

DELTA COUNTY PLANNING COMMISSION

**Maloney House (Delta County Fairgrounds)
575 S River Ln, Hotchkiss, CO 81419
Wednesday, April 13, 2022 @ 5:30 p.m.**

**Tom Kay, Chair
Tate Locke, Vice-Chair
Carl Holm, Director**

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<https://www.deltacounty.com/725/Agendas-and-Minutes>

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Instructions for Public Participation via Zoom:

The public can join the meeting remotely by registering in advance of the meeting at:
<https://us02web.zoom.us/join/register/tZUzd-qprDloG9R-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

ROLL CALL

DISTRICT 1

Cindy Watson

Steve Schrock

Steve Shea

Michelle Roberts, Associate

DISTRICT 2

Layne Brones

Tate Locke, Vice Chair

Hardy Hutto

Vacant, Associate

DISTRICT 3

Jacob Gray

Tom Kay, Chair

Kate Darlington

David Marek, Associate

A. PUBLIC COMMENTS

This is time set aside for the public to comment on matters not on the agenda. The Chair may set a time limit for speakers.

B. AGENDA ADDITIONS, DELETIONS, AND CORRECTIONS

The Planning Commission Secretary will announce if there are any changes to the agenda that arose after posting of the agenda.

C. SCHEDULED ITEMS

1. Meeting Minutes

a. March 23, 2022

RECOMMENDATION: Approve the action minutes as presented

2. Land Use Code Update

Consider Topics and Process for Amending the 2021 Land Use Code

RECOMMENDATION: Staff recommends that the Planning Commission:

CERTIFICATION OF POSTING

On April 7, 2022 at 1:00 PM, Kim Henderson did post the above AGENDA as public notice of the April 13, 2022 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.

- a. Consider key topics/groupings;
- b. Review existing permit process; and
- c. Provide direction to staff on topics/groupings and processing amendments to the Land Use Code, beginning April 27, 2022.

D. COMMISSIONER COMMENTS, REQUESTS AND REFERRALS

This is time set aside for the Commission to comment, request, or refer a matter that is not on the agenda for future consideration.

E. DEPARTMENT REPORT

This is time set aside for the Director to report on matters affecting the Department.

ADJOURNMENT

Next Meeting: Wednesday, April 27, 2022 at 5:30 pm, Delta County Administration Building 560 Dodge St, Delta, CO

CERTIFICATION OF POSTING

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**DELTA COUNTY PLANNING COMMISSION MEETING MINUTES
DELTA COUNTY BOARD OF COUNTY COMMISSIONER'S ROOM
560 DODGE ST., DELTA, CO 81416
March 23, 2022**

Chair Tom Kay called the meeting to order at 5:30 p.m. in the Delta County Board of County Commissioner's Meeting Room.

ROLL CALL

Planning Commission Members in Attendance:

Tom Kay	Michelle Roberts (Associate)
Steve Schrock	Hardy Hutto
Cindy Watson	Steve Shea
David Marek (Associate)	Layne Brones
Tate Locke	

Absent Members:

Jacob Gray
Kate Darlington

With all member(s) present from District 1, Michelle Roberts can participate but is not able to vote.
With member(s) absent from District 3, David Marek is a voting member.

Staff in Attendance:

Delta County Community Development & Natural Resource Director, Carl Holm
Delta County Community Development Planner I, Kate Kelly
Delta County Community Development Planner I, Angie Kemp
Delta County Planning & Community Development Administrative Assistant, Kim Henderson
Delta County Environmental Health Director, Greg Rajnowski

PUBLIC COMMENT

Becky Lightfoot addressed the Planning Commission regarding research she conducted on the difference between Road Use Taxes and the Road Improvement Bonds. The road bonds are used for the small roads and the road use taxes are for the larger roads.

AGENDA ADDITIONS, DELETION, AND CORRECTIONS

None

SCHEDULED ITEMS

Item #1: Meeting Minutes
a. March 9, 2022
RECOMMENDATION: Approve the action minutes as presented

Cindy Watson moved to approve the action minutes as presented. Layne Brones seconded the motion.

Motion carried unanimously

5:36pm Commissioners Kate Darlington and Jacob Gray arrived. With all member(s) present from District 3, David Marek can participate but is not able to vote.

Item #2: SD03-006/CHT Resources, LLC (formerly CB Industries)
Consider a Certificate of Designation (CD) updating an existing Compost Facility permit to change ownership from CB Industries to CHT Resources, LLC (new owner) and reflect minor corrections and revisions to the Engineering Design and Operations Plan (EDOP) for conformance with the new owner's operations and current regulations.
RECOMMENDATION: Staff recommends that the Planning Commission recommend that the Board of County Commissioners:



- a. Find that SD03-006 complies with the Master Plan and Specific Development Regulations for a Certificate of Designation (CD) to operate a compost facility in the RI/C zone; and
- b. Approve SD03-006 Certificate of Designation (CD) for a change of Ownership from CB Industries to CHT Resources, LLC and the minor corrections and revisions to the Engineering Design and Operations Plan (EDOP) at 11289 Doughspoon Road, Delta (Parcel:323721300003)
- c. Consider a draft Resolution for the Board of County Commissioners, including findings and conditions, that would replace and repeal all prior resolutions for SD03-006

Planner I, Kate Kelly presented the project, and answered Commissioner questions.

Erica Sparhawk, Jake DeWolfe and Forrest Fulker representing CHT Resources, LLC.

Jerry Henderson and Ed Pottoroff with CDPHE provided additional information about the project, and answered Commissioner questions.

County Environmental Health Director Greg Rajnowski also answered Commissioner questions

Following deliberation by the Commissioners, Tate Locke moved to approve SD03-006/CHT Resources, LLC with staff recommendations, noting that the Recommendation Letter from CDPHE is required before the item is presented to the BoCC. Hardy Hutto seconded the motion.

Motion carried unanimously

Item #3:

PLN21-071/Armstrong Subdivision

Consider a 5-lot Clustered Subdivision (Preliminary Plat) in the A-20 zoning district; Lot 1 (2.286 acres), Lot 2 (2.162 acres), Lot 3 (1.227 acres) Lot 4 (0.863 acres), Lot 5 (31.048 acres). The property is located at 15627-15767 Bull Mesa Road (Parcel:319536200013), Cedaredge.

RECOMMENDATION: Staff recommends that the Planning Commission (PC) recommend the following action(s) to the Board of County Commissioners (BoCC):

- a. Find that PLN21-071/Armstrong is consistent with applicable policies of the 2018 Master Plan and complies with requirements of the 2021 Land Use Code (LUC) for a Preliminary Plat (clustered subdivision), including Chapters 3, 4, 5, & 6; and
- b. Conditionally Approve PLN21-071/Armstrong, presented as a Preliminary Plat (clustered subdivision) creating five (5) parcels in the A-20 zoning designation located at 15627-15767 Bull Mesa Road, Cedaredge (Parcel:319536200013), all with existing residential units and utilities.

Planning Director Carl Holm presented the project, and answered Commissioner questions.

Applicant Milan Armstrong provided additional information about the project, and answered Commissioner questions.

Following deliberation by the Commissioners, Jacob Gray moved to approve PLN21-071 with staff recommendations as well as the following conditions:

- the Latitude/Longitude of the burial sites be noted on the Final Plat;
- an HOA be created for the domestic water for the shared well; and
- an HOA be created for all parcels using irrigation water.

Layne Brones seconded the motion.

Motion carried unanimously

COMMISSIONER COMMENTS, REQUESTS AND REFERRALS

None



DEPARTMENT REPORT

- a. Planning Director Carl Holm informed the Planning Commission that the Environmental Health Department is updating the Onsite Wastewater Treatment System Regulations (Septic Regulations) and will be available for public review in about a month.
- b. County staff will be meeting with local Surveyors on Monday, March 28, 2022 to discuss terminology & process scenarios regarding the subdivision process. PC Chair Kay and BOA Member Mike Twamley have been invited to attend the meeting. Planning staff will update the Planning Commission on the outcome after the meeting.
- c. The Board of County Commissioners will be holding a workshop on Wednesday, March 30, 2022 at 9:30am to discuss density, lot size, and variances.
- d. Once the above items have been completed, the Planning Commission will begin reviewing the Land Use Code.

ADJOURNMENT

The next meeting will be held on April 13, 2022 at 5:30pm, Maloney House (Delta County Fairgrounds) 575 S River Ln, Hotchkiss, CO.

Meeting adjourned at 7:28 p.m.

Respectfully submitted by:
Administrative Assistant, Kim Henderson



STAFF REPORT

Delta County Planning Commission

**Maloney House (Delta County Fairgrounds)
575 S River Ln, Hotchkiss, CO 81419**

Wednesday, April 13, 2022 @ 5:30 p.m.

Land Use Code Update

Consider Topics and Process for Amending the 2021 Land Use Code.

RECOMMENDATION:

Staff recommends that the Planning Commission:

- a. Consider key topics/groupings;
- b. Review existing permit process; and
- c. Provide direction to staff on topics/groupings and processing amendments to the Land Use Code, beginning April 27, 2022.

SUMMARY

The purpose of this meeting is for staff to provide a briefing on a BoCC Work Session held Wednesday 3/30/2022. Staff has developed a punch list of tasks to help track progress. This list is being presented in two formats: 1) List of Topics; and 2) Grouping of topics (**Attached**).

The BoCC has requested to bring amendments forward in manageable “bites.” The discussion below identifies some key topics and explains options to processing this update. In addition, staff will review the past and present permit process based on applicable regulations.



DISCUSSION:

Staff has held work sessions with the PC and BoCC identifying and discussing items that could be adjusted in the Land Use Code based on experiences and input over the past year. The direction is to consider amendments in phases.

Some of the key topics include:

- 1) Table 2.a “Zoning Districts”
 - o Rural Density Residential (RDR) - Add
 - o Urban Growth Area (UGA) - Amend
- 2) Table 3.a “Lot Dimensions”
 - o Variation to Lot Size – Amend
 - Legacy Lots
- 3) Subdivision
 - o Terminology/Process
- 4) Table 2.b “Land Use by Zoning District”
 - o Depending on Zoning Districts
 - o Terminology
- 5) Density (TBD)
 - o Dwelling Units per Lot
 - o Additional Residences
 - o Mobile Homes
 - o RVs
 - o Farmworker Housing
- 6) Proof of Adequate Water Supply
 - o Amend relative to Cisterns
- 7) Process
 - o Amend to reflect the Development Application Ordinance

Items 1-3 above have been providing the greatest challenges to implementing the LUC as envisioned.

PROCESS

Per the LUC, text amendments require publication of notice at least 14 days ahead (Table 7.c LUC). Publication has to be at the newspaper by the Friday before the week of publication, so about 3 weeks ahead of the hearing date.

Per statute, the PC forwards the BoCC a clean “certified copy” for consideration. Each amendment must meet statutory requirements including PC recommending a “certified copy” or propose changes and publication of BoCC changes. Also, each certification requires publishing the changes. If the BoCC has substantive changes, the certified copy will be remanded back to the PC for consideration.

There are currently no projects ready/scheduled for PC consideration on Wednesday, April 27, 2022. Therefore, staff sent a notice to be published in order to begin public hearing(s) addressing the LUC update. This notice includes a broad description of "LUC



Update" allowing the PC to identify the topics to address, and the order in which to address these topics.

The intent would be to address topics or groupings over multiple meetings using redline tracking of text changes. In order to help the public follow where we are, the agenda title will generally note "LUC Update" plus a description of the specific topic or grouping to be discussed (e.g., Zoning Districts, Table 2.a LUC). At that hearing, the PC should continue the matter to a specific date with direction for a specific topic to continue the discussion.

OPTIONS

The BoCC has requested to bring this forward in manageable "bites," which provides an opportunity to get topics resolved more expeditiously. Staff can forward each topic/item to the BoCC as PC completes its recommendation. Addressing key issues helps frame subsequent actions. However, there are some key issues to address that can affect other areas of the LUC (e.g., zoning, density). The LUC has items that are inter-related, so focusing in discrete topics could result in needing to adjust other areas as we work through.

If the PC forwards a certified copy that is adopted by the BoCC, that becomes the operative LUC version. Each time there is a new version (Amendment #1, Amendment #2, etc.), projects submitted after that are subject to the rules in place at that time. Updating the LUC through multiple amendments over short period of time (relatively speaking) creates a potential challenge with what version of the LUC applies to what project(s).

Another option is for staff to present a complete redline of the LUC, with the PC working through discrete topics or LUC Chapters at each meeting (e.g., Chapters 1-3, Definitions, Table 2.b, Subdivision, etc.). The PC could work through groupings or topics and hold completed items until the PC is ready to send one comprehensive package to the BoCC. Preparing one comprehensive document with all of the changes in the entire LUC presents the whole picture at once, and provides opportunity to make sure there is internal consistency. However, this is not consistent with the BoCC direction.

Staff recommends a hybrid between these two options that staff feels would be consistent with the BoCC direction. Once certain topic(s) or a grouping is completed, the PC forwards that to the BoCC (not certified) and moves onto the next topics or grouping. Concurrently, staff presents the PC recommendations to the BoCC and receives direction. Once all topics/groupings have been completed with BoCC considering PC recommendations, staff will provide the PC a comprehensive LUC Update (Amendment #1) of all the changes discussed. The PC can fine-tune the document as the certified copy that is forwarded to the BoCC.



PERMIT PROCESS

Staff finds that the LUC by itself did not significantly change the regulatory process. However, current staff is more diligent about following the adopted process and taking good planning into consideration. As a result, some might feel that there has been a huge change.

Therefore, staff feels that it would be beneficial for the PC to understand the current process and how we got there as we begin to talk about the LUC. The Land Use Code (LUC) establishes a permit process based on the type of use/entitlement: Allowed Use, Permitted Use, Limited Use, Conditional Use, Subdivisions. Prior to the LUC, there were regulations that established processes, including: Subdivision regulations, Specific Development Regulations, Development Application (new residential and commercial), Road Standards (access), Address Regulations, Septic Regulations.

Development Application regulations were adopted by ordinance, and ordinances were not repealed by the LUC resolution. Access, address, and septic standards are not considered land use regulations for purposes of the Land Use Code resolution. However, they require permits that are addressed in the Development Application Ordinance (**Attached**).

Attached material: list, in order as attached

- Punchlist - Topics
- Punchlist – Groups
- Development Application Ordinance (Ord 2016-01)

LUC PUNCH LIST - TOPICS

- Definitions/Terminology
 - o ADD
 - Accessory Dwelling Unit (ADU)
 - Aggrieved Party (BoA)
 - Boundary Agreement
 - Boundary Line Adjustment
 - Concept Plan (Replace Sketch Plan)
 - Duplex
 - Fee (Simple) Title
 - Intergovernmental Agreement (IGA)
 - Lot
 - Neighbor (BoA)
 - Mobile Home
 - Parcel
 - Plat (Final)
 - Plat (Preliminary)
 - Plat (Vacation)
 - Record (aka Results, Certificate) of Survey
 - Recreational Vehicle Park
 - Shall
 - Short Term (Vacation) Rental
 - Triplex
 - o AMEND
 - Accessory Business Use of the Home
 - No Employees
 - Campground
 - Communal Living
 - Incidental Commercial Activity
 - Manufactured Home
 - Manufactured Home Park
 - Multifamily
 - Plat (Minor)
 - Recreational Vehicle (align with Junk/Rubbish)
 - Replat
 - Renewable Energy Facility
 - Subdivision Improvement Agreement
 - Tiny Homes (vs RVs, Micro Homes, etc)
 - o DELETE
 - Preliminary Plan
 - Single Family Detached (Cluster)
 - Sketch Plan (change to “Concept”)
- Lot Size/Dimension
 - o Residential Zone (Table 2.a)
 - o Lot Size (Table 3.a)
 - o Variance to Lot Size
 - Not interfering with Ag
 - “Legacy Ag Subdivision” (A35, A20)

LUC PUNCH LIST - TOPICS

- Subdivisions
 - o Phasing
 - o Vacation
 - o Exemptions
 - 35+ Acre Plat
 - Statute language includes exception (“multiple owners”)
 - 35+ Acre Road Resolution (applicable standards)
 - Court Decree
 - Boundary Agreement (disputed)
 - Record of Survey
 - o Format for Signature Blocks, Certifications and Plat Note
 - Standard Plat Notes
 - Standard Signature Blocks
 - o Cluster – add qualifying definition
 - o Plat Requirements
 - RoW Dedication (Fee Title)
 - Private Roads/Driveway – County Standards
 - Limit Cul-de-Sacs
 - Secondary Emergency Access
 - Easements/Encumbrances
 - Deeds
 - Notes
 - Signature Blocks
 - Final level detail (Sketch/Site Plan only at pre-application)
 - o Subdivision Improvement Agreement (SIA)
 - Secure Financial Guarantee
 - Whole Project vs Each Phase
- Density
 - o Add'l Units
 - Site Plan Review
 - o RVs/Mobile Homes/Multi-Family
 - 3 RVs (BoCC?)
 - o Rural Residential
 - o Campground v RV Park v Mfg Park
 - o Affordable Housing
 - o Ag Support & Rural Industry Uses
 - Ag Housing
- Temp Uses
 - o RVs
 - o Events
- Zoning
 - o LU Matrix (Table 2.b)
 - Hemp Processing
 - Fire Chiefs- Hazardous Materials
 - LEPC
 - Cross-Reference Definitions

LUC PUNCH LIST - TOPICS

- Cross-Reference Add'l Residences
- Duplex/Triplex
- Wireless (refers to Resolution)
- Renewable Energy
 - Tiers: small/private vs utility-scale vs large scale
- Oil & Gas (“reserved”)
- Add Ag Farmworker Housing
- Add Storage Facility
- o Review type of permit by zoning districts
- o Other Regulations (vs Not Allowed in Any Zone)
 - Amend Outdoor Storage to Rubbish/Junk (Reference Ordinances)
 - Add Personal Use Cannabis (Ordinance)
 - Add Pre-HUD Mobile Home (Ordinance)
- Process
 - o Incorporate Development Application
 - o Consolidate Process & Standards
 - Ch 2, 7, 8, 9
- Water
 - o Identity/Map Sources
 - 47 Domestic Water Companies (Purveyors)
 - 119 Irrigation/Ditch Companies
 - o Proof
 - Can & Will (pre-approval)
 - Install (prior to final)
 - o Cisterns
 - Hauled vs on-site source
 - Env Health/State
 - Type 1: Well/Spring (Administrative)
 - Type 2: Hauled (Variance)
 - Type 3: Not otherwise buildable (Administrative) – subject to approval of water purveyor where applicable
- Appendices
 - o ADD
 - Development Application Ordinance
 - Commercial Cannabis Use Ordinance
 - Personal Cannabis Use Ordinance
 - Hwy 92 Overlay Ordinance (Amend/Vacate?)
 - Pre-Hud Mobile Home Ordinance (Amend/Vacate?)
 - o DEFER - separate topics
 - Format for Signature Blocks, Certifications and Plat Notes
 - Incorporate as part of the Subdivision topic
 - 35+ Acre Road Resolution (Street Plan)
 - Incorporate and repeal as part of the Subdivision topic
 - Wireless Resolution [Reserved]
 - Impact Fee Resolution(s) [Reserved]
 - Open Space

LUC PUNCH LIST - TOPICS

- Roads
- Fire
- Nexus/Study
- Fees to Districts (Not held by County)

- Variance
 - o Format (Consolidate)
 - Lot Size (Ch 3)
 - Admin Mod (Ch 10)
 - Variance (Ch 10)
 - o Findings
 - o Site Plan requirements

- Public Notice
 - o Type of Notice
 - Distance
 - Posting
 - o Final Plat vs Road Dedication
 - Deed to BoCC
 - o Neighborhood Meetings

- Typos/Clean-Up (non-substantive)
 - o Code v code
 - o Chapter 2 - Relocate “Use Specific Standards” from Section 5.B to a new Section 7
 - o Relocate “Appeals” from Chapter 12 to Chapter 9, creating a new Section 4
 - o (Re)locate all subdivision regulations together (Chapter 12)

LUC PUNCH LIST - GROUPINGS

GROUP 1

- Definitions/Terminology
 - o ADD
 - Accessory Dwelling Unit (ADU)
 - Aggrieved Party (BOA)
 - Boundary Agreement
 - Boundary Line Adjustment
 - Concept Plan (Replace Sketch Plan)
 - Duplex
 - Fee (Simple) Title
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 - Replat
 - Renewable Energy Facility
 - Subdivision Improvement Agreement
 - Tiny Homes (vs RVs, Micro Homes, etc.)
 - o DELETE
 - Preliminary Plan
 - Single Family Detached (Cluster)
 - Sketch Plan (change to “Concept”)
- Lot Size/Dimension
 - o Residential Zone (Table 2.a)
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 - Not interfering with Ag
 - “Legacy Ag Subdivision” (A35, A20)

LUC PUNCH LIST - GROUPINGS

- Subdivisions
 - o Phasing
 - o Vacation
 - o Exemptions
 - 35+ Acre Plat
 - Statute language includes exception (“multiple owners”)
 - 35+ Acre Road Resolution (applicable standards)
 - Court Decree
 - Boundary Agreement (disputed)
 - Record of Survey
 - o Format for Signature Blocks, Certifications and Plat Note
 - Standard Plat Notes
 - Standard Signature Blocks
 - o Cluster – add qualifying definition
 - o Plat Requirements
 - ROW Dedication (Fee Title)
 - Private Roads/Driveway – County Standards
 - Limit Cul-de-Sacs
 - Secondary Emergency Access
 - Easements/Encumbrances
 - Deeds
 - Notes
 - Signature Blocks
 - Final level detail (Sketch/Site Plan only at pre-application)
 - o Subdivision Improvement Agreement (SIA)
 - Secure Financial Guarantee
 - Whole Project vs Each Phase

LUC PUNCH LIST - GROUPINGS

GROUP 2

- Density
 - o Add'l Units
 - Site Plan Review
 - # Du/Ac?
 - o RVs/Mobile Homes/Multi-Family
 - 3 RVs (BoCC?)
 - o Rural Residential
 - o Campground v RV Park v Mfg. Park
 - o Affordable Housing
 - o Ag Support & Rural Industry Uses
 - Ag Housing
- Temp Uses
 - o RVs
 - o Events
- Zoning
 - o LU Matrix (Table 2.b)
 - Hemp Processing
 - Fire Chiefs- Hazardous Materials
 - LEPC
 - Cross-Reference Definitions
 - Cross-Reference Add'l Residences
 - Duplex/Triplex
 - Wireless (refers to Resolution)
 - Renewable Energy
 - Tiers: small/private vs utility-scale vs large scale
 - Oil & Gas (“reserved”)
 - Add Ag Farmworker Housing
 - Add Storage Facility
 - o Review type of permit by zoning districts
 - o Other Regulations (vs Not Allowed in Any Zone)
 - Amend Outdoor Storage to Rubbish/Junk (Reference Ordinances)
 - Add Personal Use Cannabis (Ordinance)
 - Add Pre-HUD Mobile Home (Ordinance)
- Process
 - o Incorporate Development Application
 - o Consolidate Process & Standards
 - Ch 2, 7, 8, 9

LUC PUNCH LIST - GROUPINGS

GROUP 3

- Water
 - o Identity/Map Sources
 - 47 Domestic Water Companies (Purveyors)
 - 119 Irrigation/Ditch Companies
 - o Proof
 - Can & Will (pre-approval)
 - Install (prior to final)
 - o Cisterns
 - Hauled vs on-site source
 - Env Health/State
 - Type 1: Well/Spring (Administrative)
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 - Open Space
 - Roads
 - Fire
 - Nexus/Study
 - Fees to Districts (Not held by County)

LUC PUNCH LIST - GROUPINGS

GROUP 4

- Variance
 - o Format (Consolidate)
 - Lot Size (Ch 3)
 - Admin Mod (Ch 10)
 - Variance (Ch 10)
 - o Findings
 - o Site Plan requirements
- Public Notice
 - o Type of Notice
 - Distance
 - Posting
 - o Final Plat vs Road Dedication
 - Deed to BoCC
 - o Neighborhood Meetings
- Typos/Clean-Up (non-substantive)
 - o Code v code
 - o Chapter 2 - Relocate “Use Specific Standards” from Section 5.B to a new Section 7
 - o Relocate “Appeals” from Chapter 12 to Chapter 9, create Section 4
 - o (Re)locate all subdivision regulations together (Chapter 12)

PUBLIC NOTICE

ORDINANCE TO REQUIRE A DEVELOPMENT APPLICATION FOR NEW RESIDENTIAL OR COMMERCIAL CONSTRUCTION WITHIN THE UNINCORPORATED AREA OF DELTA COUNTY TO INCLUDE AN ONSITE WASTEWATER TREATMENT SYSTEM (OWTS) PERMIT, f.k.a. ISDS, WHICH, BY AMENDMENT OF ORDINANCE NO. 2012-02, SHALL BE INITIATED THROUGH THE DELTA COUNTY HEALTH DEPARTMENT:

NOTICE IS HEREBY GIVEN, that the Board of County Commissioners of the County of Delta, State of Colorado, shall pursuant to statutes, having read and introduced at a regular Board of County Commissioners' Meeting on September 6, 2016, the ordinance authorizing a development application for new residential or commercial construction within the unincorporated area of Delta County to include an OWTS Permit, f.k.a. ISDS, the application for which must be initiated through the Delta County Health Department, and acted upon, as prescribed by the Delta County Onsite Wastewater Treatment System Regulations, adopted by the Delta County Board of Health pursuant to 25-10-101, et seq., C.R.S. and Published in the Delta County Independent on September 14, 2016, consider for adoption this Ordinance amending Ordinance 2012-02 as published below, on a second reading at a regular Board of County Commissioners' Meeting on October 3, 2016. If adopted shall take effect on October 17, 2016.

**ORDINANCE
OF THE
BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF DELTA, STATE OF COLORADO**

ORDINANCE NO. 2016-01

**ORDINANCE TO AMEND ORDINANCE 2012-02
AND ADOPT**

ORDINANCE TO REQUIRE A DEVELOPMENT APPLICATION FOR NEW RESIDENTIAL OR COMMERCIAL CONSTRUCTION WITHIN THE UNINCORPORATED AREA OF DELTA COUNTY TO INCLUDE AN OWTS PERMIT WHICH MUST BE INITIATED THROUGH THE DELTA COUNTY HEALTH DEPARTMENT NOT THE DELTA COUNTY PLANNING DEPARTMENT AS ORIGINALLY MANDATED BY ORDINANCE NO. 2012-02.

WHEREAS, the Board of County Commissioners of Delta County (Board) adopted Ordinance No. 2012-02 on December 17, 2012; and

WHEREAS, the Board deems it in the best interests of the citizens of Delta County to amend Ordinance No. 2012-02 and revise the application procedure and requirements for permits by adding, as part of the permitting process, a requirement for an Onsite Wastewater Treatment System (OWTS) Permit, f.k.a. ISDS, wherein the application process shall be initiated through the Delta County Health Department; and

WHEREAS, pursuant to § 30-15-401, C.R.S., the Board of County Commissioners of Delta County, Colorado (hereinafter the "Board"), has the general enabling power to adopt ordinances for the control or licensing of those matters of purely local concern, and to do all acts and make all

ORDINANCE TO REPEAL ORDINANCE NO. 2012-02; ORDINANCE TO REQUIRE A DEVELOPMENT APPLICATION FOR NEW RESIDENTIAL OR COMMERCIAL CONSTRUCTION WITHIN THE UNINCORPORATED AREA OF DELTA COUNTY

regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the present and future residents of Delta County; and

WHEREAS, the Board finds it to be in the best interest of the health, safety and general welfare of the citizens of Delta County to amend Ordinance No. 2012-02 ,enacted by the Board on December 17, 2012, and revise it by adding a provision in **Section 3.5 of the Ordinance** requiring that the application for the OWTS Permit shall now be initiated through the Delta County Health Department and acted upon, as prescribed by the Delta County Onsite Wastewater Treatment System Regulations, adopted by the Delta County Board of Health pursuant to C.R.S. Section 25-10-101, et. Seq., a revision of the former procedure wherein the Permit was acquired through the Delta County Planning Department; and

WHEREAS, pursuant to Sections 29-20-102 and 29-20-104, C.R.S., the Board is authorized to adopt ordinances applicable to the unincorporated areas of the County to plan for and regulate the use of land; and

WHEREAS, the Board deems that it is in the best interests of the County and its citizens to create a Development Application process to provide for the proper sequence of County development permits, both residential and commercial upon the completion of a site plan review; and

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Delta County as follows:

This Ordinance shall be known as the Delta County Development Application Ordinance.

Section 1. **APPLICABILITY:**

- 1.1 This Ordinance shall apply throughout the unincorporated area of Delta County, including public and state lands.
- 1.2 If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of County Commissioners hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases are declared unconstitutional or invalid.

Section 2. **REQUIREMENT OF PERMITS:**

- 2.1 Any new residential or commercial construction occurring on a parcel of land in the unincorporated area of Delta County will require the completion of a Development Application which outlines the order in which individual County permits (including, but not limited to, access, address, and an Onsite Wastewater Treatment System (OWTS),f.k.a. ISDS, permits) must be obtained to include, as a part of the permitting

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process, the completion of a site plan review to be completed by the Delta County Planning Department as discussed herein. Additional regulations and approvals apply to commercial construction, and commercial applicants must consult with the Delta County Planning Department for those specific regulations and approvals. In addition to County regulations discussed above, the unincorporated area of Delta County is under both a Colorado State Electrical Board Inspection and a Colorado State Examining Board of Plumbers inspection requirement for either residential or commercial construction.

Section 3. APPLICATION PROCEDURE AND REQUIREMENTS FOR PERMITS:

- 3.1 The Development Application procedure consists of the following which shall be completed in succession as described herein:

1. Site Plan Review;
2. County Access Permit;
3. County Address Permit; and
4. County Onsite Wastewater Treatment System (OWTS) Permit.

Upon the completion of an initial site plan review, as discussed hereunder, County Permits must be approved in the order above, each before the next permit will be issued. An applicant may apply for any or all of the above County permits depending on the applicant's needs; however, proof of approved County permits must be provided in order to obtain the next permit.

- 3.2 **SITE PLAN REVIEW:** The purpose of the site plan review process is to ensure compliance with the permitting process, as set forth in this Ordinance, and to encourage quality development reflective of the goals, policies, and objectives of the Delta County development process. For land uses requiring a site plan review, development permits may be issued only after a Site Plan showing the proposed development has been approved in accordance with the procedures and requirements of this Ordinance and at a minimum shall illustrate the following: (a) perimeter boundary with dimensions; (b) total acreage; (c) north arrow; (d) the location and number of all structures and proposed structures; (e) the distance to the property boundary of all structures and proposed structures; (f) the location and dimensions of all easements; (g) the location of any springs, wells, streams, ditches, rivers or any waterways; (h) the name and location of all roads adjoining the property with the location of all access or proposed accesses; (i) the distance between any existing or proposed access(es) including those on neighboring properties and the distance to the nearest intersection; (j) the location of all existing and proposed septic systems; and (k) any existing or proposed building envelopes.
- 3.3. **COUNTY ACCESS PERMIT:** A County Access Permit is required for any entrance onto a County road. (Access onto a state highway requires an application too, and state highway access permits are issued by the Colorado Department of Transportation

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(CDOT).) The packet for a County Access Permit contains information on the County's construction standards for an approved access. There are two inspections required for an approved access from a County road. The first is to determine if the location of the proposed access complies with County requirements and safety standards and the second is to determine if the access has been constructed to county standards. The access application must be completed and approved before an address is assigned.

- 3.4. **COUNTY ADDRESS PERMIT:** An address is required for every residential or commercial building in Delta County for 911 services. Utility companies may also require an address prior to providing service to a parcel. Addresses are assigned by the location of an access to a parcel, which is why the access must be constructed and approved first. County Address and County Access Permits must be completed and approved prior to the issuance of a County OWTS Permit in order for the Health Department to locate and enter property for purposes of inspection.
- 3.5. **COUNTY ONSITE WASTEWATER TREATMENT SYSTEM (OWTS) PERMIT, f.k.a. ISDS:** An Onsite Wastewater Treatment System (OWTS) Permit is required for every structure on a parcel with a restroom or sewer drain. A minimum of two inspections are required for approval of a County permit. The first is a site inspection to determine the suitability of a parcel to accommodate an OWTS. The second inspection will be a final inspection of the system to ensure the system was installed as specified in the County OWTS permit. Final approval of the County OWTS permit is required prior to occupancy of the structure and for the issuance of a County Development Permit in accordance with this Ordinance. The application process for the attainment of the Permit shall be initiated through the Delta County Health Department, unlike other permits discussed herein, which are attained through the Delta County Planning Department and is a departure from the procedure mandated by Ordinance No. 2012-02 wherein the OWTS Permit, fka ISDS, was attained through the Delta County Planning Department.

Section 4. **FEES FOR PERMITS:**

- 4.1. **County Access Permit:** The County Access Permit Fee is per the current fee schedule that is in addition to a Deposit which is refundable upon final approval. A copy of the deed to present owner(s) is required when making application for an access permit.
- 4.2. **County Address Permit:** The County Address Permit fee is per the current fee schedule.
- 4.3. **County Onsite Wastewater Treatment System (OWTS) Permit:** The County OWTS Permit is per the current fee schedule.

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Section 5. EXPIRATION OF APPLICATION:

- 5.1. The Development Application and the individual permits are valid for a period of one (1) year from the date of the submission of the Development Application. If any of the individual permits applied for under the Development Application have not been completed within the one-year period, the Development Application is deemed to be null and void unless an extension has been granted. Development Applications that have expired will be required to be resubmitted with the appropriate fees to be reconsidered for approval.

Section 6. UNLAWFUL ACTS:

- 6.1 Any of the following shall be a violation of this Development Application Process and shall be subject to the remedies and penalties provided for in this Ordinance:
- (a) Failure to complete a Development Application which outlines the order in which individual County permits (including, but not limited to, access, address, and Onsite Wastewater Treatment System, (OWTS), f.k.a. ISDS, permits) must be obtained on any new residential or commercial construction occurring on a parcel of land in the unincorporated area of Delta County.
 - (b) Engaging in any residential or commercial construction, subdivision, or other activity of any nature upon land that is subject to this Development Application Process, without all of the approvals required by this Development Application Ordinance.

Section 7: NOTICE OF VIOLATION:

- 7.1 Any person may report that a property in Delta County is in violation of this Ordinance. Such Notice of Violation must be in writing on a form provided by the Delta County Planning Department. The Notice shall be filed in the Delta County Planning Office, Delta County Courthouse, 501 Palmer Street, Room 115, Delta, Colorado 81416, for processing.
- 7.2 The Notice of Violation shall be forwarded to the appropriate permitting office which will conduct an investigation of the site to determine if a violation of the permitting process has occurred.
- 7.3 Whereupon a finding that a violation of the permitting process has occurred such violation shall be forwarded to the Delta County Attorney's Office.

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Section 8. NOTICE AND ORDER FOR DEVELOPMENT APPLICATION COMPLIANCE:

- 8.1 Upon receipt of Notice that a Violation of the permitting process has occurred, the County Attorney's Office may issue a Notice and Order of such violation to the property owner requiring the owner to:
- (a) Correct the violation by conforming to Section 3, above, within twenty (20) days from the date of said Notice and Order, and/or,
 - (b) Request to appear before the Board of County Commissioners within twenty (20) days to show cause why such Order should not be enforced.
- 8.2 Said Notice and Order shall be deemed issued by placing the same in the U.S. mail, certified, return receipt requested, to the owner's last known address as indicated on the County's assessment roll. Service shall be complete upon mailing or personal service in the same manner provided in Rule 4 of the Colorado Rules of Civil Procedure.
- 8.3 If the County Attorney's Office is unable to locate the owner for certified mail or personal service after diligent efforts, the Notice and Order may be published in such a manner as is in accord with Rule 4 of the Colorado Rules of Civil Procedure concerning publication, "except that said publication shall for a period of ten (10) days and shall include the Notice and Order that must be posted in a conspicuous place at or on the subject property.

Section 9. ENFORCEMENT:

- 9.1 The provisions of this Ordinance shall be administered and enforced by Delta County.
- 9.2 The Board hereby designates the Delta County Attorney, or his/her designee, as the County's legal representative in the enforcement of the provisions of this Ordinance in a court of applicable jurisdiction. In the event the Delta County Attorney or his/her designee cannot represent Delta County or the Board deems it otherwise appropriate, the Board may appoint the District Attorney of the Seventh Judicial District to perform such legal enforcement duties in lieu of the County Attorney.
- 9.3 Penalties: The County may seek such criminal or civil penalties as are provided by Colorado law and provided for herein.

Section 10. CIVIL REMEDIES AND ENFORCEMENT POWERS:

- 10.1 The County shall have the following remedies and enforcement powers for violations of any acts outlined in section 6 above.
- (a) Withhold Permits: The County may deny or withhold all County permits, certificates or other forms of authorization on any land or structure or

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improvements thereon upon which there is an uncorrected violation of a provision of this Development Application Process, or of a condition or qualification of a County permit, certificate, approval or other authorization previously granted by the County, until the violation is corrected.

(b) County Permits Approved with Conditions: Instead of withholding or denying a County permit or other authorization (as described in Section 7.3), the County may grant such authorization subject to the condition that the violation be corrected.

- 10.2 Revoke Permits: Any County development permit or other form of authorization required under this Development Application Process may be revoked when the Planning Department determines: (1) that there is departure from the plans, specifications, or conditions as required under terms of the County permit, (2) that the County Development Permit was procured by false representation or was issued by mistake, or (3) that any of the provisions of this Development Application Process are being violated. Written notice of such revocation shall be served upon the owner, the owner's agent or contractor, or upon any person employed on the building or structure for which such County permit was issued, or shall be posted in a prominent location; and, thereafter, no such development shall proceed.
- 10.3 Stop Work: With or without revoking permits, the County may stop work on any building or structure on any land on which there is an uncorrected violation of a provision of this Development Application Process.
- 10.4 Injunctive Relief: The County may seek an injunction or other equitable relief in court to stop any violation of this Development Application Process, or of a County permit, certificate or other form of authorization granted hereunder and may recover costs of any such action.
- 10.5 Abatement: The County may seek a court order in the nature of mandamus, abatement, injunction, or other action or proceeding, to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

Section 11. CRIMINAL PROSECUTION:

- 11.1 If so directed by the Board, a criminal prosecution may be brought against the owner in accordance with §§ 30-15-402 and 410, C.R.S.
- 11.2 Violation of the provisions of this Ordinance shall be punishable by a fine of not more than six hundred dollars (\$600.00) for each violation. In addition to this penalty, persons convicted of a violation of this Ordinance are subject, pursuant to § 30-15-402, C.R.S., to a surcharge of \$10.00, to be paid to the Clerk of the Court for credit to the

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Victims and Witnesses Assistance and Law Enforcement Fund established in the judicial district.

- 11.3 All fines and forfeitures for the violation of this Ordinance shall be paid to the Treasurer of Delta County within thirty (30) days of receipt and shall be deposited into the General Fund of the County.

Section 12 ADDITIONAL REMEDIES:

The remedies provided in this Ordinance shall be cumulative and in addition to any other remedies which may be available to the County and its Board, including, but not limited to, injunctive actions. Nothing contained herein shall be construed to preclude the Board from seeking such other remedies in addition to, or in lieu of, the legal remedies herein granted.

Section 13. SAFETY CLAUSE:

The Board hereby finds, determines and declares that this Ordinance is necessary for the health, safety and welfare of the citizens of Delta County, Colorado.

Section 14. PUBLICATION AND EFFECTIVE DATE:

The foregoing text is the authentic text of Delta County Ordinance No. 2016-01. The first reading and Introduction of said Ordinance took place on September 6, 2016 at a regularly scheduled Board of County Commissioners' Meeting. It was published in full in the *Delta County Independent* on September 14, 2016. The Ordinance will be considered for adoption on second reading at a regularly scheduled Board of County Commissioners' Meeting on October 3, 2016, and if adopted shall take effect October 17, 2016.

ADOPTED this 17th day of October, 2016, at Delta, Colorado.

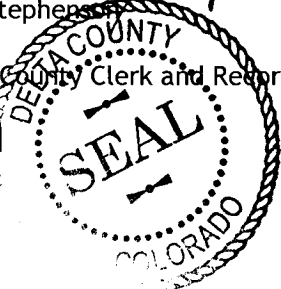
BOARD OF COUNTY COMMISSIONERS
OF
DELTA COUNTY, COLORADO

ATTEST:

Teri A. Stephenson

Teri Stephenson
Delta County Clerk and Recorder

[SEAL]



By: [Signature]

C. Bruce Hovde, Chair

C. Douglas Atchley
C. Douglas Atchley, Vice Chair

J. Mark Roeber
J. Mark Roeber, Commissioner

