittal. **If submitting hard copy, an electronic copy of all materials submitted is also required. This can be in the form an USB thumb drive.**



PRE-APPLICATION
SUBMITTAL REQUIREMENTS

One (1) hardcopy of all materials is required. Plans shall not exceed a size of 11" x 17".

An electronic copy (.pdf) of all submitted materials is also required to be submitted.

Submit the following information and materials:

For Development Projects:	For Subdivision:
• Constraints Map (Map showing steep slopes, sensitive biological habitat, trees, groundwater recharge areas, sensitive view shed and any other constraints that may affect design.) • Conceptual Site Plan, including: ➢ Parcel size, dimensions, & access ➢ Existing/proposed structures ➢ Setbacks ➢ Irrigated/AG land ➢ Ditches/ponds/streams ➢ Utilities (existing & proposed) ➢ Use ➢ Occupancy type ➢ Driveway & parking ➢ Location of areas to be landscaped ➢ Easements • Existing/proposed water & wastewater • Photographs of site	• Constraints Map (Map showing steep slopes, sensitive biological habitat, trees, groundwater recharge areas, sensitive view shed and any other constraints that may affect design.) • Conceptual Subdivision Map, including: ➢ Existing parcel size(s) ➢ Existing/proposed lot lines ➢ Proposed number of lots & lot sizes ➢ Proposed road(s)/access ➢ Existing structures ➢ Ditches/ponds/streams ➢ Utilities (existing & proposed) • Existing/proposed water & wastewater • Easements • Photographs of site

Please answer the following questions:

YES ☐ NO ☐	Would development be visible from a public road, designated vista point, or public park? If yes, is development located on a slope or near the top of a hill? YES ☐ NO ☐
YES ☐ NO ☐	Does the project include cultivation of land that is currently not cultivated?
YES ☐ NO ☐	Does the project propose non-agricultural uses adjacent to the agricultural uses?
YES ☐ NO ☐	Does the project propose removal of native vegetation?
YES ☐ NO ☐	Would development occur within 100 feet of a seasonal or non-seasonal creek, lake, river, natural drainage, marsh, ocean, pond, slough, or stream?
YES ☐ NO ☐	Does the project include grading, soil importation, soil removal, and/or drainage modifications?
YES ☐ NO ☐	Would the project be connected to an existing well or private water system?
YES ☐ NO ☐	Does the project propose development on slopes over 25%?
YES ☐ NO ☐	Would development include construction, enlargement, alteration, repair, improvement or removal of a septic tank/system?
YES ☐ NO ☐	Would development include construction, enlargement, alteration, repair, improvements or removal of a well?
YES ☐ NO ☐	Would the project include connection to a new or existing wastewater treatment system?



PRE-APPLICATION REQUEST FORM

Upon submittal of all required information (including fee), the Planning Department staff will schedule a meeting to review the project with the applicant. The fee will be credited to your development application if application is submitted within twelve (12) months.

Packages that do not include all required information (including fees) will not be accepted.

PROJECT INFORMATION		PERMIT NO.
SITE ADDRESS		CITY/STATE ZIP
NEAREST PUBLIC ROAD	ASSESSOR'S PARCEL NUMBER(S)	
OWNER(S) INFORMATION		
NAME	PHONE	
MAILING ADDRESS	CITY/STATE	ZIP
E-MAIL		
APPLICANT INFORMATION		
NAME	PHONE	
MAILING ADDRESS	CITY/STATE	ZIP
E-MAIL		
PROJECT DESCRIPTION		

NOTE: If Applicant represents owner, owner must provide written consent to being represented on all matters pertaining to their application.

Owner/Applicant Signature: _____ Date: _____

FOR DEPARTMENT USE ONLY		
RECEIVED BY:	DATE RECEIVED:	COMPLETED BY:
STAFF ASSIGNED:		DATE SENT TO AGENCIES:



Date

Name

Address

City, State Zip

RE: APPLICATION STATUS – PRE-APPLICATION

PERMIT ##, OWNER LAST NAME

PROJECT LOCATION

Dear Applicant:

On [DATE], Delta County held a pre-application meeting to consider [PROJECT DESCRIPTION] at [ADDRESS]. The following agencies/persons were invited and/or present at this meeting:

- Delta County Planning; NAME, CONTACT INFO
- Delta County Engineering; NAME, CONTACT INFO
- Delta County Road & Bridge District #; NAME, CONTACT INFO
- Delta County Environmental Health; NAME, CONTACT INFO
- Town/City of ____; NAME, CONTACT INFO
- Fire Agency; NAME, CONTACT INFO
- CO Dept of Transportation; NAME, CONTACT INFO

The property is zoned [ZONING] and the application proposes [TYPE OF USE-TABLE]. The decision-making authority is the [Director, BOA, and/or PC/BOCC] to approve, conditionally approve or deny the application.

Based on the information presented at this meeting: [SUMMARY OF MEETING/COMMENTS]

- 1) The parcel is ## acres/sf with access from ____
- 2) Opportunities/Constraints (Issues) include:
 - a. [Waterways, floodplain, utilities, wildlife corridors, etc]
- 3) Staff provided the following suggestions if you proceed with an application:
 - a. Planning direction ____
 - b. [NOTE COMMENTS FROM ANOTHER DEPARTMENT OR AGENCY]

Enclosed please find:

- *General Development Application Form*. Please complete all required information. The property owner and applicant must sign the application certifying that the information provided is accurate to the best of their knowledge.
- *Application Checklist*. Attached is a checklist of materials required to be provided with the application based on the information noted above. This may include requirement for technical studies. If the County requires outside technical expertise, the County will hire the consultant and the applicant will be responsible for those costs.
- *Fee Resolution*. Based on the information presented, a fee of \$____ is due at the time of application submittal. Please make checks payable to “Delta County”. The County fee resolution is attached for reference.



Within one week of submittal, you will be notified if the application package is complete or incomplete. A complete application will proceed to a sufficiency and technical review to assess compliance with applicable development standards, which includes review and comment from adjacent property owners and responsible agencies. An incomplete application will be returned as *not filed* if any of the information requested is not provided, forms are not complete, or fees are not provided.

If you have any questions or need additional information, please contact the project planner listed below.

Respectfully,

Carl P. Holm, AICP
Director of Community Development and Natural Resources

By: Planner Name
Contact info (email+ phone)

DRAFT



CASE #: _____

Site Plan Checklist

APPLICANT NAME(S): _____

PROJECT NAME: _____

PRE-APPLICATION MEETING DATE: _____

NOTE: All of the following items **MUST** be provided for a complete Application Submittal, including any and all requested materials from the pre-application meeting. Failure to provide or complete any of the following items will result in the application being incomplete and will not be considered filed until all items are received by the Department.

SITE PLAN REQUIREMENTS:

**STAFF
INITIALS**

APPLICANT

- | | | |
|-------|--------------------------|---|
| _____ | ☐ | Aerial View. View of the subject parcel and surrounding area at no smaller than 1:200 scale (Color Copy). Illustrate the property line boundary and road names on the aerial map. |
| _____ | ☐ | Vicinity Map. Identify the subject parcel. Include names of all adjacent property owners and adjacent subdivisions. Illustrate political boundaries (city limits, county lines, etc.) – provide distance from the closest Town/City boundary. |
| _____ | ☐ | Legal Description. Subdivision, blocks, lots, recording information. Books and pages of metes and bound. Bearings on Section and ¼ Section lines (to the nearest second). Include metes and bounds description. |
| _____ | ☐ | Site Plan. Illustrate details of the proposed project with the applicable information listed below (drawing of professional quality): <ul style="list-style-type: none">a. North Arrowb. Dimensions. All dimensions to the nearest 0.01 foot, to scale no smaller than 1:200. Provide bearings & distances on all right of way and easement lines (existing and proposed).c. Parcel. Illustrate property lines of the entire parcel.d. Roads. Identify the primary road where the site takes access as well as any secondary roads/access. Indicate if roads are public or private. Label all roads included on the plan with names. Include: existing right-of-way boundary and centerline (existing and proposed); aliquot lines, curve data on centerline. Submit a Road Name application for all interior roads (if applicable). Illustrate proposed right of way lines.e. Access. Identify any proposed access, bridge, culvert or at-grade crossings (existing and proposed). Survey (GPS) the location of existing, permitted access, bridges and culverts for the subject parcel. |

- f. Easements. Survey existing easement lines (utility, slope, conservation, other). Illustrate proposed easement lines.
- g. Utilities. Survey and label all existing overhead and underground utility lines (water, sewer, electricity, gas, phone, cable, etc.) serving the property, include connection point(s) to main lines even if not located on the subject property. Survey existing utility pole locations. Illustrate proposed utility lines, including an easement if required.
- h. Irrigation Ditches/Pipelines. Survey and label the location and ownership of all irrigation ditches and pipelines.
- i. Existing Features. General location of any significant natural features such as rivers, streams, draws, ravines, ponds, wetlands, forest areas, tree and hedge lines. Survey the location (GPS) of existing fence, drainage structures and features, buildings, service lines, wells and distribution lines, and septic systems.
- j. Proposed Features. Illustrate proposed top/toe of slope lines, buildings/building envelopes, setbacks, and any proposed no build areas, drainage structures and features, service lines, wells and distribution lines, and septic systems.

NOTE: Include a revision block on all plans and reflect all changes made to the original Site Plan.

For a more detail explanation of requirements for the site plan, please reference [Chapter 4, Site Design and Environmental Stewardship](#) in the Delta County Land Use Code.

For all Sight Distance requirements, please reference [Chapter 5, Public Facilities, Infrastructure, and Services](#) in the Delta County Land Use Code.



LAND USE APPLICATION

OVERVIEW

This form provides the basic information for any land use proposal. This form is only one of the items required for a complete application submittal. It is the responsibility of the applicant(s) to ensure that all other required materials listed in the application checklist(s) are submitted. It is also the responsibility of the applicant to clearly demonstrate through narrative, visual representations, and other materials as needed, that the proposed land use complies with the Delta County Land Use Code. Incomplete applications are not considered filed and will be returned. All applications shall include digital copies of all files submitted along with a hard copy, unless otherwise determined by Planning staff.

Applicants must first attend a pre-application meeting with the Planning Department staff **BEFORE** submitting this Land Use Application. Additional materials required in the pre-application letter must be submitted with this application in order for the application to be complete. Incomplete applications will be returned and are not considered filed.

We accept Cash, Check or all major Credit Cards (2.7% fee applied at check out)

Please make checks payable to **DELTA COUNTY**

LAND USE CATEGORY (select all appropriate categories)

TYPE OF LAND USE:

☐ Permitted Use (P)

☐ Limited Use/Public Notice (Lⁿ)

☐ Limited Use (L)

☐ Conditional Use (C)

THIS APPLICATION IS FOR:

☐ Rezoning

☐ Subdivision, Minor Plat (Less than 3 Lots)

☐ Subdivision, Preliminary Plat (3 or more Lots)

☐ Zoning Permit (Site Plan Approval)

☐ Variance

☐ Appeal of Administrative Decision/Determination

☐ Replat (includes minor lot line adjustments)

☐ Lot Line (Boundary) Adjustment

☐ Conditional Use Permit

☐ Development Agreement

☐ Minor Amendment

☐ Other: _____

Pre-application Meeting Date was held on: _____

CONTACT INFORMATION

OWNER(S): _____

ADDRESS: _____

PHONE: _____

E-MAIL: _____

APPLICANT(S): _____

ADDRESS: _____

PHONE: _____

E-MAIL: _____

APPLICANTS INTEREST (Owner, Buyer, Representative):

(If Applicant is not the owner, authorization from owners of all properties associated with this permit is **REQUIRED**)

SITE INFORMATION

Site Address: (If applicable) _____

The Parcel Number and Legal Description can be obtained from your Deed, Tax Notice, or by calling the Delta County Assessor's Office at (970) 874-2120 or website: www.deltacounty.com

A part of the (1/4 Section) _____, Section _____, Township _____, Range _____ (6th P.M.) (N.M. P.M.) (Ute P.M.) (Circle one)

SUBDIVISION (If applicable) (Name, Lot#, Block #) _____

(ATTACH COPY OF THE RECORDED PLAT)

PARCEL NUMBER (PID#): _____ - _____ - _____ - _____ Current Zoning District: _____

Existing Use(s): _____ Proposed Use(s): _____

REZONING (amendment to the district zoning maps)

Applicant wishes to amend the Delta County Zoning Maps by changing the above specified parcel from _____ Zone District to a _____ Zone District

LAND USE CODE AMENDMENT (minor)

Describe the proposed amendment: _____

SUBDIVISION

Pre-Application Date: _____ MP _____ - _____

Plat Name: _____

Total number of acres: _____

Total number of proposed lots (**Please reference Chapter 3, Lots, Buildings, and Structures for Lot Dimensions by Zoning District**): _____

Domestic Water (Domestic water is required for all lots) Attach copies of approved well permits, water tap or certificate, court decrees, or deeded water rights for all lots and list them here:

Irrigation Ditches: If irrigation ditches are located on or adjacent to this property, list their locations, names of owners, water rights, number of shares owned and any proposed division of irrigation water.

Sewage Disposal: **No sketch plan, site plan, or preliminary plat shall be approved by the County unless the Colorado Department of Public Health and Environment or Delta County Environmental Health Division has made a favorable recommendation regarding the proposed method of sewage disposal.**

Fire Protection: Please list the fire district in which the property is located in.

Fire protection facilities shall be reviewed and approved by the appropriate Fire Protection District for sketch plans or site plans associated with limited or conditional uses, and preliminary plats (or final plats, where a preliminary plat is required prior to final plat approval). An improvements agreement and appropriate collateral shall be required for all fire improvements.

Access: What road or highway will the property have access from? _____

Note: If you have an existing **APPROVED** access permit, please attach a copy with your application. If you do not, you will need to apply for an access permit with the appropriate Department as part of the subdivision process. **(All Highway Access Permits are obtained from the Colorado Department of Transportation)**

VARIANCE

Please explain the reason(s) for requesting a variance. (**No variance shall be authorized unless the Board of Adjustments (BOA) finds all of the requirements laid out in Chapter 10, Section 2. Variances, is met**)

APPEALS

Please refer to **Chapter 12, Appeals**, of the Code.

REPLAT (minor amendments, minor lot line adjustments, plat correction, plat note removal, etc.)

Recorded date of previously approved Plat: _____

Description of replat: _____

LOT LINE (BOUNDARY) ADJUSTMENTS

What is the purpose of the adjustment? _____

Existing Parcel Size(s): _____

Adjusted parcel size(s): _____

Please list all landowners, along with their parcel number, who will be involved in this process:

Applicant/Owner(s) Signature: _____

Applicant/Owner(s) Signature: _____

Note: All payments must be made to the County Surveyor, Jesse Messenger, by contacting him directly @ (970) 835-3953

ACKNOWLEDGEMENT AND AUTHORIZATION

The undersigned authorizes the Delta County Planning Department to proceed with processing this application under the requirements of the Delta County Land Use Code (LUC).

I hereby certify that the information provided herein is complete and accurate to the best of my knowledge. Also, I hereby certify that I am the property owner or that I, the undersigned, am authorized to act on the property owner's behalf.

OWNER SIGNATURE: _____ DATE: _____

APPLICANT SIGNATURE: _____ DATE: _____

DEPARTMENT USE ONLY

APPLICATION RECEIVED BY: _____ DATE: _____

FEE REQUIRED: _____ PAID ON: _____

APPLICATION ACCEPTED AS 'COMPLETE' ON: _____

APPLICATION ACCEPTED AS 'TECHNICALLY SUFFICIENT' ON: _____



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

295 W 6th Street ♦ Delta, CO 81416-1796
P: (970) 874-2110 ♦ F: (970) 874-2500
E-mail: planning@deltacounty.com

FINAL PLAT REVIEW

Subdivision Name & #: _____

Delta County approved the Preliminary Plat noted above, which included conditions reflecting comments from referral agencies. As a referral agency for this project, we request that you complete this form to verify applicable conditions have been met and that the Final Plat meets your agency standards such that it can be accepted by the Board of County Commissioners for recording.

Referral Agency (please identify your agency and print the name of the person completing this review):

Phone Number: _____

Have all requirements and/or recommendations been met for this Final Plat, per your department/agency?

☐ YES ☐ NO

If you answered 'NO' to the above question, please describe what is required in order to accept the Final Plat:

Signing this form verifies that conditions and regulations pertaining to this agency have been resolved satisfactorily and you recommend Delta County accept the Final Plat.

Department Signature: _____ Date: _____

Note: Please return this form to the Delta County Planning & Community Development Department.



LOT LINE (BOUNDARY) ADJUSTMENT
SURVEYOR'S STATEMENT

Date: _____

I, _____, have been hired to create a Lot Line (Boundary) Adjustment Plat for:

I received the request for a Lot Line (Boundary) Adjustment and state for the record that it appears to be a valid Lot Line (Boundary) Adjustment under state statute and will not create any new lots. **This Lot Line (Boundary) Adjustment will meet the intent of the Delta County Land Use Code and will be in accordance with Section 38-44-112, CRS.**

Surveyor Stamp _____ PLS # _____

Note: Please submit this statement to the Delta County Planning & Community Development Department



DELTA COUNTY

PLANNING & COMMUNITY DEVELOPMENT

295 W 6th Street ♦ Delta, CO 81416-1796

P: (970) 874-2110 ♦ F: (970) 874-2500

E-mail: planning@deltacounty.com

Pre-HUD Mobile Home Permit

Date: _____ **Fee: \$75.00** Payment Type: _____

Applicant Name: _____

Applicant Address: _____

Applicant Phone Number: _____

Description of Mobile Home:

Make: _____ Year: _____ Size: _____

Physical Location of Mobile Home: _____

Address where home will be placed: _____

Date of Inspection: _____ Time: _____

Mobile Home Inspection

☐

PASS

☐

FAIL

If the Unit fails the inspection, complete the following items and call for another inspection.

	Date	Comment
Smoke Detector		
Furnace & Water Heater Compartment		
Bedroom Exit Door Egress		
Electrical System		
Gas Piping		
Water & Sewer		

Applicant Signature: _____ Date: _____

Inspector Signature: _____ Date: _____

Planner Signature: _____ Date: _____

NOTICE: EACH INSPECTION SHALL BE BILLED SEPARATELY. PLEASE HAVE ALL ITEMS COMPLETED OR INSTALLED BEFORE THE INSPECTOR IS CALLED.



Date

Name

Address

City, State Zip

RE: APPLICATION STATUS - INCOMPLETE

PERMIT ##, OWNER LAST NAME

PROJECT LOCATION

Dear Applicant:

Delta County Planning Department has reviewed **PERMIT NAME/#** requesting **PROJECT DESCRIPTION**. As of **DATE**, the application has been deemed incomplete pending the submittal of the following information:

▪ **LIST**

▪

Your application and fees are being returned, incomplete applications are not considered filed. Please revise your application and resubmit the package, including applicable fees, with the information as requested. If you have any questions or need additional information, please contact the project planner listed below.

Respectfully,

Carl P. Holm, AICP

Director of Community Development and Natural Resources

By: **Planner Name**

Contact info (email+ phone)



Date

Name

Address

City, State Zip

RE: APPLICATION STATUS - COMPLETE

PERMIT ##, OWNER LAST NAME

PROJECT LOCATION

Dear Applicant:

The Planning Department has reviewed **PERMIT NAME/#** requesting **PROJECT DESCRIPTION**. As of **DATE**, the application has been deemed **COMPLETE**, meaning all of the materials required have been submitted. As a **[IDENTIFY TYPE OF APPLICATION: Limited/Permitted/Conditional Use/Preliminary Subdivision/Plat]**, the decision-making authority is the [Director, BOA, and/or PC/BOCC] to approve, conditionally approve or deny the application.

The application will now be reviewed for compliance with applicable land use regulations. This includes referring the application to adjacent property owners and the following agencies for review and comment:

- **LIST REFERRAL AGENCIES**
- **CONSIDER IGA WITH MUNICIPALITIES**
- **APPLICABLE FIRE AGENCY**

If you have any questions or need additional information, please contact the project planner listed below.

Respectfully,

Carl P. Holm, AICP

Director of Community Development and Natural Resources

By: **Planner Name**

Contact info (email+ phone)



Date

Name

Address

City, State Zip

RE: APPLICATION STATUS - RECOMMENDED REVISIONS

PERMIT ##, OWNER LAST NAME

PROJECT LOCATION

Dear Applicant:

Delta County and the applicable reviewing agencies have reviewed **PERMIT NAME/#** requesting **PROJECT DESCRIPTION**. Based on comments received, staff recommends making the following revisions to your plans/application:

▪ **LIST**

Please revise and resubmit your application with appropriate changes as noted, including responses to staff comments justifying recommendations that do not result in changes. The Director may refer the revised application to agencies that commented for their consideration.

No additional fee is required provided the revisions appropriately and completely address the recommendations. Prolonged inaction on these recommendations could result expiration of a stale application.

If you have any questions or need additional information, please contact the project planner listed below.

Respectfully,

Carl P. Holm, AICP

Director of Community Development and Natural Resources

By: **Planner Name**

Contact info (email+ phone)



CITIZEN COMPLAINT FORM

Please return this form to the Delta County Planning Department

REPORTING PARTY NAME

MAILING ADDRESS

PHONE

EMAIL ADDRESS

LOCATION OF VIOLATION

PROPERTY OWNER (if known)

IS THIS PROPERTY LOCATED IN A SUBDIVISION?

(If yes, please list the subdivision name) _____

DETAILED DESCRIPTION: Describe the nature of your complaint. ***Please Print*** (attach additional sheets if needed)

DISCLAIMER: I understand that while Delta County will not disclose my name during the inspection process of this complaint, the open record laws of the State of Colorado may require disclosure of the Complainant's name upon the written request of any party for a copy of this form.

Signature _____ **Date signed** _____

FOR COUNTY USE ONLY

Date Received: _____ Time: _____ Case #: _____

Received by: _____ Department: _____

Zoning District: _____ Date Case Opened: _____ Date Case Closed: _____

Staff Notes: _____

Case Referred to:

☐ Environmental Health ☐ Fire ☐ Sheriff ☐ Planning Department ☐ R & B Foreman (specify district) _____

☐ Other: _____

Referral Info/Notes: _____
