

DELTA COUNTY PLANNING COMMISSION
Special Meeting

Delta County Board of County Commissioner's Room
560 Dodge St., Delta, CO 81416
Wednesday, November 16, 2022 @ 5:30 p.m.

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

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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/zoom/register/tZYvceitqTlvH9DV1UUNyFGS8xnoQ6GZAm8y>

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
Vacant, 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. MEETING MINUTES

1. NONE

B. PUBLIC HEARING ITEMS

Public Hearing Items are noticed and open for public comment.

1. PLN22-073/Holt Subdivision

Consider a 4-lot Subdivision (Preliminary Plat) in the A-5 zoning designation (Parcel# 319327300020/Holt)

RECOMMENDATION: Staff recommends that the Planning Commission recommend that the Board of County Commissioners:

- a. Find that PLN22-073/Holt Subdivision is consistent with applicable policies of the 2018 Master Plan and complies with the 2021 Land Use Code for a Preliminary Plat; and

CERTIFICATION OF POSTING

On November 10, 2022 at 3:00PM, Kim Henderson did post the above AGENDA as public notice of the November 16, 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.

- b. Approve a Preliminary Plat to subdivide 36.92 acres into four (4) lots: Lot 1 (9.445 acres), Lot 2 (5.000 acres), Lot 3 (5.000 acres), and Lot 4 (15.691 acres) in the A-5 zone, subject to conditions.

2. 2022 Land Use Code Update - Certification

Public Hearing to certify the Delta County Land Use Code, as amended.

RECOMMENDATIONS: Staff recommends that the Planning Commission adopt a resolution recommending that the Board of County Commissioners:

- a. ADOPT the Planning Commission Certified 2022 Land Use Code Update;
- b. ACCEPT a list of future considerations relative to the Land Use Code;
- c. VACATE Resolution 2003-R-027 (Street Plans in 35+ acres Subdivisions);
- d. FIND that Resolution 2022-R-026 (Renewable Energy Moratorium) is extinguished by operation since the 2022 Land Use Code incorporates standards for renewable energy facilities; and
- e. CONSIDER other related actions.

C. DEPARTMENT REPORT

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.

ADJOURNMENT

Next Meeting: Wednesday, December 14, 2022 at 5:30 pm in Delta, CO.

CERTIFICATION OF POSTING

On November 10, 2022 at 3:00PM, Kim Henderson did post the above AGENDA as public notice of the November 16, 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.



STAFF REPORT

Delta County Planning Commission

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

Wednesday, November 16, 2022 @ 5:30 p.m.

PLN22-073/Holt

Consider a Preliminary Plat to subdivide approximately 37 acres into four (4) lots in the A-5 zoning district. The property is located at 25177 Cedar Mesa Road, Cedaredge.

PROJECT INFORMATION:

Property Owner: William L & Julie R Holt
Applicant: William & Julie Holt
Site Address: 25177 Cedar Mesa Road, Cedaredge
Location: Section 27, Township 13S, Range 94W, 6th PM
Parcel ID/Acct: 319327300020/R003148
Parcel Size: 36.92 acres
Zoning: A-5

Report prepared by: Kate Kelly, Planner I

RECOMMENDATION:

Staff recommends that the Planning Commission recommend that the Board of County Commissioners:

- a) Find that PLN22-073 meets the requirements of the Land Use Code for a Preliminary Plat; and
- b) Approve a Preliminary Plat to subdivide 36.92 acres into four (4) lots: Lot 1 (9.445 acres), Lot 2 (5.000 acres), Lot 3 (5.000 acres), and Lot 4 (15.691 acres) in the A-5 zone, subject to conditions.



SUMMARY:

The application (PLN22-073/Holt) is for a 4-lot subdivision (Preliminary Plat) from an approximately 36.92-acre parcel with frontage on Cedar Mesa Road.

- Lot 1: 9.445 acres (21577 Cedar Mesa Road)
- Lot 2: 5.000 acres (vacant, Shared Access Easement)
- Lot 3: 5.000 acres (vacant, Shared Access Easement)
- Lot 4: 15.691 acres (vacant, Cedar Mesa Road)

Cedar Mesa Road is a public road (publicly maintained).

Lot 1 has an existing access from Cedar Mesa Road, while Lots 2 & 3 will take access from a shared access easement (private) from the east side of Cedar Mesa Road, just north of Pine Ridge Road and Lot 4 will take access from Cedar Mesa Road, directly across from Southview Lane.

A Pre-Application Conference was held on June 1, 2022. Included at the meeting were staff representatives from County Planning, County Engineering, County Road & Bridge, County GIS and Environmental Health. Items discussed were water, access, Cedar Mesa Road Right-of-Way (ROW), and OWTS (Septic). The property is being impacted by the Cedar Mesa Road Re-alignment project, so ROW dedication was discussed, as well as the proposed access points onto Cedar Mesa Road.

A Preliminary Plat (dated August 23, 2022) was sent to Review Agencies on August 31, 2022. Comments were received from multiple agencies. Staff completed a review of the Plat and sent redlines, along with Review Agency Comments, to the applicants, as well as the Project Surveyor. On October 13, 2022, a Revised Preliminary Plat was submitted along with the proposed covenants and a proposed Shared Access Agreement (**Attached**). This Plat has addressed all comments/concerns from Planning and the Review Agencies.

A public hearing notice was sent to adjoining property owners within a 200' radius on November 2, 2022, and the property was posted the same day.

DISCUSSION:

On May 12, 2022, Mr. & Mrs. Holt submitted a Development Application to the Permit Center for the proposed Preliminary Plat. The subject property has been zoned A5 and the proposed lot configuration meets the minimum acreage as required by the Land Use Code (LUC).

A Pre-Application Conference was held on June 1, 2022 with staff representatives from County Planning, County Engineering, County Road & Bridge, County GIS, and Environmental Health. At the pre-application conference, staff discussed items, including: domestic water availability for all lots being proposed, access points onto Cedar Mesa Road (additional access points for Lots 2 – 4), Cedar Mesa Road ROW dedication (Previous dedication with Cedar Mesa Road Re-Alignment), and Septic requirements for all proposed lots. On July 5, 2022, Staff sent a letter to the applicants summarizing the Pre-Application Conference and the process for this application.



Topics that have been discussed include:

- **Water.** The applicant confirmed that there are Upper Surface Creek (USCDWUA) water taps available for purchase, which will serve as the domestic water source for all lots. A letter was submitted from USCDWUA confirming the availability of domestic water taps for each lot.
- **Access.** There are two additional access points being proposed for Lots 2 – 4. Lots 2 & 3 will share access through a 60' x 60' Shared Access Easement that is located just north of Pine Ridge Road. Lot 4 will have an access on the northern most part of the Lot; that access will be located directly across from Southview Lane.
- **Cedar Mesa Road ROW.** Currently, there is an existing 40-feet of ROW per Road Petition Book C, Page 137 for Cedar Mesa Road. Cedar Mesa Road is a public road, County maintained, and is classified as a Minor Arterial Road, which requires a 100-foot ROW. District #2 Road & Bridge Foreman confirmed that Cedar Mesa Road is currently in the project phase to re-align the road, which will impact the subject property. As such, ROW Acquisitions are being finalized for dedication (Resolution No. 2021-R-019 to Authorize Right-of-Way Acquisition, **Attached**) that was taken during the project phases, based on land that was needed for the re-alignment (Legal Description & ROW Exhibit, **Attached**). County Engineering reviewed the ROW dedication in relation to the classification of the road and has determined that an additional 20-feet of ROW will be required to satisfy the Minor Arterial Road ROW requirement (see Review Agency comments below).
ROW Manager, Matt Sheader, informed staff that the finalization of the ROW acquisitions was being delayed due to the Title Company as they had yet to complete their process. County Engineering confirmed that these owners would be receiving a second access point for their property as part of the exchange in the ROW acquisition agreement. As such, requirements for a subdivision road will not be enforced unless/until the lots are subdivided further.
- **OWTS (Septic).** Environmental Health (EH) addressed septic systems that will be required for each lot created. Setbacks were of concern; EH stated that they will need to meet the setbacks as laid out in the LUC (25-feet from edge of ROW (all roads) and 15-feet from all interior property lines) as well as the 25-foot setback as required by EH from any edge of any ditch, and 50-feet from the top of bank of a river, stream or creek (**Condition #9**).
Aerial photos illustrate that there is an Unnamed Ditch that runs in a north-southerly direction from the property north of the subject property, all the way south till it intersects with the Alfalfa Ditch (north-south ditch just east of Orchard City). The Plat does not currently show this ditch so, rather than requiring a revise Plat at this point, staff included a condition that it will be required to be shown on the Final Plat (**Condition #2**).

Preliminary Plat:

A Preliminary Plat (dated August 23, 2022) was submitted to the Permit Center, by Kris Crawford, Project Surveyor, on August 26, 2022. This plat was for the proposed four (4)



lot subdivision. Staff completed a review of the Plat and sent redlines, along with Review Agency Comments, to the applicants, as well as the Project Surveyor.

On October 13, 2022, a Revised Preliminary Plat was submitted to address the following comments/concerns from Review Agencies, including County staff:

- Plat notes as required by County Engineering in regards to Access
- Existing Fire Hydrant (Cedaredge Fire)
 - o Cedaredge Fire submitted comments requesting a new hydrant be installed; however, a fire hydrant currently exists between Cedar Mesa Road and Pine Ridge Road, directly west of the proposed subdivision. If there is an existing hydrant, staff questions if there is a need for another hydrant to be installed (pending inquiry to Cedaredge Fire). If a fire hydrant is NOT required, then Fire Mitigation Fees will be assessed for the proposed lots (**Condition #11**).
- Shared Access Agreement/
- Plat notes regarding irrigation, covenants, and standard notes
- Easements

Proposed Covenants, Conditions, and Restrictions, as well as the proposed Shared Access Agreement for Lots 2 & 3 were also submitted for review. All documents have been attached to this report (**Attached**).

The parcel currently has $\frac{1}{4}$ share of the Lone Pine Ditch assigned to it. The applicants have stated that all irrigation shares will remain with Lot 1 (existing residence) and that no other irrigation shares will be allotted to the new lots. Therefore, Staff is not requiring an Irrigation Plan.

The applicants have proposed a set of Covenants, Conditions, and Restrictions for all lots within the subdivision. These covenants restrict development (one single-family dwelling per lot), prohibit uses other than residential, address maintenance of access points, livestock (prohibited), domestic pets (control), and junk and junk storage (not allowed as defined by the LUC). A copy of the proposed covenants is attached (**Attached**).

The applicants have also submitted a proposed Shared Access Agreement for Lots 2 & 3. This access agreement addresses the following: responsibility of each lot owner, obstructions of access, maintenance, and damage/repairs. A copy of the proposed Agreement is attached (**Attached**).

OTHER AGENCY INVOLVEMENT

Planning Staff sent the Preliminary Plat along with a summary to the Review Agencies for comment on August 31, 2022. Adjoining Property Owners (within a 200-foot radius from Parcel #319327300020) were also sent a Public Notice on November 2, 2022, for this application, including the applicant. Comments have been received by DMEA, County GIS, CDOT, County Engineering, Upper Surface Creek Domestic Water Users Association (USCDWUA), Town of Cedaredge, and Cedaredge Fire. At the time of preparing this report, Planning has not received any additional feedback from any other



review agencies or adjoining property owners.

DMEA (attached): DMEA has no comment on this plat.

County GIS (attached): I think they need a subdivision road rather than 3-4 different access points to Cedar Mesa Rd.

CDOT (attached): CDOT has no comment on the subdivision.

County Engineering (attached):
6/1/22 (Pre-App):

1. Cedar Mesa Road is classified as a Minor Arterial Road with a 100-foot right-of-way requirement.
 - a. Existing 40-foot ROW per Road Petition Book C Page 137.
 - b. Per a phone conversation with Matt Sheader on June 1, 2022, the current right-of-way acquisition is being held up by the Title Company.
 - i. A second access was part of the ROW acquisition agreement and is to be set by a site visit by Delta County Road & Bridge Foreman.
 - c. 50-foot of ROW east of the Cedar Mesa Road centerline is required.
 - i. 30-feet of ROW is pending (Title Company).
 - ii. 20-feet of additional ROW is required.
2. Access/Driveways from Cedar Mesa Road shall be limited.
 - a. Access for lots 1 and 2 shall be shared driveway and shall be placed across from Pine Ridge Road.
 - b. Shared Driveway shall meet Item 20 of Appendix 5, Delta County Roadway Design and Construction Standards.
 - c. Shared Driveways shall meet Chapter 4, Section 2.C.3 of the Delta County Land Use Code.
 - d. All driveways, including Shared driveways, shall meet Items 13, 14, and 16 of Appendix 5, Delta County Roadway Design and Construction Standards.

9/12/22 (Review of Plat):

1. Label the Point of Beginning for all parcels/lots/ROW.
2. Label the adjacent property owners & parcel numbers.
3. Show the Unnamed Ditch on the Final Plat.
4. Check the Summary Table.
5. Check bearings and distances.
6. Add the following plat note (12): *"Any further subdivision of any lot within the Holt 4-lot subdivision will require all access to be combined into one single internal road (one access point from Cedar Mesa Road)"* (**Condition #3**).

USCDWUA (attached): USCDWUA has no objection to the property being divided. USCDWUA can provide three taps to the property as long as the requirements for obtaining a new tap are met (**Condition #7**).

Town of Cedaredge (attached): The Town of Cedaredge has no comments on this.



Cedaredge Fire (attached):

9/13/22:

Cedaredge fire would like a fire hydrant installed at the proposed entrance to the subdivision.

9/14/22 (Staff sent email to confirm location of hydrant):

We would like it at the shared access off of Cedar Mesa Road, where it is running north and south.

11/4/22 (Staff sent email to confirm existing hydrant location and sufficiency to serve the subdivision):

The existing hydrant is on the opposite side of the road from this property. I would like to see a hydrant on the same side. I will measure the distance from the existing plug to the proposed driveway. That distance may put it too far from future houses in the new subdivision.

*Staff has not received confirmation from Cedaredge Fire in regards to this.

Attached material: list, in order as attached

- Proposed Conditions of Approval
- Preliminary Plat/Holt
- Preliminary Plat/Holt (with aerial overlay)
- Cedar Mesa Road Prescriptive Right-of-Way Legal Description (Parcel RW-3A of Cedar Mesa Re-alignment)
- Resolution No. 2021-R-019 to Authorize Right-of-Way Acquisition
- Proposed Covenants, Conditions, and Restrictions
- Proposed Shared Access Agreement (Lots 2 & 3)
- Review Agency Comments

Conditions of Approval
PLN22-073/Holt Preliminary Plat

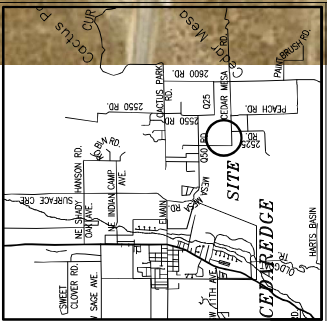
1. PLN22-073 is approved as a Preliminary Plat creating four (4) Lots in the A-5 zoning designation located on the north and east side of Cedar Mesa Road, Cedaredge (Parcel #319327300020). This approval shall expire and the Plat is considered vacated if a Final Plat is not submitted within 12 months from the date of Preliminary Plat approval by the Board of County Commissioners. Written request to extend this timeframe must be received by the Planning Department at least 30 days prior to the prescribed expiration. (Planning)
2. All existing and proposed easements and encumbrances, including, but not limited to: existing and proposed utility easements, shared access, and water delivery (including the Unnamed Ditch) shall be shown on the Final Plat. (Planning)
3. The Final Plat shall include the following note: *"Any further subdivision of any lot within the Holt 4-lot subdivision will require all access to be combined into one single internal road (one access point from Cedar Mesa Road)."* (County Engineering)
4. The applicant shall submit an Access Easement and Maintenance Agreement for shared access where applicable (Lots 2 & 3, Cedar Mesa Road) to the satisfaction of the Planning Director. (Planning)
5. The Final Plat shall include the parcel number of adjoining properties as well as existing road conditions for abutting roads (centerline) to the satisfaction of the County Engineer. (Engineering)
6. Label all water taps within the subject property on the Final Plat. (Planning)
7. The Final Plat shall include/provide easements necessary for water delivery systems to the satisfaction of the Planning Director. Water service will need to be installed to the requirements of Upper Surface Creek Water and proof will need to be submitted to the Planning Department. (Upper Surface Creek/Planning)
8. All structures (existing and proposed), including septic, shall meet the County required Setbacks as follows: 25-feet from edge of right-of-way (all roads, public or private), 15-feet from interior property lines, 25-feet from any edge of any ditch, and 50-feet from the top of bank or a river, stream or creek. (Planning/Environmental Health)
9. Prior to accepting a Final Plat, provide Deeds with a legal description of each new lot with notarized signatures, to be recorded with the Plat. (Planning)
10. The Final Plat shall include all Standard Plat notes required by the 2021 Land Use Code. (Planning)

11. The applicant shall provide fire mitigation. If Cedaredge Fire determines that a hydrant is required, said hydrant shall be installed prior to accepting the Final Plat. If no hydrant is required, the applicant shall pay the Fire Impact/Mitigation Fee of \$500 per lot for an increase of three (3) lots (total \$1,500) per Resolution No. 2021-R-007 (LUC Chapter 6, Section 2). Said fee will be allocated to Cedaredge Fire for fire mitigation purposes. (Planning)
12. The applicant shall pay the Public Sites/Open Space Fee of \$300 per lot for an increase of three (3) lots (total \$900) per Resolution No. 2021-R-007. (Planning)

PLAT REFERENCES:
"CHURCH MINOR SUBDIVISION PLAT"—
RECORDED IN NOVEMBER 20, 1955 UNDER RECEPTION
NO. 481215
"ENDLESS SKY SUBDIVISION, SUB18-035 PLAT"—
RECORDED IN AUGUST 12, 2020 UNDER RECEPTION
NO. 720991



AREA LOCATOR



TYPICAL LEGEND

- Found Mag Nail in Asphalt
- Set 5/8" rebar 30" long with 2" aluminum cap PLSB8255
- Set 5/8" rebar 30" long with 2" aluminum cap as Witness corner or linepin PLSB8255
- Set 3/4" rebar 30" long with 3-1/4" aluminum cap PLSB8255
- Found 3/4" rebar 30" long with 3-1/4" aluminum cap PLS256972
- Found 5/8" rebar with 2" aluminum cap LS14621 or as noted

- Irrigation ditch
- Fencelines
- Electric (overhead)
- Electric (underground)
- Water line
- Easement
- Previous Parcel Boundary
- New Quat Claim to Delta County
- Previous Dedication to Delta County

BASIS OF BEARINGS:
N.88°31'18"E. FROM THE S1/16 CORNER OF SECTION 27 & 28 TO THE SW1/16 CORNER OF SEC. 27
GEODEIC NORTH
GPS OBSERVATION
SCALE 1"=100 U.S. SURVEY FEET

PRELIMINARY PLAT OF
HOLT 4-LOT SUBDIVISION PLN22-073
WITHIN THE SW1/4 SW1/4 OF SEC. 27, T.13S, R.94W., 6TH P.M.
DELTA COUNTY, COLORADO

SUBDIVISION DEDICATION

We, William L. Holt and Julie R. Holt, being the owners of land described as follows:
A parcel of land located within the SW1/4 of the SW1/4 of Section 27, Township 13 South, Range 94 West of the 6th P.M., having a description based upon a bearing of N.88°31'18"E. from the SW1/16 Corner common to Sections 27 and 28 (monumented by a witness corner bearing N.88°31'18"E. 1284.13' to the SW1/16 Corner) and a distance of 1284.13' to the SW1/16 Corner (monumented by a 2" aluminum cap LS14621), with all other bearings relative thereto and being more particularly described as follows:
Beginning at the NE corner of said SW1/4 of the SW1/4, also being said SW1/16 Corner, thence bearing S.88°35'30"W. 741.86 feet; (2) thence along a tangent curve to the right 790.42 feet, with a radius of 490.00 feet and a chord bearing and distance of N.45°11'46"W. 707.42 feet; (3) thence N.01°00'58"E. 1325.64 feet to the north line of said SW1/4 of the SW1/4, thence N.88°31'18"E. 1284.67 feet to the Point of Beginning, containing 35.925 acres, more or less.

County of Delta, State of Colorado

in Delta County, Colorado, under the name of HOLT 4-LOT SUBDIVISION PLN22-073, have laid out, platted and/or subdivided the same as shown on this plat and do hereby dedicate to the public at large, for the use and enjoyment of the public, the above described land and the easements and interests therein and the same are to be labeled as easements for the installation and maintenance of public utilities as shown hereon.

In witness whereof William L. Holt and Julie R. Holt have subscribed their names this ____ day of _____, A.D. 20 ____.

By: William L. Holt By: Julie R. Holt

NOTARIAL:

State of _____ }
County of _____ } ss.

The foregoing instrument was acknowledged before me this ____ day of _____, A.D. 20 ____, by William L. Holt and Julie R. Holt.

My commission expires: _____

My address is _____

Witness my hand and official seal.

DELTA COUNTY PLANNING DEPARTMENT APPROVAL

The within plat of the above subdivision has been checked for compliance in accordance with Case No. PL22-073.

Dated this ____ day of _____, A.D. 20 ____

Planning Director

BOARD OF COUNTY COMMISSIONERS APPROVAL

The within plat of HOLT 4-LOT SUBDIVISION PLN22-073 is accepted by the Delta County Board of County Commissioners. The roads and other public areas are hereby accepted provided however that such acceptance shall not in any way constitute an endorsement or approval of the project or the accuracy of the survey or snow removal from the subject roads shall be only upon a separate resolution of the Board of County Commissioners passed in accordance with such policies, resolutions or regulations in effect at that time.

Dated this ____ day of _____, A.D. 20 ____.

Chairman, Delta County Board of County Commissioners

Attest:

County Clerk of Delta County, Colorado

CERTIFICATE OF TAXES PAID

I, the undersigned, do hereby certify that the entire amount of taxes and assessments due and payable as of _____ upon all parcels of real estate described on this plat (Account No. R003148) are paid in full.
Dated this ____ day of _____, A.D. 20 ____

Treasurer of Delta County, Colorado

DELTA COUNTY CLERK AND RECORDER'S ACCEPTANCE

This plat was accepted for filing in the office of the Clerk and Recorder of Delta County, Colorado, on this ____ day of _____, A.D. 20 ____.
Reception Number _____, Time _____, Date _____

County Clerk

WILLIAM & JULIE HOLT
25177 CEDAR MESA ROAD
CEDAREDGE, CO 81413

4 OCT. 2022 REVISIONS PER COUNTY PLANNING AND ENGINEERING REVIEW
13 OCT. 2022 ADDITION OF FIRE HYDRANT LOCATION

WILMORE & COMPANY
PROFESSIONAL LAND SURVEYING, INC.
406 Grand Avenue
P.O. Box 1652
Pueblo, Colorado 81428
970.537-4200 PHONE
970.260-4130 PHONE
www.wilmorelandsurveying.com
De/ining Boundaries
E-MAIL: randy@wilmorelandsurveying.com

NOTE: According to Colorado law any legal action based upon a defect in this survey must be commenced within one year after the date of recording. If no action is commenced within one year after the date of recording, this survey shall be considered more than ten years from the date shown on the certification hereon.

COUNTY SURVEYOR'S CERTIFICATE:

Approved for content and form only and not as to the accuracy of survey, computations or drafting, pursuant to CRS 38-51-106.

County Surveyor

Date

Date: COLORADO PROFESSIONAL LAND SURVEYOR #38255

Signed:

SURVEYOR'S CERTIFICATION
I, Kris Crawford, do hereby certify that the above described parcel has been surveyed by me and under my direct supervision and that such survey is accurately represented hereon, and is based upon my knowledge, information and belief, and is in accordance with applicable standards of practice and is not a guaranty or warranty, either expressed or implied.



EXHIBIT A

03/18/2020
Parcel RW-3A and RW-3 Holt
William L. Holt
25177 Cedar Mesa Road
Cedaredge, CO 81413

PARCEL RW-3A CEDAR MESA ROAD PRESCRIPTIVE RIGHT-OF-WAY LEGAL DESCRIPTION:

A parcel of land for road right-of-way purposes bounded and contained within the property as described in a deed recorded at Reception Number 666310 of the Delta County Clerk and Recorder's Records, and is located in the SW1/4 SW1/4 of Section 27, Township 13 South, Range 94 West of the 6th P.M., Delta County, Colorado, more particularly described as follows:

Commencing at the SW corner of said Section 27; thence along the west line of said Section 27, N 00°46'18" E a distance of 1326.86' to a point on the north line of said property; thence along said north line S 89°09'09" E a distance of 30.00' to the east right-of-way line; thence S 00°46'18" W a distance of 1295.54' along said east right-of-way line to the north right-of-way line; thence N 88°22'47" E a distance of 1251.70' along said north right-of-way line to a point on the east line of said property; thence along said east line S 01°37'13" E a distance of 30.00' to a point on the south line of said Section 27; thence along said south line S 88°22'47" W a distance of 1282.98' to the point of commencement.

Described parcel containing an area of 77,356 square feet or 1.78 acres, more or less.

PARCEL RW-3 CEDAR MESA ROAD RIGHT-OF-WAY LEGAL DESCRIPTION:

A parcel of land for road right-of-way purposes located on a property described in a deed recorded at Reception Number 666310 of the Delta County Clerk and Recorder's Records, and is located in the SW1/4 SW1/4 of Section 27, Township 13 South, Range 94 West of the 6th P.M., Delta County, Colorado, more particularly described as follows:

Beginning at a point on the north and east prescriptive right-of-way line of Cedar Mesa Road (RW-3A) from whence the SW corner of said Section 27 bears S 44°34'32" W a distance of 43.34'; thence along said east line of RW-3A N 00°46'18" E a distance of 510.89'; thence along a non-tangent curve to the left having an arc length of 790.15', a radius of 490.00', a chord bearing of S 45°25'27" E, and a chord length of 707.28' to a point on the north line of said RW-3A; thence along said north line S 88°22'47" W a distance of 510.89' to the point of beginning.

Described parcel containing an area of 56,753 square feet or 1.30 acres, more or less.

Description Written By:
Joseph S. Rease, P.L.S. 36067
222 S. Park Ave, Montrose, CO 81401

RESOLUTION
OF THE
BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF DELTA, STATE OF COLORADO

RESOLUTION NO. 2021-R-019

**RESOLUTION TO AUTHORIZE RIGHT-OF-WAY ACQUISITION FOR
CEDAR MESA ROAD; AND EXEMPTING THE SUBDIVISION OF SAID
PROPERTY FROM SUBDIVISION REGULATIONS**

WHEREAS, the County of Delta (County) has negotiated the purchase of additional right-of-way for purposes of enlarging and improving Cedar Mesa Road as it passes through the property of William L. Holt & Julie R. Holt (Holt), and Holt has agreed to sell or dedicate such additional right-of-way; and

WHEREAS, Holt has agreed to sell to the County additional road right-of-way in the form of a land totaling 1.300 acres; and

WHEREAS, Dowl Engineering has prepared a plat showing the right-of-way (including land) to be acquired, a copy of which plat is attached hereto and by reference made a part hereof, and the parties have executed a Memorandum of Agreement (MOA), a copy of which is also attached hereto and by reference made a part hereof (including Exhibit A), indicating the willingness of the County to purchase said right-of-way for the total purchase price of \$6500.00 for the land as shown on the Plat; and

WHEREAS, the subdivision of the properties to be acquired by Delta County is in the best interest of the County and it is not within the purposes of either the Colorado subdivision statutes or the Delta County Land Use Code.

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

1. This Board hereby authorizes the transaction as described above and in the attached MOA.
2. The County Attorney is authorized to sign the closing documents on behalf of the County of Delta.

RESOLUTION TO AUTHORIZE RIGHT-OF-WAY ACQUISITION CEDAR MESA ROAD HOLT (2021)

3. The subdivision and conveyance of the properties described in the attached plat shall be and hereby is exempt, pursuant to Section 30-28-101(10)(d), C.R.S., from the Delta County Land Use Code.

ADOPTED this 1st day of June, 2021.



ATTEST:

Teri A. Stephenson
Teri A. Stephenson
Delta County Clerk and Recorder

[SEAL]

BOARD OF COUNTY COMMISSIONERS
OF DELTA COUNTY, COLORADO

By: Mike Lane
Mike Lane, Chair

Don Suppes
Don Suppes, Vice Chair

Wendell A. Koontz
Wendell Koontz, Commissioner

MEMORANDUM OF AGREEMENT

This agreement is entered and made on the date signed below and is between the Owner(s) WILLIAM L. HOLT & JULIE R. HOLT (GRANTORS) and DELTA COUNTY, COLORADO, A BODY CORPORATE AND POLITIC, ACTING THROUGH ITS BOARD OF COUNTY COMMISSIONERS (GRANTEE) for the purchase of the property interests described herein and attached hereto. The amount of money and/or compensation was determined by an appropriate valuation procedure prepared in accordance with applicable Federal and State laws and regulations. Listed below is full consideration for the following land easement(s), improvements, and damages of any kind.

Land (described in attached exhibits)	1.300	Sq.ft	☐ /acres	☒	\$ 6,500.00
Prescriptive right-of-way (described in attached exhibits)	1.780	Sq.ft	☐ /acres	☒	\$ 0.00
Permanent Easement(s)	0.000	Sq.ft	☐ /acres	☒	\$ 0.00
Temporary Easement(s)		Sq.ft	☐ /acres	☐	\$
Improvements: None					\$
Damages/Benefits: None					\$
					Gross Total \$ 6,500.00
					Less Credit \$
					Rounded Net Total \$ 6,500.00

Other Conditions: Delta County -

- Shall replace or reinstall any existing fence that is removed as part of construction, extend culverts and other drainage and related appurtenances as needed to an equal or better condition.
- ✓ At the Grantors request, Delta County will add a second access point from Cedar Mesa Road to the Owner's property at a mutually-agreeable location.

The GRANTORS and GRANTEE agree that:

- The compensation shown on this agreement includes the underlying mineral estate, if any; Unless the following box is checked:
☐ GRANTORS except and reserve from the subject property described herein and in the attached exhibits, the mineral estate including all oil, coal, gas and other hydrocarbons, and all clay and other valuable minerals in and under said subject property. The GRANTORS hereby covenants and agrees that the GRANTEE shall forever have the right to take and use any and all rock, gravel, sand, earth and other road building materials found in or upon said subject property without further compensation to GRANTORS; and that no exploration for or development of any of the mentioned products will ever be conducted on or from the surface of the premises described herein and the attached exhibits, and that in the event any such operation may hereafter be carried on beneath the surface of the said premises, the GRANTORS shall perform no act which may impair the subsurface or lateral support of the said premises. GRANTEE makes no representations about the nature, title or value of the mineral estate.
- With the exception of any Relocation Agreement, there are no promises, terms, conditions, or obligations other than those listed on this agreement;
- This contract is binding on both the GRANTORS and GRANTEE and their devisees, executors, administrators, legal representatives, successors, heirs, assigns, and designees, but only after approval by Delta County, Colorado, a body corporate and politic, acting through its Board of County Commissioners as indicated below.

The GRANTORS:

- Have entered into this agreement only because the GRANTEE has the power of eminent domain and requires the property for public purposes;
- Will be responsible for securing releases from all liens, judgments and encumbrances to deliver clear, unencumbered title to GRANTEE. Any lien, judgment or encumbrance required to be released shall be paid at or before closing from the proceeds of the transaction hereby contemplated or from any other source by GRANTORS;

- Will, at the closing, pay all taxes (including prorated taxes for the current year) and special assessments for the current year;
- Will execute and deliver to GRANTEE those documents indicated below.

The GRANTEE:

- Will be entitled to specific performance of this agreement upon tender of the agreed consideration;
- Will be held harmless from any claims against the property or to any interest in the property, except for any benefits due under relocation law;
- Will make payment after receiving acceptable conveyance document(s) from the GRANTORS.
- Will pay all reasonable closing costs and recording fees associated with this agreement;
- Will take possession of the parcel(s) when it tenders payment to the GRANTORSS or when it deposits the consideration, as set forth herein, into an escrow account for the benefit of the GRANTORS unless other arrangements are made that follow Title III of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as amended; and
- Will prepare the following documents:

- | | | | |
|-------------------------------------|---------------------------------------|--------------------------|--------------------------------------|
| ☒ | General Warranty Deed | ☐ | Permanent Easement |
| ☐ | Special Warranty Deed | ☐ | Slope Easement |
| ☒ | Quit Claim Deed | ☐ | Temporary Easement (see terms above) |
| ☒ | Partial Release(s): Instrument 695629 | | |

WILLIAM L. HOLT

William L. Holt 4-5-2021
Date:

JULIE R. HOLT

Julie R. Holt 4-5-21
Date:

GRANTEE ACCEPTANCE: Delta County, Colorado, a body corporate and politic, acting through its Board of County Commissioners This 1 day of JUNE 2021.

Wilee Lue
By: Chair



EXHIBIT A

03/18/2020
Parcel RW-3A and RW-3 Holt
William L. Holt
25177 Cedar Mesa Road
Cedaredge, CO 81413

PARCEL RW-3A CEDAR MESA ROAD PRESCRIPTIVE RIGHT-OF-WAY LEGAL DESCRIPTION:

A parcel of land for road right-of-way purposes bounded and contained within the property as described in a deed recorded at Reception Number 666310 of the Delta County Clerk and Recorder's Records, and is located in the SW1/4 SW1/4 of Section 27, Township 13 South, Range 94 West of the 6th P.M., Delta County, Colorado, more particularly described as follows:

Commencing at the SW corner of said Section 27; thence along the west line of said Section 27, N 00°46'18" E a distance of 1326.86' to a point on the north line of said property; thence along said north line S 89°09'09" E a distance of 30.00' to the east right-of-way line; thence S 00°46'18" W a distance of 1295.54' along said east right-of-way line to the north right-of-way line; thence N 88°22'47" E a distance of 1251.70' along said north right-of-way line to a point on the east line of said property; thence along said east line S 01°37'13" E a distance of 30.00' to a point on the south line of said Section 27; thence along said south line S 88°22'47" W a distance of 1282.98' to the point of commencement.

Described parcel containing an area of 77,356 square feet or 1.78 acres, more or less.

PARCEL RW-3 CEDAR MESA ROAD RIGHT-OF-WAY LEGAL DESCRIPTION:

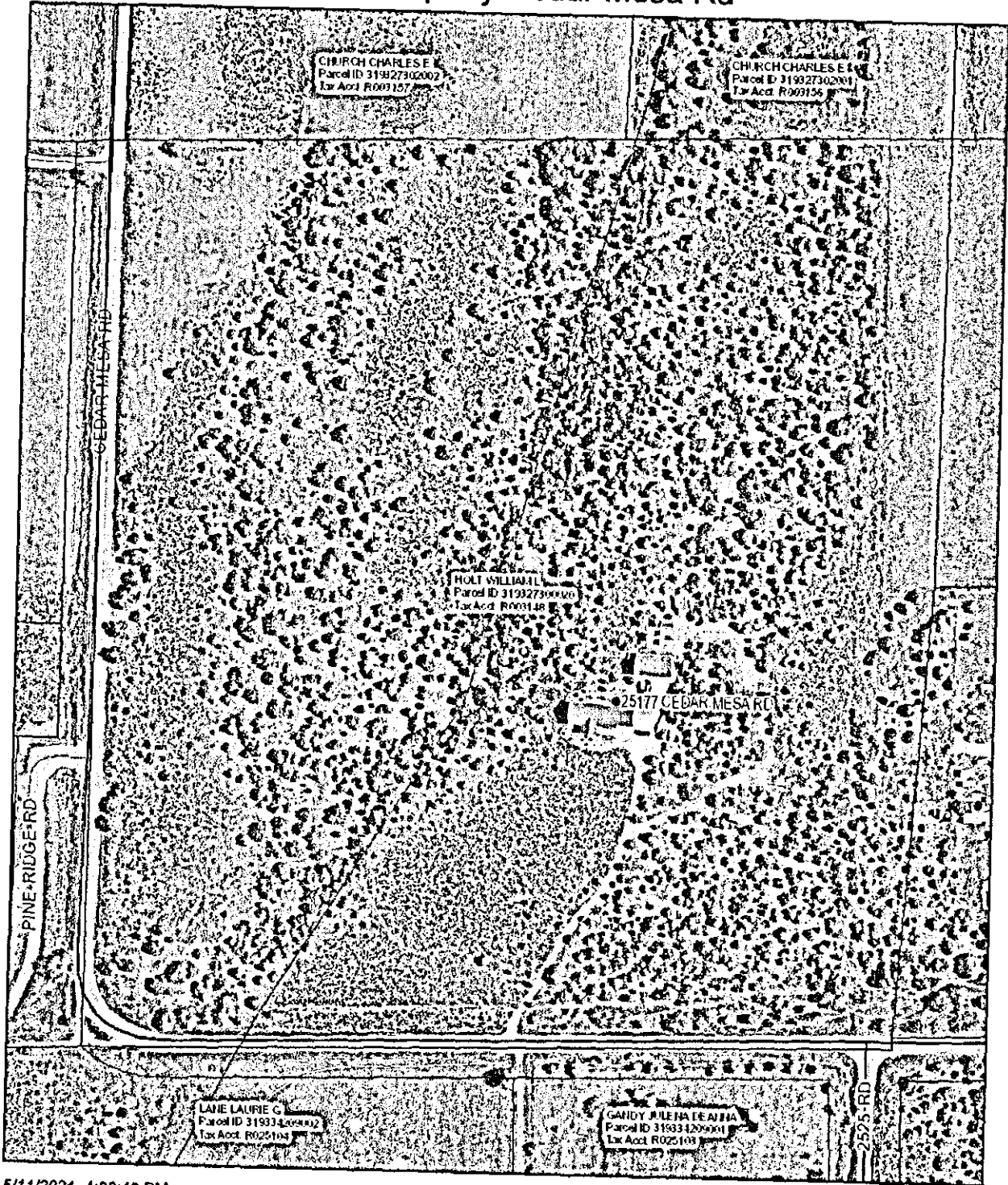
A parcel of land for road right-of-way purposes located on a property described in a deed recorded at Reception Number 666310 of the Delta County Clerk and Recorder's Records, and is located in the SW1/4 SW1/4 of Section 27, Township 13 South, Range 94 West of the 6th P.M., Delta County, Colorado, more particularly described as follows:

Beginning at a point on the north and east prescriptive right-of-way line of Cedar Mesa Road (RW-3A) from whence the SW corner of said Section 27 bears S 44°34'32" W a distance of 43.34'; thence along said east line of RW-3A N 00°46'18" E a distance of 510.89'; thence along a non-tangent curve to the left having an arc length of 790.15', a radius of 490.00', a chord bearing of S 45°25'27" E, and a chord length of 707.28' to a point on the north line of said RW-3A; thence along said north line S 88°22'47" W a distance of 510.89' to the point of beginning.

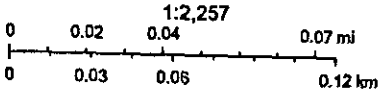
Described parcel containing an area of 56,753 square feet or 1.30 acres, more or less.

Description Written By:
Joseph S. Rease, P.L.S. 36067
222 S. Park Ave, Montrose, CO 81401

Holt Property Cedar Mesa Rd



5/11/2021, 4:38:48 PM



Esri, HERE, Garmin, (c) OpenStreetMap contributors, and the GIS
user community
Delta County Colorado
County of Mesa, Bureau of Land Management, Esri, HERE, Garmin,
Delta County 2019

Covenants, Conditions, and Restrictions

Development is restricted to one detached single-family residence with a minimum of 1500 square feet living space per lot, together with accessory buildings such as private garage, private workshop, and other development which is clearly consistent with residential use.

Any use other than a residential use is prohibited and shall not be carried on upon any lot.

Property owners are responsible to contribute maintenance required of a shared driveway

Keeping livestock upon any of the lots is prohibited with the exception of domestic pets.

Domestic pets must be controlled by kenneling, leash, fencing, or other physical or voice control constraints. Any expense of enforcement of this domestic animal control restriction will be the responsibility of the property owner.

Junk and Junk Storage and defined in the Delta County Land Use Code, Approved and Adopted by the Delta County Board of County Commissioners January 5, 2021, is prohibited and shall not be carried upon any lot.

Shared Access Agreement

Property owners of lots 2 & 3 of Holt 4-Lot Subdivision PLN22-073, dated-----will share access to their lot through a 60'x 60' shared access easement, as identified on subdivision plat identified above.

Individual Property owner(s) of Lot 2 and Lot 3 are responsible in the design of their own private driveways from the shared access easement.

Individual private driveways for Lot 2 and Lot 3 should be designed as not to obstruct entry or exit from the shared access easement.

Property owners of Lot 2 and Lot 3 agree to be equally responsible for the maintenance of the shared access.

Never block or allow your visitors to block the shared access, making it impossible for adjacent property owners to use.

If lot owners wish to install fencing or gate along the perimeter of their individual lot, it shall not restrict the shared access easement.

Caution should be used in operating heavy equipment or driving in such a way that shared access may become damaged.

Discuss with adjacent property owners about the use of the shared access before making changes, repairs, or maintenance not already agreed upon.



Memo

To: Planning Department
From: Tim McCracken
CC: File
Date: June 1, 2022
Re: Engineering Comments for PLN22-073 Holt PP Pre-App Meeting

1. Cedar Mesa Road is classified as a Minor Arterial Road with a 100-foot right-of-way requirement.
 - a. Existing 40-foot ROW per Road Petition Book C Page 137.
 - b. Per a phone conversation with Matt Sheader on June 1, 2022, the current right-of-way acquisition is being held up by the Title Company.
 - i. A second access was part of the ROW acquisition agreement and is to be set by a site visit by Delta County Road & Bridge Foreman.
 - c. 50-foot of ROW east of the Cedar Mesa Road centerline is required.
 - i. 30-Feet of ROW is pending (Title Company).
 - ii. 20-feet of additional ROW is required.
2. Access/Driveways from Cedar Mesa Road shall be limited.
 - a. Access for lots 1 and 2 shall be a shared driveway and shall be placed across from Pine Ridge Road.
 - b. Shared Driveway shall meet Item 20 of Appendix 5, Delta County Roadway Design and Construction Standards.
 - c. Shared Driveways shall meet Chapter 4, Section 2.C.3 of the Delta County Land Use Code.
 - d. All driveways, including Shared driveways, shall meet Items 13, 14, and 16 of Appendix 5, Delta County Roadway Design and Construction Standards.
3. This review is not meant to be fully comprehensive, and additional requirements may arise at further reviews.

Referral Notice PLN22-073/Holt Subdivision

Carrie Derco <cderco@deltacounty.com>
To: Kate Kelly <kkelly@deltacounty.com>
Cc: Tim McCracken <tmccracken@deltacounty.com>

Wed, Aug 31, 2022 at 1:21 PM

I think they need a subdivision road rather than 3-4 different access points to Cedar Mesa rd.

Carrie Derco, M.S.
GIS Coordinator
Delta County Administration Building
295 W 6th Street
Delta, CO 81416

Office #: 970-874-2119
E-mail: cderco@deltacounty.com
Web: <https://www.deltacounty.com/13/GIS>
[Public Interactive Map link](#)



"Our mission as a county is to provide a safe and healthy community for present and future generations by providing equitable and quality service to the public, by treating one another with respect and dignity, and by acting with fiscal responsibility."

[Quoted text hidden]

[Quoted text hidden]

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Referral Notice PLN22-073/Holt Subdivision

Darleen Carron <Darleen.Carron@dmea.com>

Thu, Sep 1, 2022 at 2:39 PM

To: Kate Kelly <kkelly@deltacounty.com>

Good afternoon,

DMEA has no comment on this plat.

Thanks.

Darleen

Darleen Carron



System Design Aide

Delta-Montrose Electric Association

970-240-1273

darleen.carron@dmea.com

From: Kate Kelly <kkelly@deltacounty.com>

Sent: Wednesday, August 31, 2022 12:52 PM

To: Dan Sickles <dsickles@deltacounty.com>; Robbie LeValley <rlevalley@deltacounty.com>; Mark Taylor <mtaylor@deltacounty.com>; Greg Rajnowski <grajnowski@deltacounty.com>; Tim McCracken <tmccracken@deltacounty.com>; Carrie Derco <cderco@deltacounty.com>; Debbie Griffith <debbieg@deltacounty.com>; kcollins@cedaredgecolorado.com; Cedaredge Fire <cedaredgefire@gmail.com>; susankeiser9529@gmail.com; bill.hatch@tdstelecom.com; william.trujillo@tdstelecom.com; paul.ficklin@blackhillscorp.com; Shelby Bear <Shelby.Bear@dmea.com>; Darleen Carron <Darleen.Carron@dmea.com>; Amber McPherson <ambermcpherson@uscdwua.com>; Jim Farmer <jim.farmer@deltaschools.com>; Kurt Clay <kurt.clay@deltaschools.com>; Werkmeister, Melissa J <mwerkmeister@usbr.gov>; deltaconservationd@gmail.com; Aggen - CDOT, Kandis <kandis.aggen@state.co.us>; Killian - CDOT, Brian <brian.killian@state.co.us>

Cc: Julie Holt <jholt9715@aol.com>; Kris Crawford <kris@wilmorelandsurveying.com>; Kim Henderson <khenderson@deltacounty.com>

Subject: Referral Notice PLN22-073/Holt Subdivision

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[Quoted text hidden]

Referral Notice PLN22-073/Holt Subdivision

Kami Collins <kcollins@cedaredgecolorado.com>
To: Kate Kelly <kkelly@deltacounty.com>

Fri, Sep 2, 2022 at 11:00 AM

The Town of Cedaredge has no comments on this one.

Thank you,

Kami Collins

Town Administrator



www.VisitCedaredge.com Events & Community Happenings

235 W Main Street | PO Box 398

Cedaredge, Colorado 81413

W: 970-856-3123 x 112

C: 970-361-8905

kcollins@cedaredgecolorado.com

www.cedaredgecolorado.com

[Facebook](#)

From: Kate Kelly <kkelly@deltacounty.com>

Sent: Wednesday, August 31, 2022 12:52 PM

To: Dan Sickles <dsickles@deltacounty.com>; Robbie LeValley <rlevalley@deltacounty.com>; Mark Taylor <mtaylor@deltacounty.com>; Greg Rajnowski <grajnowski@deltacounty.com>; Tim McCracken <tmccracken@deltacounty.com>; Carrie Derco <cderco@deltacounty.com>; Debbie Griffith <debbieg@deltacounty.com>; Kami Collins <kcollins@cedaredgecolorado.com>; Cedaredge Fire <cedaredgefire@gmail.com>; susankeiser9529@gmail.com; bill.hatch@tdstelecom.com; william.trujillo@tdstelecom.com; paul.ficklin@blackhillscorp.com; shelby.bear@dmea.com; Darleen Carron <darleen.carron@dmea.com>; Amber McPherson <ambermcperson@uscdwua.com>; Jim Farmer <jim.farmer@deltaschools.com>; Kurt Clay <kurt.clay@deltaschools.com>; Werkmeister, Melissa J <mwerkmeister@usbr.gov>; deltaconservationd@gmail.com; Aggen - CDOT, Kandis <kandis.aggen@state.co.us>; Killian - CDOT, Brian <brian.killian@state.co.us>

Cc: Julie Holt <jholt9715@aol.com>; Kris Crawford <kris@wilmorelandsurveying.com>; Kim Henderson <khenderson@deltacounty.com>

Subject: Referral Notice PLN22-073/Holt Subdivision

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Referral Notice PLN22-073/Holt Subdivision

Cedaredge Fire <cedaredgefire@gmail.com>
To: Kate Kelly <kkelly@deltacounty.com>

Tue, Sep 13, 2022 at 3:02 PM

Kate,

Cedaredge fire would like a fire hydrant installed at the proposed entrance to the subdivision. If there's any questions let me know.

Steve Hanson

On Wed, Aug 31, 2022 at 12:53 PM Kate Kelly <kkelly@deltacounty.com> wrote:

[Quoted text hidden]

[Quoted text hidden]



Memo

From: Tim McCracken

CC: File / Planning

Date: September 12, 2022

Re: Engineering Review for PLN22-073 Holt 4-Lot Subdivision

1. Label the Point of Beginning for all parcels/lots/ROW.
2. Label the adjacent property owners & parcel numbers.
3. Show the Unnamed Ditch on the Final Plat.
4. Check the Summary Table.
5. Check bearings and distances.
6. Add the following plat note (12): ***“Any further subdivision of any lot within the Holt 4-lot subdivision will require all access to be combined into one single internal road (one access point from Cedar Mesa Road).”***
7. The applicant shall revise and resubmit the application with appropriate changes based on staff comments and with responses to staff comments that did not result in changes to the application (Chapter 7, Section 2.D, *Recommended Revisions*).

Referral Notice PLN22-073/Holt Subdivision

Cedaredge Fire <cedaredgefire@gmail.com>

Wed, Sep 14, 2022 at 7:54 AM

To: Kate Kelly <kkelly@deltacounty.com>

We would like it at the shared access off of Cedar Mesa road, where it is running north and south.

Steve

[Quoted text hidden]

Referral Notice PLN22-073/Holt Subdivision

Cedaredge Fire <cedaredgefire@gmail.com>

Mon, Nov 7, 2022 at 8:44 AM

To: Kate Kelly <kkelly@deltacounty.com>

Kate, I will stop by tonight and look at this existing hydrant. It is on the opposite side of the road from this property. I would like to see a hydrant on the same side. I will measure the distance from the existing plug to the proposed driveway. That distance may put it too far from future houses in the new subdivision. I'll let you know tomorrow.

Steve

[Quoted text hidden]



STAFF REPORT

Delta County Planning Commission

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

Wednesday, November 16, 2022 @ 5:30 p.m.

2022 Land Use Code Update

**Public Hearing to consider certification of the 2022
Land Use Code Update.**

RECOMMENDATION:

Staff recommends that the Planning Commission adopt a Resolution recommending that the Board of County Commissioners:

- a. ADOPT the PC Certified 2022 Land Use Code Update (**Attached**)
 - a. Consider a Summary of Changes (**Attached**)
- b. ACCEPT a list of future considerations relative to the Land Use Code, including:
 - a. Update Zoning Maps
 - b. Legacy Lot Split
 - c. Stewardship Areas
 - d. Impact Fees
 - e. Separate RI/C into two designations
 - f. CUP Process-PC as decision making body
- c. VACATE Resolution 2003-R-027 (Street Plans in 35+ acres Subdivisions)
- d. FIND that Resolution 2022-R-026 (Renewable Energy Moratorium) is extinguished by operation since the 2022 Land Use Code incorporates standards for renewable energy facilities.
- e. CONSIDER other related actions, including:
 - a. Vacate Ordinance 2016-01 (Development Application)
 - b. Amend Ordinance 2006-10 (Pre-HUD Mobile Homes)
 - c. Update the Land Use Fee Schedule
 - d. Amend Intergovernmental Agreements (IGAs)

A draft resolution is **Attached** for consideration.



Report prepared by: Carl P. Holm, AICP, Planning Director

SUMMARY:

Recommended changes have been drafted and reviewed by County land use agencies (Planning, GIS, Engineering, and Environmental Health). This Final Draft is a culmination of:

- Board of County Commissioners (BoCC); Four (4) Work Sessions (10/27/21-5/25/22); and
- Board of Adjustment (BoA); Two (2) Work Sessions (5/25/22 and 8/25/22) and one (1) Hearing (10/13/22); and
- Planning Commission (PC); 10+ Work Session (12/8/21-9/19/22) and three (3) hearings (10/12, 10/26 and 11/9/22); and
- Surveyors: Multiple meetings regarding subdivision regulations, including discussion with the PC at the 10/12 and 10/26 hearings.
- Other public comments. Includes letters from Citizens for Health Communities (CHC) and Mr. Eli Wolcott, as well as comments by others at various hearings.

On November 9, 2022, staff presented final changes to the Public Draft 2022 Land Use Code. Based on PC direction, a Final Draft was created by removing the redline and cleaning up formatting (**Exhibit A of Resolution**). In addition, staff prepared an outline summarizing (Summary of Changes) the more notable changes in the 2022 LUC Update (**Exhibit B of Resolution**). A draft resolution provides context to this update.

Staff requests that the PC consider the resolution and direct staff on any changes. Also, staff requests that the PC review the Summary of Changes and provide direction for what to present to the BoCC. Staff will present the PC recommendations, but the PC may wish to elect Commissioner(s) to attend the BoCC hearing and speak to the Certified Copy.

Additionally, staff has provided a draft Land Use Fee Resolution for consideration by the BoCC (**Attached**). While the PC does not take action, there have been discussion about how the LUC relates to fees. Furthermore, staff has updated the Application Checklists to incorporate changes to the LUC and recommendation from surveyors. There are three (3) forms: General (Permitted Use, Limited Use, Conditional Use, Variance), Subdivision (Minor Plat, Preliminary Plat, Final Plat), and Boundary Line Adjustment/Replat (**Attached**).

DISCUSSION

State statute (30-28-112 C.R.S.) requires the Planning Commission (PC) to forward a certified copy to the Board of County Commissioners (BoCC). The BoCC must hold at least one public hearing. The hearing date and time, as well as the location where the certified Zoning Plan (LUC) can be examined, must be noticed in the newspaper at least 14 days ahead. There is a DRAFT Land Use Code page on the (County) Planning and Community Development website. The hearing with the BoCC has been scheduled for 12/7/2022.



No substantial change in or departure from the text or map (map not amended) so certified by the PC shall be made unless such change is first submitted to the PC for approval, disapproval or suggestions. If the BoCC take such an action on 12/7/2022, the PC has 30 days to send its report to the BoCC, which will require a meeting between 12/8/2022 and 1/2/2023 since the BoCC meets on the 1st Tuesday of the month (1/3/23).

FUTURE CONSIDERATIONS

During the PC discussions, a couple items have come up where the PC noted the desire to have further subsequent discussion, but not to hold up this update:

- Zoning Maps. Remove the UGA zoning designation (obsolete) and consider updating zoning designations to reflect areas available for development. [Chapter 2, Section 1.C]
- Legacy Lots. Develop an exception process for subdividing a smaller lot from large land holdings in a manner that can help encourage keeping larger acreages intact. [Chapter 3, Section 1.A]
- Stewardship Areas. Revise current regulations to allow flexibility for delegating the responsible party and how the land is managed. [Chapter 12, Section 3.C]
- Impact Fees. Perform a Nexus Study for considering resolution(s) establishing impact fees (Fire, Roads, Open Space). [Chapter 6, Sections 2-4]
- Separate RI/C. Create separate designations for industrial versus commercial. The matrix will need to be revised to reflect applicable uses. [Table 2.a]
- Conditional Use Process: Consider PC as a decision-making body with appeal to BoCC. [Chapter 8, Section 2.B]

Staff has incorporated this list into the resolution that will be presented as recommendations to the BoCC with the certified LUC.

RELATED ACTIONS

Separate from the LUC and future consideration, staff has identified some other actions related to land use:

- Vacate Resolution 2003-R-027 (Street Plans in 35+ Acre Subdivisions). Pertinent aspects of this resolution were incorporated into the 2022 Land Use Code [Chapter 12, Section 1.A]. This resolution is not needed with adding language into the LUC. Vacation requires separate action by BoCC, but can be included in the Resolution approving the LUC.
- Vacate Ordinance 2016-01 (Development Application). Pertinent aspects of this ordinance were incorporated into the 2022 Land Use Code, Chapter 7, Section 1.A]. This ordinance is obsolete with adding language into the LUC. Vacating an ordinance requires separate hearings/action with the BoCC (1st reading and adoption).
- Update Land Use Fee Schedule. Reflect changes in the 2022 Land Use Code. Requires separate action by BoCC. A draft BoCC resolution is attached for informational purpose.



- Update Development Application Forms/Checklist. The LUC authorizes the Director to update forms. Draft forms and a checklist are attached for the PC to review relative to comments received by Wilmore & Company.
- Amend Ordinance 2006-10 (Pre-HUD Mobile Home). Remove Building Code requirements and make it consistent with the 2022 Land Use Code, including enforcement. Amending an ordinance requires separate hearings/action with the BoCC (1st reading and adoption).
- Resolution 2022-R-026 (Renewable Energy Moratorium). The resolution afforded 6 months (3/6/23) or until renewable energy standards are incorporated into LUC.
- Amend Intergovernmental Agreements (IGAs). Reflect changes in the 2022 Land Use Code. Requires separate action(s) by BoCC for each municipality's IGA. Staff has held a couple meetings with each municipality. Based on these meetings, staff is developing draft IGA(s) to present to BoCC. Once accepted by the BoCC, the drafts will be forwarded to the municipalities for consideration (estimate early 2023).

Staff has incorporated this list into the resolution that will be presented to the BoCC with the certified LUC.

ATTACHMENTS

- Resolution
 - o Final Draft LUC (certified copy).
 - Hard copy available for review at the County Planning Department
 - Electronic copy available on the County (Planning and Community Development) website at: <https://www.deltacounty.com/748/DRAFT-Land-Use-Code>
 - o Summary of Changes
- DRAFT Land Use Fee Schedule (BoCC Reso)
- Development Application Form//Checklist

ZONING RESOLUTION

2022 LUC Update (Certified Copy)

Summary of Changes

**RESOLUTION
OF THE
PLANNING COMMISSIONER
OF THE COUNTY OF DELTA,
STATE OF COLORADO**

2022 LAND USE CODE UPDATE

**RESOLUTION CERTIFYING THE 2022 LAND USE CODE UPDATE AND
FORWARDING THIS PLAN TO THE BORD OF COUNTY COMMISSIONERS
WITH LAND USE RELATED RECOMMENDATIONS.**

RECITALS

WHEREAS, Delta County Board of County Commissioners (hereinafter “Board”) is authorized, pursuant to the Constitution of the State of Colorado and state legislation including, but not limited to, C.R.S. 29-20-101, et seq. and 30-28-101, e seq., to plan for and regulate the use and development of land in the unincorporated territory of the County of Delta, State of Colorado, for the purpose of promoting the health, safety, convenience, order, prosperity, and welfare of the inhabitants of the County of Delta; and

WHEREAS, the Delta County Master Plan was adopted in 2018 identifying a need to regulate land use in Delta County; and

WHEREAS, C.R.S. 30-28-111 authorizes the County Planning Commission to make a Zoning Plan for the unincorporated areas of the County; and

WHEREAS, C.R.S. 30-28-112 requires the County Planning Commission to certify a copy pf the Zoning Plan to the Board of County Commissioners; and

WHEREAS, the Board of County Commissioners shall hold at least one public hearing with notification in a newspaper of general circulation at least 14 days prior to adoption, including the time place and where the certified copy can be examined; and

WHEREAS, on January 5, 2021, the Board adopted the Delta County Land Use Code (Resolution No 2021-R-001), including zoning maps; and

WHEREAS, Resolution No 2021-R-001 also repealed certain regulations in pace prior to the Land Use Code, including regulations for Subdivision, Specific Developments, and Mobile Home Parks; and

WHEREAS, between October 27, 2021 and May 25, 2022, the Delta County

Bord of County Commissioners held four Work Sessions regarding the Land Use Code, including multiple meetings with local surveyors; and

WHEREAS, between December 8, 2021 and September 19, 2022, the Delta County Planning Commission held about ten (10) Work Sessions regarding the Land Use Code; and

WHEREAS, on May 25, 2022 and August 25, 2022 the Board of Adjustment held or participated in Work Sessions regarding the Land Use Code; and

WHEREAS, on September 8, 2022, Public Notice was sent to Delta County Independent (DCI), a newspaper of general circulation, informing the public that on September 21, 2022 the 2022 Public Draft Land Use Code was available for review and listed hearing dates and times for public hearings at the Planning Commission (10/12, 10/26) and Board of Adjustment (10/13); and

WHEREAS, the DCI notice ran three (3) consecutive weeks on September 14, September 21 and September 28, 2022; and

WHEREAS, on October 13, 2022, the Board of Adjustment (PC) considered the Public Draft 2022 Land Use Code Update and provided recommendations to the Planning Commission; and

WHEREAS, on October 26, 2022, following multiple public hearings, taking into account public comments received, the Planning Commission (PC) directed staff on final edits on the 2022 Land Use Code Update; and

WHEREAS, on November 2, 2022, a notice was advertised in the Delta County Independent newspaper regarding the availability of the Final Draft of the 2022 Land Use Code Update, and that the Planning Commission would hold a public hearing on November 16, 2022; and

WHEREAS, on November 16, 2022, the PC held a duly noticed public hearing to consider final edits for the 2022 Land Use Code Update.

DECISION

NOW, THEREFORE, BE IT RESOLVED, based all evidence presented and the administrative record as a whole, the Delta County Planning Commission (PC) does hereby recommend that the Board of County Commissioners take the following actions:

- 1) **ADOPT** the Planning Commission Certified 2022 Land Use Code Update, a complete copy is attached hereto and incorporated herein by reference as **Exhibit A**.

- a. Summary of changes, attached hereto and incorporated herein by reference as **Exhibit B**.
- 2) ACCEPT the follow as a list of future considerations relative to the Land Use Code:
- a. Update Zoning Maps. Remove the UGA zoning designation (obsolete) and update zoning designations to reflect areas available for development. Consider application of new zoning designations, and surveyor input on areas that were not zoned correctly.
 - b. Legacy Lot Split. Develop an exception process for subdividing a smaller lot from large land holdings in a manner that can help encourage keeping larger acreages intact. Replace the Lot Size Variance process. [Chapter 3, Section 1.A]
 - c. Stewardship Areas. Revise current regulations to allow flexibility for delegating the responsible party and how the land is managed [Chapter 12, Section 3.C].
 - d. Impact Fees. Perform a Nexus Study for considering resolution(s) establishing impact fees (Fire, Roads, Open Space) [Chapter 6, Sections 2-4].
 - e. Separate RI/C. Create separate designations for industrial versus commercial. The matrix will need to be revised to reflect applicable uses. [Table 2.a]
 - f. Conditional Use Process: Consider PC as a decision-making body with appeal to BoCC. [Chapter 8, Section 2.B]
- 3) VACATE Resolution 2003-R-027 (Street Plans in 35+ acres Subdivisions). Pertinent aspects of this resolution were incorporated into the 2022 Land Use Code [Chapter 12, Section 1.A].
- 4) FIND that Resolution 2022-R-026 (Renewable Energy Moratorium) is extinguished by operation since the 2022 Land Use Code incorporates standards for renewable energy facilities [Chapter 2, Section 4.G.1]
- 5) CONSIDER other related actions as follows
- a. Vacate Ordinance 2016-01 (Development Application). Pertinent aspects of this ordinance were incorporated into the 2022 Land Use Code, Chapter 7, Section 1.A.
 - b. Amend Ordinance 2006-10 (Pre-HUD Mobile Homes). Remove Building Code requirements and make it consistent with the 2022 Land Use Code, including enforcement.
 - c. Update the Land Use Fee Schedule. Reflect changes in the 2022 Land Use Code.
 - d. Amend Intergovernmental Agreements (IGAs). Reflect changes in the 2022 Land Use Code.

PASSED AND ADOPTED AS SET FORTH ABOVE on this 16th day of November, 2022 upon motion of Commissioner ____, seconded by Commissioner ____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Carl P. Holm, AICP, Director
Planning Commission Secretary

Delta County Land Use Code

For consideration by the Board of County Commissioners

(PC CERTIFIED COPY)

November 16, 2022

Board of County Commissioners

DISTRICT 1

Mike Lane

DISTRICT 2

Don Suppes

DISTRICT 3

Wendell Koontz

Planning Commissioners

DISTRICT 1

Steve Shea
Steve Shrock
Cindy Watson
Vacant (Associate)

DISTRICT 2

Layne Brones
Hardy Hutto
Tate Locke
Vacant (Associate)

DISTRICT 3

Kate Darlington
Jacob Gray
Tom Kay
David Marek (Associate)

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Table of Contents

CHAPTER 1. INTENT, INTERPRETATION & DECISION MAKERS

<u>Section 1. Title; Short Title</u>	
<u>Section 2. Purpose; Interpretation; Authority; Jurisdiction</u>	
<u>A. Purpose</u>	
<u>B. Interpretation</u>	
<u>C. Authority and Jurisdiction</u>	
<u>Section 3. Transitional Provisions</u>	
<u>A. Effect on Pending Applications</u>	
<u>B. Effect on Approvals and Permits that Pre-Date the Effective Date</u>	
<u>C. Effect on Existing Agreements</u>	
<u>D. Effect on “Specific Development Approvals”</u>	
<u>E. Effect on Existing Violations</u>	
<u>F. No Effect on Existing Easements, Covenants, or Agreements</u>	
<u>G. Existing Public Utility Facilities</u>	
<u>Section 4. Effective Date; Repealer; Severability</u>	
<u>A. Effective Date; Repealer</u>	
<u>B. Severability</u>	
<u>Section 5. Development Approvals Required</u>	
<u>A. Development Approval Required</u>	
<u>B. Exemptions from Approval Requirement</u>	
<u>Section 6. Development Review Bodies</u>	
<u>A. Director of Community Development</u>	
<u>B. Board of County Commissioners</u>	
<u>C. Board of Adjustment</u>	
<u>D. Planning Commission</u>	

CHAPTER 2. ZONING DISTRICTS AND LAND USE

<u>Section 1. Establishment of Zoning Districts</u>	.....
<u>A. Purpose and Establishment of Zoning Districts</u>	.....
<u>B. Official Zoning Map Adopted</u>	.....
<u>C. Interpretation of and Updates to Zoning Map</u>	.....
<u>Section 2. Land Use by Zoning District</u>	.....
<u>A. Interpretation of Land Use by Zoning District Tables</u>	.....
<u>B. Land Use by Zoning District</u>	.....
<u>C. Uses Restricted by Ordinance in Any Zoning District</u>	.....
<u>D. Uses that are Not Listed</u>	.....
<u>Section 3. Temporary Uses and Accessory Business Use of the Home</u>	.....
<u>A. Purpose and Application of Section</u>	.....
<u>B. Use of Recreational Vehicle, or other similar structure as Dwelling Unit</u>	.....
<u>C. Farm Stands</u>	.....
<u>D. Fireworks Stands</u>	.....
<u>E. Events</u>	.....
<u>F. Accessory Business Use of the Home</u>	.....
<u>G. Cottage Industry</u>	.....
<u>Section 4. Use Specific Standards</u>	.....
<u>A. Intensive Agriculture</u>	.....
<u>B. Rural Residential Uses</u>	.....
<u>1. General Requirements</u>	.....
<u>2. Manufactured Housing Units</u>	.....
<u>3. Manufactured Home Park</u>	.....
<u>4. Multifamily</u>	.....
<u>5. Accessory Dwelling Units (ADU)</u>	.....
<u>6. Additional Residences or Communal Living</u>	.....
<u>C. Agricultural Support & Rural Industry Uses</u>	.....
<u>1. Farmworker Housing</u>	.....
<u>2. Rural Medium/Heavy Industry</u>	.....
<u>D. Community Uses</u>	.....

<u>E. Commercial Uses</u>	.....
<u>1. Sexually-Oriented Businesses</u>	.....
<u>F. Rural Recreation and Hospitality</u>	.....
<u>1. Indoor Shooting Range</u>	.....
<u>2. Outdoor Shooting Range</u>	.....
<u>3. Racetrack</u>	.....
<u>4. Campground</u>	.....
<u>5. Outdoor Theater</u>	.....
<u>G. Utilities, Communicatons, Mining, Energy, Transporation and Disposal Uses</u>	.....
<u>1. Renewable Energy Facilities</u>	.....
<u>2. Airport</u>	.....
<u>3. Airstrips</u>	.....
<u>4. Landing Pad (Other)</u>	.....
<u>5. Salvage Yard</u>	.....
<u>6. Minerals Extraction/Quarry</u>	.....
<u>7. Waste Transfer Station</u>	.....
<u>8. Landfill</u>	.....
<u>9. Hazardous Waste Landfill</u>	.....
<u>H. Wireless Telecommunciatons Facilities</u>	.....

CHAPTER 3. LOTS, BUILDINGS, AND STRUCTURES

<u>Section 1. Lot Dimensions by Zoning District</u>	.....
<u>A. Lot Dimensions</u>	.....
<u>1. Generally</u>	.....
<u>2. Existing Lots</u>	.....
<u>3. Variation to Lot Size</u>	.....
<u>4. Boundary Line Adjustment</u>	.....
<u>5. Cluster Subdivision</u>	.....
<u>6. Parcel Split by Dedication in Fee Title</u>	.....
<u>B. Bulk Standards</u>	.....
<u>1. Generally</u>	.....

2. Setbacks	.....
3. Height	.....

CHAPTER 4. SITE DESIGN AND ENVIRONMENTAL STEWARDSHIP

Section 1. Site Layout	.....
A. Purpose and Application of Section	.....
B. General Design Objectives	.....
Section 2. Roads, Access, and Circulation	.....
A. Purpose and Application of Section	.....
B. Access Required	.....
C. Circulation Objectives	.....
D. Right-of-Way Dedication Requirements	.....
E. Engineering Standards and Cross-sections	.....
F. Road Naming	.....
G. Site-Specific Determinations	.....
Section 3. Parking	.....
A. Purpose and Application of Section	.....
B. Parking Ratio Guidelines	.....
C. Parking Area Surfacing	.....
D. Parking Area Design and Location	.....
Section 4. Utilities	.....
A. Purpose and Application	.....
B. Availability of Utilities	.....
C. Utility Connections Required	.....
D. Location of Utilities	.....
E. Utility Easements	.....
F. Installation of Utilities	.....
Section 5. Agricultural, Natural, and Cultural Resources	.....
A. Purpose and Application of Section	.....
B. Agricultural Operations and Prime Agricultural Soils	.....
C. Historic or Archeological Resources	.....

<u>D. Wildlife</u>	.....
<u>E. Wetlands</u>	.....
<u>F. Irrigation Systems</u>	.....
<u>G. Scenic Impacts</u>	.....
<u>Section 6. Hazards</u>	.....
<u>A. Purpose and Application of Section</u>	.....
<u>B. Disclaimer</u>	.....
<u>C. Designation of Hazard Areas</u>	.....
<u>D. Geologic Hazard Mitigation</u>	.....
<u>E. Wildfire Hazard Mitigation</u>	.....
<u>F. Steep Slopes</u>	.....
<u>G. Abandoned Mines and Quarries</u>	.....
<u>H. Abandoned (“Orphaned”) Oil and Gas Wells</u>	.....
<u>I. Floodplain/Floodway (Special Flood Hazard Area)</u>	.....
<u>Section 7. Environmental Quality</u>	.....
<u>A. Purpose and Application of Section</u>	.....
<u>B. Stormwater Management, Grading, Erosion, and Sediment Control</u>	.....
<u>C. Noise</u>	.....
<u>D. Odor Management</u>	.....
<u>E. Pest Management</u>	.....
<u>F. Dust Control</u>	.....
<u>G. Weed Control</u>	.....
<u>H. Exterior Lighting</u>	.....
<u>I. Domestic Animal Control</u>	.....
<u>J. Operational Hazard Mitigation and Risk Management</u>	.....
<u>K. Truck Routing Plans</u>	.....

CHAPTER 5. PUBLIC FACILITIES, INFRASTRUCTURE, AND SERVICES

<u>Section 1. Traffic Impacts</u>	.....
<u>A. Purpose and Application of Section</u>	.....
<u>B. Traffic Impact Study Contents</u>	.....

<u>Section 2. Soils Suitability and Drainage Analysis</u>	.....
<u>A. Purpose and Application of Section</u>	.....
<u>B. Geologic and Soils Report</u>	.....
<u>C. Drainage Report</u>	.....
<u>Section 3. Water Supply and Sanitary Sewage Disposal</u>	.....
<u>A. Purpose and Application of Section</u>	.....
<u>B. Determination of Adequacy of Water Supply</u>	.....
<u>C. Fire Protection Report</u>	.....
<u>D. Sanitary Sewage Disposal</u>	.....
<u>E. Irrigation Water</u>	.....

CHAPTER 6. LAND DEDICATION, IMPACT FEES, DEVELOPMENT IMPROVEMENT AGREEMENTS

<u>Section 1. Land Dedication</u>	.....
<u>A. Purpose and Application of Section</u>	.....
<u>B. Land, Easements, and Public Improvements Dedicated or Conveyed to the County</u>	.....
<u>C. Acceptance of Public Improvements</u>	.....
<u>Section 2. Fire Impact Fees</u>	.....
<u>Section 3. Road Impact Fees</u>	.....
<u>Section 4. Open Space Impact Fees</u>	.....
<u>Section 5. Improvement Agreements and Financial Guarantees</u>	.....
<u>A. Purpose and Application of Section</u>	.....
<u>B. Improvement Agreements</u>	.....
<u>C. Maintenance Agreements</u>	.....
<u>D. Financial Guarantees</u>	.....

[Section 6. Securities.....](#)

[CHAPTER 7. STANDARDIZED APPLICATION REVIEW PROCESS](#)

[Section 1. Application Submittal Requirements.....](#)

[A. Development Application.....](#)

[B. Pre-Application Meeting.....](#)

[C. Application.....](#)

[C. Application Fees and Escrows.....](#)

[Section 2. Initial Application Review Process.....](#)

[A. Completeness Review.....](#)

[B. Technical and Sufficiency Review.....](#)

[C. Recommended Revisions.....](#)

[D. Stale Applications.....](#)

[Section 3. Referral to Agencies and Adjacent Property Owners.....](#)

[Section 4. Public Notice.....](#)

[A. Public Notice.....](#)

[B. Contents of Public Notice.....](#)

[C. Types of Public Notice.....](#)

[D. Type of Public Notice Required by Application Type.....](#)

[E. Standards for Required Notices.....](#)

[F. Optional Notices.....](#)

[G. Errors in Notices.....](#)

[H. Notice to Mineral Estate Owners.....](#)

[Section 5. Neighborhood Meetings.....](#)

[CHAPTER 8. REVIEW PROCESSES](#)

[Section 1. Administrative Review Process.....](#)

[A. Administrative Review Established.....](#)

[1. Generally.....](#)

[2. Permitted Use Standards.....](#)

<u>3. Limited Use Standards</u>	.....
<u>4. Other Approvals and Permits May Be Required</u>	.....
<u>B. Administrative Review Process</u>	.....
Section 2. <u>Conditional Use Permits Process</u>	.....
<u>A. Conditional Use Application</u>	.....
<u>B. Public Hearing Process</u>	.....
<u>C. Conditional Use Approval Standards</u>	.....
<u>D. Annual Reports</u>	.....
Section 3. <u>Rezoning Process</u>	.....
<u>A. Public Hearing Process</u>	.....
<u>B. Rezoning Approval Standards</u>	.....
Section 4. <u>Administrative Modifications</u>	.....
<u>A. Administrative Modifications and Reasonable Accommodations</u>	.....
Section 5. <u>Variances</u>	.....
<u>A. Variances</u>	.....
Section 6. <u>Other Land Use Approvals</u>	.....
<u>A. Location and Extent Certificate</u>	.....
<u>B. Text Amendments</u>	.....
<u>C. Planned Unit Development</u>	.....
<u>D. Areas and Activities of State Interest</u>	.....
Section 7. <u>Vested Rights</u>	.....
<u>A. Purpose</u>	.....
<u>B. Eligibility</u>	.....
<u>C. Required Certifications</u>	.....
<u>D. Record of Regulations at Time of Application</u>	.....
<u>E. Special Notice Requirements</u>	.....
<u>F. Special Provisions for Stale Vested Rights Applications</u>	.....
<u>G. Effective Date of Approval; Public Notice</u>	.....
<u>H. Subsequent Regulation Prohibited</u>	.....
<u>I. Extension and Amendments</u>	.....

[I. Repealer](#).....

CHAPTER 9. APPROVALS, DENIALS AND APPEALS

[Section 1. Approvals and Denials](#).....

[A. Recording of Approvals](#).....

[B. Effect of Approvals](#).....

[C. Duration of Approvals](#).....

[D. Extensions of Approvals](#).....

[E. Correction of Approvals](#).....

[F. Denials](#).....

[Section 2. Continuances and Withdrawal](#).....

[Section 3. Successive Applications](#).....

[Section 4. Appeals to Board of Adjustment](#).....

[Section 5. Appeals to Board of County Commissioners](#).....

CHAPTER 10. [RESERVED]

CHAPTER 11. NONCONFORMITIES; DEVELOPMENT REVIEW BODIES AND PROCEDURES

[Section 1. Nonconformities](#).....

[A. Purpose and Application of Section](#).....

[B. Nonconforming Uses](#).....

[C. Nonconforming Buildings or Structures](#).....

[D. Other Physical Nonconformities](#).....

CHAPTER 12. SUBDIVISION REGULATIONS

[Section 1. Scope of Regulations](#).....

[A. Purpose and Intent](#).....

[B. Exemptions](#).....

[C. Standards and Limitations](#).....

<u>Section 2. Minor Plats, Replats, & Boundary Line Adjustments</u>	.....
<u>A. Administrative Review Established</u>	.....
<u>B. Administrative Review Process</u>	.....
<u>Section 3. Preliminary Plats</u>	.....
<u>A. Application Review Process</u>	.....
<u>B. Standard Subdivision Design Standards</u>	.....
<u>C. Clustered Subdivision Design Standards</u>	.....
<u>D. Use of Stewardship Areas</u>	.....
<u>E. Preliminary Plat</u>	.....
<u>Section 4. Final Plats</u>	.....
<u>A. Generally</u>	.....
<u>B. Timelines, Expiration, Extension</u>	.....
<u>C. Final Plat Review Process</u>	.....
<u>D. Plat Correction</u>	.....
<u>Section 5. Format for Signature Blocks, Cetifications and Plat Notes</u>	.....
<u>A. Generally</u>	.....
<u>B. Dedication</u>	.....
<u>C. Notarial</u>	.....
<u>D. Mortgagees Approval</u>	.....
<u>E. Delta County Surveyor's Approval</u>	.....
<u>F. Delta County Planning Department Approval</u>	.....
<u>G. Certificate of Taxes Paid</u>	.....
<u>H. Board of County Commissioners Acceptance</u>	.....
<u>I. Standards Notes</u>	.....
<u>J. Special Notes</u>	.....
<u>Section 6. Vacation of Roads, Streets, Right-of-Way, Easements, or a Subdivision</u>	.....
<u>A. Purpose</u>	.....
<u>B. Submittals</u>	.....
<u>C. Notification</u>	.....
<u>D. Procedure and Process</u>	.....
<u>E. Action by Board of County Commissioners</u>	.....

[F. Recording the Vacation](#).....

CHAPTER 13. ENFORCEMENT AND REMEDIES

[Section 1. Violations and Remedies](#)

[A. Nature of Remedies](#).....

[B. Remedies](#)

[C. Non-Liability](#)

[D. Administrative Remedies](#).....

[E. Subdivision Violations and Remedies](#)

[F. Zoning Violations and Remedies](#)

[G. Manufactured Housing Violations and Remedies](#)

[H. Additional Remedies](#).....

[Section 2. Condition Compliance](#).....

[A. Monitoring](#).....

[B. Failure to Comply with Conditions of Approval](#).....

[Section 3. Civil Infraction](#).....

[A. Generally](#)

[B. Penalty Assessment](#)

[C. Penalties](#).....

[C. Fines](#)

[Section 4. Enforcement Process](#).....

[A. Complaints](#).....

[B. Investigation](#)

[C. Non-Compliance](#).....

CHAPTER 14. MEASUREMENTS, CALCULATIONS, RULES OF CONSTRUCTION, ACRONYMS AND DEFINITIONS

[Section 1. Measurements, Calculations, Rules of Construction, Acronyms and Definitions](#).....

[A. Lot Area](#).....

[B. Lot Dimensions](#).....

[C. Setbacks](#).....

[D. Rules of Construction](#).....

[E. Acronyms](#).....

[Section 2. Definitions](#).....

[A](#).....

[B](#).....

[C](#).....

[D](#).....

[E](#).....

[F](#).....

[G](#).....

[H](#).....

[I](#).....

[J](#).....

[K](#).....

[L](#).....

[M](#).....

[N](#).....

[O](#).....

[P](#).....

[R](#).....

[S](#).....

[T](#).....

[U](#).....

[V](#).....

[W](#).....

[Y](#).....

APPENDICIES

<u>Right to Farm and Ranch Policy</u>	.....
<u>Floodplain Regulations</u>	.....
<u>Design and Installation Guidelines for Underground Irrigation Water Conveyance</u>	.....
<u>Rubbish/Junk Ordinance</u>	.....
<u>Commercial Use Cannabis Ordinance</u>	.....
<u>Personal Use Cannabis Ordinance</u>	.....
<u>Pre-HUD Mobile Home Ordinance</u>	.....
<u>Highway 50 Overlay District Ordinance</u>	.....
<u>Highway 92 Overlay District Ordinance</u>	.....
<u>Impact Fee Resolution(s) (<i>RESERVED</i>)</u>	
<u>Municipal Intergovernmental Agreements</u>	

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CHAPTER 1. INTENT, INTERPRETATION & DECISION MAKERS

Section 1. Title; Short Title

This document shall be titled the Delta County Land Use Code and referred to as “this Code”.

Section 2. Purpose; Interpretation; Authority; Jurisdiction

A. Purpose

1. **Generally.** The purposes of this Code are to:
 - a. Promote the health, safety, and general welfare of the residents of Delta County;
 - b. Protect the character of existing rural communities, urban communities and neighborhoods in Delta County;
 - c. Ensure that developers and subdividers provide adequate, safe, and efficient public utilities and public improvements and facilities, including land for public uses; and
 - d. Establish adequate and accurate records of land subdivision.

B. Interpretation

1. **Generally.**
 - a. Delta County has a strong commitment to private property rights, as set out in the County’s Master Plan. The freedom to use private property is not just in the interest of private landowners, but also the general public. However; physical impact of the use of private property on surrounding properties, public infrastructure, and/or natural resources is a matter of County concern, and therefore a proper subject of County regulation.
 - b. The right to develop and improve private property does not include the right to physically damage or adversely impact neighboring properties, or to utilize more than the property owner’s fair share of public facilities and resources, even if that means that the property owner cannot utilize property for its perceived “highest and best use.”
 - c. Zoning provides an efficient and fair way to provide for the orderly use and development of land in the County. Land uses that generate noise, dust, traffic or other potential off-site impacts are directed by this Code to certain zoning districts where there are adequate services (including roads, water, and wastewater treatment/disposal), where off-site impacts may be more effectively absorbed and/or mitigated.
 - d. This Code is designed to increase understanding among landowners, residents, business owners, and decision-makers as to the separation between private property rights and public interests in various areas of the County. This Code establishes a regulatory format for what it means to be a “good neighbor” in Delta County in terms of the use and development of land.

- e. This Code was developed in the context of, and subject to, constitutionally protected rights, which are articulated in the Constitutions of the United States and the State of Colorado and interpreted by federal and state courts with jurisdiction in and over Delta County. Further, this Code was developed in the context of constitutional and statutory provisions that both establish and limit the authority of the County government in Colorado.
2. **Relationship to Policy and Land Use Plans.** It is the intent of this Code to implement the policies outlined in the Master Plan, as well as other policy documents adopted prior or subsequent to the adoption of this Code. However, neither this Code nor any amendments thereto may be challenged on the basis of any alleged inconsistency or nonconformity with any policy document.
3. **Permits Issued in Conflict with Code.** Any permit issued in conflict with the provisions of this Code shall be null and void, and shall not be construed as waiving any provision of this Code, except in such cases where a waiver or modification is expressly authorized by procedures set out herein. No oversight or dereliction of any office or employee of the County shall legalize, authorize, or excuse any violation of any provision of this Code. No legal, vested, or equitable rights shall be acquired under any invalid zoning or subdivision approval.
4. **Basic Requirements.** In their interpretation and application, the provisions of this Code shall be regarded as the basic requirements for the protection of public health, safety, comfort, convenience, prosperity, and welfare. This Code shall be interpreted in order to further its underlying purposes.
5. **Construction with Other Laws.** Whenever any provision of this Code or any provision of any other law, rule, contract, resolution, ordinance, or regulation of the County, State, or Federal government contains certain standards covering the same subject matter, the interpretation that gives effect to all of the applicable laws controls unless County jurisdiction is preempted. Generally, that means that the more restrictive requirements or higher standards control the decision.

C. Authority and Jurisdiction

1. **Authority and Specific Limitations.** This Code is authorized and limited by the following state laws:
 - a. C.R.S. § 24-6-401, *et seq.* (Open Meetings Law)
 - b. C.R.S. § 24-65.5-101, *et seq.* (Notification of Surface Development);
 - c. C.R.S. § 24-67-101, *et seq.* (Planned Unit Development Act of 1972);
 - d. C.R.S. § 24-68-101, *et seq.* (Vested Property Rights)
 - e. C.R.S. § 25-15-200.1, *et seq.* (State Hazardous Waste Siting Act)
 - f. C.R.S. § 25-15-501, *et seq.* (State Hazardous Waste Incinerator or Processor Siting Act)

- g. C.R.S. § 29-20-101, *et seq.* (Local Government Land Use Control Enabling Act)
 - h. C.R.S. § 29-20-201, *et seq.* (Regulatory Impairment of Property Rights)
 - i. C.R.S. § 29-20-301, *et seq.* (Adequate Water Supply)
 - j. C.R.S. § 30-28-101, *et seq.* (County Planning);
 - k. C.R.S. § 30-28-401, *et seq.* (Cluster Development);
 - l. C.R.S. § 31-23-212 (Implementation of Municipal Major Street Plan)
 - m. C.R.S. § 43-2-301, *et seq.* (Vacation Proceedings)
2. **Additional Authority and Limitations.** The citations above are expansive, but not necessarily complete. As such, in addition to the specific authorities and limitations set out above, other statutes may be referenced herein or otherwise utilized as the basis for regulations, procedures, or definitions set out in this Code.
3. **General Limitations.**
- a. No part of this Code shall be interpreted in a manner that irreconcilably conflicts with a Colorado statute. *See* C.R.S. § 30-15-411.
 - b. Regulations and restrictions of the height, number of stories, size of buildings and other structures, and the height and location of trees and other vegetation shall not apply to existing buildings, structures, trees, or vegetation except for new growth on such vegetation. *See* C.R.S. § 30-28-118(2)(c).
 - c. The application of this Code may be further limited by existing or future federal law that preempts County jurisdiction or authority (*e.g.*, the U.S. Constitution, the U.S. Code, or the Code of Federal Regulations).
4. **Jurisdiction.** This Code applies within the unincorporated Delta County, Colorado.

Section 3. Transitional Provisions

A. Effect on Pending Applications

1. **Generally.** An application for approval of a site-specific development plan, as well as the approval, conditional approval, or denial of such plan, shall be governed only by the duly adopted laws and regulations in effect at the time the complete application is submitted. *See* C.R.S. § 24-68-102.5, *Applications - Approval by Local Government*.
2. **Immediate Public Health and Safety Exception.** The County may adopt a new or amended ordinance or regulation, when necessary, for the immediate preservation of public health and safety, and may enforce such ordinance or regulation in relation to applications pending at the time such ordinance or regulation is adopted. *See* C.R.S. § 24-68-102.5, *Applications - Approval by Local Government*.

B. Effect on Approvals that Pre-Date the Effective Date

1. **Generally.** Development that was approved by the County prior to the effective date of this Code, but not completed as of the effective date, may be carried out within the scope of the development approval, provided that the approval is valid and has not expired. Work that is authorized must be commenced during the period in which the permit is valid, and then diligently pursued to completion.
2. **Duration of Development Approvals.**
 - a. Development approvals and permits that are valid on the effective date of this Code, but for which no further action has been taken with respect to permitting, construction, or establishment of a land use are valid until the stated expiration date, which may be on the face of the permit or development approval, or within related documents such as development agreements or regulations in force on the date of the approval.
 - b. The Director may grant an extension of up to one (1) year for approvals and permits listed above for good cause shown, provided that a written request for the extension is filed with the Director not less than 30 days prior to the expiration date of the approval or permit.
3. **Scope of Development Approvals.** This shall not be interpreted to confer rights upon an applicant that are not set out within the scope of a development approval or permit.
4. **Conditions of Prior Approvals or Permits.** All conditions of development approvals or permits that were granted or issued prior to the effective date of this Code remain in force according to their own terms, regardless of the standards or requirements of this Code. Conditions of approval may be modified or eliminated by amendment to the development agreement, resolution, or permits through which the conditions were imposed.
5. **Approvals that are Abandoned.** Development previously approved by Delta County where the use did not begin by January 5, 2021 shall be considered abandoned unless the development agreement specifically provides otherwise.
6. **Effect of Termination of Approval.** Approvals that terminate pursuant to this become void on the date of termination, and no further development approvals or permits may be issued in reliance upon them. No application for an extension or modification of an approval or permit will be accepted after termination of the approval or permit for which extension or modification is sought.

C. Effect on Existing Agreements

This Code does not affect existing, executed Development Agreements, Subdivision Improvements Agreements, Public Improvements Agreements, or other agreements, however titled, between the County and a landowner or applicant, except as may be provided therein or by applicable state or federal law.

D. Effect on “Specific Development Approvals”

1. **Generally.** Property that is subject to an approved Specific Development pursuant to the former DELTA COUNTY REGULATION FOR SPECIFIC DEVELOPMENTS, AS AMENDED, dated January 22, 2019 (repealed by this Code), may be developed in accordance with the Specific Development approval during the term of the Specific Development approval.
2. **Modifications to an Existing Specific Development Approval.** Specific Development approvals may be modified by amendment to the document that controls the Specific Development. Such amendments shall be consistent with the requirements of this Code. The Board of County Commissioners may agree to terminate a Development Agreement related to a Specific Development approval and allow the use to be addressed as provided in this Code.

E. Effect on Existing Violations

1. **Generally.** Any violation of the regulations that were repealed and replaced upon adoption of this Code (*see* Chapter 1, Section 4) shall be treated as follows:
 - a. If a violation occurred prior to the effective date and continued past the effective date, then the County may pursue remedies for each day of violation, based on the applicable ordinances or resolutions that were in effect on each day that the violation occurred.
 - b. If a violation occurred prior to the effective date, but the same activity is no longer a violation after the effective date, then the County may pursue remedies for each day of the violation, based on the ordinances or resolutions that were in effect on each day prior to the effective date during which the violation occurred.
2. **Fines and Penalties.** Payment of fines shall be required for any civil penalty assessed prior to the effective date (under the formerly applicable ordinances or resolutions), even if the original violation is no longer considered a violation under this Code.

F. No Effect on Existing Easements, Covenants, or Agreements

1. **Generally.** This Code does not modify, abrogate, or annul any easement, covenant, plat note, or any other agreement related to the use or development of land if the easement, covenant, or agreement pre-dates the effective date and does not contemplate modifications based on future changes to County ordinances and resolutions.
2. **No Effect on Private Restrictions.**
 - a. *Generally.* This Code does not change or override private restrictions on property. This Code will be enforced on property that is subject to private restrictions in the same manner as other properties.
 - b. *No Duty to Search for Private Restrictions.* The County has no duty to search for the existence of private restrictions on property. In the review of applications pursuant to this Code, the County will enforce only its own regulations and agreements to which it is a party or has an interest.

3. **No Duty to Interpret or Apply Private Restrictions.**

- a. The County will not interpret, apply, or enforce private restrictions or agreements (*e.g.*, homeowners' association covenants, private road maintenance agreements, water rights). However, the County may interpret or apply private restrictions (which may include placing conditions on, or denying, development approvals) if:
 - 1) It is a party to them, and as a party, the County determines that interpretation or application is necessary or appropriate; or
 - 2) The private restrictions are a conservation easement provided to a third party, and either:
 - a) The third-party easement holder objects to the proposed development on the basis that it is inconsistent with the terms of the conservation easement; or
 - b) The County otherwise finds that the proposed development is inconsistent with the terms of the conservation easement.
- b. When the County zones or rezones property or otherwise issues a development approval, such action:
 - 1) Shall not be considered an interpretation regarding existing private restrictions to which the County is not a party; and
 - 2) With respect to conservation easements, the County's interpretation shall not bind the easement holder (if different from the County).
- c. Parties to covenants who seek permits or development approvals from the County that are inconsistent with the covenants do so at their own risk that the covenants may be enforced by other parties who may have standing to file suit.

4. **No Duty to Enforce Private Restrictions.** The County will not generally seek to enforce private restrictions. The County may become involved in the enforcement of private restrictions only if:

- a. The County is a party to or has an explicit right of enforcement set out in the restrictions; or
- b. The County determines that enforcement is in the interest of the County as a whole; and the County finds that it is likely to have legal standing to enforce the private restrictions; or
- c. In the case of conservation easements, the County may take action to rescind or modify a development approval if either:
 - 1) The applicant failed to disclose the existence of a conservation easement over the subject property during the development approval process; or
 - 2) A court adjudicates that the development approval is inconsistent with an applicable conservation easement and prohibits the applicant from proceeding with development pursuant to said development approval.

G. Existing Public Utility Facilities

None of the provisions of this Code shall apply to any existing building, structure, or plant, or other equipment owned or used by a public utility. After the effective date of this Code, all extensions, betterments, or additions to buildings, structures, or plant or other equipment of a public utility shall only be made in conformity with this Code, unless the Public Utilities Commission orders (pursuant to C.R.S. § 30-28-127) that such extensions, betterments, or additions to buildings, structures, plants or other equipment are reasonable and that such extensions, betterments, or additions may be made even though they conflict with this Code.

Section 4. Effective Date; Repealer; Severability

A. Effective Date; Repealer

1. **Generally.** These Development Regulations shall be effective following adoption by the Board of County Commissioners of Delta County.
2. **Intergovernmental Agreements (IGAs).** Nothing in this Code alters or changes agreements for coordinated land use with the municipalities located within the County, or their Growth Management Areas.
3. **Amendments.** With respect to amended provisions of this Land Use Code, the “Effective Date” shall be the date that the amended provision became legally operative.

B. Severability

If any portion, paragraph, clause, or phrase within this Code is for any reason held to be invalid or unconstitutional, the same shall not affect the validity of this Code as a whole or any part or provision thereof, other than the part so adjudicated to be invalid or unconstitutional.

Section 5. Development Approvals Required

A. Development Approval Required

Unless specifically exempted by this Code, development approval is required for all development and redevelopment activities. The required development approvals are set out in this Code.

B. Exemptions from Approval Requirement

1. **Generally.** The following are not subject to approval pursuant to this Code, but may be subject to other permitting processes (*e.g.*, development application, access permits, work in County rights-of-way, assigning addresses, road names, well permits, septic permits, floodplain, stormwater, or federal or state permits or licenses):
 - a. The establishment, continuation, or modification of land uses that are listed as “Allowed Uses” pursuant to Chapter 2, Section 2 of this Code.
 - b. Subdivision of land that is statutorily exempt from County Subdivision authority (See Chapter 12).

Section 6. Development Review Bodies

A. Director of Community Development

1. **Generally.** The Director shall be selected by the County Administrator. The County Administrator may appoint himself or herself as the Director.
2. **Duties and Responsibilities.** The Director shall supervise the administration and enforcement of this Code, including the following functions:
 - a. Developing and promulgating application forms and checklists as provided in Chapter 8 *Review Processes*.
 - b. Coordinating and conducting pre-application meetings.
 - c. Coordinating and conducting various meetings with applicants and residents relating to development review and planning activities.
 - d. Processing and reviewing all applications (or causing applications to be reviewed) and either deciding the applications or making a recommendation regarding how the application should be decided based on the documents Of-Record and the applicable provisions of this Code.
 - e. Setting applications on the agendas of the Planning Commission, Board of Adjustment, or Board of County Commissioners, as appropriate.
 - f. Providing public notice (or verifying public notice) as required by this Code.
 - g. Promptly issuing written approvals, permits, resolutions, or orders that reflect the substance of approvals granted pursuant to this Code.
 - h. Maintaining the Zoning Map, including:
 - 1) Updates to reflect rezoning; and
 - 2) Resolution numbers to indicate Conditional use approvals.
 - i. Tracking the term of approvals, and keeping records of approvals that have expired.
 - j. Enforcing the provisions of this Code and approvals granted hereunder.
 - k. Making recommendations regarding amendments to this Code and to the Master Plan and other land use or strategic plans approved or adopted by the County.
 - l. Developing or supervising the development of master plans, special area plans, or strategic plans, however titled, as directed by the Board of County Commissioners, or the Planning Commission with the approval of the Board of County Commissioners.

3. **Additional Authorization.**

- a. The Director is authorized to:
 - 1) Create illustrations, figures, and illustrative examples, and include them in this Code as the Director determines appropriate to provide additional clarity as to the intent of the standards set out herein;
 - 2) Add and maintain cross-references within this Code as the Director determines appropriate to facilitate navigation of this Code;
 - 3) Add and maintain external hyperlinks from this Code as the Director determines appropriate to facilitate access to materials referenced in this Code; and
 - 4) Correct typographical and punctuation errors within this Code.
- b. If the Director exercises the authority that is delegated by this subsection, the Director shall report the same to the Planning Commission and Board of County Commissioners at their next regularly scheduled meetings.

B. Board of County Commissioners

1. **Generally.** The Board of County Commissioners shall have all powers conferred upon it by law, and shall make such delegations and take such responsibilities for administration of this Code as are set out herein.
2. **Rezoning and Text Amendment.** Any Board of County Commissioner amendment to the text or maps related to this Code shall be first submitted to the Planning Commission for approval, disapproval, or suggestions. *See C.R.S. § 30-28-116.*

C. Board of Adjustment

1. **Generally.** The Board of County Commissioners shall appoint a Board of Adjustment of three (3) or five (5) members.
2. **Composition and Compensation of Board of Adjustment.**
 - a. *Qualifications.* All members of the Board of Adjustment shall be residents of the County. Not more than half of the members of the Board of Adjustment may at any time be members of the Planning Commission.
 - b. *Term.* Members of such Board of Adjustment shall serve for a term of three (3) years, and shall be staggered such that the term of at least one (1) member will expire each year.
 - c. *Removal.* Any member of the Board of Adjustment may be removed for cause (misconduct, nonperformance, or ineligibility) by the Board of County Commissioners upon written charges and after a public hearing.
 - d. *Vacancies.* Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments.

- e. *Associate Members (Alternates)*. The Board of County Commissioners may appoint associate members of the Board of Adjustment, and, in the event that any regular member is temporarily unable to act owing to absence from the county, illness, interest in a case before the Board of Adjustment, or any other cause, his place may be taken during such temporary disability by an associate member designated for that purpose. One Associate member shall be appointed from the Planning Commission.
- f. *Compensation*. The Board of County Commissioners shall fix *per diem* compensation and terms for the members of the Board of Adjustment, which terms shall be of such length and so arranged that the term of at least one member will expire each year.

3. Powers and Duties.

- a. *Powers*. The Board of Adjustment shall have all authority conferred upon it by this Code and C.R.S. § 30-28-101, *et seq.*, including the following functions:
 - 1) Appeal of Administrative Determination or Decision
 - 2) Special Exception (Variance) to:
 - a) Development Standards in this Code; however, there shall be no variance to lot size.
 - b) DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS.
 - b. *Officers*. The Board of Adjustment shall elect a Chair from its members, whose term shall be for one (1) year. The Board of Adjustment may create and fill such other offices as it may determine.
 - c. *Rules, Regulations, and Records*:
 - 1) The Board of Adjustment may adopt supplemental rules of procedure not inconsistent with this Code or C.R.S. § 30-28-101, *et seq.*
 - 2) Meetings of the Board of Adjustment shall be held at the call of the Chair and at such other times as the Board of Adjustment in its bylaws may specify.
 - 3) The Chair, or in his or her absence the acting Chair, may administer oaths and compel the attendance of witnesses by application to the District Court. The District Court, upon proper showing, may issue subpoenas and enforce obedience by contempt proceedings as provided in C.R.S. § 30-28-117(4).
 - 4) The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed as public record.
 - d. *Open Meetings*. All meetings of the Board of Adjustment shall be open to the public.
4. **Voting Requirement**. As required by C.R.S. § 30-28-118(3), the reversal or modification of an administrative decision pursuant to Chapter 9, *Approvals, Denials and Appeals*, or the

grant of a variance pursuant to Chapter 8, Section 5, *Variances*, requires the concurring vote of:

- a. All of the voting members of a 3-member BOA where there is a quorum present; or
- b. Four (4) members of a 5-member BOA.

D. Planning Commission

1. **Generally.** The Board of County Commissioners shall appoint a Planning Commission of not less than three (3) and not more than nine (9) members.
2. **Composition and Compensation of Planning Commission.**
 - a. *Membership.* Each member of the Planning Commission shall be a resident of the County. Three (3) members of the Planning Commission shall be selected from each County Commissioner District.
 - b. *Term.* The term of appointed members of the Planning Commission shall be three (3) years and until their respective successors have been appointed, but the terms of office shall be staggered by making the appointments so that approximately one-third (1/3) of the members' terms expire each year.
 - c. *Removal.* Any member of the Planning Commission may be removed for cause (misconduct, nonperformance, or ineligibility) by the Board of County Commissioners upon written charges and after a public hearing.
 - d. *Vacancies.* Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments.
 - e. *Associate Members (Alternates).* The Board of County Commissioners may appoint one (1) associate member of the Planning Commission from each County Commissioner District. Each associate member shall be a resident of the County, and, in the event any regular member is temporarily unable to act due to absence from the County, illness, interest in any matter before the Planning Commission, or any other cause, his or her place may be taken during such temporary disability by an Associate Member designated for that purpose.
 - f. *Compensation.* The members of the Planning Commission shall receive such compensation as may be fixed by the Board of County Commissioners, and the Board of County Commissioners shall provide for reimbursement of the members of the Planning Commission for actual expenses incurred.
3. **Powers and Duties.**
 - a. *Powers.* The Planning Commission shall have all authority conferred upon it by C.R.S. § 30-28-101, *et seq.*, including the following functions:
 - 1) Preliminary Plats (subdivision of 3+ lots)
 - 2) Conditional Use Permits
 - 3) Rezoning

4) Land Use Code Amendments

5) Master Plan

- b. *Officers.* The Planning Commission shall elect a Chair from its members, whose term shall be for one (1) year, and the Planning Commission may create and fill such other offices as it may determine.
- c. *Rules, Regulations, and Records.* The Planning Commission shall adopt such rules and regulations governing its procedure as it may consider necessary or advisable and shall keep a record of its proceedings, which record shall be open to inspection by the public at all reasonable times.
- d. *Open Meetings.* All meetings of the Planning Commission shall be open to the public.
- e. *Experts and Staff.* The Board of County Commissioners has the authority to employ experts and a staff and shall pay such expenses as may be deemed necessary for the Planning Commission to carry out the powers conferred and the duties prescribed in this Code. The Planning Commission is directed to make use of the expert advice and information which may be furnished by appropriate federal, state, county, and municipal officials, departments, and agencies and in particular by the Director of the Division of Planning in the Department of Local Affairs of the State of Colorado.
- f. *Funding Sources.* The Planning Commission is specifically empowered to receive and expend all grants, gifts, and bequests, specifically including state and federal funds and other funds available for the purposes for which the Planning Commission exists, and to contract with the state of Colorado, the United States, and all other legal entities with respect thereto. The Planning Commission may provide, within the limitations of its budget, matching funds wherever grants, gifts, bequests, and contractual assistance are available on such basis.

Chapter 2. ZONING DISTRICTS AND LAND USE

Section 1. Establishment of Zoning Districts

A. Purpose and Establishment of Zoning Districts

1. Purpose.

- a. *Relationship to Master Plan.* This Code establishes land use regulations that are consistent with the Delta County Master Plan. This Code is meant to provide clarity and fairness for residents and property owners, and more predictability for commercial activities in the County.
- b. *Land Use in General.* This Code is designed to clarify where commercial, industrial, agricultural, and residential uses are most appropriately located around the County.
- c. *Commercial Land Uses.* This Code identifies the range of commercial uses that are anticipated in the County, and further identifies zoning districts in which each type of commercial use is appropriate or may be appropriate if certain conditions are met. Generally, commercial uses are most appropriately located in the RI/C zoning district and UGA overlay. However, most of the other zoning districts allow for multiple land uses and sufficient flexibility such that a wide range of commercial land uses may be located almost anywhere where adequate services can be provided, and standards of this Code can be met.

2. **Zoning Districts Established.** In order to carry out the provisions of this Code, the County is divided into the following zoning districts:

TABLE 2.a ZONING DISTRICTS		
ABBREVIATION	ZONING DISTRICT NAME	PURPOSES
A-35	Agriculture (35-acre)	This zoning district is intended to reflect lands with significant natural resources, including prime agricultural lands. The intent is to retain irrigated lands on larger parcels (generally, 35 acres or more). It allows for the broadest range of agricultural and supporting uses.
A-20	Agriculture (20-acre)	This zoning district is intended for small-scale agricultural rural residential uses on parcels of land that are generally 20 acres or more. It allows for a broad range of agricultural and supporting uses as well as large-lot residential uses.
A-5	Agriculture (5-acre)	This zoning district is intended for large-lot residential uses.

RES-2.5	Residential (2.5-acre)	This zoning district is intended for rural residential uses in areas that will not impact irrigated lands and there is an adequate water supply and access available.
RES-1	Residential (1-acre)	This zoning district is intended for residential uses in areas suitable for such density, including potential access to infrastructure and services (e.g., public water, sewer, fire hydrants, etc.).
RI/C	Rural Industrial / Commercial	This zoning district is intended to provide for rural industries that support farming and resource-based industries, or that otherwise benefit from locating outside of municipal boundaries (e.g., minerals processing, etc., but not including oil and gas services). In addition, the designation can be used for a range of commercial uses in areas near municipalities where there are sufficient services and infrastructure to accommodate them.
UGA	Urban Growth Area Overlay	This zoning overlay applies to areas near incorporated municipalities where urban services (e.g., public water and sewer) are available, and have been identified as areas of potential growth by the municipality through an Intergovernmental Agreement (IGA) between the County and each City/Town. This overlay highlights areas where the County will work with the municipalities to achieve ordered urban and suburban growth (e.g., higher residential densities and commercial/service uses). Areas around municipalities that include active agricultural operations should not be in the UGA overlay.
P/QP	Public/Quasi- Public	This zoning designation reflects public lands (e.g., Forest, BLM, Park), public safety facilities (fire, medical, law), public schools, and utilities (water, wastewater, electricity, etc.)

B. Official Zoning Map Adopted

1. **Official Zoning Map Adopted.** The boundaries of zoning districts are shown upon the map entitled "Official Zoning Map of Delta County, Colorado" (referred to hereinafter as "Zoning Map") which is incorporated into and made part of this Code by this reference.
2. **Force and Effect.** The Zoning Map and all notations, references, and other information shown on it are a part of this Code and have the same force and effect as this Code.
3. **Status of Zoning Map.** The Zoning Map that is on file at the Planning Department shall control in the event of a conflict between the map that is on file and any other reproduction of said map, including but not limited to, maps that are made available electronically.

C. Interpretation of and Updates to Zoning Map

1. Generally.

- a. Updates to the Zoning Map shall be made administratively following approval of a rezoning by the Board of County Commissioners.
- b. Technical changes to the Zoning Map that are necessary to correct the map and ensure that it accurately reflects zoning district boundaries previously approved shall also be made administratively.
- c. The precise location of any zoning district boundary line shown on the Zoning Map shall be defined by the rules of subsections (2), (3), (4), and (5) below, applied sequentially until the location is identified. Zoning designations are presumed to extend to the centerline of an abutting roadway.

2. Rezoning.

- a. The process and approval standards for rezoning property is in Chapter 8, Section 3 of this Code, except as provided in this section.
- b. Once approved by the Board of County Commissioners, rezoning shall be promptly reflected on the Zoning Map. The boundaries of property that are specified in a rezoning resolution are controlling, except as provided in this subsection.
- c. Conflicts between the zoning district boundaries on the Zoning Map and the zoning for property provided by an adopted rezoning resolution dated after the effective date of this Code could result from administrative, cartographic, or scrivener's errors. In the event of such conflict:
 - 1) It is presumed that the adopted rezoning resolution controls, and the Zoning Map shall be promptly corrected when the conflict is identified. The Director shall provide written notice of the correction to the owners of property that is the subject of a Zoning Map correction.
 - 2) The presumption may be rebutted if it is obvious that the error is within the text of the rezoning resolution, in that:
 - a) The rezoning affects property that was not the subject of the application for rezoning; or
 - b) The rezoning affects only a portion of the property that was the subject of the application, the application requested rezoning for the entire property, and the application was granted without conditions that restricted the extent of the rezoning.

3. Identifiable Features.

In the absence of a rezoning resolution that specifies parcel boundaries, where zone boundary lines appear to follow identifiable features, their location shall be determined by applying the rules of this subsection in order from (a) to (i):

- a. *Rights-of-Way*. Boundary lines shown as following, or approximately following, roads, alleys, railroad tracks, or utility lines shall be construed as following the

centerline of the right-of-way. Where the location of the actual roads or alleys differs from the location of corresponding roads or alleys on the Zoning Map, the location of the actual roads or alleys controls.

- b. *Municipal or County Boundaries.* Boundary lines shown as following, or approximately following, municipal or County boundary lines shall be construed as following such lines.
 - c. *Property Lines.* Boundary lines shown as following, or approximately following, lot lines or other property lines shown on the Zoning Map shall be construed as following such lines.
 - d. *Floodplains.* Boundary lines shown as following, or approximately following, floodplain boundary lines shall be construed as following such lines.
 - e. *Service Area Boundaries.* Boundary lines shown as following, or approximately following, special district service area boundary lines shall be construed as following such lines.
 - f. *Toe or Top of Slope.* Boundary lines shown as following, or approximately following, the toe or the top of a steep slope, shall be construed as following the contour line of the toe or top of slope.
 - g. *Watercourses.* Boundaries shown as following, or approximately following, the centerline of streams, canals, or other watercourses shall be construed as following the channel centerline.
 - h. *Parallel to Features.* Boundaries shown as materially separated from, or shown within a set distance from, any of the boundaries or features listed in paragraphs (a) through (g), above, shall be construed to be separated from such features at such distances as are shown by the scale on the Zoning Map.
 - i. *Changes in the Location of Identifiable Features.* Generally, the location of identifiable features that are used to identify zoning district boundaries shall be the location of the features on the date that the zoning district was assigned or changed. However, in the event of a natural change in the location of streams or other watercourses, the zoning district boundary shall be construed as moving with the channel centerline, and such movement shall not render existing development nonconforming.
4. **Un-subdivided Land or No Identifiable Feature.** In the absence of a rezoning resolution that specifies parcel boundaries, on unsubdivided land, or where a district boundary follows no identifiable feature, the location of zone boundaries shall be determined by applying the following rules in sequential order until the boundaries are known:
- a. *Text Dimensions.* The boundary shall be located by reference to dimensions shown in text on the Zoning Map, if any.
 - b. *Map Scale.* The boundary shall be located using the map scale appearing on the Zoning Map.

5. **All Land Within the Unincorporated County Shall Be Zoned.** It is the intent of the Board of County Commissioners that all land within the unincorporated areas of the County shall be zoned. Accordingly, the A-35 zoning district shall be applied to all land on the Zoning Map that is not the subject of one of the situations identified in subsections (2), (3), or (4), above, and:
 - a. Within the unincorporated area of the County;
 - b. Not within a public right-of-way; and
 - c. Not shown within the boundaries of a particular zoning district on the Zoning Map.

Section 2. Land Use by Zoning District

A. Interpretation of Land Use by Zoning District Tables

1. **Generally.** Table 2.b, below, *Land Use by Zoning District* describes which land uses are an Allowed Use, Permitted Use, Limited Use, or Conditional Use in each zoning district.
2. **Legend.** The following identifies symbols reflecting the different levels of review and a general overview of the processes as applicable [See Chapters 7 and 8 for more detail about the processes]:
 - a. “A” means “Allowed Use.” These uses are allowed by-right if they comply with applicable standards of this Code and applicable encumbrances (e.g., easements, Plat notes, etc.). In addition, non-habitable structures are Allowed Uses (e.g., fences, carport, gazebo, storage shed, barn, garage).
 - b. “P” means “Permitted Use, with a Zoning Permit.” Following Site Plan Review through the Development Application, Permitted Uses require a Zoning Permit (ministerial) prior to establishment of the use. Approval of a Site Plan shall be issued by the Director after administrative review if the application is determined to be in compliance with the general requirements of this Code.
 - c. “L” means “Limited Use, with a Zoning Permit.” Following Site Plan Review through the Development Application, Limited Uses require a Zoning Permit that may be approved, conditionally approved, or denied by the Director after administrative review for compliance with specific standards that pertain to the use, as well as the general requirements of this Code (discretionary). Applications for Limited Uses may be referred to specific referral agencies. The Planning Department monitors compliance with conditions of approval.
 - d. “C” means “Conditional Use, subject to a Conditional Use Permit.” Following Site Plan Review through the Development Application, Conditional Uses are subject to public hearing review for compliance with specific standards that pertain to the use, the general standards for all Conditional Uses, and the general requirements of this Code (discretionary). Applications for Conditional Use Permits will be referred to referral agencies. public notices of hearings on the application are required before an action is taken. Planning Commission recommendations to approve, conditionally approve, or deny an application are forwarded to the Board of County

Commissioners for final action. The Planning Department monitors compliance with conditions of approval.

- e. “—” means that the use is not allowed in the specified zoning district.
 - f. “n” If there is an “n” next to the P or L, then public notice of the application is required before the action is taken.
3. **Multiple Uses.** In instances where a proposed development will combine more than one listed use, each use shall be evaluated independently for compliance with applicable standards.
 4. **Other Permits.** Whether or not land use permits are required by this Code, other types of permits or approvals may be required in order to establish the use (*e.g.*, right-of-way use permit, address, septic permits, and/or well permits, mobile home, electrical, plumbing permits through the State).

B. Land Use by Zoning District

The land uses that are allowed in each zoning district are set out in Table 2.b, Land Use by Zoning District. Section 4 of this Chapter includes *Use Specific Standards* for certain uses listed below. Chapter 14, Section 2 provides definitions of uses listed below.

TABLE 2.b LAND USE BY ZONING DISTRICT					
LAND USE CATEGORY / LAND USE	ZONING DISTRICT				
	A35	A20	A5	RI/C	RES
AGRICULTURE LAND USE CATEGORY					
Agriculture, Agribusiness, Silviculture, Viticulture	A	A	A	A	A
INTENSIVE AGRICULTURE LAND USE CATEGORY¹					
Small Animal Feeding Operation (“SAFO”)	P ⁿ	P ⁿ	—	—	—
Medium Animal Feeding Operation (“MAFO”)	L ⁿ	L ⁿ	—	—	—
Concentrated Aquatic Animal Production (“CAAP”)	L ⁿ	L ⁿ	—	—	—
Large Animal Feeding Operations (“LAFO”)	L ⁿ	—	—	—	—
RURAL RESIDENTIAL LAND USE CATEGORY					
Single Family Detached ²	P	P	P	P	P
Accessory Dwelling Unit (ADU)	P	P	P	P	P
Duplex or Triplex ²	P	P	P	P	P
Manufactured Home Park (3+ units, including mobile homes and RVs) ^{1,2}	C	C	C	L ⁿ	L ⁿ
Multifamily (4+ dwelling units) ^{1,2}	L ⁿ	L ⁿ	L ⁿ	L ⁿ	L ⁿ

Assisted Living, Congregate Care, or Nursing Home	L	L	L	L	L
AGRICULTURAL SUPPORT AND RURAL INDUSTRIES LAND USE CATEGORY					
Farm Supply / Feed and Seed	L	L	L	A	L
Farmworker Housing ¹	P	P	P	L	L
Kennel	P	P	P	P	P
Rural Light Industry	P	P	P	P	P
Rural Medium Industry (<i>e.g.</i> , slaughterhouse, meat processing, sawmill) ¹	L ⁿ	L ⁿ	C	P	C
Rural Heavy Industry (<i>e.g.</i> , explosives, rock crushing, tannery) ¹	C	C	C	P	—
Veterinary Hospital or Clinic	P	P	P	P	L
COMMUNITY LAND USE CATEGORY¹					
Place of Assembly (<i>e.g.</i> , churches, grange halls, etc.)	P	P	L ⁿ	L ⁿ	L ⁿ
Schools and Child Care Centers	L	L	L	L	L
Cemetery	P	P	P	P	P
COMMERCIAL LAND USE CATEGORY					
Retail Sales and Services (includes banks, real estate, etc.) ⁴	L	L	—	P	—
Office	L	L	L	A	L
Restaurant ⁴	P	P	—	P	—
Automobile Fueling or Service Station	—	—	—	P	—
Storage Facility (Indoor/Outdoor)	L	L	L	L	L
Accessory Business Use of the Home ³	A	A	A	A	A
Cottage Industry ³	A	A	A	A	A
Cottage Industry, impact to neighboring property ³	L ⁿ	L ⁿ	L ⁿ	L ⁿ	L ⁿ
Sexually-Oriented Business ¹	—	—	—	L	—
RURAL RECREATION AND HOSPITALITY CATEGORY					
Bed and Breakfast	P	P	L	L	L
Short-Term Rentals	P	P	P	C	L
Guest Ranch	P	P	P	C	L
Lodging (Inn, Hotel, Motel)	L	L	L	C	L
Resort or Conference Center Hotel	C	L	L	L	L
Equestrian Facilities (training, arenas, horse boarding, etc.)	A	A	A	A	A

Outdoor Shooting Range ¹	L	L	C	C	—
Indoor Shooting Range ¹	P	P	L	L	L
Racetrack ¹	C	C	C	P	—
Paintball Course	L	L	L	—	—
Hunting, Fishing, or Watersports Club	A	A	P	—	P
Campground/RV Park ¹	L ⁿ	L ⁿ	C	—	C
Parks, Passive Recreation	P	P	P	P	P
Golf Course	C	C	C	C	C
Commercial Outdoor Recreation	L	L	L	P	P
Theater	C	P	P	—	P
Outdoor Theater ¹	C	P	P	—	C
UTILITIES, COMMUNICATIONS, MINING, ENERGY, TRANSPORTATION, AND DISPOSAL CATEGORY					
Water or Wastewater Treatment Plant	P	P	P	P	P
Renewable Energy Facility (Personal Scale) ¹	A	A	A	A	A
Renewable Energy Facility (Commercial Scale) ¹	C	C	C	L ⁿ	—
Truck Stop / Truck Wash	—	—	—	P	P
Airport, Airstrip, Landing Pad (Other) ¹	L ⁿ	L ⁿ	L ⁿ	L ⁿ	L ⁿ
Salvage Yard ¹	C	C	—	C	—
Minerals Extraction / Quarry ¹	C	C	—	C	—
Oil and Gas Extraction & Support Services	(Reserved)				
Waste Transfer Station ¹	—	—	—	C	—
Landfill ¹	C	C	C	—	—
Hazardous Waste Landfill ¹	C	—	—	—	—
WIRELESS COMMUNICATIONS FACILITIES¹					
New Facilities, Private Property	C	C	C	C	C
New Facilities, Public Property	L ⁿ	L ⁿ	L ⁿ	L ⁿ	L ⁿ
Eligible Existing Facilities	P ⁿ	P ⁿ	P ⁿ	P ⁿ	P ⁿ
Building Mounted Facilities	P ⁿ	P ⁿ	P ⁿ	P ⁿ	P ⁿ
Small Wireless Facilities	P ⁿ	P ⁿ	P ⁿ	P ⁿ	P ⁿ

¹- See Chapter 2, Section 5B; *Use Specific Standards*

²- See Chapter 3, Section 2; *Additional Residences and Communal Living*

³- See Chapter 2, Section 3; *Temporary Uses*

⁴- See Chapter 7, Section 4.d; *Type of Public Notice Required by Application Type*

C. Uses Restricted by Ordinance in Any Zoning District

The following uses are specified in their operating ordinance(s) [See Appendix]:

- a. Commercial Uses Cannabis; and
- b. Personal Use Cannabis; and
- c. Pre-HUD Mobile Homes; and
- d. Accumulation of Rubbish (Junk).

D. Uses that are Not Listed

1. **Generally.** If a proposed use (including but not limited to any specific type of commercial use) is not listed in Table 2.b, *Land Use by Zoning District*, or in Chapter 2, Section 2.C, *Uses Restricted by Ordinance in Any Zoning District*, then the proposed use shall be evaluated pursuant to this Section.
2. **Administrative Determination of Proposed Use.**
 - a. The Director shall review the description of the proposed use and decide whether the proposed use is:
 - 1) A principal land use, which is a use of land on an ongoing basis for a particular purpose, or a use that occupies permanent buildings or facilities on the land (*e.g.*, a farm, a shop, a dwelling unit, or a new neighborhood);
 - 2) A seasonal land use, which is a use of land (with or without temporary buildings or structures) for a continuous period of six months or less during any 12-month period (*e.g.*, a farm stand that is not located on a farm);
 - 3) A temporary land use, which is the temporary use of land and temporary buildings or structures, at the conclusion of which the temporary buildings or structures are removed, for a purpose which is related to construction, sales, or special events (*e.g.*, a large festival or carnival that is held outside of an amusement park or fairgrounds);
 - 4) An accessory use, which is a use of land that is associated with, but clearly subordinate to, a principal use (*e.g.*, a farm stand that is located on a farm, an accessory dwelling unit, or a business use of the home);
 - 5) An accessory building or structure (*e.g.*, a shed, ball field lighting, small wind energy conversion systems, fencing, etc.);
 - 6) Mechanical, water, wastewater, electrical equipment, or communications equipment that provides services to a building or use on the applicant's property and not to other properties (*e.g.*, air conditioner, water well, septic tank, roof-mounted or building-integrated photovoltaic panels, roof or wall-mounted television or HDTV antenna, etc.); or

-
- 7) An area or activity that is a customary part of the existing or approved principal use of the applicant's property (*e.g.*, a football field at a high school, or a garden or backyard play equipment on a residential lot).
 - b. Proposed principal land uses shall be evaluated according to the standards of subsection (3), below. Other uses above do not require further analysis under this, but may be subject to other applicable requirements of this Code, and/or to other Delta County resolutions.
 3. **Principal Land Uses.** New or changed land uses are allowed, permitted, limited, conditional, or prohibited in the same manner as uses defined in Table 2.b, above, and to which they are most similar. An unlisted use is similar to a listed use if, with regard to each of the decision criteria below, the unlisted use has no greater impacts than listed use to which it is being compared.
 - a. Average daily and peak hour trip generation (personal vehicles and heavy trucks);
 - b. Impervious surface;
 - c. Regulated air or water emissions;
 - d. Noise;
 - e. Exterior lighting;
 - f. Dust;
 - g. Odors (including but not limited to odors from storage of solid wastes prior to pick up);
 - h. Potentially hazardous conditions (such as risk of fire or explosion, projectiles leaving the site, etc.);
 - i. Use, storage, or disposal of hazardous materials; and
 - j. Nature and impacts of operation.
 4. **Effect of Determination.**
 - a. If the Director finds that an unlisted use is similar to an allowed, permitted, limited, or Conditional use, then an application for approval of the unlisted use at a particular location shall be processed with the same restrictions as the listed use that is similar.
 - b. If the Director determines that an unlisted use is most similar to a prohibited use, or is not similar to any listed use, then the unlisted use is a prohibited use.

Section 3. Temporary Uses and Accessory Business Use of the Home

A. Purpose and Application of Section

1. **Purpose of Section.** The purpose of this Section is to establish standards for certain temporary uses and business uses of the home.

B. Use of Recreational Vehicle, or other similar structure as Dwelling Unit

1. **Construction (Temporary).** A recreational vehicle may be temporarily occupied as a dwelling unit during the period in which a dwelling unit is actively being constructed or installed on a subject property, provided that the occupant of the recreational vehicle is the owner of the property upon which the construction is occurring, or the contractor who is constructing the dwelling unit. Said use shall be Allowed for up to twelve (12) months during construction with an active plumbing and/or electrical permit (as applicable).
2. **Farmworker (Seasonal).** Use of recreational vehicles as seasonal farm labor housing shall be subject to requirements for a Permitted Use, including compliance with the timeline established in Section 2.D.2.a.2 above.
3. **Residence (Principal).** Structures not otherwise intended for permanent living, such as a recreational vehicle, may be used as single-family detached residences (principal use) when connected to permitted, permanent, reliable infrastructure, including power, water, and either sewer or a permitted individual sewage disposal system.
4. **Manufactured Home Park (Principal).** Where any parcel of land includes three or more (3+) sites for mobile homes or recreational vehicles owned or leased as a residence on a parcel of land (other than the property owner), that parcel becomes a manufactured home park and is subject to the applicable regulations in Chapter 2, Section 4(B)(2) of this Code.

C. Farm Stands

Farm stands are an Allowed Use, provided that:

1. They do not take direct access from a state highway or arterial road unless CDOT or County Engineering confirms that such access may be safely provided; and
2. The subject property is cleaned up and restored after the stand is removed.

D. Fireworks Stands

Fireworks stands are an Allowed Use provided that:

1. They do not take direct access from a state highway or arterial road unless the CDOT or County Engineering confirms that such access may be safely provided;
2. A fire prevention and emergency response plan is provided and approved by the applicable fire protection district;
3. Fire restrictions are not in effect during the period that the fireworks stand is present; and
4. The subject property is cleaned up and restored after the stand is removed.

E. Events

1. **Generally.** The standards of this section apply to temporary events that are not already permitted to include such use (e.g., commercial, community, wineries, or hospitality use) that would routinely attract large groups of people. More specifically;

- a. *Special Event* applies in cases where typical/expected participation is limited to the number indicated below, and there are no more than three (3) events per calendar year that do not exceed more than seven (7) consecutive days.
 - 1) Allowed Use if less than 150 people at any one venue at any one time, but must comply with standards of this section.
 - 2) Permitted Use for an event between 151 and 500 people.
 - 3) Limited Use if over 500 people, or if the expected participation is unknown or cannot be estimated.
- b. *Private Event* applies where people are invited by the property owner with no obligation or expectation to pay or donate money/services (e.g., family wedding on their property). Allowed Use.
- c. *Public Event* applies to any event that does not meet the parameters of a special or private event. Limited Use required in each such case.

2. Approval Standards.

- a. *Impact on Agriculture or Intensive Agriculture.* The location and nature of the special event shall be such that it will not adversely affect adjacent and nearby agriculture and intensive agriculture uses that involve livestock; or create a material risk of trespass onto or damage to agricultural fields, grazing areas, or livestock pens.
- b. *General Site Requirements.* The event shall be held on a site that is suitable for safely accommodating the expected level of attendance.
- c. *Buildings and Structures.* Buildings and structures (including temporary tents) to be used must be in a condition that is safe and appropriate for the intended level of use and occupancy.
- d. *Access and Circulation.*
 - 1) The street from which access is taken must have adequate capacity to serve the temporary special event. The County may require a Traffic Impact Study to evaluate available capacity. A traffic management plan may be required to ensure safe access and safe operation of adjacent roads.
 - 2) Safe on-site vehicular and pedestrian circulation routes shall be identified and unobstructed emergency access shall be provided.
- e. *Parking.*
 - 1) The parking area available for the temporary special event shall be sufficient to accommodate the peak demands of the event, assuming four attendees per vehicle.
 - 2) Fewer parking spaces may be allowed if the applicant demonstrates that the reduced number is justified based on the nature of the event, the provision of alternative transportation (e.g., buses and vans), or the close association of the event with a permanent use that provides parking for attendees.

- 3) Parking may be provided in remote locations, provided that if parking is provided more than 800 ft. from the boundaries of the temporary special event, an appropriate level of shuttle service is provided between the event and the parking area.
 - 4) Truck parking and loading areas shall be provided as necessary to service the event and provide for storage of trucks and trailers that will remain on-site. Trucks shall be routed away from local residential streets.
- f. *Noise.* Noise controls may be required for temporary special events that are expected to generate high levels of noise or to operate after 9:00 p.m.
 - g. *Security and Fire Protection.* Adequate security and fire protection shall be provided for the proposed temporary special event. The County may require a fire prevention and emergency response plan that is approved by the applicable fire protection district.
 - h. *Sanitation.* Adequate restrooms (portable restrooms are acceptable for temporary use) shall be provided to serve the event. Adequate shall be defined as (at a minimum) 1 toilet and 1 handwash station per 50 persons for up to 4 hours. Events exceeding 4 hours shall keep records of maintenance for health department inspection unless a contracted cleaner/waste removal service is onsite during the event. ADA-compliant facilities shall be provided onsite. Health department may increase the number of facilities on a case-by-case basis. Trash containers and recycling bins shall be placed in convenient areas, including principal places of assembly, near food and beverage vendors, near restrooms, and at pedestrian entry and exit points.
 - i. *Food and Beverage.* Appropriate approvals and/or permits shall be obtained for food services and selling of alcohol.
 - j. *Cleanup and Restoration.*
 - 1) The site of the temporary event and the adjoining right-of-way shall be cleared of all litter and debris from the event, including temporary signage, not more than two days after the last day of the event.
 - 2) If grass parking was utilized, restoration/re-seeding may be required to control dust in impacted areas.
 - 3) The County may require a refundable deposit for site clean-up and restoration.

F. Accessory Business Use of the Home

Accessory business use of the home (aka Home Business) includes any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit (subordinate to the residential use). In order to qualify as an Allowed Use, a Home Business shall:

1. Operate in its entirety within the dwelling unit and only by persons residing in the dwelling. There shall be no storage relative to the Home Business in another structure or outside the dwelling; and
2. Utilize access included as part of the dwelling. The use shall not have a separate, independent entrance from outside the building, unless otherwise required by State law or regulation; and
3. Be allowed one (1) unanimated, non-illuminated flat wall or window sign having an area of not more than one (1) square foot. The operator shall not display or create any evidence of the Home Business outside of the building; and
4. Utilize a maximum of twenty percent (20%) of the gross floor area of the dwelling, or 300 square feet, whichever is less. A garage shall not be utilized for, or in conjunction with, accessory business use of the home;
5. Be conducted by the owner or occupant of the dwelling. Home Business shall not employ, for a fee or otherwise, any person in the conduct of the Home Business who does not reside in the dwelling unit; and
6. Clearly be incidental and secondary to the use of the dwelling for dwelling purposes and shall not materially change the character of the residential use or of the neighborhood by excessive noise, lights, traffic, or other disturbances.

G. Cottage Industry

Cottage Industry is a Home Business that utilizes an accessory structure or land associated with the residence, and includes a limited number of employees. In order to qualify as an Allowed Use, a Cottage Industry shall:

1. Utilize a maximum of 2,000 square feet (indoor and/or outdoor). Outdoor storage shall not exceed six (6) feet in height and must be screened from public view (from a public road); and
2. Be limited to a maximum of five (5) employees, including the owner/operator; and
3. Be subordinate to the residential use. The Cottage Industry shall not be the primary use of the property; however, the Director may allow an exception where the property is associated with an adjoining property under the same ownership; and
4. Limit deliveries to/from the property so that it does not cause interference with the normal flow of traffic for surrounding residents; and
5. Clearly be incidental and secondary to the use of the residential use and shall not materially change the character of the residential use or of the neighborhood by excessive noise, odors, dust, lights, traffic, or other disturbances; and
6. Be allowed one (1) unanimated, non-illuminated flat wall or window sign having an area of not more than two (2) square feet.

Cottage Industries that create significant impacts to adjacent properties such as fumes, noxious odors, excessive noise, dust, and or traffic shall be subject to a Limited Use Permit (with a public hearing).

Section 4. Use Specific Standards

The following standards are in addition to other standards set forth in this Code.

A. Intensive Agriculture

1. **Definition:** Intensive Agriculture means a group of land uses that involve the raising, care, or feeding livestock, where the number of animals is equivalent to or greater than 50 animal units, and, the animals are stabled, confined, fed and/or maintained a total of 45 days or more in any 12-month period, and, where crops, vegetation, forage growth, or post-harvest residues are not growing, irrigated and sustained in the normal growing season over any portion of the lot or facility. The phrase “intensive agriculture” also includes Concentrated Aquatic Animal Production (“CAAP”). The phrase “intensive agriculture” does not encompass (without more) cattle and sheep that are moved between winter and summer pastures, including those confined for more than 45 days due to adverse conditions, and breeding stock on property where other cattle are grazing.

TABLE 2.c DEFINITION OF INTENSIVE AGRICULTURE		
<i>Animal feeding operation (AFO) means any building or outdoor corral, pen, or other enclosure used to confine animals for the purpose of feeding or care, where no forage is harvested. The total number of animal units (see Chapter 14, Section 2 for full definition) determines the applicable criteria and standards</i>		
SMALL AFO	MEDIUM AFO	LARGE AFO
50-149 animal units	150-999 animal units	1000+ animal units

2. **Definition.** Residential Use means any property, whether developed or not, that is zoned A5 or RES, and any other property that has a residential tax assessment indicating residential use of the property. For the purposes of measuring setbacks for Intensive Agriculture, the setback should be measured from the property line of the property that meets the Residential Use definition.
3. **Minimum Lot Area.** The minimum lot area for MAFO and LAFO uses is 35 acres. There is no minimum lot area for SAFO or CAAP uses.
4. **Setbacks.** Intensive agriculture uses shall be set back as provided in Table 2.d, Setback Standards for Intensive Agriculture. **Additional setbacks may be required in order to implement the requirements of subsections (e), (f), and (g), below.** If an intensive agriculture application cannot meet the requirements of this subsection, and is processed as a Conditional Use in accordance with Chapter 8, Section 2, setbacks may be reduced, but only within the limits of subsection (k), below.

TABLE 2.d SETBACK STANDARDS FOR INTENSIVE AGRICULTURE				
STANDARD	FACILITY TYPE			
	SAFO	MAFO	CAAP	LAFO
Part A: Setbacks for feedlots, confinement buildings or pens, waste lagoons, and carcass disposal areas				
<i>From Streams and Rivers</i>	200 ft.	200 ft.	200 ft.	200 ft.
<i>From Irrigation Ditches</i>	100 ft.	100 ft.	100 ft.	100 ft.
<i>From Community Water Sources</i>	300 ft.	300 ft.	300 ft.	300 ft.
<i>From Domestic Water Wells</i>	150 ft.	150 ft.	150 ft.	150 ft.
<i>From Residential Uses</i>	Greater of 150 ft. or 1 ft. / AU	1,000 ft.	150 ft.	1,000 ft.
<i>From Public Schools</i>	2,640 ft.	2,640 ft.	2,640 ft.	5,280 ft.
Part B: Setbacks for buildings used for confinement of animals, water or wastewater storage tanks, and accessory buildings or structures that are not covered by Part A, above.				
<i>From all property lines</i>	100 ft.	100 ft.	50 ft.	100 ft.

5. **Odor Management.** An Odor Management Plan is required. Mitigation measures that are set out in the Odor Management Plans shall be conditions of approval of the intensive agriculture use.
- Animal confinement structures, structures or lagoons used to store and/or treat wastewater, solids, or sludges, and areas used to process and dispose of carcasses shall be designed to incorporate ventilation, aeration, treatment, and/or filtration technologies to reduce odors and pathogens.
 - Building exhaust vents shall include control equipment to prevent emissions of dust and odors to the greatest extent practicable.
 - Odor Management Plans* for intensive agriculture shall include:
 - A description of and a map that demonstrates the location of each of the operations and processes at the intensive agriculture operation, including the following:
 - Animal confinement structures and open animal feeding operations;
 - Manure collection, storage, and treatment systems, including anaerobic process wastewater vessels and impoundments and aerobic impoundments;
 - Composting storage sites; and
 - Land application equipment and sites.

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- 2) Construction and Design Plans for odor controls and management practices shall include all necessary and appropriate technology to minimize to the greatest extent practicable off-site odor impacts from all aspects of the intensive agriculture operations, including confinement structures, animal waste, and composting storage sites, and odor and aerosol drift from land application equipment and sites;
 - 3) Operation Plans for odor controls and management practices, including plans for the following, if applicable:
 - a) Proper operation and maintenance of the necessary technology or practices to minimize the greatest extent practicable off-site odor impacts;
 - b) Operation of the required equipment in compliance with manufacturer's specifications and recommendations;
 - c) Proper operation and maintenance of covers, technologies and/or practices employed for anaerobic process wastewater vessels and impoundments to capture, recover, incinerate, or otherwise manage odorous gases to minimize, to the greatest extent practicable, the emission of such gases into the atmosphere; and
 - d) Proper operation and maintenance of the necessary technology employed for aerobic impoundments to ensure maintenance of aerobic conditions or otherwise to minimize the emission of odorous gases to the greatest extent practicable.
 - 4) An animal waste management plan for odor control and management practices necessary to minimize to the greatest extent practicable off-site odor impacts
 - 5) All plans and specifications for odor control equipment and management practices included in the Odor Management Plan must conform to common and accepted professional practices.
 - 6) Testing, sampling, and analysis requirements appropriate for the intensive agriculture use.
6. **Water Quality.** A *Water Quality Management Plan* is required for all intensive agriculture uses. Mitigation measures that are set out in the Water Quality Management Plan shall be conditions of approval of the intensive agriculture use.
- Note:* All animal feeding operation are subject to Colorado Regulation 81 to protect water quality. Information on Regulation 81 can be found at the Department of Public Health & Environment website under "General information for AFOs, CAFOs, and HCSFOs".
7. **Dust Management.** A *Dust Control Plan* is required for all intensive agriculture uses. Mitigation measures that are set out in the Dust Control Plan shall be conditions of approval of the intensive agriculture use.

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- a. The Dust Control Plan shall include all available practical methods that are technologically feasible and economically reasonable and that will reduce, prevent, and control fugitive dust into the atmosphere.
 - b. For those materials, equipment, services or other resources (such as water for abatement and control purposes), which are likely to be scarce at any given time, an alternative control method must be included in the dust control plan.
 - c. Where the intensive agriculture use is accessed by an unpaved road or access easement, the County may require that the Dust Control Plan provide for mitigation of dust along the unpaved road or access easement.
 8. **Noise Mitigation.** A *Noise Mitigation Plan* is required for all intensive agriculture uses. Mitigation measures that are set out in the Noise Mitigation Plan shall be conditions of approval of the intensive agriculture use.
 - a. Noise that is generated by development shall not exceed the thresholds set out in C.R.S. § 25-12-103, *Maximum Permissible Noise Levels*, except as provided in 25-12-109, *Exception - Sport Shooting Ranges - Legislative Declaration – Definitions*, or any other specific exceptions created by the State of Colorado after the effective date of this Code.
 - b. Where design is not sufficient to mitigate noise impacts, the applicant shall submit a Noise Mitigation Plan that includes operational limitations to mitigate the noise impacts. Adherence to the Noise Mitigation Plan shall be a condition of approval.
 9. **Pest Management.** A *Pest Management Plan* is required for all intensive agriculture uses. Mitigation measures that are set out in the Pest Management Plan shall be conditions of approval of the intensive agriculture use. The Pest Management Plan shall address the following:
 - a. The types of pests that may be associated with the proposed land use at a level that requires management;
 - b. The methods, techniques, barriers, biological agents, or chemical agents that will be used to control the identified pests (the “PEST MANAGEMENT PLAN”), the anticipated timing of application of chemical or biological agents, and the method of storage of chemical or biological agents; and
 - c. The controls that will be used to minimize the impacts of the Pest Management Plan on nearby property, waterbodies (including but not limited to irrigation ditches and reservoirs), livestock operations, and environmentally sensitive lands.
 10. **Truck Routing.** A *Truck Routing Plan* is required for all intensive agriculture uses. Routes and hours of operation that are set out in the Truck Routing Plan shall be conditions of approval of the intensive agriculture use.
 - a. The type or class of vehicles that will be used by the proposed land use;
 - b. The anticipated frequency of arrival and departures of trucks;
 - c. The hours of truck traffic;

- d. A map illustrating the route(s), from a paved County arterial road or State Highway, of all trucks used by the proposed land use.

11. Limitations on Modifications.

- a. Setbacks for intensive agriculture uses shall only be modified through a Conditional Use review process described in Chapter 8, Section 2, in accordance with the following limitations:
 - 1) Setbacks to residential uses may be reduced by up to 50-percent; and
 - 2) Setbacks to property lines may be reduced by up to 25-percent, provided that setbacks to schools are not thereby reduced below minimum requirements.
 - 3) In determining whether setback reductions will be allowed, the Board of County Commissioners shall consider the concentration of intensive agriculture facilities in the vicinity, in order to evaluate the cumulative impacts of such uses on the land uses from which spacing is required.

B. Rural Residential Uses

1. General Requirements.

- a. *Stewardship Areas.* If Steward Areas are required to be identified based on Chapter 4 *Site Design and Environmental Stewardship*, such Stewardship Areas shall be managed in accordance with Chapters 4 and 12 of this Code. No development of lots, dwelling units, supporting infrastructure, or common areas shall occur in the designated Stewardship Area.
- b. *Density.* The total number of dwelling units permitted on a parcel shall be limited to one dwelling unit per parcel. In addition, one Accessory Dwelling Unit is Permitted per parcel. Additional units may be Permitted provided additional dwellings have water, access, wastewater, power and do not impact irrigated ag ground (pursuant to Subsection 5 below, *Additional Residences or Communal Living*). The total number of units allowed in the UGA Overlay shall be restricted only by the ability to connect to municipal services including water and sewer.
- c. *Change of Use (Residential).* Residential uses may change to other residential uses of similar nature without additional review. For purposes of this section, “of similar nature” means a different level of review, adding units, or changing from a residential or commercial use.

2. Manufactured Housing Units.

Upon placement of a Manufactured Housing Unit onto a parcel:

- a. Manufactured Housing units shall be in good condition, safe and fit for residential use, including; utility connections are safe, conform to plumbing and electrical code requirements and pose no safety or fire hazard; roof shall be intact no leaks inside; shall have stairs, landings and skirting installed; and shall maintain

minimum setback requirements, pursuant to the Delta County Land Use Code, and cannot be within ten [feet] of another structure.

- b. Manufactured Housing units shall be installed pursuant to Colorado 8 CCR 1302-7 using the Colorado Department Manufactured Home Installation Program (DOLA). A certified inspector is required. A permit from the Colorado Division of Housing MHIP is required. An insignia issued by the Colorado Division of Housing MHIP shall be affixed to the unit after successfully passing inspection by a certified inspector (DOLA).
 - c. Any Manufactured Housing unit shall be connected to electric, gas, sewer and water utilities with proper permits from the State of Colorado. All utility connections shall be connected and operational (pressure tested).
 - d. All Manufactured Housing movers shall be currently insured with proof of insurance provided to the County Clerk.
 - e. No Manufactured Housing unit may be moved or placed upon any parcel or lot located within Delta County without completing:
 - 1) A Development Application, including Site Plan, Access, Address and Septic approval (See Chapter 7 of this Code); and
 - 2) The proper steps and paperwork necessary, established by the County, to sell, move, set or demolish a Manufactured Home.
 - f. Any abandoned Manufactured Housing unit must be removed from Delta County or otherwise disposed of within one hundred eighty (180) days after the date of the subject unit is abandoned. For purposes of this section, abandoned shall include a structure that, as determined by the Director, creates an attractive nuisance due to the condition of said structure.
 - g. Mobile Homes constructed prior to June 15, 1976 ("Pre-HUD") shall also comply with regulations of the Pre-HUD Mobile Home Ordinance (Appendix).
3. **Manufactured Home Park.** Manufactured Home Parks shall meet the following standards:
- a. *General Standards.*
 - 1) Design of Manufactured Home Parks shall preserve, insofar as it is possible, the natural terrain, natural drainage, existing topsoil and trees.
 - 2) Land subject to hazardous conditions such as landslides, mud flows, rock falls, snow avalanches, possible mine subsidence, shallow water table, open quarries, periodic flooding, and polluted or non-potable water supply shall not be developed into manufactured home parks until the hazards have been eliminated or will be eliminated as part of the proposed development plans.
 - b. *Access.*
 - 1) A park with more than 20 sites must have two means/points of access.

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- 2) Streets within the park shall be meet County Road Standards for a Local Street.
 - 3) Dead-end streets shall not be permitted.
 - 4) Cul-de-sacs shall not serve more than 10 sites.
 - 5) Driveways for individual park sites shall not be permitted to have direct access to highways or County roads.
- c. *Easements.* Easements shall follow front, side, or rear lines of individual park sites whenever practical and designed to provide efficient installation of utilities.
- d. *Design Standards.*
- 1) Perimeter Setbacks and Building Spacing. The minimum setback from the perimeter of the subject property shall be 25 ft. and the minimum spacing between manufactured homes shall be 10 ft.
 - 2) Site Size. Minimum site size is 4,500 square feet.
 - 3) Density. Maximum density is six (6) units per acre. This density can be increased to eight (8) units per acre where the park is connected to sewer.
 - 4) Skirting. All units shall be skirted within 90 days after placement on a site. The material shall be fire resistant and generally blend with the appearance of the unit.
 - 5) Utilities and Services. Each site shall be provided with: domestic water, wastewater disposal, electricity. Telephone and gas may be provided. All of these utilities must be properly installed, permits as required by State or local regulations, with systems of adequate capacity to meet anticipated demands. All utilities, except major transmission lines, shall be underground.
 - 6) Fire Protection. Each Park shall be equipped with fire hydrants in good working order and of such size, type, number, and location as to satisfy applicable regulations of the appropriate fire agency.
 - 7) Parking. Each site shall be provided with a minimum of two (2) off-street parking spaces.
- e. *Common Buildings.* Manufactured home parks may include common buildings for administration, assembly, and utility purposes, such as leasing, recreation, storage, and laundry.
- f. *State Registration.* Manufactured home parks with more than five (5) units are required to be registered with the State.

4. **Multifamily.** Multifamily uses shall meet the following standards:

- a. *Perimeter Setbacks and Building Spacing.* The minimum setback from the perimeter of the subject property shall be 25 ft. and the minimum spacing between multifamily buildings shall be 20 ft.
- b. *Common Buildings.* Multifamily uses may include common buildings for administration, assembly, and utility purposes, such as leasing, recreation, storage, and laundry.

5. **Accessory Dwelling Unit (ADU).** ADU uses shall meet the following standards:

- a. The total floor area of the ADU shall not exceed one thousand (1,000) square feet maximum.
- b. Side and rear lot line setbacks for the ADU shall be sufficient for fire and safety.
- c. Each legal lot with an existing or proposed single-family dwelling is limited to one (1) ADU, regardless of the number of single-family dwellings allowed on that lot.
- d. An ADU may be separately rented, provided such ADU is not used for commercial purposes.
- e. An ADU shall not be sold or otherwise conveyed separate from the primary dwelling unit.

6. **Additional Residences or Communal Living**

- a. *Generally.*
 - 1) The purpose of this Section is to set standards for the development of additional residences on a lot beyond the allowable density (Section B.1 of this Chapter) to ensure that adequate services are provided, and that proper permits or taps for water, wastewater disposal, and access are secured.
 - 2) Additional residences may be constructed, placed, or installed on a lot in accordance with the provisions and limitations of this Section, subject to Site Plan Review (Permitted Use). The number of additional residences is not specifically limited, but adequate water, sewer, power, fire protection, and access must be provided for each unit in accordance with the standards of this Code and other applicable law.
 - 3) A subject property that is developed with additional residences may also include accessory buildings that are not designed such they could be used as dwelling units (*e.g.*, common buildings, storage buildings, barns, stables, etc.).
 - 4) This allows for additional residences that are intended for permanent occupancy. Additional residences that are used as temporary residential uses may be subject to other standards depending on how they are used (*e.g.*, lodging, seasonal farmworker housing, etc.).

- 5) Design according to the standards referenced in subsection (2) below shall not create a vested right to future subdivision. Future subdivision will be evaluated based on the standards in place on the date of application for the subdivision.
- b. *Site Design and Utilities.*
- 1) Additional dwelling units shall be accessed, located, setback, oriented, and served by utilities in accordance with Chapter 4, *Site Design and Environmental Stewardship*, for applicable design standards.
 - 2) Additional units shall be designed and located in areas that will not significantly impact irrigated Ag lands or such impacts can be mitigated.
 - 3) Construction or installation of additional dwelling units, resulting in three or more units on a parcel (cumulative), requires compliance with Chapter 5, *Public Facilities, Infrastructure, and Services*, as applicable.
 - 4) Access for additional units shall be consolidated with the primary access and designed in accordance with applicable County Road Standards. Multiple access for multiple units is discouraged unless the County Engineer determines it would be impractical due to unique site conditions, including but not limited to topographical conditions restricting visibility, and impact to irrigated agricultural land.
- c. *Traffic Impacts.* At the point a property proposes to create additional dwelling units totaling more than three (3) dwelling units on the property, a traffic impact study may be required. *See* Chapter 5, Section 1, *Traffic Impacts*.

C. Agricultural Support & Rural Industry Uses

1. Farmworker Housing

- a. The purpose of this Section is to set standards for the development of farmworker housing, in order to ensure that adequate services are provided, and that proper permits or taps for water and wastewater disposal are secured.
- b. Farmworker Housing consists of permanent structures/units occupied year-round.
- c. Seasonal Farmworker Housing consists of temporary or permanent structures and meets the criteria for seasonal land use in Chapter 2, Section 2.D of this Code. Units shall be vacated at least 90 consecutive days during a 12-month period.
- d. Farmworker housing may be constructed, placed, or installed on a lot, provided all of the following criteria are met:
 - 1) The parcel is zoned A5, A20 or A35 and the principal use of the lot (or commonly-owned property) is agriculture or intensive agriculture.
 - 2) Water can be hauled for use of seasonal farmworker housing for a period not to exceed 90 days. Units occupied for more than 90 days in a calendar

year shall meet the criteria for an adequate water supply (see *Chapter 5, Section 3*).

- 3) The housing shall be designed and located to minimize loss of irrigated lands.
- 4) Farmworker housing units shall not be sold or otherwise conveyed separate from the primary Ag property.
- 5) Farmworker housing shall meet all of the applicable standards of this Code, based on the format of

Manufactured Home Parks (see *Use Specific Standards above*);

2. **Rural Medium/Heavy Industry.** Buildings and operations associated with uses related to Rural Medium Industry or Rural Heavy Industry in the “A” zoning designations shall meet the following minimum setbacks from:

- a. Stream and River: 200 feet
- b. Irrigation Ditch: 100 feet
- c. Community Water Source: 300 feet
- d. Domestic Water Well or Cistern: 150 feet
- e. Residential Use: 1,000 feet from the property line
- f. Property Line: 100 feet (other than residential)

D. Community Uses

Community land uses shall not be located in wildfire hazard areas.

E. Commercial Uses

1. **Sexually-Oriented Businesses.** Sexually-oriented businesses are regulated under the authority of C.R.S. 30-15-401(l). In addition to all other applicable standards of this Code, sexually-oriented business uses shall meet the following standards:
 - 1) No sexually-oriented business shall be located within 1,000 ft. of a place of assembly, day care, dwelling unit, or school, measured from property line to property line. Setbacks related to Sexually-oriented businesses shall not be modified using the Conditional Use review process described in Chapter 8, Section 2.
 - 2) Access to the use shall be configured to allow for verification of age of customers before entry.
 - 3) The interior of the use shall be configured so that there is no visibility of interior activities from outside of the building through windows or doors.

F. Rural Recreation & Hospitality

1. **Indoor Shooting Range.**

- 1) Located within a free-standing building;
- 2) Sound-proofed so that the shooting activities are not audible at property lines;

- 3) Designed with closed loop range ventilation systems with HEPA filtration, dedicated to the range and not connected to the general HVAC system for the building;
- 4) Designed to prevent dangers from ricochets, backslash, and lead dust;
- 5) Designed such that no door or entrance is located forward of the rearmost firing point, unless secured from the inside; and
- 6) Designed such that a red light is installed above all doors giving direct access to the range itself (not the building), with such lights turned on whenever the range is in use.

2. Outdoor Shooting Range.

- 1) Either designed to mitigate noise impacts on residential uses, community uses, and/or livestock operations within 1,000 ft. to a level that does not exceed 70 dBA, or located not less than:
 - a) 1,000 ft. from residential buildings;
 - b) One mile from the boundaries of a municipality; and
 - c) Two miles from an airport or airstrip;
- 2) Designed to prevent projectiles from leaving the subject property; (a scaled site plan, elevations, and construction plans must show how all projectiles will be contained within the site);
- 3) Secured to prevent entry into surface danger zone areas;
- 4) Designed according to the most recent version of "Range Design Criteria," promulgated by the U.S. Department of Energy, Office of Health, Safety, and Security; and
- 5) Designed to provide an impervious layer in the area where bullets land to intercept lead leachate and direct it to a monitored pond.

3. Racetrack.

- 1) The minimum area of the subject property shall be 60 acres;
- 2) The use shall be located not less than:
 - a) One-half mile from buildings used for residential purposes, places of assembly, daycares and schools; and
 - b) One mile from the boundaries of a municipality;
- 3) All parts of the track and stands shall be set back:
 - a) 100 ft. from all property lines; and
 - b) 300 ft. from arterial roads;

- 4) If the use is open to the public, access shall be provided by an arterial road or a local commercial or industrial road.
4. **Campground.** Campgrounds shall be developed according to the standards for the applicable campground type pursuant to 6 CCR 1010-9, 2.10.d (Colorado Code of Regulations). In addition, the site shall not be located in an area subject to periodic flooding. "Periodic" in this case is any area located in a FEMA designated Special Flood Hazard Area (SFHA).
5. **Outdoor Theater.**
 - 1) Access shall be taken from a collector or arterial road, or a local commercial or industrial road.
 - 2) No outdoor theater shall be located within 100 ft. of property lines.
 - 3) Amphitheater stages and drive-in screens shall face away from the nearest residential or livestock uses, and the applicant shall provide evidence that the use will comply with the standards of Chapter 4, Section 7(C), *Noise*.

G. Utilities, Communications, Mining, Energy, Transportation, and Disposal Uses

1. **Renewable Energy Facilities.** The purpose and intent of this Section is to define reasonable standards for placement, design, monitoring, and modification of a commercial-scale Renewable Energy Facility (solar, wind, geothermal) for the protection of public health, safety, and general welfare in the County in accordance with applicable State and Federal laws and regulations.
 - a. *Applicability.* The requirements of this Section shall apply to all proposed new and proposed modifications to a commercial-scale Renewable Energy Facility, including battery storage. In order to begin an application for a commercial-scale project, the applicant shall demonstrate that a Power Purchase Agreement is in place for selling the power generated by that facility. These standards shall not apply to a personal scale Renewable Energy Facility, which is an Allowed Use in all zoning districts as an accessory use to a permitted principal use subject to the standards for accessory uses in the applicable zoning district.
 - b. *Exceptions.* These regulations shall not apply to any Renewable Energy Facility on State or Federal lands.
 - c. *Design and Operation.* In addition to LUC Chapter 4 *Site Design and Environmental Stewardship*, commercial-scale renewable energy facilities shall be designed using the criteria set forth in this Section.
 - 1) Protection of Agricultural Lands. Commercial-scale energy facility projects should avoid significant adverse impact on agricultural lands (soils identified by Natural Resources Conservation Service (NRCS) as prime farmland or farmland of statewide importance) or agricultural operations. Where a project is located on agricultural designated lands, the project shall include an Agricultural Management Plan that adequately demonstrates continuation of Agricultural operations given the site conditions.

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- 2) Irrigated Lands. Renewable Energy Facilities should be designed to minimize loss of irrigated ground, and shall maintain irrigation to surrounding properties (including access rights-of-way and easements).
- 3) Location.
- a) Ground-mounted solar panels, including inverter/transformer equipment, shall be located at least 70 feet from property lines and 200 feet from any residential structure. Any substation on site shall be located at least 500 feet from any residential structure.
 - b) Wind Energy Facilities (WEF):
 - i. Shall be located at least 1.1 times the system height from above-ground public electric or communication lines, public roads/highways and railroads, property lines (unless appropriate easements secured from adjacent property owners or other acceptable mitigation is approved by the Board).
 - ii. Shall be located at least two (2) times the system height from inhabited buildings including: residence, school, hospital, church or public library. For example, a 150-foot tower shall be at least 300 feet from an inhabited building.
 - iii. System height is the combined height of the tower, wind turbine and any blade extended at its highest point, measured from [finish] ground level.
 - c) Structures associated with renewable energy facilities, to the greatest extent possible, shall not be located in a regulatory floodplain. Structures located in a regulatory floodplain and construction stormwater discharge shall require an approved floodplain permit prior to any construction or clearing of land.
- 4) Power lines. County does not regulate transmission lines regulated by the Public Utility Commission; however, transmission facilities affected by the Renewable Energy Facility project shall be identified with the application. For the purpose of increasing the resiliency of the distribution infrastructure and reducing wildfire risk, powerlines and electrical collection system wiring for the renewable energy facility shall be installed underground except where the electrical collector wiring is brought together for connection to the transmission or distribution network, adjacent to that network. An exception may be granted where the applicant demonstrates that a geologic condition or other technical engineering consideration prevents underground installation. Overhead transmission lines are permissible from the project substation to the point of electrical interconnection.

d. *Standards and Limitations.*

- 1) A commercial-scale Renewable Energy Facility shall be approved if it meets applicable standards set forth in this Section and Conditional Use Approval Standards in LUC Chapter 8, Section 2, unless a significant adverse impact to public health, safety, environment, wildlife, or agricultural land is demonstrated and cannot be avoided or mitigated.
- 2) A Renewable Energy Facility must be designed to minimize site disturbances. Reestablishment of all disturbed areas, including the construction access, shall maintain the historic drainage patterns and permeable ground cover and must be done to minimize environmental impacts. Temporary and permanent erosion control measures shall be used as necessary to minimize erosion of the site.

e. *Application Requirements.* See Chapter 8, Section 2 of this Code for application requirements and procedures. In addition, a Renewable Energy Facility must include an agreement that addresses decommissioning and abandonment of the facility. The agreement must at a minimum provide for reuse, recycling, or dismantlement of the facility at the owner's expense. The Plan shall include a cost estimate (current dollars) for the decommissioning of the facility and restoration of the site prepared by a Professional Engineer or contractor who has expertise in removal of such facilities. All non-utility-owned equipment, conduits, structures, fencing and foundations to a depth of at least three (3) feet below grade shall be removed. Property shall be restored to a condition reasonably similar to pre-development conditions. Disturbed areas shall be reestablished to historic drainage patterns and ground cover consisting of native and pollinator plant species.

f. *Securities.* In addition to securities that may be applied pursuant to Chapter 6, Section 6 of this Code:

- 1) *Site Reclamation and Restoration Bond.* Prior to construction, the developer is required to submit an irrevocable standby letter of credit, bond, or alternative form of Security in an amount sufficient to fund the estimated decommissioning/reclamation costs. Decommissioning/reclamation cost estimates, which shall be updated every five (5) years from the establishment and submittal of the Security, shall include costs associated with the dismantlement, recycling, and safe disposal of facility components and site reclamation activities, and afford credit for "scrap value".

g. *Annual Reports.* See Chapter 8, Section 2.D of this Code for required annual reports.

h. *Abandonment and Removal.*

- 1) Abandonment. Any renewable energy facility that is not operated for any continuous period of one hundred eighty (180) days shall be considered abandoned. The County, in its sole discretion, may notify the owner of the alleged abandonment and may require any abandoned facility to be removed within ninety (90) days of receipt of notice.

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- 2) Decommissioning. Decommissioning shall commence within twelve (12) months after power production has permanently ceased and be completed within twelve (12) months from the start date of the decommissioning/reclamation work
 - 3) Restoration. Upon removal of a facility as provided in this Code, the site shall be restored and revegetated with seed of native vegetation that is appropriate for the site based off of the recommendation of the Natural Resources Conservation Service (NRCS) and in consultation with Colorado Parks and Wildlife.
 2. **Airport**. Airports shall provide a master plan for its physical expansion, and a forecast of aviation activity. The master plan and activity forecast may be approved as a component of the site plan and land use approval if it is demonstrated that:
 - a. The subject property is not less than 200 acres in area. Contiguous parcels may be aggregated to achieve the minimum acreage;
 - b. The proposal is designed to minimize the impact on residential uses by:
 - 1) Minimizing the number of existing residences that are brought within the 55 DNL noise zone; and
 - 2) Ensuring that residential uses do not come within the 65 DNL noise zone unless they are subject to an aviation easement that allows inclusion in this zone.
 - c. The proposal does not interfere with the implementation of the County's Master Plan or three-mile area plan of any municipality within the County; and
 - d. The plan for the airport shall demonstrate compliance with all other applicable federal regulations.
 3. **Airstrips**.
 - a. Airstrips shall be located on a site that is at least 80 acres in area;
 - b. Applications for approval of an airstrip shall include a determination by the Federal Aviation Administration (FAA) of "no objection" or "conditional," pursuant to 14 CFR § 157.7, FAA Determinations. If the determination is "conditional," then the applicant shall demonstrate how the conditions will be met; and
 - c. Airstrips shall be spaced not less than 1,500 ft., measured as the shortest distance from the edge of the airstrip to the nearest property line of the use from which spacing is required, from:
 - 1) Lots that are developed with dwelling units;
 - 2) Municipal boundaries;
 - 3) Schools, public parks, and child care centers; and
 - 4) Places of assembly.

4. **Landing Pad (Other)**

- a. Land areas for other aircraft (not otherwise listed) shall be located on a site that is at least 40 acres in area;
- b. Applications for approval of a landing pad shall include a determination by the Federal Aviation Administration (FAA) of "no objection" or "conditional," pursuant to 14 CFR § 157.7, FAA Determinations. If the determination is "conditional," then the applicant shall demonstrate how the conditions will be met; and
- c. Landing areas shall be spaced not less than 300 ft., measured as the shortest distance from the edge of the airstrip to the nearest property line of the use from which spacing is required, from:
 - 1) Lots that are developed with dwelling units;
 - 2) Municipal boundaries;
 - 3) Schools, public parks, and child care centers; and
 - 4) Places of assembly.

5. **Salvage Yard.** Salvage yard uses shall be located at least 300 ft. away from State highways.

6. **Minerals Extraction/Quarry.**

- a. The reclamation plan (however titled), if required for an applicable state permit (*see, e.g., Rule 3, Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials; Rule 3, Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations; and Rule 4, Rules and Regulations of the Colorado Mined Land Reclamation Board Pursuant to the Colorado Surface Coal Mining Reclamation Act*) shall provide for reclamation of the subject property for a use that is permissible on the Subject Property under this Code;
- b. If the boundaries of the mining operation are within 2,000 ft. of a residence or livestock operation, a Noise Control Plan is required (*see Chapter 4, Section 7(C), Noise*);
- c. A Dust Control Plan is required (*see Chapter 4, Section 7(F), Dust Control*); and
- d. An Operational Hazard Mitigation and Risk Management Plan is required (*see Chapter 4, Section 7(J), Operational Hazard Mitigation and Risk Management*).

7. **Waste Transfer Station.**

- a. *State Review.* The County shall request a technical review of the site and facility documents and operation plan from CDPHE pursuant to 6 CCR 1007-2 § 7.1 for all applications for approval of a waste transfer station.
- b. *Setbacks.* No building or area in which the unloading, storage, processing, or transfer of wastes or recyclable materials takes place shall be located within 300 ft. of:

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- 1) The lot line on which the waste transfer station is located; or
 - 2) Any area of special flood hazard;
 - 3) Any wetland;
 - 4) Any water well;
 - 5) Any natural or artificial pond (including a detention or retention pond or facility); natural stream, water way, or water course; or
 - 6) An artificial drainage way or irrigation canal.
- c. *Minimum Area of Parcel Proposed for Development.* The minimum area of a parcel proposed for development as a waste transfer station is 40 acres.
- d. *Design Requirements.*
- 1) *Generally.* The site shall be designed such that all activities associated with waste transfer, such as tipping, sorting, storage, compaction, transfer, reloading, and related activities are conducted in a fully enclosed building. No outdoor storage of materials or equipment is allowed. Appropriate enclosed office/and plumbed employee restroom facilities must be provided on-site.
 - 2) Mitigation of Hazards to Aircraft Waste transfer stations handling putrescible wastes within 10,000 ft. of any airport runway end used by turbojet aircraft or within 5,000 ft. of any airport runway end used only by piston-type aircraft shall be designed and operated in a manner that will not result in hazards (including bird strike hazards) to aircraft
- e. *On-Site Parking and Roads.*
- 1) Public streets shall not be utilized at any time for parking, stacking, or storage of employee vehicles, visitor vehicles, or trucks.
 - 2) The facility shall be designed with sufficient drive aisles and parking areas to avoid potential conflicts between facility operations by trucks and passenger vehicles (e.g., for drop-off of household wastes), and the use of emergency access easements and fire lanes.
 - 3) The road surface design shall be suitable for heavy vehicles and the road base shall be capable of withstanding all expected loads.
 - 4) On-site roads shall be passable by loaded collection and transfer vehicles in all weather conditions.
 - 5) The road system shall be designed to eliminate the need for the backing of truck traffic.
- f. *Capacity.* Solid wastes shall not remain at the transfer station for more than 72 hours. Any solid waste that is to be kept overnight at the station shall be stored in an impervious, enclosed structure.

g. *Unloading and Loading Areas.*

- 1) The unloading area shall be adequate in size and design to facilitate efficient unloading from the collection vehicles and the unobstructed movement of vehicles.
- 2) The unloading and loading pavement areas shall be constructed of concrete or asphalt paving material and equipped with adequate drainage structures and systems.
- 3) Processing, tipping, sorting, storage, and compaction areas shall be located within an enclosed building.
- 4) Provisions shall be made for weighing or measuring all solid wastes transferred to the facility.
- 5) Sufficient internal storage areas shall be provided for incoming solid wastes.

h. *Fencing and Aesthetics.* Waste transfer station design shall include an opaque six-foot perimeter fence or wall, interrupted only by necessary access and maintenance gates.

i. *Waste Liquid Collection and Disposal.*

- 1) All waste transfer stations shall be designed and constructed to include a collection and disposal system that will prevent liquids contained in waste materials and generated by normal operations, such as wash-out and cleaning of equipment, trucks, and floors ("waste liquids"), from contaminating the soil, surface water, or groundwater.
- 2) Tipping, loading, and unloading areas shall be constructed of impervious material and equipped with drains connected to either:
 - a) A sanitary sewer system if approved by the utility provider; or
 - b) A corrosion-resistant holding tank; or
 - c) An alternative system, if the applicant demonstrates that the alternate design will prevent waste liquids from contaminating the soil, surface water, and groundwater.

j. *Operational Requirements.*

- 1) *Waste Acceptance.* Only household wastes, commercial and industrial wastes and recyclable materials shall be accepted at any waste transfer station. Unless otherwise collected in accordance with a plan approved by the County, no wastes classified as hazardous in accordance with C.R.S. § 25-15-101 *et seq.* shall be knowingly accepted. No asbestos wastes shall be knowingly accepted at a waste transfer station facility. The operator shall employ a plan for proper identification, control, and disposal of hazardous and asbestos wastes.

- k. *Overnight Truck Parking.* Trucks or vehicles shall not be parked or stored overnight at the waste transfer station unless screened from public rights-of-way. Any vehicle maintenance services shall be a secondary and subordinate use of the site and shall be limited to maintenance of vehicles associated with trash collection and transfer at the waste transfer station. Junked or inoperable vehicles shall not be stored at a waste transfer station.
- l. *Emergency Access Required.* Emergency access easements and fire lanes shall be maintained at all times in an unobstructed and fully accessible condition.
- m. *Supervision of Facility.* The waste transfer station or recycling center shall have an on-site operator on duty at all times that the facility is open. Such operator shall be licensed and/or certified if licensure or certification is required by state law. Suitable security measures and signage shall be provided to limit unauthorized persons from access to the facility when the station is closed.
- n. *Management Plans.* The following management plans are required pursuant to Chapter 4, Section 7, *Environmental Quality*:
 - 1) A pest management plan;
 - 2) An odor management plan;
 - 3) A dust control plan;
 - 4) An operational hazard and risk management plan; and
 - 5) A truck routing plan.
- o. *Other Operational Requirements and Prohibitions.*
 - 1) No liquids, other than those used to disinfect, to suppress dust, or to absorb or cover odors from the solid waste, shall be added to the solid waste.
 - 2) Open burning is prohibited.
 - 3) Scavenging is prohibited.

8. Landfill.

- a. *Certificate of Designation Required.* No landfill shall be developed or operated without a certificate of designation, as required by Title 30, Article 20, Part 1, *Solid Wastes Disposal Sites and Facilities*, Colorado Revised Statutes.
- b. *State Review.*
 - 1) Applications for approval of a disposal facility shall be reviewed by the Colorado Department of Public Health and Environment (“CDPHE”) pursuant to Title 30, Article 20, Part 1, *Solid Wastes Disposal Sites and Facilities*, Colorado Revised Statutes.
 - 2) The report and recommendation of CDPHE are required prior to the processing of the application by the County.

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- 3) In addition to the application of the standards of this Code, no disposal site shall be approved without a recommendation of approval by CDPHE.
 - 4) Technical conditions of approval made by CDPHE shall be incorporated into the certificate of designation.
- c. *General Evaluation Criteria.* No certificate of designation shall be issued unless the facility has a recommendation of approval by the CDPHE and the Board of County Commissioners finds that:
- 1) There is no exclusive site for solid waste disposal (pursuant to 30-20-107, Colorado Revised Statutes) with capacity to serve the County's needs;
 - 2) There is a demonstrated need for the facility to serve the residents and businesses of Delta County;
 - 3) The facility will not frustrate the implementation of the Master Plan, as amended from time to time;
 - 4) The facility complies with all technical rules promulgated by CDPHE;
 - 5) The financial assurances provided pursuant to C.R.S. § 30-20-104.5 are adequate to serve their purposes; and
 - 6) The landfill would create a net public benefit to the region and the residents and property owners of Delta County, taking into account:
 - a) The effect that the solid wastes disposal site and facility will have on the surrounding property, considering the types of processing to be used, surrounding property uses and values, and wind and climatic conditions;
 - b) The convenience and accessibility of the landfill site and facility to potential users;
 - c) The ability of the applicant to comply with the health standards and operating procedures provided for in Title 30, Article 20, Part 1, Solid Wastes Disposal Sites and Facilities, Colorado Revised Statutes, and such rules and regulations as may be promulgated by the CDPHE; and
 - d) Recommendations by health departments that have jurisdiction within five miles of the facility.
- d. *Minimum Area of Subject Property.* The minimum area of the subject property is 100 acres.
- e. *Minimum Setbacks.* All disposal operations must be set back at least 200 ft. from all property lines.
- f. *Spacing.*

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- 1) The landfill shall be spaced not less than 1,000 ft., measured from the main entrance to the landfill perimeter to:
 - a) Residential dwelling units;
 - b) Parcel boundaries of schools, public parks, and child care centers; and
 - c) Places of assembly.
 - d) Landfills that are located within 10,000 ft. of any airport runway end used by turbojet aircraft or within 5,000 ft. of any airport runway end used only by piston-type aircraft shall be designed and operated in a manner that will not result in bird strike hazards to aircraft.
 - g. *Management Plans.* The following management plans are required pursuant to Chapter 4, Section 7, *Environmental Quality*:
 - 1) A pest management plan;
 - 2) An odor management plan;
 - 3) A dust control plan;
 - 4) An operational hazard and risk management plan; and
 - 5) A truck routing plan.
 - h. *Limitations on Location.* Disposal facilities are not allowed within:
 - 1) Areas of special flood hazard;
 - 2) Areas of wildfire hazard;
 - 3) Areas of geologic hazard; or
 - 4) Critical wildlife habitat.
 - i. *Buffering and Screening.* Landfills shall be buffered from surrounding property and public rights-of-way using berms, fences, topography, or landscaping, in order to minimize the visual impacts of the landfill operations from ground-level vantage points.
9. **Hazardous Waste Landfill.:**
- a. *Certificate of Designation Required.* No hazardous waste landfill shall be developed or operated without a certificate of designation, as required by Title 25, Article 15, Part 2, Hazardous Waste Disposal Sites, and Colorado Revised Statutes.
 - b. *Evaluation Criteria.* No certificate of designation shall be issued unless the Board of County Commissioners finds all of the following:
 - 1) CDPHE has made a recommendation of approval pursuant to 25-15-202(4)(c) (III), Colorado Revised Statutes.

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- 2) The hazardous waste landfill would not pose a significant threat to the safety of the public, taking into consideration:
 - a) The density of population of the areas neighboring the subject property;
 - b) The density of population of the areas adjacent to the delivery roads within a 50-mile radius of the subject property; and
 - c) The risk of accidents during the transportation of waste to or at the site.
 - c. The applicant has demonstrated a need for the facility by Colorado hazardous waste generators.
 - d. The applicant has documented its financial ability to operate the proposed site.
 - e. The applicant, taking into account its prior performance record, if any, in the treatment, storage, or disposal of hazardous waste, has documented sufficient reliability, expertise, and competency to operate and manage the proposed facility.
 - f. The site conforms to the officially adopted land use plans, policies, regulations, and resolutions of the County.
 - g. *Management Plans.* The following management plans are required pursuant to Chapter 4, Section 7, *Environmental Quality*:
 - 1) A pest management plan;
 - 2) An odor management plan;
 - 3) A dust control plan;
 - 4) An operational hazard and risk management plan; and
 - 5) A truck routing plan.
 - h. *Limitations on Location.* Disposal facilities are not allowed within:
 - 1) Areas of special flood hazard;
 - 2) Areas of geologic hazard; or
 - 3) Critical wildlife habitat.

H. Wireless Telecommunications Facilities

1. **Purpose.** The purpose and intent of this Section is to accommodate the communication needs of residents, businesses, and institutions, while protecting public health, safety, and general welfare in the County in accordance with applicable State and Federal regulations.
 - a. *Applicability.* The requirements of this Section 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 Section or other provisions referenced herein.

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.* These regulations 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.

These regulations shall not govern any tower or wireless communication facilities on State or Federal lands.

2. Location.

- a. *Applicability; Prohibitions.* All wireless communication facilities are subject to the requirements of this Section. Wireless communications facilities are allowable on public and private property within the County as provided in this Section.

Wireless communication facilities are not allowed on residential lots that are one acre or less in area.

- b. *Need.* 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.

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 Section) 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.
- c. *Siting Considerations.* 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 Subsection 2.b, *Need*, and within the setbacks set out in Subsection 2.d, *Setbacks*, except as provided therein.

- 1) 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.
- 2) Silhouettes and Views. If the proposed wireless communications facility is a tower (of any type) and it is proposed to be located within one-quarter (1/4) mile from the right-of-way of a Scenic Byway for proposed towers within these areas, 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.

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

d. *Public Rights-of-Way*.

- 1) Generally. Wireless Communications Facilities within public rights-of-way must be installed upon, in descending order of priority:
 - a) Existing poles;
 - b) Replacement poles; or
 - c) New poles.
- 2) Wiring.
 - a) 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.
 - b) 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.

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- 3) **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.
 - 4) **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.
 - 5) **Pole Spacing.** If an applicant 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:
 - a) 300 feet from any existing pole; or
 - b) 300 feet from any other new pole proposed in the application.
 - 6) **Alternatives.** Alternatives to the standards set out in this Section may be approved by Conditional Use Permit if:
 - a) 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
 - b) The siting considerations set out in Subsections 2.c, *Siting Considerations*, would not be materially compromised by the application of the alternative standard.
3. **Design and Operation.** All wireless communication facilities shall be designed using the criteria set forth in this Section.
- a. *Co-Location*
 - 1) **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.
 - 2) **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.

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- 3) 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:
- a) The facility is capable of supporting co-location;
 - b) The entity wishing to co-locate is willing to pay fair market value for the space; and
 - c) The County requests such co-location.
- b. *Height*. Towers shall be the minimum height necessary to provide coverage to the applicable service area, as determined through information required as part of the application.
- c. *Footprint*. The total footprint of a wireless communication facility's accessory equipment shall not exceed 350 square feet per operator.
- d. *Setbacks*. All wireless communication facilities that are located outside of a road right-of-way shall be set back at least 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
- e. *Alternative Setbacks*. In the alternative to the requirements of subsection (d), *Setbacks* (above), modified setbacks may be applied if the physical characteristics of the proposed site and the wireless communication facilities are such that:
- 1) Mitigation of visual impacts pursuant to Subsection 3.f, *Concealment Elements*, will be materially improved through the application of alternative setbacks; or
 - 2) The siting considerations set out in Subsection 2.c, *Siting Considerations*, would all be better served through the application of alternative setbacks.
- 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.
- f. *Hazards*. All wireless communication facilities must be structurally designed, physically sited and maintained so that they do not pose a potential hazard to nearby residences, livestock operations, or surrounding properties, buildings, or improvements. This includes, but is not limited to, the use of any County right-of-way that disrupts or endangers traffic, interfere with public utilities, etc.
- g. *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.

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- 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").
- h. *Visual Mitigation.* 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 Subsection 2.c, *Siting Considerations*, to the extent that such siting considerations are part of the strategy for concealing the facilities and equipment.
- 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

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- d) Located behind screen walls, privacy fences, buildings or structures, dense landscaping, or a combination thereof.
 - i. *Operations.* The wireless communication facilities shall be designed, maintained and operated as required by applicable FCC licenses and regulations.
 - 1) Federal Emissions Regulations. All owners and operators of wireless communication facilities shall comply with federal regulations for radio frequency (“RF”) emissions.
 - 4. **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.
 - 5. **Lighting.** 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.
 - a. *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.
 - 6. **Application Requirements.** Applications for approval of wireless communications facilities shall be processed according to the applicable procedures set forth in Chapter 8 of this Code. Additional application requirements specific for wireless communication facilities is provided in Subsection 10 below.
 - 7. **Approval Process by Application Type.** 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.
 - a. *New Facilities on Private Property.* Unless another subsection more specifically applies, approval of a new wireless communications facility on private property requires a Conditional Use Permit.
 - b. *New Facilities on County Property.* Unless another subsection more specifically applies, approval of a new wireless communications facility on County property requires:
 - 1) A Limited Use Permit, public notice required;
 - 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) A right-of-way use permit is required if the proposed location is within the County right-of-way.

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

- 1) The Director shall process an application as an eligible facilities request, as defined in Chapter 14 and provided in subsection (ii), below, if the Director finds that the proposal:
 - a) Consists of collocation of new transmission equipment, removal of transmission equipment, or replacement of transmission equipment;
 - b) Does not result in a modification that substantially changes the physical dimensions of an eligible support structure, defined as follows;
 - i. 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;
 - 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.
 - ii. 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 (6) feet;
 - iii. 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;

- iv. It entails any excavation or deployment outside the current site;
 - v. It would defeat the concealment elements of the eligible support structure; or
 - vi. 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 this section.
- c) Does not violate any generally applicable law, regulation or other rule reasonably related to public health and safety;
 - d) 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 this section; and
 - e) 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) Development Application/Site Plan Review; 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. A right-of-way use permit is required if the proposed location is within the County right-of-way.

d. *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) Development Application/Site Plan Review; 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.

e. *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 2.f, *Public Rights-of-Way*.
- 2) Approval of such facilities requires:
 - a) Development Application/Site Plan Review (except as provided in subsection e(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. A right-of-way use permit is required if the proposed location is within the County right-of-way.

f. *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.

8. **Shot Clocks.** 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. 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.

a. *Shot Clocks by Application Type.* 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:

- 1) Review of an application to collocate a Small Wireless Facility using an existing structure: 60 days.
- 2) Review of an application to collocate a facility other than a Small Wireless Facility using an existing structure: 90 days.
- 3) Review of an application to deploy a Small Wireless Facility using a new structure: 90 days.

- 4) Review of an application to deploy a facility other than a Small Wireless Facility using a new structure: 150 days.

2) *Batching.*

- 1) If a single application seeks authorization for multiple deployments, all of which fall within a category set forth in either paragraph (a)(1) or (a)(3) 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.
 - 2) If a single application seeks authorization for multiple deployments, the components of which are a mix of deployments that fall within paragraph (a)(1) and deployments that fall within paragraph (a)(3) of this section, then the presumptively reasonable period of time for the application as a whole is 90 days.
- 3) *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 (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 (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.
- 4) *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 8(a) 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.
- 5) *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.

9. Abandonment and Removal.

- a. *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.
- b. *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.
- c. *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.

10. Application Requirements

- a. *General Requirements*
 - 1) 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.

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- 2) Should any information represented on the application change, the applicant must contact the County in writing and provide the updated information.
- b. *Consolidated Application for Small Cell Antenna Facilities*
 - 1) 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.
 - c. *Justification Report.* All applications shall provide justification for the proposed size and location of the facility. This Report, shall at a minimum:
 - a) Include a map of the service area illustrating “gaps” that are intended to be covered by the proposed facility.
 - b) Identify other sites considered and reason why they would not provide the level of service required.
 - c) Identify other (existing) poles within the vicinity, and potential for co-location either on an existing tower or on this proposed tower (See Subsection “d” below).
 - d) Provide analysis of how coverage changes with reduced antenna height.
 - e) Address hazards mitigation to withstand maximum forces from wind and other natural occurrences.
 - f) Document proof of access to the proposed site (e.g., private road, easement, etc.).
 - g) Explain compliance with applicable rules, regulations and standards (FCC, FAA).
 - h) Explain the rationale for proposed tower design including: colors, textures, surfaces, scale, character and siting. Provide photo simulations from various views illustrating what the area looks like with and without the proposed tower. Mitigate as appropriate (screening). All applications shall specify concealment elements as required by Section 3.f, *Concealment Elements*, and illustrate how such elements contribute to concealment of the facility.
 - i) Include 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
 - d. *Co-Location Information (Towers and Freestanding Communication Facilities)*
 - 1) 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.

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- 2) 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:
- a) The planned equipment would exceed the structural capacity of existing and approved wireless telecommunication facilities, considering existing and planned use for those facilities
 - b) 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.
 - c) Existing or approved wireless communication facilities do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
 - d) It is not technically feasible to place the equipment proposed by the applicant on existing facilities or structures.
 - e) 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.
 - f) 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.
 - g) Existing wireless communication facilities are not of sufficient height to meet the applicant's engineering requirements, and increasing the height is not technically feasible.
 - h) 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, and modification to increase structural strength is not technically feasible.

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Chapter 3. LOTS, BUILDINGS, AND STRUCTURES

Section 1. Lot Dimensions by Zoning District

A. Lot Dimensions

1. **Generally.** The minimum lot area, lot width, and lot frontage by zoning district is set out in Table 3.a, *Lot Dimensions*.

TABLE 3.a LOT DIMENSIONS						
STANDARD	ZONING DISTRICT					
	A35	A20	A5	RI/C	RES-2.5	RES-1.0
<i>Lot Size</i>	35 ac.	20 ac.	5 ac.	2.0 ac.	2.5 ac	1.0 ac
<i>Lot Width</i>	600 ft.	450 ft.	200 ft.	150 ft.	150 ft.	75 ft.
<i>Lot Frontage</i>	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.	30 ft.

2. **Existing Lots.** The standards of this apply to lots created after the effective date of this Code. Lots that were lawfully created prior to the effective date shall be considered “conforming” to the requirements of this Code regardless of their zoning designation or dimensions.
3. **Boundary Line Adjustment.** No variance is required to adjust property between existing legal lots/parcels where one or more lots/parcels do not meet the minimum size required, provided:
 - a. The adjustment does not create non-conforming setbacks for wastewater systems and/or structures; and
 - b. The parcels/lots were created through a subdivision.
4. **Cluster Subdivision.** Allows a subdivision with higher density and/or smaller lots designed to protect significant resources pursuant to Chapter 12, Section 4(C) of this Code.
5. **Parcel Split by Dedication in Fee Title.** No variance is required where the Director determines that a parcel is divided by land held by a public entity in Fee Title and the resulting parcels do not meet the minimum lot size. In such cases, separate legal parcels can be created through a Boundary Survey pursuant to Chapter 12 of this Code. Road petitions and easements do not meet this requirement, unless the land is dedicated and accepted by Delta County.

B. Bulk Standards

1. **Generally.** All principal buildings, accessory buildings, and accessory structures shall meet the standards of this Section.

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2. **Setbacks.** All buildings and structures shall be setback:
- a. 25 ft. from all roadways (public and private), including shared access where a road name has been assigned; and
 - b. 15 ft. from all other (interior) property boundaries; however, non-habitable, accessory structures not suitable for living, sleeping, eating or cooking, as determined by the Director, may be setback five (5) feet from interior property boundary (e.g., carport, storage building, workshop, garage, shed, barn); and
 - c. 50 ft. from waterways such as a river, stream, or creek (aka; USGS blue-line stream, Waters of the US); and
 - d. 25 ft. from the edge of an open, unlined irrigation ditch.

When creating or changing a property line, the new/revised line must comply with these setbacks, or a variance is required pursuant to Chapter 8 of this Code.

3. **Height.** There is no maximum height limitation. However, the height of buildings or structures may be limited as a result of the standards in Chapter 4, Section 5, *Agricultural, Natural, or Cultural Resources*; and Chapter 4, Section 5, *Scenic Impacts*.

Chapter 4. SITE DESIGN AND ENVIRONMENTAL STEWARDSHIP

Section 1. Site Layout

A. Purpose and Application of Section

1. **Generally.** Development shall be designed as set out in this chapter, as applicable to the type of development that is proposed. The principal objective of this Section is to ensure that the various elements of proposed development are appropriately configured.
 - a. *Application of Section.* This Section applies to development for which a Site Plan, Preliminary Plat, or Final Plat is required.
 - b. *Designation of Stewardship Areas.* All Site Plans, Preliminary Plats, and Final Plats shall designate “stewardship” areas to comply with the requirements of this Code and specifically Chapter 4 *Site Design and Environmental Stewardship*, as applicable.
 - c. *Stewardship Areas.* Stewardship areas are those areas that are designated to protect irrigated agriculture, irrigation infrastructure, passive outdoor recreation activities, open space, wildlife, or environmental resources from development or disturbance. Grading, wells, fencing, retaining walls, landscaping, vegetation removal or disturbance, and other activities or construction that are consistent with such stewardship (e.g., thinning of vegetation for wildfire mitigation, irrigation infrastructure, habitat or wildlife migration corridor mitigation or restoration, weed control or invasive species control, nature trails, etc.) are allowed in stewardship areas subject to the standards of this Code.

B. General Design Objectives

1. **Generally.** The design objectives of this are intended to result in plans for development or redevelopment that reflect high quality design, but not to require a reduction of development potential to less than is allowed by this Code.
2. **Application.** These objectives are to be applied to new development to the extent that:
 - a. They do not directly conflict with the other requirements of this Code;
 - b. They do not result in conditions of approval that prevent a permitted use of a subject property that complies with the other standards of this Code; and
 - c. They are used in ways that ensure development is done in a manner that takes into account the unique natural features of a site, as well as its available or required infrastructure and services.
3. **Design Objectives.** The design of new development shall:
 - a. Coordinate with surrounding property with regard to the alignment of road rights-of-way, utility and drainage easements, open space, and wildlife habitat conservation; and minimize interference with existing access to adjacent and nearby properties, unless new and improved access is provided by the proposed development;

- b. Minimize impacts to surface and subsurface water quality from runoff, erosion, or discharge of pollutants;
- c. Protect and enhance natural and historic resources through incorporation of natural topographic and geologic features and historic, archaeological, and/or natural resources in ways that are consistent with their preservation or stewardship;
- d. Avoid impervious cover over, or erosion of, prime agricultural soils and sensitive lands; and
- e. Implement master street plans, as applicable.

Section 2. Roads, Access, and Circulation

A. Purpose and Application of Section

1. **Generally.** Development shall be designed as set out in this Section (and this Chapter 4), as applicable to the type of development that is proposed. This Section is intended to be consistent with DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS and Colorado Department of Transportation Standards. In the event there is a conflict, the Director, in consultation with the County Engineer, will determine the appropriate standard to apply based on conditions of the site and surrounding area. The principal objective of this Section is to ensure that the roads, access points, and internal circulation systems are appropriately designed to promote public health and safety, mobility, and the efficient use of land.
2. **Application of Section.** This Section applies to development involving a site plan or subdivision.

B. Access Required

1. **Generally.** A Development Application is required to provide documentation that all lots and parcels included as part of the project does or will have adequate access to a public or private road in conformance with applicable access/road standards.
2. **Access Permits.** All connections to County, State, or Federal Roads/Highways shall be authorized by an access permit issued by the entity that controls access to the road or highway. A copy of the access permit is required to be submitted as part of the Development Application.

C. Circulation Objectives

1. **Internal Circulation.**
 - a. *Interconnection.* Circulation systems (roads and driveways) within a subject property shall be interconnected.
 - b. *Alternate Routes of Travel.* If proposed development includes more than one road or more than 100 parking spaces, then the internal circulation system shall be designed such that alternative travel routes are provided through the development.

2. Access-Generally.

- a. *Relationship to Overall Site Design.* Access to parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic ingress and egress, and safety for traffic on the subject property.
- b. *Number of Access Points.* In general, each lot or parcel is allowed one (1) point of access. Additional access point(s) to a subject property may be considered if the County Engineer determines that it meets DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS and the access is needed to allow:
 - 1) The property to accommodate the traffic to be anticipated; or
 - 2) Access by emergency services, or for evacuation of the subject property in the event of a fire or flood hazard, if the risk of such hazards is elevated due to the location of the subject property; or
 - 3) Temporary access for agricultural operations.
- c. *Location of Access Points.* Access points shall be located within the property boundary, except where there is a shared access easement by two adjoining properties. Access points shall be located and configured such that normal maintenance, including dust control and snow removal, will not damage fences (livestock or boundary).
- d. Access shall be shown on Plats and Site Plans (existing and proposed). Where there is a shared access, the entire extent of access shall be illustrated with appropriate easements.

3. Shared Access to Individual Lots.

- a. *Agreement.* Shared access to individual lots/parcels shall record an Access and Maintenance Agreement signed by all parties using said access.
- b. *Location.* Shared driveways shall be located in a manner that minimizes impact to a lot or parcel based on the configuration and site conditions.
- c. *Easement.* Shared driveway access shall be located within an easement where needed to crosses separate property, even if said property is currently under the same ownership.

4. Local Roads.

- a. In cases where an access will serve three (3) or more lots, the access shall be designed as a local road, to County Road Standards. A local road shall be located within an easement or right-of-way, either privately owned or dedicated to Delta County.

5. Subdivision Road Network Configuration.

- a. Proposed subdivisions shall connect to existing and planned roads where necessary to complete planned road networks, and, as applicable, allow for the

implementation of the major street plan of a municipality within its extraterritorial jurisdiction to implement such plan (its “three-mile planning area”).

- b. Where feasible, roads shall be aligned and configured to:
 - 1) Avoid and minimize impacts to hillsides and sensitive lands;
 - 2) Enhance the scenic value of development; and
 - 3) Ensure that normal maintenance, including dust control and snow removal, will not damage livestock or boundary fences on adjoining properties.
- c. Roads that terminate in a cul-de-sac or hammerhead shall not exceed 1,200 feet in length.
- d. At least two points of connection to existing roads (different roads if practicable) shall be provided in proposed subdivisions that:
 - 1) Include more than eight lots; or
 - 2) Include more than four lots and are located within a wildfire hazard area.

D. Right-of-Way Dedication Requirements

1. **Generally.** Right-of-way shall be sized and located to accommodate planned roads, sidewalks, and trails in accordance with the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS (see Chapter 4, Section 2(E), *Engineering Standards and Cross-sections*). Where required right-of-way within and along the perimeter of a subject property are not present, or where existing right-of-way is not adequate, right-of-way shall be dedicated in conformance with this Code and the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS. Dedication of right-of-way to Delta County shall be transferred in Fee Simple Title.
2. **Off-Site Right-of-Way.**
 - a. Where a traffic study concludes that additional right-of-way is necessary to bring an existing road into conformance with the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS in order to mitigate traffic impacts, the applicant shall acquire the necessary right-of-way prior to approval of a final plat or site plan.
 - b. As an alternative to the acquisition of right-of-way by the applicant, the applicant may request the County’s participation in the right-of-way acquisition, either through purchase or condemnation.
 - 1) County participation in the acquisition or condemnation of right-of-way, including the manner and timing of such acquisition, shall be the sole discretion of the Board of County Commissioners.
 - 2) If the County participates, the applicant will be required to reimburse the County for all costs associated with the acquisition, including, but not limited to, appraisals, purchase price, consultant and legal fees, and project administration.

3. **Improvements.** All new roads within a subdivision and new roads along the perimeter of a subdivision shall meet the applicable requirements of the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS.

E. Engineering Standards and Cross-sections

1. **Generally.** Roads, driveways, drainage, and access points shall be designed and constructed in accordance with the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS, as may be amended from time to time.
2. **Paving.** Roads within and along the perimeter of a new subdivision shall be paved if:
 - a. The boundary of the subdivision is located within a Growth Management Area at the time of the Development Application;
 - b. The subdivision creates more than eight (8) new buildable lots; or
 - c. The subdivision creates eight (8) or fewer buildable lots, but paving is warranted by a required dust control plan; grading, erosion, and sediment control plan; need for all-season emergency access; or other extraordinary circumstances.

F. Road Naming

1. **Generally.** In cases where an access will serve more than three (3) habitable or commercial structures, including temporary residential structures, County GIS may require or assign road naming.
2. **Road Name.** All new road names shall be approved by the Director of GIS. New roads shall be named in a manner that is consistent with the County's road grid system and the DELTA COUNTY ADDRESS REGULATIONS, as may be amended from time to time.

G. Site-Specific Determinations

1. **Generally.** Parking requirements shall be established by a site-specific determination pursuant to this, if:
 - a. The use is listed in Table 4.a, *Parking Ratio Guidelines and Surfacing Standards*, and there is "No Guideline" in the parking ratio column;
 - b. The use is not listed in Table 4.a, *Parking Ratio Guidelines and Surfacing Standards* at all, but is allowed pursuant to Chapter 2, Section 2(D), *Uses That Are Not Listed*; or
 - c. The use is otherwise subject to a specific parking ratio guideline, but due to the nature of the operations and/or location of the proposed use, the applicant seeks a reduction from the guideline.
2. **Site-Specific Determination Requirements.**
 - a. A site-specific determination for a Limited or Conditional use shall be conducted by a qualified Transportation Planner or Traffic Engineer, excluding County staff, at the applicant's expense. The Director shall develop and maintain a list of qualifications

and/or certifications that are acceptable to the County for this purpose. Requirements include:

- 1) A parking analysis of at least two similar uses based on standards established in the Institute of Transportation Engineer manual.
- 2) Documentation regarding the comparability of the referenced uses, including: name, function, location, gross floor area, parking availability, and access to transportation network.

3. Approval of Site-Specific Determination.

- a. The County may rely upon the site-specific determination or may request additional information or analysis, including, but not limited to: alternative or new data points, or consideration of additional or alternative factors related to comparability or peak demand, as supported by sound engineering principles.
- b. As a condition of approval of a site-specific determination, the County may require that land be reserved for additional parking if there is a reasonable probability the use could change, resulting in a higher demand for parking. Such additional land shall be located within the development area of the subject property, and shall be accessible from the area that is improved for parking.

Section 3. Parking

A. Purpose and Application of Section

1. Purpose. The purpose of this Section is to ensure that:

- a. Adequate motor vehicle parking areas are provided outside of road right-of-way for uses that are approved pursuant to this Code, in order to prevent obstruction of road right-of-way, traffic backups, and overflow parking onto adjacent and nearby private property; and
- b. Appropriate parking areas and accessible routes will be provided for persons with disabilities when parking lots or structures are developed, expanded, or reconfigured, compliant with ADA Standards.

2. Application.

- a. An applicant may demonstrate that adequate parking is provided in two ways:
 - 1) The applicant may demonstrate that the proposed development meets the applicable guideline from Table 4.a, *Parking Ratio Guidelines and Surfacing Standards*; or
 - 2) The applicant may demonstrate that the proposed development includes adequate parking based on a site-specific determination as provided in Chapter 4, Section 2(G), *Site-Specific Determinations*.

- b. The design and construction of parking lots is subject to the standards set out in Chapter 4, Section 3(C), *Parking Area Surfacing* and Chapter 4, Section 3(D), *Parking Area Design and Location*.

B. Parking Ratio Guidelines

1. **Generally.** Parking in accordance with the guidelines set out in Table 4.a, *Parking Ratio Guidelines and Surfacing Standards*, shall be considered to be adequate for the purposes of this Code. Alternative parking ratios may be approved for any land use pursuant to Chapter 4, Section 2(G), *Site-Specific Determinations*.

TABLE 4.a PARKING RATIO GUIDELINES AND SURFACING STANDARDS	
LAND USE CATEGORY / LAND USE	PARKING RATIO
Agriculture Land Use Category	
<i>Agriculture, Silviculture, Viticulture</i>	None ²
Intensive Agriculture Land Use Category	
<i>Small Animal Feeding Operation ("SAFO")</i>	No Guideline ³
<i>Medium Animal Feeding Operation ("MAFO")</i>	No Guideline
<i>Concentrated Aquatic Animal Production ("CAAP")</i>	No Guideline
<i>Large Animal Feeding Operations ("LAFO")</i>	No Guideline
Rural Residential Land Use Category	
<i>Single Family Detached, ADU</i>	2 sp. / d.u.
<i>Duplex or Triplex</i>	2 sp. / d.u.
<i>Manufactured Home Park</i>	1.5 sp. / d.u.
<i>Multifamily</i>	1.5 sp. / d.u.
<i>Assisted Living, Congregate Care, or Nursing Home</i>	1 sp. / 4 beds
Agricultural Support and Rural Industries Land Use Category	
<i>Farm Supply / Feed and Seed</i>	1 sp. / 600 sf. GFA
<i>Farmworker Housing</i>	1 sp. / 4 beds
<i>Kennel</i>	1 sp. / 1,000 sf. GFA
<i>Rural Light Industry</i>	1 sp. / 600 sf. GFA
<i>Rural Medium Industry</i>	1 sp. / 1,000 sf. GFA
<i>Rural Heavy Industry</i>	No Guideline
<i>Veterinary Hospital or Clinic</i>	1 sp. / 600 sf. GFA
<i>Oil and Gas Support Services</i>	No Guideline
Community Land Use Category	
<i>Place of Assembly (e.g., churches, grange halls, etc.)</i>	Greater of 1 sp. / 100 sf. in the principal assembly area or 3 sp. / 1,000 sf. GFA
<i>Schools and Child Care Centers</i>	No Guideline
<i>Cemetery</i>	1 sp. / acre; but If cemetery includes internal roads and grave sites are set back 10 ft. from roads, formal parking is not required

Commercial Land Use Category	
<i>Retail Sales and Services</i>	3 sp. / 1,000 sf. GFA
<i>Office</i>	1 sp. / 500 sf. GFA
<i>Restaurant</i>	1 sp. / 250 sf. GFA
<i>Automobile Fueling or Service Station</i>	1 sp. / 2 fueling or charging stations + 1 sp. / service bay
<i>Storage Facility (Indoor/Outdoor)</i>	1 sp. / 250 sf. Office Area
<i>Accessory Business Use of the Home</i>	1 sp. / 500 sf. GFA
<i>Cottage Industry</i>	1 sp. / 500 sf. GFA
<i>Sexually-Oriented Business</i>	3 sp. / 1,000 sf. GFA
Rural Recreation and Hospitality Category	
<i>Bed and Breakfast</i>	1 sp. / rentable room
<i>Short Term Rental</i>	1 sp. / rentable room
<i>Guest Ranch</i>	1 sp. / rentable room or cabin
<i>Inn or Lodge</i>	1 sp. / rentable room
<i>Overnight Accommodations</i>	1 sp. / rentable room
<i>Resort or Conference Center Hotel</i>	1 sp. / rentable room
<i>Equestrian Facilities</i>	If arena, then 3 sp. / arena + 1 sp. / 10 lf. of bleachers; if no arena, then 1 sp. / 4 stables
<i>Outdoor Shooting Range</i>	1 sp. / 2 stations
<i>Indoor Shooting Range</i>	1 sp. / 2 stations
<i>Racetrack</i>	No Guideline
<i>Paintball Course</i>	2 sp. / acre
<i>Hunting, Fishing, or Watersports Club</i>	No Guideline
<i>Campground, RV Park</i>	1 sp. / rentable site
<i>Parks, Passive Recreation</i>	No Guideline
<i>Golf Course</i>	No Guideline
<i>Commercial Outdoor Recreation</i>	No Guideline
<i>Theater</i>	Greater of 1 sp. / 100 sf. in theaters or 3 sp. / 1,000 sf. GFA
<i>Outdoor Theater</i>	No Guideline
Utilities, Communications, Mining, Energy, Transportation, and Disposal Category	
<i>Water or Wastewater Treatment Plant</i>	1 sp. / employee on maximum shift
<i>Wireless Communications Facility</i>	None
<i>Renewable Energy Facility</i>	None
<i>Truck Stop / Truck Wash</i>	1 sp. / 2 fueling or charging stations + 1 sp. / service or wash bay
<i>Airport, Airstrip, Landing Pad</i>	No Guideline
<i>Salvage Yard</i>	1 sp. / acre
<i>Minerals Extraction / Quarry</i>	Special Study
<i>Oil and Gas Extraction</i>	None

<i>Waste Transfer Station</i>	3 sp. / 2 employees on maximum shift
<i>Landfill</i>	3 sp. / 2 employees on maximum shift
<i>Hazardous Waste Landfill</i>	3 sp. / 2 employees on maximum shift
TABLE NOTES: ¹ Details of the surface requirements are set out in Chapter 4, Section 3(C), <i>Parking Area Surfacing</i> . ² Where the table provides a parking ratio of "None," no parking areas are required. ³ Where the table provides a parking ratio of "No Guideline," the applicant shall propose a minimum parking requirement and provide adequate evidence that such minimum parking requirement will be sufficient to meet the purposes of this Section as expressed in Chapter 4, Section 3(A), <i>Purpose and Application of Section</i> . See Chapter 4, Section 2(G), <i>Site-Specific Determinations</i> .	

2. Parking Spaces.

- a. Parking spaces do not have to be striped, except as required pursuant to subsection (C), below. However, the applicant shall demonstrate that the parking area will accommodate the required number of parking spaces (per guidelines above or per Chapter 4, Section 2(G), *Site Specific Determinations*, by showing that parking areas could, if striped, accommodate required parking with the dimensions set out in Table 4.b, *Parking Dimensions*, using a 90-degree configuration.

TABLE 4.b PARKING DIMENSIONS					
MEASUREMENTS	PARKING SPACE ANGLE (FROM AISLE CENTERLINE IN THE DIRECTION OF TRAVEL)				
	0° / PARALLEL	45°	60°	75°	90°
<i>One Way Drive Aisle Width</i>	13 ft.	14 ft.	16 ft.	18 ft.	24 ft.
<i>Two-Way Drive Aisle Width</i>	19 ft.	Not allowed	Not allowed	Not allowed	24 ft.
<i>Parking Space Dimensions</i>	8 ft. x 25 ft.	9 ft. x 18 ft.	9 ft. x 18 ft.	9 ft. x 18 ft.	9 ft. x 18 ft.

- b. If configurations other than 90 degrees are required, markers, rail ties, parking stops, or similar materials shall be placed to indicate the parking angles and aisle widths.
3. **Accessible Parking Spaces.** Accessible parking spaces shall be provided as set out in the most current revision of the ADA Standards for Accessible Design ("ADAAG"), 208, as may be amended or re-titled from time to time. Such spaces are counted towards (and not in addition to) parking requirements.
4. **Residential Parking Spaces.** Parking spaces for residential uses, except multifamily buildings with more than four units per building, may be located on driveways or gravel pads. Where access is provided from a collector or higher-order road directly to a driveway, parking shall be configured so that vehicles do not back out onto the road.

C. Parking Area Surfacing

The County may require a dust control plan, which may include requirements for anti-tracking improvements or hard surfacing of parking as appropriate to the type of development, and to prevent impacts on nearby agricultural and livestock operations.

D. Parking Area Design and Location

1. **Generally.** The design and location of parking areas shall be in accordance with this Section.
2. **Location.** Parking spaces and drive aisles for all uses except single-family detached and uses in the agriculture land use category shall be set back at least 10 ft. from property lines except at points of access to the subject property.
3. **Design.** Parking areas shall be designed to allow for safe circulation. Terminal ends of parking areas shall provide adequate room for vehicle turn-around.
4. **Accessibility.**
 - a. The design and location of accessible parking spaces shall be as required by the current revision of the ADA Standards for Accessible Design, 502 ("ADA 502"), as may be amended or re-titled from time to time;
 - b. Accessible routes to and from accessible parking spaces shall be provided as required by ADA 502, at the time the parking spaces are striped; and
 - c. Accessible routes shall be graded according to the standards of ADA 502 at the time the parking lot is developed or any time it is re-graded.

Section 4. Utilities

A. Purpose and Application

1. **Purpose.** The purpose of this Section is to ensure that proposed development is served with adequate and appropriate utilities, and that utilities are installed in appropriate locations to allow for efficient access and maintenance.

B. Availability of Utilities

Where development or a subdivision requires utilities, the applicant shall provide evidence of the availability and adequacy of such utilities. A letter from the utility company serving the subject property stating that they *can and will* serve the proposed development shall be sufficient to establish that the applicable infrastructure and services are available and adequate.

C. Utility Connections Required

1. **Generally.** The County finds that the public health, safety, and welfare is protected and advanced by a safe, reliable, and sustainable water supply and safe and effective treatment of effluent.

2. **Electricity.** In cases where development is connecting to the power grid, electrical services shall be extended to the lot line as a condition of development approval.
3. **Special District Water Providers.** If a subject property is located within the boundaries of a special district that provides water and/or sewer service, the subject property shall connect to the water and/or sewer lines of the District as a condition of development approval if the District has available capacity and has notified the applicant that such connection is required pursuant to the Special District Act (C.R.S. § 32-1-101, *et seq.*). If the District provides written notification that they do not have available capacity, the District must agree in order for the applicant to seek water and/or sewer through means other than the District.
4. **Other Water Providers.** If the subject property can feasibly be served water by an existing water company or municipality, the subject property shall connect to the water lines of the existing water company or municipality as a condition of development approval if the water company or municipality has available capacity and has notified the applicant that such connection is feasible. See Chapter 5, Section 3 for use of cisterns as a water supply.

D. Location of Utilities

1. **Generally.** All utilities shall follow road and driveway corridors where possible. All new utilities (except electrical transmission lines) shall be installed underground, unless the undergrounding of the lines would require significant blasts to clear masses of outcrops or rock formations, or such installation is otherwise technically impracticable. Utility locations shall be in accordance with the requirements of the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS.
2. **Installation Standards.** Utilities in and along roadway corridors shall be installed in accordance with DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS, *Access and Utility Installation Code*. A Utility Application is required for all utility work within the County right-of-way.
3. **Alternative Locations.** The Director, in consultation with the County Engineer, may approve alternatives to the requirements of subsection (D), above, with good cause shown.

E. Utility Easements

Easements for the placement of, installation of and/or access to public or private utilities and drainage facilities and irrigation ditches and systems shall be shown on the Site Plan or Final Plat and dedicated to the appropriate entity. The width of the easement shall be provided as required by the utility companies. Wherever practical, utility easements shall be located adjacent to road right-of-way boundary lines.

F. Installation of Utilities

The lines for domestic water, public sanitary sewer, and electrical power are required to be extended to the lot line of each new lot prior to approval of a Site Plan or acceptance of a Final Plat by the Chair of the Board of County Commissioners.

Section 5. Agricultural, Natural, and Cultural Resources

A. Purpose and Application of Section

1. **Purpose.** The purpose of this Section is to ensure that areas with significant natural or cultural resources, wildlife use, or irrigation system infrastructure are developed or utilized in ways that take into account the long-term stewardship or management of the impacted resource.
2. **Mapping of Resources.**
 - a. If there is evidence that the resource areas enumerated in subsection (3), below exist on the subject property, then Plats (including Preliminary Plats, Minor Plats and Boundary Line Adjustments) and Site Plans shall identify and delineate their boundaries and essential characteristics.
 - b. The applicant shall submit a Title Report and copies of documents that affect title in order for the Director to determine whether any easements (e.g., conservation, irrigation ditch, etc.) affect the subject property.
 - c. Development that does not require a Plat or Site Plan, but is located on a subject property that was not subdivided in accordance with the requirements of this, shall provide a summary evaluation in accordance with subsection (4), below.
3. **Resource Area Identification.** The following resources shall be mapped by a qualified professional according to the stated criteria or methodology:
 - a. *Prime Agricultural Soils.* Prime agricultural soils shall be identified using data from the U.S. Department of Agriculture Natural Resource Conservation Service or other publicly available data sources that are approved by the Director.
 - b. *Historic or Archaeological Resources.* Known historical or archeological resources shall be identified based on research of applicable documents.
 - c. *Wetlands and Riparian Buffers.*
 - 1) Wetlands shall be delineated according to the most recent version of the U.S. Army Corps of Engineers Wetland Delineation Manual. The type of wetland ecological system shall be identified using the criteria promulgated by the Colorado Wetland Information Center. A functional assessment of the wetlands shall be provided using the current version of the Functional Assessment of Colorado Wetlands ("FACWet").
 - 2) Riparian buffers shall be mapped as an area that extends 50 ft. landward of the ordinary high-water mark or top of bank, as applicable, from rivers, streams, and creeks.
 - d. *Forests and Woodlands.* Forests and woodlands are naturally occurring areas of at least 40 contiguous acres in which trees have overlapping crowns that provide at least 50 percent land cover. Forests and woodlands are delineated by the outer

edges of the crowns at the outer boundaries. Orchards are not considered forests and woodlands.

- e. *Critical Wildlife Habitat, Critical Winter Range, Calving Areas, and Big Game Migration Corridors.* Critical wildlife habitat, critical winter range, calving areas, and big game migration corridors shall be mapped in consultation with Colorado Parks and Wildlife ("CPW").
 - f. *Geologic Hazard Areas.* Geologic hazard areas shall be identified using geologic hazard maps from the Colorado Geological Survey or those on file with Delta County. The extent of each type of geologic hazard on a subject property shall be mapped.
 - g. *Irrigation Ditches and Irrigation Infrastructure.* The extent of irrigation ditches and irrigation infrastructure on or adjacent to a subject property shall be mapped with a description of who it serves, and how.
 - h. *Scenic Byways.* If the subject property is located within one-quarter mile of the right-of-way of a designated scenic byway, the applicant shall provide a map showing that scenic byway with the ¼-mile area highlighted.
 - i. *Floodplain and Floodway.* Floodway and 100-year floodplain shall be delineated according to the most recent version of the most current version of Flood Insurance Rate Map. The Site Plan or Plat shall identify Base Flood Elevations (BFE) where known or indicated on the Federal Emergency Management Agency ("FEMA") Flood Insurance Rate Map (FIRM).
4. **Summary Evaluation.** If the proposed development does not require resource mapping in accordance with subsection (2)(c), above, the applicant shall provide a summary evaluation that is limited to prime agricultural soils, irrigation ditches and irrigation infrastructure, and floodplains/floodway.

B. Agricultural Operations and Prime Agricultural Soils

1. **Generally.** The agricultural resources of the County are essential to its economic base, and it is a central policy of this Code to support and protect the viability of agricultural operations in the County. The standards of this are intended to ensure that new development does not compromise existing agricultural operations, allowing new development and agriculture to co-exist in the same landscape.
2. **Impacts.**
 - a. Proposed development shall not adversely affect, or have the potential to limit the viability of, existing agricultural operations on surrounding and nearby property, including but not limited to their use of irrigation ditches, irrigated hay meadows, row crop operations, orchards, livestock operations, and historic stock drives.
 - b. To the extent reasonably feasible, proposed development shall be designed to avoid impacts to prime agricultural soils on the subject property.
3. **Buffers.** Depending upon the nature and management practices of agricultural operations adjacent to a subject property, a buffer area of up to 100 ft. in width may be required to

protect the agricultural operations from the impacts of proposed development/use, and vice versa.

4. Fencing.

- a. Where proposed development is located next to existing agricultural operations, partition fences must either exist or be installed to separate the proposed development from adjoining agricultural land or stock drives. As appropriate to the boundary, openings in the fence may be restricted to wood or metal gates or cattle guards.
 - b. *Ongoing Maintenance.* Where partition fences are required by this subsection (4), language shall be included in covenants, conditions, and restrictions, and on the final plat, to ensure that the partition fences are maintained by the lot owners or the homeowners' association at all times that the adjoining land is used for agricultural purposes.
- 5. Plat Notes.** Where a non-agricultural subdivision is created adjacent to land used for agricultural purposes, a note shall be included on the final plat that indicates that the adjacent property is used for agricultural, and a right-to-farm disclaimer (See Chapter 12, Section 5).

C. Historic or Archeological Resources

1. **Generally.** If there is evidence that historic or archeological resources exist on a subject property, the Director may require a report that delineates or describes such resources and provides stewardship measures to avoid, minimize, or mitigate (in descending order of priority) impacts on those resources.
2. **Stewardship Measures.** Stewardship measures shall include, to the extent feasible:
 - a. The preservation of archaeological resources in their original location.
 - b. Necessary excavations for purposes of recording and documenting the archaeological site, structure, or artifact.
 - c. Examination and investigation sufficient to obtain necessary information to ensure the preservation of the historic, archaeological, and other scientific significance of the site, structure, or artifact.
 - d. The completion of necessary mapping, photographing, or recording of any historical structure in accordance with standards of the Historical American Building Survey and the Historic American Engineering Record.

D. Wildlife

1. **Generally.** If there is evidence that critical habitat, critical winter range, calving areas, or big game migration corridors are present on a subject property, such resources shall be identified in a wildlife report.

2. **Wildlife Report.**

- a. The wildlife report shall consist of narrative and maps necessary to identify critical habitat areas and characteristics, big game winter ranges, and big game migration corridors. Maps shall consist of Colorado Parks and Wildlife's most recent habitat mapping of the area:
 - b. The wildlife report shall describe proposed measures for the protection of wildlife, habitat, and migration corridors, which shall first seek to avoid impacts, then to minimize impacts, then to mitigate impacts. The wildlife report shall demonstrate compliance with the following standards:
 - 1) Elements of habitat or range that are interdependent shall not be separated in ways that materially compromise the overall habitat or range.
 - 2) Protected areas of big game migration corridors and big game winter ranges shall provide a continuous connection to off-site big game migration corridors and big game winter ranges, such that large-scale regional wildlife movements are not impeded by the proposed development of the subject property.
 - 3) Fencing and grading shall be designed so that it does not materially interfere with wildlife movement across critical habitats, big game migration corridors, and big game winter ranges.
 - 4) Monitoring to continue to assess impacts to wildlife habitat and strategies for continued mitigation.
 - 5) Cumulative impacts to wildlife habitat taking into consideration development activity within the general vicinity.
 - c. The report shall be prepared in consultation with the Colorado Parks and Wildlife ("CPW") personnel and resources, including documentation of any CPW recommendations.
3. **Conditions of Approval.** The County may condition development approval on the implementation of the identified measures to avoid, minimize, and/or mitigate wildlife impacts.

E. **Wetlands**

1. **Generally.** If there is evidence that wetlands are present on a subject property, such resources shall be identified in wetlands delineation and a functional assessment report shall be provided.
2. **Exception.** The Director may waive the report requirement if it is demonstrated that the proposed development is sufficiently distant from the wetlands that the requirements of subsection (3), below, will be met, and impacts from the development (*e.g.*, from storm water runoff) on the wetlands are unlikely to be material.

3. **Development in Proximity of Wetlands.** Development shall not occur within delineated wetlands and within 100 ft. of the boundary of delineated wetlands, unless:
 - a. The proposed development within said area enhances the functional value (or protects and maintains a high functional value) of the wetlands (*e.g.*, wetlands enhancement, remediation, management, or restoration) according to plans approved by the U.S. Army Corps of Engineers and other governmental authorities with jurisdiction; or
 - b. The wetlands delineation and functional assessment report indicate that development closer to the wetlands will not materially degrade the quality of the wetlands nor materially increase the risk of damage to the wetlands.

F. Irrigation Systems

1. **Generally.**
 - a. Construction and maintenance of irrigation ditches and right-of-way are subject to the rights and obligations of Article XVI of the Colorado Constitution, C.R.S. 37-86-101, *et seq.*, as amended, and other applicable law. Construction and maintenance of reservoirs and associated infrastructure is subject to the rights and obligations of C.R.S. 37-87-101, *et seq.*, as amended, and other applicable law. Irrigation ditch right-of-way may be created in a number of ways, including by deed, by prescription, by prior use, by estoppel, or by irrevocable license. Not all of these involve a written public record.
 - b. Operation of irrigation infrastructure may involve:
 - 1) Inspections;
 - 2) Remote sensing; operation of head gates, flumes, and siphons;
 - 3) Mowing and weed control (which may involve chemicals or flamethrowers);
 - 4) Grading;
 - 5) Tree removal;
 - 6) Service road repair;
 - 7) Ditch lining,
 - 8) Conversion of ditches to pipelines;
 - 9) Reshaping and excavation of ditches;
 - 10) Trash and debris removal; and
 - 11) Other activities.
 - c. Ditches (even if lined or piped) may seep, and easements for such seepage may be expressed (*e.g.*, by deed) or implied (*e.g.*, created by prescription). Seepage may result in high water tables.

2. Crossings and Modifications within Ditch Right-of-Way.

- a. Development shall not involve crossings of or modifications to ditch right-of-way (below the surface, on the surface, or above the surface), unless:
 - 1) The affected ditch company consents to such crossing or modification in writing, upon such terms as may be agreed between the applicant and the ditch company; or
 - 2) If the right-of-way is an easement (and not a fee-simple ownership interest of the ditch company) a court authorizes the crossing by final, non-appealable order finding that the crossing or modification does not significantly lessen the utility of the easement, increase the burdens on the owner of the easement, or frustrate the purpose for which the easement was created.
 - 3) If a crossing agreement is to be assigned to the County or another governmental entity (*e.g.*, the Colorado Department of Transportation), the applicant shall obtain approval of the anticipated assignee of the crossing agreement (as applicable) as to the form of the agreement and the conditions of assignment (if any) prior to approval of the application.

3. Construction Dewatering and Drainage Systems.

- a. No drainage system shall direct storm water runoff into an irrigation ditch or reservoir without the written consent of the affected ditch company.
- b. All construction dewatering activities and drainage systems (either surface or subsurface) that are located within 100 ft. of a ditch or reservoir bank shall be evaluated at the applicant's expense by a qualified Engineer with regard to their potential impacts on seepage into or out of the ditch or reservoir. If such activities or systems are determined to create a material risk of such seepage, then the applicant shall:
 - 1) Propose appropriate and durable mitigation measures to prevent such seepage; or
 - 2) Enter into an agreement with the ditch company to address such seepage impacts on terms that are mutually acceptable to the applicant and the ditch company.

4. County Approval Conditions.

- a. Where a subject property is bounded by or crossed by an irrigation ditch right-of-way or other irrigation infrastructure, the boundaries of the ditch right-of-way or other irrigation infrastructure shall be shown on the approved plans and plat documents, as applicable.
- b. Delineated ditch easements shall be of sufficient width to allow for access and maintenance (both routine and extraordinary including removal and deposit of materials for cleaning purposes), including staging areas and dimensions sufficient

to accommodate over swing of construction machinery, as necessary or appropriate. In making the determination of sufficiency, the County shall consider input from the affected ditch company or ditch users.

G. Scenic Impacts

1. **Generally.** This applies to a subject property that is located within one-quarter (1/4) mile from the right-of-way of a scenic byway.
2. **Report Required.** A scenic impacts report shall contain the following information:
 - a. A graphic illustration of the impact of the proposed development on the views from designated scenic byways;
 - b. An illustration 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;
 - c. An illustration of the proposed development (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;
 - d. A narrative that describes the measures that are proposed in order to mitigate the impact of the proposed development on the scenic resource.
3. **Implementation of Mitigation Requirements.**
 - a. The scenic impact of a proposed development shall not, by itself, be a reason for denying an application for development approval. However, the County may require mitigation measures such as alternative setbacks, building placement, building design, and landscaping techniques.
 - b. The County may approve modifications to the development standards of this Code in order to improve the mitigation of the impacts of development on scenic resources, provided that such modifications do not materially impact public safety.

Section 6. Hazards

A. Purpose and Application of Section

1. **Purpose of Section.** The purpose of this Section is to ensure that development occurs with due regard to hazards, such that it does not exacerbate hazards for adjacent and nearby land uses or create a danger to public health and safety.

B. Disclaimer

The degree of hazard protection intended to be provided by this Section is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. This regulation does not imply that the areas outside of established hazard boundaries or uses permitted within these boundaries will be totally free from damage caused by these hazards. This

regulation shall not create any liability on the part of, or cause an action against, the County, the Board of County Commissioners, or any officer or employee or official (elected or appointed) thereof for damages that may result from reliance upon the regulations set out in this Section.

C. Designation of Hazard Areas

1. **Hazard Area Maps.** Maps and documentation regarding the general location of geologic and wildfire hazard areas.
2. **Wildfire Hazard Areas.** Wildfire hazard areas are identified on maps prepared by the Colorado Forest Service, and located within the County's Local Hazard Mitigation Plan (LHMP) and Community Wildfire Protection Plan (CWPP)
3. **Steep Slopes.** Steep slopes are those areas on a subject property with an average grade of 25 percent or more. Steep slopes shall be identified using U.S. Geological Survey topographic maps, site-specific surveys, or other techniques that are approved by the Director.
4. **Flood Hazard.** Areas of special flood hazard shall be mapped according to their boundaries as shown on official maps in effect from the Federal Emergency Management Agency ("FEMA").
5. **Abandoned Mines.** Abandoned mines are identified on maps promulgated by the Colorado Division of Reclamation, Mining, and Safety in conjunction with the U.S. Forest Service.
6. **Abandoned Oil and Gas Wells.** Abandoned oil and gas wells shall be identified using records from Colorado Oil and Gas Conservation Commission and physical inspection of the subject property.
7. **Site-Specific Delineation.** The maps described in subsection (1), above, define only approximate boundaries of hazard areas. The maps serve primarily as notice that geologic and/or wildfire and/or slope hazards are known to exist on or near a subject property, such that further analysis may be necessary. Precise boundary delineations require site-specific evaluation by qualified professionals.

D. Geologic Hazard Mitigation

1. **Generally.** This is not intended to categorically preempt all future development. The mitigation that may be required by this shall be proportionate to the nature, severity, probability, and frequency of the hazard and the nature and intensity of the proposed land use.
2. **Engineering Study.**
 - a. *Scope of Study.* If a subject property is known or reasonably suspected to be located in a geologic hazard area or wildfire hazard area, then the Director may require the applicant to provide a site-specific engineering study to:
 - 1) Delineate the hazard;
 - 2) Define its degree of severity;

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- 3) Determine its frequency/probability of recurrence;
 - 4) Evaluate the compatibility of the proposed land use;
 - 5) Propose appropriate mitigation measures to reduce risks to people, property, and natural resources; and
 - 6) Propose ongoing operations and maintenance programs to ensure that the mitigation measures function properly.
- b. *Qualifications of Investigator.* All reports and studies required by this shall be prepared by a “professional geologist” (as defined by C.R.S. § 34-1-01, as amended) as to geologic investigations; or a “registered Professional Engineer” (as defined by C.R.S. § 12-25-102, as amended) as to engineering studies, each retained by, under the direction of, and at the expense of the owner or applicant. For the purposes of this, the Geologist or Engineer is referred to as the “investigator”.
- c. *Extent of Investigation.* The extent of the site-specific investigation required shall be determined by the investigator; however, the investigation shall be of sufficient thoroughness and accuracy to allow such expert to certify to one of the following:
- 1) The subject property can be developed for the specific development that is proposed, without corrective engineering, engineered construction, or other mitigation or alterations; or
 - 2) The subject property is a geologically sensitive area, but the specific development that is proposed:
 - a) Can be constructed with corrective engineering, engineered construction, or other mitigation or alterations that reduce the risks to the occupants of the development such that they are reasonable; and
 - b) Will not increase the hazard to other property or structures or to public buildings, rights-of-way, roads, easements, utilities or facilities, or other properties of any kind.
 - 3) The subject property is a geologically sensitive area on which the specific proposed development is not appropriate because there are no mitigation techniques that could reduce the risks created by the geologic hazard to a reasonable level with respect to:
 - a) Occupants, improvements, and personal property on the subject property; and
 - b) Other property or structures, public buildings, rights-of-way, roads, easements, utilities, or facilities of any kind that are currently affected by the hazard or that would likely be affected by the hazard if the proposed development occurred.

d. *Effect of Study.*

- 1) No Hazard. If the investigator finds that the subject property does not contain and is not affected by geologic hazards, and therefore can be developed as proposed without corrective engineering, engineered construction, or other mitigation or alterations, then the proposed development may be approved without conditions relating to the mitigation of geologic hazards.
- 2) Avoidance of Hazard. If the investigator finds that the subject property contains or is affected by a geologic hazard, but the proposed location of the proposed development avoids the geologic hazard such that it can be developed as proposed without corrective engineering, or engineered construction, or other mitigation or alterations, the proposed development may be approved with conditions restricting the location of the proposed development on the subject property.
- 3) Mitigation of Hazard. If the investigator finds that the subject property contains or is affected by a geologic hazard, but that corrective engineering, engineered construction, or other mitigation or alterations can be implemented to reduce the risk to the public health, public safety, or public or private property to a reasonable level, and such mitigation does not increase the hazard to other property or structures, or to public buildings, roads, rights-of-way, easements, utilities, or facilities, approval of the proposed development shall be conditioned upon approval of plans for corrective engineering and engineered construction or other mitigation or alterations to acceptably reduce the risks.
- 4) No Practical Mitigation Technique. If the conclusion of the investigator is that the subject property cannot be developed as proposed because the danger posed by the geologic hazard cannot practically be reduced or mitigated to a reasonable level, such mitigation is otherwise not feasible, or the proposed development would exacerbate a hazard, the application for development approval shall be denied. Such denial shall not operate to limit applications for alternative uses for which a feasible mitigation plan may be developed.

3. **Techniques.** Mitigation techniques shall be consistent with the purposes of this Code. Examples of mitigation techniques which may be acceptable include:

- a. Retaining walls, fill, rock bolting, or pilings;
- b. Diversion, channeling, damming, or barriers;
- c. Excavation of unstable areas, bridging of weak zones, or proper distribution of loading; or
- d. Improvement of surface and subsurface drainage.

4. **Notice Requirements.** In order to provide reasonable notice of the presence of geologically sensitive lands in or affecting a proposed development, the following notices shall be provided for all new development in geologically sensitive lands:
 - a. All final plats that are recorded after the effective date of this Code shall identify and designate each tract, lot, and block, or portions thereof, located within any geologically sensitive area, together with appropriate specific hazard designations.
 - b. All other plans submitted after the effective date of this Code shall delineate geologically sensitive areas and identify the nature of the hazards.
5. **Existing Uses Continued; Exceptions.** Existing use of land, structures, or property that does not conform to this may be continued; except that no approval shall be granted for the expansion, alteration, or addition to existing buildings or structures in geologically sensitive areas unless all of the requirements of this are met.

E. Wildfire Hazard Mitigation

1. **Generally.** The Wildland-Urban Interface ("WUI") is a geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels. The WUI creates a potentially dangerous situation for flames or embers from a wildland fire to come in contact with buildings and structures. The purpose of this is to provide a means to protect the public health, safety, and welfare by establishing standards for development within a WUI area in order to:
 - a. Reduce threats to life safety, property, and resources by improving development and construction standards, access to and defensibility of developments, homes, and other property in WUI areas;
 - b. Minimize the potential of spreading fire from wildland areas to buildings or structures and from building or structure fires to wildland areas;
 - c. Identify the appropriate use of cul-de-sacs, hammerhead turnarounds, and turnouts on streets and roads providing legal and physical access to subdivisions with the intent to provide better emergency access to remote areas; and
 - d. Require homeowners and neighborhoods to plan, create, and maintain defensible space that utilizes fire resistant construction and landscaping.
2. **Compliance with NFPA 1144.** Proposed development that is located in the WUI shall provide and implement a wildfire hazard mitigation plan. The wildfire hazard mitigation plan shall address measures such as clear-space around structures, use of fire-resistant materials in construction, access to fire hydrants or other water sources, and consideration of secondary emergency access.

F. Steep Slopes

1. **Generally.** Steep slopes are divided into two groups: "moderately steep" slopes of 15 percent to 25 percent (inclusive), and "very steep" slopes greater than 25 percent.

2. **Minimization of Cut and Fill.** Cut and fill of steep slopes shall be minimized in one or more of the following ways:
 - a. Generally, sites shall be re-graded as a stable slope that is comparable to existing natural conditions.
 - b. Large-scale grade changes (where such changes are necessary) shall be divided into a series of benches and/or terraces. Parking areas that are planned for steep slopes shall be located on terraces that are designed to follow site contours. Benches and terraces shall be arranged so that they are not located in or immediately uphill or downhill from areas of potentially unstable slopes or known landslide areas, unless such areas are stabilized.
 - c. Roads and driveways shall be designed to minimize cuts and fills in a manner that is consistent with safe geometric design and the long-term stability and durability of the road or driveway, while:
 - 1) Minimizing the alteration of the physical and visual character of the hillside (*e.g.*, large notches in ridgelines should be avoided); and
 - 2) Retaining natural landforms by utilizing gentle horizontal and vertical curves in alignments (*i.e.*, alignments on the hillside should be neither wider nor straighter than necessary).
 - d. Where feasible, building foundations shall be stepped to follow significant existing contours, and the major axes of buildings shall run parallel to existing contours.
3. **Geologic and Soils Report.** A geologic and soils report is required prior to development upon very steep slopes. *See Chapter 5, Section 2(B), Geologic and Soils Report.*

G. Abandoned Mines and Quarries

1. **Generally.** Abandoned mines and quarries involve significant hazards, potentially including, but not limited to, the presence of toxic gasses, chemicals, and metals, unstable soils and structures, and radioactive materials, in and around the mines or quarries. Abandoned mines or quarries may be a source of air and water pollution in areas that are distant from the mines or quarries.
2. **Evaluation.** If there is evidence that the subject property was impacted by past mining activities, the subject property shall be evaluated pursuant to the methodologies set out in the current version of "Best Practices in Abandoned Mine Land Reclamation," promulgated by the Colorado Division of Minerals and Geology.
3. **Reporting and Inspection.** If an abandoned mine or quarry is located, it shall be reported to the Colorado Division of Reclamation, Mining, and Safety, and an inspection by the Division shall be requested.
4. **Closure and Lateral Support.** Prior to development of the subject property, the applicant shall obtain approval of a closure plan, remediation plan, and/or lateral support plan, as appropriate, and implement such plan to the extent necessary to allow for safe development of the subject property. The County may allow development to proceed prior to full

implementation of the plans if the location of the abandoned mine or quarry is secured and the development area is sufficiently distant from the abandoned mine or quarry that the risks to the development from the abandoned mine or quarry are minimal.

H. Abandoned (“Orphaned”) Oil and Gas Wells

1. **Generally.** Abandoned wells shall be plugged, remediated, and reclaimed, as appropriate, according to state requirements, prior to development.
2. **Exceptions.** The County may allow development to proceed prior to plugging, remediation, and reclamation if:
 - a. The location of the abandoned well is secured; and
 - b. The development area is sufficiently distant from the abandoned well that the risks to the development from the abandoned well are minimal.

I. Floodplain/Floodway (Special Flood Hazard Area)

1. **Generally.** If there is evidence that a floodway or floodplain is present on a subject property, such resources shall be mapped on the Site Plan or Plat. Development should consider any proposed map changes in determining hazards.
2. **Exception.** The Floodplain Administrator may waive this requirement if it is demonstrated that the proposed development is sufficiently distant from the floodway or floodplain and impacts from the development (*e.g.*, increased flood risk on site or downstream) would be unlikely.
3. **Development in Floodplain or Floodway.** Development shall not occur within a floodway unless approved by the U.S. Army Corps of Engineers and other governmental authorities with jurisdiction. Development within a Floodplain requires approval by Delta County’s Floodplain Administrator (see Appendix for Floodplain Regulations).

Section 7. Environmental Quality

A. Purpose and Application of Section

1. **Purpose.** The purpose of this Section is to establish minimum standards for maintaining environmental quality within the County. These standards apply to the planning, design, and operation of land uses in the County.
2. **Right-to-Farm.** The right-to-farm, as described and protected by C.R.S. §§ 35-3.5-101, *et seq.* shall not be compromised by this Section. Uses in the agriculture land use category shall not be found in violation of this Section to the extent that they employ methods or practices that are commonly or reasonably associated with agricultural production.

B. Stormwater Management, Grading, Erosion, and Sediment Control

1. **Generally.** Colorado follows the modified civil law rule that the owner of upstream property possesses a natural easement on land downstream for drainage of surface water flowing in its natural course. Natural drainage conditions may be altered by the owner of

the upstream land, provided that the water in the post-development condition is not sent down in a manner or quantity to do more harm to the downstream land prior to development. Development proposals that would result in drainage volumes or patterns that would likely violate the modified civil law rule will not be approved unless the applicant obtains appropriate approvals and/or easements from the affected property owner(s).

2. **Stormwater Management Plans.** All Site Plans associated with Limited and Conditional Uses shall be accompanied by a *Stormwater Management Plan*, sealed by a Professional Engineer that certifies compliance with the requirements of subsection (1), above.
3. **State Permits.** A Colorado Discharge Permit System ("CDPS") permit shall be obtained if required by state law.

C. Noise

1. **Generally.** Noise that is generated by development shall not exceed the thresholds set out in C.R.S. § 25-12-103, *Maximum Permissible Noise Levels*, except as provided in C.R.S. § 25-12-109, *Exception - Sport Shooting Ranges - Legislative Declaration – Definitions*, or any other specific exceptions created by the State of Colorado after the effective date of this Code.
2. **Development Design.** Proposed development shall be designed to ensure that noise does not exceed the statutory limits. Where design is not sufficient to mitigate noise impacts, the applicant shall submit a noise mitigation plan that includes operational limitations to mitigate the noise impacts. Adherence to the noise mitigation plan shall be a condition of approval.

D. Odor Management

1. **Generally.** An Odor Management Plan is required for intensive agriculture uses (See Chapter 2, Section 4), and may be required for other land uses that tend to generate offensive or noxious odors. Odor Management Plans shall meet the minimum requirements of this, and shall achieve compliance with 5 CCR 1001-4, Part A or Part B, as appropriate.
2. Odor Management Plans for other uses (not intensive agriculture) shall identify:
 - a. The location of odor-emitting activities or procedures;
 - b. The source or sources of the odors;
 - c. The timing of odor-emitting activities;
 - d. The controls (*e.g.*, administrative, structural, chemical, or mechanical) that will be used to mitigate odor impacts; and
 - e. The maintenance program that will be followed to ensure the effectiveness of the proposed controls.
3. Proposed odor controls shall be based on best available control technologies.

4. Odor Management Plans shall also provide for complaint tracking. Complaint records shall be provided to the County within three business days after request by the Director.

E. Pest Management

1. **Generally.** Pest Management Plans shall be required as set out in this Code, and for proposed land uses that the Director finds may have a heightened risk of problematic pest infestations.
2. **Contents of Pest Management Plans.** Pest Management Plans shall identify:
 - a. The types of pests that may be associated with the proposed land use at a level that requires management;
 - b. The methods, techniques, barriers, biological agents, or chemical agents that will be used to control the identified pests, the anticipated timing of application of chemical or biological agents, and the method of storage of chemical or biological agents; and
 - c. The controls that will be used to minimize the impacts of the Pest Management Plan on nearby property, waterbodies (including but not limited to irrigation ditches and reservoirs), livestock operations, and environmentally sensitive lands.

F. Dust Control

1. **Generally.** Dust controls are required for industrial uses that generate dust, and for intensive agriculture uses (See Chapter 2 Section 4). Dust controls may also be required for roads, driveways, parking areas, and outdoor storage or processing areas that are not constructed with a dust-free hard surface.
2. **Industrial and Extraction Uses.**
 - a. Industrial and extraction uses that generate dust shall submit a dust control plan to accompany the proposed sketch plan or site plan. The Dust Control Plan shall include all available practical methods that are technologically feasible and economically reasonable and that will reduce, prevent, and control fugitive dust into the atmosphere.
 - b. For those materials, equipment, services or other resources (such as water for abatement and control purposes), which are likely to be scarce at any given time, an alternative control method must be included in the Dust Control Plan.
 - c. Where the proposed land use is accessed by an unpaved road or access easement, the County may require that the dust control plan provide for mitigation of dust along the unpaved road or access easement.
3. **Other Uses or Improvements.** Dust control may be required for subdivision roads, private driveways, parking areas, and outdoor storage or processing areas, in order to minimize adverse impacts to livestock, crops, and public health.

G. Weed Control

1. **Generally.** As mandated by the Colorado Noxious Weed Act (C.R.S. § 35-5.5-101, *et seq.*), all persons shall eliminate, contain, or suppress (as appropriate) noxious weeds on their property if:
 - a. Such weeds are a threat to neighboring landowners or natural ecosystems; or
 - b. Such control is required by C.R.S. § 35-5.5-101, *et seq.* or 8 CCR § 1206-2, Rules Pertaining to the Administration and Enforcement of the Colorado Noxious Weed Act.
 - c. Weed control programs shall be integrated in approach (using all available prudent technologies to achieve weed control), to the extent required by 8 CCR § 1206-2.
2. **Weed Control Plans.** The County may condition approval of subdivisions, Limited Uses, and Conditional Uses (or amendments thereto) upon approval of a plan for the control of the noxious weeds identified by the State or Federal government or designated undesirable by the Board of County Commissioners. The plan shall include the interim time period during which the land is converted from its current use to its proposed use.
3. **Plat Note.** All Final Plats shall contain a note that owners are responsible for weed control on their properties (See Chapter 12, Section 5)

H. Exterior Lighting

1. **Generally.** Outdoor lights shall be hooded or shielded (cut-off) so as to not cast light or glare onto adjacent property, or upwards in a manner that contributes to sky glow that dilutes the night sky.
2. **Required Plat Note.** All Final Plats shall contain a note that restricts lighting impacts (See Chapter 12, Section 5)

I. Domestic Animal Control

1. **Generally.** Dogs and other domestic animals that are not used to assist with the herding or care of livestock are not permitted to interfere with livestock, the care of livestock on agricultural lands, or with wildlife that is present on sensitive lands. Domestic animals must be controlled by kenneling, leash, fencing, or other physical or voice control constraints.
2. **Covenants.** The County may require that subdivisions include covenants that provide that any expense of enforcement of this domestic animal control restrictions by the County shall be at the expense of the responsible association or the individual.

J. Operational Hazard Mitigation and Risk Management

1. **Generally.** An Operational Hazard Mitigation and Risk Management Plan is required for uses as specifically identified in this Code and for uses that the Director determines may involve substantial risks or hazards to nearby property owners, natural resources (including wildlife and sensitive lands), or water supplies due to the nature of the operations or materials likely to be used, stored, or disposed of on the subject property.

2. **When Required.** For the uses that require operational hazard mitigation and risk management plans, such plans shall be submitted with sketch plans or site plans.
3. **Updates.** The Operational Hazard Mitigation and Risk Management Plans shall be updated on a bi-annual basis, or within ten working days as conditions change (responsible field personnel change, ownership changes, etc.).
4. **Contents.** The Operational Hazard Mitigation and Risk Management Plan shall, at a minimum, consist of the following information:
 - a. Name, address and phone number, including 24-hour emergency numbers for at least two persons responsible for emergency field operations.
 - b. After the proposed development is completed, an as-built facilities map or map series, showing the name, location, and description of potential risks and hazards.
 - c. A written response plan for foreseeable potential emergencies that may be associated with the land use. This plan shall include but not be limited to any or all of the following: explosions, fires, gas, chemical, or water tank or pipeline leaks or ruptures, toxic gas emissions, hazardous material transport vehicle accidents or spills, and/or natural disasters. A hard copy and electronic copy shall be provided to first responders and dispatch.
 - d. Project-specific emergency response plans are required for any mining or oil and gas extraction project that involves drilling or penetrating through known zones of hydrogen sulfide gas.
5. **Confidentiality.** To the extent allowed by law, the Operational Hazard Mitigation and Risk Management Plan shall be held confidentially by the entities to which they are provided, and shall only be disclosed in the event of an emergency.

K. Truck Routing Plans

1. **Generally.** A truck routing plan is required for uses as specifically identified in this Code and for uses that the Director determines will involve the use of semi-trailers, dump trucks, trash hauling trucks, or comparable heavy trucks at a frequency that is likely to be disruptive to nearby property owners or potentially damaging to roads.
2. **When Required.** For the uses that require a Truck Routing Plan, such Plan shall be submitted with a site plan. Any Plan that includes a route using roads under authority of another agency shall be referred for their review (municipality, State, Federal).
3. **Updates.** Truck Routing Plans shall be updated when:
 - a. New truck routes are proposed by the applicant.
 - b. The applicant proposes to increase truck traffic by more than ten percent (10%) compared to that set out in the approved truck routing plan.
 - c. Truck routes are changed by the County or other relevant transportation authority in a manner that affects the approved Truck Routing Plan, and the County or other transportation authority requests an update to the Plan.

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4. **Contents.** The Truck Routing Plan shall include, at a minimum:
- a. The type or class of vehicles that will be used by the proposed land use;
 - b. The anticipated frequency of arrival and departures of trucks;
 - c. The hours of truck traffic;
 - d. A map illustrating the proposed route(s), from a County road or State Highway, of all trucks used by the proposed land use.
 - e. Truck Routing Plans should include any special emergency response or containment practices that are required in the event of an emergency and emergency contacts. Any hazardous materials/hazmat being transported by a truck should be listed and should identify which Hazmat Routes will be used and the expected volume per shipment.

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Chapter 5. PUBLIC FACILITIES, INFRASTRUCTURE, AND SERVICES

Section 1. Traffic Impacts

A. Purpose and Application of Section

1. **Purpose of Section.** The purpose of this Section is to ensure that the traffic impacts of proposed development and subdivision are evaluated and that the impacts of such development on the County transportation system are offset by public improvements.
2. **Application of Section.** The requirements of this Section apply to Site Plans associated with Limited or Conditional Uses, and Preliminary Plats (or Final Plats, where no Preliminary Plat is required prior to Final Plat approval), and also to additional residences, communal living, and seasonal farmworker housing if such accessory residential uses result in five or more dwelling units on a single lot. In addition, a Traffic Impact Study may be required if the Director determines that the location or size of the proposed development would impact traffic conditions in the surrounding area. When a traffic impact study is required, the study shall be completed by a Colorado registered professional engineer.

Allowed Uses are not subject to the requirements of this Section. The Director may waive requirement of a Traffic Impact Study if it is determined that the increase would be de minimis.

3. **Scope of Study.**
 - a. A Level I Traffic Impact Study is required for all application types when a project is determined to impact traffic on a public road.
 - b. Where a Level I Traffic Impact Study indicates that a proposed development or subdivision will impact more than 20 percent of a road's capacity, a Level II traffic study shall be required.
 - c. Where a Level II Traffic Impact Study indicates that improvements to the existing road network are necessary to address the traffic impacts of a proposed development or subdivision, a Level III Traffic Impact Study shall be required.

B. Traffic Impact Study Contents

1. **Generally.** The contents and extent of a Traffic Impact Study depend on the location and size of the proposed development and the conditions prevailing in the surrounding area. The permit applicant should contact County Planning to determine the appropriate level of traffic evaluation and the specific requirements for each individual application. Traffic Impact Studies shall include, at a minimum, the information required by this Table 5.a, *Traffic Impact Study Scope*, based on the level of study required. Trip Generation Calculations per the Institute of Transportation Engineers Trip Generation document (latest version)

Selected items from Table 5.a (below) may be excluded if the Director determines that it is not applicable to the situation and exclusion is specifically authorized by the issuing authority. The contents and extent of a Traffic Impact Study depend on the location and size of the proposed development and the conditions prevailing in the surrounding area. Larger developments proposed in congested areas obviously require more extensive traffic analysis, whereas smaller sites may only require a minimal analysis of traffic on site and at immediately adjacent intersections.

In determining how large a study area to include, a general guideline is to carry the analysis out at least as far as those areas where newly generated site traffic represents five-percent (5%) or more of roadway's peak hour capacity. Where site generated traffic will be less than 5% of the roadway capacity, the intersections adjacent to the site should, at a minimum, be analyzed. The study area boundaries may also be influenced by impacts other than pure capacity relationships such as neighborhood short cuts, traffic noise and hours of operation.

TABLE 5.a TRAFFIC IMPACT STUDY SCOPE			
CONTENTS	LEVEL I	LEVEL II	LEVEL III
Site Plan and Mapping Information			
Location of the subject property, with the following information about all adjacent County roads: (i) name; (ii) functional classification; and (iii) right-of-way requirement based on functional classification	Required	Required	Required
Sight distances for all existing and proposed access points	Not required	Required	Required
The proximity and location of all access points and intersections within ½ mile of the subject property	Not required	Required	Required
Identification of adjacent land uses	Required	Required	Required
Proposed location, number, and use of lots within the subject property	Required	Required	Required
Proposed location of roads within the subject property	Required	Required	Required
Location of all proposed access points to County roads or State highways	Required	Required	Required
Traffic Counts			
Average daily traffic ("ADT") counts on adjacent roads ¹	Required	Required	Required
AM/PM peak hour traffic counts on adjacent roads	Not required	Required	Required
Trip Generation Calculations and Projections			
Trip generation calculations (ADT) ²	Required	Required	Required
Trip generation calculations (AM/PM peak hour) ²	Not required	Required	Required
20-year ADT and AM/PM peak projections, including background and project-generated	Not required	Required	Required
Analysis			
Trip distribution analysis ³	Not required	Required	Required

Current level of service ("LOS") of all impacted roads	Not required	Required	Required
LOS including project-generated traffic from the proposed development.	Not required	Required	Required
Existing and proposed traffic controls on impacted roads	Not required	Required	Required
Indication if a CDOT Access Permit will be required	Not required	Required	Required
Additional cost and mitigation analysis (see subsection (2), below)	Not required	Not required	Required

TABLE NOTES:

¹ From County records

² Calculations shall be based on the current version of the Institute of Traffic Engineers Trip Generation Manual ("ITE Manual"), with the following modifications: (i) single-family detached generate 10 average daily trips ("ADTs") per unit; (ii) multi-family attached generate 6 ADTs per unit; and (iii) manufactured homes in manufactured home parks generate 5 ADTs per unit.

³ The Study shall indicate the projection distribution of traffic entering and leaving the development, the projected direction and specific roads that are likely to be used and the total ADT and AM/PM peak hour trips of all potential distribution routes. Traffic distribution studies shall provide information on all potential routes to which the impact of the development on existing conditions is 5 percent or more.

2. **Additional Cost and Mitigation Analysis.** A Level III Traffic Impact Study must include additional cost and impact mitigation analysis that is appropriate to the situation that created the need for the Level III Traffic Impact Study. Such analysis may include, at the direction of the Director:
 - a. A Dust Mitigation Plan.
 - b. Proposed road design changes that are intended to:
 - 1) Offset degradation of existing LOS;
 - 2) Address the functional classification of the road;
 - 3) Address a proposed improvement to an existing intersection or road segment.
 - 4) Address design requirements imposed by a CDOT access permit.
 - c. A safety analysis, including conflict points, turning movements and accident history for the last three years.
 - d. An analysis of the sensitivity of the adjacent properties and/or other areas that may be impacted by the proposed development.
 - e. An analysis of the capacity of the existing road in relation to the marginal increase in traffic attributable to the proposed development, and the feasibility of road improvements to address the projected increase in traffic.
 - f. An analysis of feasible alternatives to mitigate the impacts of the proposed development.
 - g. An enhanced trip distribution analysis that includes an evaluation of current ADT and AM/PM peak hour traffic data (including turning movements) at all

intersections to where the impact of the development on existing conditions is 5 percent or more.

- h. Identification of any other specific problems or deficiencies that may result from the proposed development and proposed mitigation and/or improvements that are required to address the situation.
- i. An Engineer's estimate of probable cost of identified improvements.
- j. If signalization is required, an analysis that addresses all signal-related requirements of the CDOT State Highway Access Code (2 CCR 601-1) 2.3(5) for traffic signal analysis.

Section 2. Soils Suitability and Drainage Analysis

A. Purpose and Application of Section

1. **Purpose of Section.** The purpose of this Section is to establish minimum requirements for soils and drainage reports, to ensure that new development is constructed on suitable soils, that natural geologic hazards are avoided or mitigated where possible, and that drainage is designed in a manner that is consistent with State law.
2. **Application of Section.** Each section of this Section sets out the types of applications to which the section applies.

B. Geologic and Soils Report

1. **Generally.** Geologic and soils reports are required for site plans associated with Limited or Conditional Uses, and Preliminary Plats (or Final Plats, where no Preliminary Plat is required prior to Final Plat approval). Where other application types involve a mandatory dedication of right-of-way (*e.g.*, to mitigate a traffic impact), the County may require a geologic and soils report for the area of land to be dedicated as right-of-way.
2. **Site Characteristics.** The geologic and soils report shall include the observations of a site visit by a qualified Engineer regarding the site characteristics outlined in Colorado Geological Survey, SP-06 GUIDELINES AND CRITERIA FOR IDENTIFICATION AND LAND-USE CONTROLS OF GEOLOGIC HAZARD AND MINERAL RESOURCE AREAS. The report shall address ground subsidence, expansive soil, and rock. The report shall also address the following as may be applicable to the subject property or its immediate environs:
 - a. Avalanche
 - b. Landslide
 - c. Rockfall
 - d. Radioactivity
 - e. Mudflow
 - f. Debris fan
 - g. Unstable and potentially unstable slopes

- h. Seismic effects
- 3. **Soils Suitability.** The report shall assess the suitability of the soils for:
 - a. Building foundations and structures;
 - b. Infrastructure;
 - c. Proposed individual sewage disposal systems, including the cumulative impact of all proposed OWTS on the subject property; and
 - d. Implementation of the proposed drainage plan.
- 4. **Irrigation Infrastructure.** The report shall assess the impacts of proposed excavation and development on irrigation infrastructure within 100 ft. of the limits of construction, including impacts on the stability of ditch banks and seepage into or out of irrigation ditches.

C. Drainage Report

- 1. **Generally.** A drainage report consists of two parts: a drainage study and a drainage and erosion control plan. Drainage reports are required for site plans associated with Limited or Conditional uses and Preliminary Plats (or Final Plats, where no Preliminary Plat is required prior to Final Plat approval). Drainage reports shall demonstrate compliance with Chapter 4, Section 7(B), *Stormwater Management, Grading, Erosion, and Sediment Control*, and any applicable state or federal standards for grading, erosion, and sediment control.
- 2. **Drainage Study.** The drainage study is intended to analyze the drainage characteristics of the subject property under both the existing condition (pre-development) and proposed condition (post-development). Its principal purpose is to evaluate the drainage impacts of proposed development on downstream properties. The drainage study includes:
 - a. Identification of the major drainage basin, sub basins, and drainageways; and
 - b. Calculation of pre-development and post-development stormwater discharge rates for the five-year and 100-year storm events;
 - c. An evaluation of the impacts of proposed development on adjacent and downstream properties; and
 - d. Proposed mitigation measures and temporary, permanent, structural, and non-structural best management practices ("BMPs"), as appropriate, to ensure that stormwater runoff from the post-development condition does not affect adjacent or downstream properties in a manner or quantity that does more harm than the pre-development condition. The description of BMPs shall include information regarding the use, design, installation, maintenance, and removal of the BMP.
- 3. **Drainage and Erosion Control Plan.** The drainage and erosion control plan details the locations and specifications of the mitigation measures and best management practices that are detailed in the drainage study. The drainage and erosion control plan includes:

- a. Identification of type, location, area, volume, elevation, depth, freeboard, and slope (as applicable to the type of improvement) of ponds, culverts, channels, swales, inlets, and other storm water improvements;
- b. Identification of potential pollutant sources that may reasonably be expected to impact the quality of stormwater discharges associated with:
 - 1) Land disturbance and storage of soils;
 - 2) Vehicle tracking, fueling, or maintenance;
 - 3) Loading and unloading operations;
 - 4) Outdoor storage of construction materials, fertilizers, or chemicals;
 - 5) Processes that generate significant dust or particulates;
 - 6) Concrete washout;
 - 7) Construction dewatering; and
 - 8) Other areas where spills that may affect water quality may occur.
- c. Description and location of the construction stormwater pollution prevention BMPs related to erosion control, sediment control, and waste management control, designed and selected for the potential pollutant sources listed above, to be installed during each phase of construction (initial, interim, and final).

Section 3. Water Supply and Sanitary Sewage Disposal

A. Purpose and Application of Section

1. **Purpose of Section.** The purpose of this Section is to ensure that an adequate supply of water is available to serve proposed development, and that an adequate and appropriate means for sewage treatment and disposal is also available to serve proposed development.

B. Determination of Adequacy of Water Supply

1. **Proof Required.** Proof of adequacy of water supply is required for all Development Applications.
 - a. The Director can waive this requirement if it is determined that proof of adequacy of water supply was previously provided during the review for a prior approval related to the same proposed development (*e.g.*, if proof of adequacy was provided for a Preliminary Plat, and subsequently a Final Plat application is filed that is consistent with the Preliminary Plat, additional proof of adequacy is not required).
 - b. Even if prior proof has been provided previously, additional proof of adequacy of water supply may be required if the Director determines that:
 - 1) The proposed development has changed since the prior determination in a manner that will require additional water supply or changed water supply

parameters (*e.g.*, a subdivision is approved for residential development, and then a Conditional Use permit is requested for a nonresidential use); or

- 2) The water supply that was previously evaluated has materially changed since the prior determination of adequacy (*e.g.*, water taps that were previously allocated have expired).

2. Scope of Evidence.

- a. Adequate evidence shall be provided that a water supply meets the minimum Colorado Primary Drinking Water Regulations and that is sufficient in terms of quality, quantity, and dependability. Evidence will be available to ensure an adequate supply of water for the type of subdivision or development proposed.
- b. Such evidence may include, but shall not be limited to:
 - 1) Evidence of ownership or right of acquisition of or use of existing and proposed water rights;
 - 2) Historic use and estimated yield of claimed water rights;
 - 3) Amenability of existing rights to a change in use;
 - 4) Evidence that public or private water owners can and will supply water to the proposed subdivision stating the amount of water available for use within the subdivision and the feasibility of extending service to that area;
 - 5) Evidence concerning the potability of the proposed water supply for the subdivision.

3. Cisterns.

- a. Cisterns shall not be considered an adequate water supply for new development where the water is hauled; however, a cistern may be allowed when the following applies:
 - 1) The property is located within the service area of a purveyor and the purveyor agrees to allow a cistern; or
 - 2) There is no other water source available; and
 - 3) Development consists of a maximum of one (1) residential unit.
- b. Cisterns may be allowed where there is a permitted, on-site water source (*e.g.*, well or spring).
- c. Existing cisterns may be allowed to continue at the level of use/development established prior to the Land Use Code. However, any new development and/or intensification of use requires bringing the property into compliance with the criteria in this section.

C. Fire Protection Report

Fire protection facilities shall be reviewed and approved by the appropriate Fire Protection District for Site Plans associated with Limited or Conditional Uses, and Preliminary Plats (or Final Plats, where no Preliminary Plat is required prior to Final Plat approval). An improvements agreement and appropriate collateral shall be required for all fire improvements.

D. Wastewater Treatment & Disposal

1. **Generally.** No 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 wastewater treatment and/or disposal.
2. **Evidence Required.** The applicant shall provide evidence to establish that, if a public wastewater treatment system is proposed, provision has been made for such system and, if other methods of sewage disposal are proposed, evidence that such systems will comply with state and local laws and regulations that are in effect at the time of application for development approval. If sewage disposal systems already exist in the proposed development, such systems shall be permitted by the county, or shall obtain a permit pursuant to Delta County Onsite Wastewater Treatment System Regulations.

E. Irrigation Water

1. **Generally.** This applies to subdivisions in which irrigation water is to be divided and allocated among the lots. Such use of non-potable irrigation water is encouraged by the County. See the design guidelines which may assist in designing an appropriate system in the appendix.
2. **Contents of Irrigation Plan.** The irrigation plan shall describe the ditch infrastructure, easements, and maintenance that will be required to provide for continued water flow and delivery to the lots in the subdivision, along with the allocation of maintenance and operational responsibilities. If existing irrigation infrastructure on the subject property is owned, controlled, or operated by a ditch company, or otherwise connected to ditch company infrastructure, then the irrigation plan shall be approved by the ditch company.
3. **Plat Requirements.**
 - a. Shared irrigation infrastructure shall be located within tracts that are either commonly owned by the lot owners in the subdivision, or owned by the ditch company that owns, controls, or operates the irrigation infrastructure.
 - b. Tracts shall be large enough to accommodate the channel or pipeline, appurtenances, service roads, and additional areas that may be necessary for routine and periodic maintenance.
 - c. If the tracts are commonly owned by the lot owners but the irrigation infrastructure is controlled or operated by a ditch company, then the applicant and the ditch company shall execute an agreement to provide for the long-term operation, maintenance, and repair of the ditch infrastructure. Such agreement (or a

memorandum thereof) shall be recorded before or contemporaneously with the Final Plat.

- d. Easements shall be provided to distribute the water to the lots. Construction of any necessary ditches or pipes to distribute water shall be required prior to the Final Plat recording.
- e. The County may waive the requirements of this subsection (E) upon demonstration that an alternative legal arrangement will provide for the efficient long-term operation and maintenance of the irrigation infrastructure.

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Chapter 6. LAND DEDICATION, IMPACT FEES, DEVELOPMENT IMPROVEMENT AGREEMENTS

Section 1. Land Dedication

A. Purpose and Application of Section

1. **Purpose of Section.** The purpose of this Section is to ensure that land, easements, and public improvements that are dedicated to the County are appropriate for the use for which they are intended, and that adequate land areas and/or funds for the acquisition and development of open space and recreation areas are made available through the development approval process, such that the needs created by the proposed development are met.

B. Land, Easements, and Public Improvements Dedicated or Conveyed to the County

1. **Generally.** Land, easements, and public improvements that are dedicated or conveyed to the County pursuant to this Code shall meet the requirements of this Section.
2. **Physical Condition.** In addition to any other requirements of this Section, the physical condition of the land or easements dedicated to the County shall be appropriate for the purposes to which the land or easement is to be used. The County may require documentation of the physical condition of the land or easement, including studies outlined in Chapter 5, Section 2, *Soils Suitability and Drainage Analysis* and including a Phase I Environmental Assessment (and a Phase II Environmental Assessment if the need for such assessment is identified by the Phase I Environmental Assessment). Such documentation shall be certified to the County and provided at the applicant's expense.
3. **Condition of Title.** In addition to any other requirements of this Section, all land or easements dedicated or conveyed to the County shall be free and clear of:
 - a. Financial liens or encumbrances, including but not limited to deeds of trust, enforcement liens, tax liens, and mechanics liens, the foreclosure of which could eliminate the County's interest;
 - b. Reversionary interests, unless the County specifically finds that such interests are not inconsistent with the purposes of the dedication or conveyance; and
 - c. Easements, servitudes, or surface use agreements that conflict with or are inconsistent with the intended use of the land or easement by the County.
4. **Tax Obligations.** All real estate taxes and assessments on land or easements to be dedicated or conveyed to the County shall be paid in full as of the date of the dedication or conveyance.

C. Acceptance of Public Improvements

Public improvements that are detailed in an Improvements Agreement (pursuant to Section 5 of this Chapter) are subject to inspection and acceptance by the County Engineer as provided by the

Delta County Roadway Design and Construction Standards, as may be amended from time to time. Final acceptance requires action by the Board of County Commissioners.

Section 2. Fire Impact Fees

Fire impact fees shall apply to all new development located within any fire district where a resolution establishing such fee is approved and adopted.

Section 3. Road Impact Fees

Road impact fees shall apply to all new development upon adoption of any resolution establishing such fee.

Section 4. Open Space Impact Fees

Open Space impact fees shall apply to all new development upon adoption of any resolution establishing such fee.

Section 5. Improvement Agreements and Financial Guarantees

A. Purpose and Application of Section

1. **Purpose of Section.** Public improvements shall include all improvements required by this Code and the *Delta County Roadway Design and Construction Standards*, and all public improvements proposed for installation by the applicant, including, but not limited to, roads, bridges, sidewalks, trails, drainage, water, sewer, irrigation infrastructure, utilities, landscaping, buffering, noise mitigation, right-of-way monumentation and any other public improvements required to be installed or completed as part of a subdivision or development.
2. **Application of Section.** Improvement Agreements are required to accompany Final Plats and Site Plans that involve the construction or installation of public improvements.

B. Improvements Agreements

1. **Generally.** No Final Plat that involves public improvements shall be accepted by the Board of County Commissioners or recorded until all required improvements receive final acceptance or an Improvement Agreement has been fully executed.
 - a. Request by an applicant to enter an Improvement Agreement shall be considered at the time that the Preliminary Plat is considered by the County.
 - b. The applicant shall prepare construction plans, profiles, specifications, and cost estimates providing for the installation of all approved public improvements.
 - c. Upon approval of the plans, specifications and cost estimates by the County Engineer, the Director shall prepare an Improvement Agreement for consideration by the Board of County Commissioners along with the required financial security.
2. **Minimum Contents of Agreement.** The Improvement Agreement shall address, at a minimum:

-
- a. The manner and timing of the completion of all public improvements;
 - b. The responsibility for payment of the costs of the public improvements;
 - c. The provision of as-built road construction and drainage plans, stamped by a registered Professional Engineer prior to preliminary acceptance of the improvements by the County, as required by the *Delta County Roadway Design and Construction Standards*;
 - d. The provision of a financial guarantee (in the amount of 120 percent of the estimated cost of construction/installation of the public improvements) to ensure the completion of public improvements within a period of time specified within the Improvements Agreement; and
 - e. At least 20 percent of the estimated cost of construction/installation of the public improvements will be held for one year from the date improvement(s) are accepted by the Board of County Commissioners to warrant the quality of materials and workmanship of all public improvements.
3. **County Participation in Public Improvements.** If the County is to participate in the cost of constructing any public improvements, then the Improvement Agreement shall:
- a. Establish and set forth the extent to which the County is to participate, including, without limitation, improvements to collector or arterial roads.
 - b. State that County financial commitment shall be subject to appropriation if they extend beyond the current budget year.
 - c. Require the applicant to fully account to the County for all costs incurred in the construction of any public improvement that is subject to County participation, and to open the books and records of the applicant relating to such public improvement to the County at all reasonable times for the purpose of auditing or verifying such costs.
4. **Reimbursement Provisions.**
- a. An applicant may request fair-share reimbursement of the cost of any roads, storm drainage facilities, and other public improvements that the County requires the applicant to construct adjacent to or outside the subdivision, if the improvements are oversized in comparison to the demands created by the proposed development of the subject property.
 - b. The reimbursement provisions shall:
 - 1) Specifically identify the off-site improvements that are covered by the reimbursement requirement;
 - 2) Provide for verification of costs associated with said improvements;
 - 3) Delineate the area that is benefitted by the improvements;
 - 4) Set out the methodology for assessing the benefitted properties for their fair share of the improvement costs as they are developed; and

- 5) Identify timing and mechanism for reimbursement payments.
 - c. The reimbursement period shall not exceed 15 years from the date of completion of an improvement.
 - d. All Improvement Agreements that include reimbursement provisions shall be approved by the Board of County Commissioners after public hearing for which the owners of the benefitted properties receive mailed notice.
5. **Recordation.** The Improvement Agreements shall be recorded at the applicant's expense, and if it includes reimbursement provisions, it shall include an attachment that describes the properties that are subject to the reimbursement obligation.
 6. **Optional Contents of Agreement.** An Improvement Agreement may include any other provisions agreed to between the applicant and the County, as may be necessary to ensure that the development is carried out in accordance with the approval, and as may be necessary to identify the timing, phasing, and responsibilities for construction and maintenance of public improvements.

C. Maintenance Agreements

1. **Generally.** Maintenance Agreements shall be provided to ensure perpetual maintenance of local roads, stormwater facilities, and private recreation and open space areas. Maintenance Agreements shall be recorded in the chain of title of the affected properties (the property to be maintained and the property that has maintenance obligations imposed upon it), and shall be enforceable by the County.
2. **Local Roads.** All new local roads within a subdivision shall be publicly-owned and privately maintained until/unless accepted by the County. The Maintenance Agreement shall provide for ongoing maintenance, right-of-way mowing, and snow removal at the expense of the owners of the lots in the subdivision (generally by way of a property owners' association).
3. **Drainage Facilities.** Drainage facilities shall be maintained by the owners of lots within subdivisions (generally by way of a property owners' association), or by the owner of the property upon which the facilities are located.
4. **Private Open Space and Recreation Facilities.** Private open space and recreation facilities shall be maintained by the owners of lots within subdivisions (generally by way of a property owners' association), by the owner of the property upon which the facilities are located, or by the holder of a conservation easement over the private open space.

D. Financial Guarantees

Financial guarantees that are required by this Section shall take the form of cash escrows, irrevocable standby letters of credit, or performance bonds. Prior to accepting the Final Plat for Phase 1, a financial guarantee for all phases shall be provided. Documentation of the financial guarantees shall be in a form approved by the County Attorney.

Upon completion of a phase, the finance guarantee can be partially reduced by the amount commensurate with that phase provided there is adequate financial security for the remaining phase(s).

Section 6. Securities

A. Generally

Financial security may be required to ensure road impacts during construction are mitigated, and required vegetation screening is adequately established. Delta County shall have the right to draw upon the financial Security to pay for such services in the event the holder has not performed as conditioned by the order or resolution directing said activity. Should any information represented in the security document change, the owner must contact the County in writing and provide the updated information.

1. **Road Bond.** This bond addresses damage to public roads during construction. The County Engineer will inspect the applicable roads prior to and after construction to assess applicable improvements. Any temporary construction access shall be removed prior to release of the Road Bond.
2. **Landscape/Vegetation Bond.** Security to maintain required landscape and manage noxious weeds for a minimum of ten (10) years or until the landscaping has been established, whichever is longer. This may also include Security to manage the land for irrigation/agricultural operations, where applicable.

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Chapter 7. STANDARDIZED APPLICATION REVIEW PROCESS

Section 1. Application Submittal Requirements

A. Development Application

1. **Generally.** Any development occurring on a parcel of land in the unincorporated area of Delta County will require the completion of a Development Application, which outlines the type, and order, of individual permits/approvals that must be obtained. A Development Application procedure includes, but is not limited to:

- a. Site Plan Review;
- b. Access Permit;
- c. Address Permit; and
- d. Septic a.k.a. Onsite Wastewater Treatment System (OWTS) Permit.

Upon completion of an initial Site Plan Review, 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 Permits depending on the applicant's needs; however, proof of approved Permits must be provided in order to obtain the next Permit.

2. **Site Plan Review.** Concept plans can be submitted with the Development Application. The purpose of the Site Plan Review is to ensure compliance with the permitting process and standards as set forth in this Code. For land uses that only require Site Plan Review, development permits may be issued on after a Site Plan showing the proposed development has been approved and illustrates, at a minimum:
 - a. Perimeter boundary with dimensions;
 - b. Total acreage;
 - c. North Arrow;
 - d. Location and number of all structures (existing and proposed);
 - e. Distance to the property boundary of all structures (existing and proposed);
 - f. Location and dimensions of all easements;
 - g. Location of any springs, wells, streams, ditches, rivers or waterways;
 - h. Name and location of all roads adjoining the property with the location of all access (existing and proposed);
 - i. Distance between any access (existing and proposed) including those on neighboring properties and the distance to the nearest intersection;
 - j. Location of all septic systems (existing and proposed); and
 - k. Building Envelopes (existing and proposed).

3. **Access Permit.** A County Access Permit is required for any entrance onto a County road. Access onto a State highway requires proof of a highway access permit that allows the proposed use (issued by CDOT). Access within the unincorporated County area (public or private) is subject to DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS. A Notice to Proceed will be issued if the County Engineer determines that the location of the proposed access compiles with County requirements and safety standards. An Access Permit is not final until the County Engineer approves that the access has been constructed to County standards.
4. **Address Permit.** An address is required for all habitable structures (residential and commercial) for emergency services and utilities. Addresses are assigned by the location of the access prior to providing service to a parcel. Addresses are assigned by the location of an access to a parcel. Therefore, the access must be constructed and approved by the County Engineer before an address is assigned by County GIS. If an access serves more than three addressed structures, GIS may require an application to name that access.
5. **Septic.** An Onsite Wastewater Treatment System (OWTS) Permit is required for every structure on a parcel with a restroom or sewer drain. Access and address permits must be completed and approved prior to the issuance of an OWTS Permit by the Health Department.
6. **Informal Consultation.** Individuals may schedule an informal meeting to discuss potential plans prior to submitting an application and/or pre-application at the discretion of the Director.

B. Pre-Application Meeting

1. **Generally.**
 - a. A pre-application meeting is an opportunity for the potential applicant to meet with County staff, and other applicable regulatory agencies (e.g., CDOT, municipalities, etc.) before filing an application, in order to:
 - 1) Identify the applicable review procedures and likely timelines;
 - 2) Review preliminary materials and identify potential issues and related information requirements; and
 - 3) Identify what fees will be due, including whether a financial surety payment will be required for outside technical review.
 - b. 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. The pre-application meeting is not open to the general public.
2. **When Required.**
 - a. The Director will determine if a pre-application meeting is required based on the Development Application.

3. **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. When a project is located within a Growth Management Area of a municipality, as determined in the Intergovernmental Agreement, the Town/City shall be invited to the pre-application meeting. Other non-County agencies may be invited where the Director determines there would be interest and value to include such agency (BLM, CDOT, etc.)
4. **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.
5. **Summary.** Upon request by the potential applicant, within 10 business days following a pre-application meeting, the Director shall deliver to the applicant:
 - a. A checklist of submittal materials that will be necessary for the type(s) of application(s) sought; and
 - b. A detailed list of the required fees as it pertains to the application.
6. **Courtesy Presentations.** At the pre-application meeting, a potential applicant may request an opportunity to make a courtesy presentation of a proposed development concept or conceptual subdivision map in a design charrette process. Attendees may include appropriate staff, referral agencies, design professionals, and other persons identified by the Director or the potential applicant.

C. Application

1. **Generally.** Every application for approval that is required by this Code shall be submitted on a form approved by the Director, along with the corresponding application fee (See Section 1.D, below).

Unless waived by the Director, all applications shall include electronic versions of all attachments in a format approved by the Director.

2. **Forms.**
 - a. The Director shall promulgate and periodically revise forms for each type of application required by this Code.
 - b. Application forms 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:
 - 1) The evaluation of applications for compliance with the standards of this Code; and
 - 2) The administration of this Code.
 - c. 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.

3. **Waiver or Expansion of Requirements.** Application requirements may be waived or expanded by the Director if the nature of the application is such that the requirements would serve no useful purpose, or such that additional information is needed to evaluate compliance with the requirements of this Code. The Director may not waive application fees.
4. **Schedule.** The Director is authorized, but not required, to establish regular intake days or times for any or all classifications of applications for development approval, except administrative appeals.

D. Application Fees and Escrows

1. **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.

2. **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.
3. **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 delay or denial of an application.

4. **Escrow for Consultant Review.**

- a. *Consultant Review Authorized.*

- 1) The Director is authorized to retain outside professional consultants at the applicant's expense to assist in the technical review of applications or petitions submitted pursuant to this Code.
 - 2) 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.

- b. *Initial Escrow Payment.*

- 1) 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.
 - 2) A schedule of minimum required escrows for different application types may be attached to the fee resolution described in subsection (1), above.
 - 3) 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.

- c. *Use of Escrow Payment.* The County may draw upon the escrow, at the County's discretion, to pay the fees and expenses of professional consultants retained by the County to review the application.
- d. *Additional Escrow Funds.*
 - 1) The Director may require additional escrow funds to be paid for additional services related to the application, should they become necessary. Failure of the applicant to timely provide additional escrow funds may result in delays in application processing.
 - 2) If a balance is due at the time an application is approved, it shall be paid by the applicant as a condition of approval.
 - 3) 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.
- e. *Return of Escrow Funds.* Escrow funds shall be returned to the applicant as follows:
 - 1) If the Director decides not to use consultants, then escrow funds shall be returned to the applicant within 30 days of said decision.
 - 2) 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.
 - 3) When the application is decided, any positive escrow balance shall be returned to the applicant within 60 days.
- f. *Account Reports.* Applicants shall be provided with a monthly accounting of the use of escrow funds.
- g. *Delinquent Payments.*
 - 1) If the applicant does not pay additional escrow funds required by subsection (4) (d), above, within 10 days after written notice from the Director, 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.
 - 2) 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.

- h. *Fixed-Fee Consultant Review.* The Director is authorized to establish:
 - 1) A roster of consultants that are pre-qualified to conduct reviews of various types; and
 - 2) For routine application types with predictable review fees, a schedule of fixed-fees for consultant review.

Section 2. Initial Application Review Process

A. Completeness Review

1. **Generally.** All applications shall be reviewed for completeness within seven (7) business days after an application is submitted.
2. **Incomplete Applications.**
 - a. An application that does not include all of the materials required on the application forms, materials requested following the pre-application conference, any required professional certifications, and all fees and escrows that are required for application processing shall not be considered complete.
 - b. The applicant shall be provided a written explanation that describes in general terms the materials that must be submitted in order to complete the application.
 - c. Incomplete applications are not considered filed.
 - d. An application that remains incomplete for more than 60 days may be returned to the applicant, along with any fee included with the application, at the discretion of the Director.
3. **Complete Applications.** Upon a determination of completeness, the Director shall promptly provide notice to the applicant in the manner requested on the application (e.g., email or U.S.P.S.) regarding the status of the application. Complete applications shall be processed according to the applicable procedures of this Article (Also see Chapters 8 and 12).

B. Technical and Sufficiency Review

1. **Generally.** Upon determination that an application is complete, the Director shall cause the application to be reviewed for sufficiency and technical compliance with all applicable requirements of this Code. Said review shall be completed within 30 days from the date the application is deemed complete.
2. **Technical Review.**
 - a. Appropriate County staff or consultants shall review the application; and
 - b. If required or determined appropriate by the Director, the application shall be promptly referred to applicable referral agencies and adjacent property owners for review and comment pursuant to Chapter 7, Section 3, *Referral to Agencies and Adjacent Property Owners*, and Chapter 7, Section 4, *Public Notice*.

3. **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.
4. **Sufficiency Review.**
 - a. All applications shall be technically sufficient for review, meaning that:
 - 1) The application materials are internally consistent, and presented as required by this Code and the applicable application forms.
 - 2) Materials are prepared by qualified professionals (where such qualifications are required), and signatures and certifications are present, if required.
 - 3) The application materials are technically sufficient to demonstrate compliance with
 - b. If an application is determined to be insufficient, the Director shall notify the applicant and provide a written explanation regarding the materials that must be submitted, or revisions that must be made, in order to continue processing the application.

C. Recommended Revisions

1. **Generally.** Following review of the application, referral agencies, and adjacent property owners, the Director shall:
 - a. Provide comments to the applicant from County staff or consultants (collectively, "STAFF COMMENTS"). The staff comments shall address or include comments by referral agencies and adjacent property owners. The applicant shall revise and resubmit the application with appropriate changes based on staff comments, and with responses to staff comments that did not result in changes to the application.
 - b. Upon receipt of the re-submittal, the Director may refer the application to referral agencies again if the changes substantially affect the interests of the agency in ways not anticipated by the agency's original comments (or lack thereof), or require the agency's technical expertise for appropriate review.
 - c. The re-submittal may require an additional application fee if both of the following conditions are met:
 - 1) The revisions are inappropriate or incomplete; and
 - 2) Repeated failure to address comments requires more than three rounds of revisions.

D. Stale Applications

1. **Generally.** This is intended to extinguish applications that become "stale" due to prolonged inaction or nonresponsive action by the applicant prior to a decision by the County.

2. **Expiration of Stale Applications.** When an action by the applicant is required for further processing of an application, the applicant shall have six (6) months to meet the Director's requirements.
3. At least 30 days prior to the end of the period set out in subsection (2), above, the Director shall provide notice to the applicant. The Director shall be authorized to void the application at the end of this period if the requested action does not meet the Director's requirements within the specified timeframe.
4. **Extension of Time.** The Director may extend the time for expiration of an application by up to six (6) additional months upon written request of the applicant before the end of the period set out in subsection (2), above.

Section 3. Referral to Agencies and Adjacent Property Owners

A. Referrals

1. **Generally.** Applications shall be referred for review according to the procedures set out in this Section.
2. **Referral Required.** Referral is required for the following types of applications:
 - a. Minor Plats
 - b. Preliminary Plats (*see* C.R.S. § 30-28-136)
 - c. Conditional Use Permits
 - d. Certificate of Designation (*see* C.R.S. § ###)
3. **Discretionary Referrals.** The Director may refer any type of application not enumerated in subsection (2), above, if the Director finds that such referral will provide analysis or facts that are helpful in determining the application's compliance with this Code.
4. **Inter-Jurisdictional Referrals.**
 - a. The Director shall maintain a list of referral agencies that may be affected by land use and development within the unincorporated County, or that may provide technical expertise with respect to development review. Except as provided by Colorado law, referral agency comments are advisory in nature.
 - b. *Referral Agency List.* The list of referral agencies, and the application types and topics for which review must be requested, are set out in Table 7.a, *Referral Agency Review*. The table sets out minimum requirements and is not intended to limit the entities to which referrals may be sent, or the scope of review that the referral agencies provide.

TABLE 7.a REFERRAL AGENCY REVIEW		
AGENCY	TOPIC	WHEN REQUIRED
<i>Delta County School District 50J</i>	Projected impact on Schools; School capacity; ability of School District to serve anticipated population	All Subdivisions, excluding Boundary Line Adjustments.
<i>Electric Power Provider</i>	Ability and willingness to serve; required facilities and easements	All Subdivisions, excluding Boundary Line Adjustments.
<i>Natural Gas Provider</i>	Ability and willingness to serve; required facilities and easements	All Subdivisions, excluding Boundary Line Adjustments.
<i>Water Provider</i>	Ability and willingness to serve; Adequacy of water supply; required facilities and easements	All Subdivisions, excluding Boundary Line Adjustments.
<i>Wastewater Treatment Provider</i>	Ability and willingness to serve; required facilities and easements	All Subdivisions, excluding Boundary Line Adjustments.
<i>Communications Provider</i>	Ability and willingness to serve; required facilities and easements	All Subdivisions, excluding Boundary Line Adjustments.
<i>Municipalities and Adjacent Counties</i>	Potential Impacts on the Municipality or County	All subdivisions within two miles of a Municipal or County boundary Limited or Conditional Uses within one mile of a Municipal or County boundary.
<i>Ditch Companies</i>	Impacts on ditch, canal, pipeline, or reservoir infrastructure or operations	All projects where the ditch company owns, operates, or controls a ditch, canal, pipeline, reservoir, or other property (including easements, whether recorded or not) within 100 ft. of a proposed development, or that may be directly affected by development due to topography or drainage patterns
<i>Local Improvements and Service Districts</i>	Impacts on the services provided by the Local Improvements or Service District	All projects where the subject property is located within the District boundary, or when the property is obligated to join the District
<i>Colorado State Forest Service</i>	Evaluation of potentially sensitive lands; wildfire risks and risk mitigation	All projects where the subject property is in an area of elevated wildfire risk or includes sensitive lands.

<i>Delta Conservation District</i>	Soil suitability; floodwater problems; wetland evaluation; and watershed protection	All Subdivisions, excluding Boundary Line Adjustments.
<i>Delta County Environmental Health Division or Colorado Department of Public Health and Environment ("CDPHE")</i>	On-site septic systems; adequacy of existing or proposed sewage treatment works to handle the estimated effluent; and water quality of the proposed water supply to serve the development Stormwater regulations; disturbing 1+ acre of land (coordinated through CDPHE) Floodplain Administration	All projects where structure and/or on-site septic systems are proposed, the project is subject to stormwater requirements, and/or the site includes lands within a mapped floodplain.
<i>State Engineer</i>	Potential for material injury to water rights of others; adequacy of water supply (see C.R.S. § 30-28-136(1)(h))	Preliminary Plat Review or Final Plat Review (where Preliminary Plat is not required)
<i>Colorado Geological Survey</i>	An evaluation of those geologic factors that would have a significant impact on the proposed use of the land	Preliminary Plat Review or Final Plat Review (where Preliminary Plat is not required); except that, upon a written request from the Board of County Commissioners or the Board's authorized representative, the Colorado Geological Survey may exempt any preliminary plan from this referral and review requirement.
<i>Colorado Parks and Wildlife ("CPW")</i>	Comments regarding wildlife and habitat values; implementation of State Wildlife Action Plan	All projects where the Director determines that CPW review would facilitate processing the application.

- c. *Limitations.* Table 7.a, *Referral Agency Review*, is not intended to restrict the comments provided by referral agencies or prevent the County from referring application materials to other entities, agencies, or individuals. Referral agencies may provide any comments that the agency determines will be helpful to the processing of the application.

5. Referral Process.

- a. The Director shall refer the application as required by this Section, and may refer the application to any other agency, jurisdiction, ditch company, land management entity, utility, or department that the Director determines is likely to be materially affected by the application, or that has expertise in a subject matter potentially impacted by the application. The Director's determination regarding such additional referrals is not appealable.

- b. The agency referral period is 21 calendar days, and shall be coordinated with the technical/sufficiency review period in Section 2, above. The referral period may be extended by up to 30 additional days by mutual consent of the applicant and the Director.
- c. Failure of an agency to respond within the prescribed agency referral period is interpreted as consent by that agency to the contents of the application. However:
 - 1) For a Preliminary Plat that involves twenty or more dwelling units, the school district shall be required to submit within said time limit specific recommendations with respect to the adequacy of school sites and the adequacy of school structures;
 - 2) An agency that does not timely respond does not waive any authority it may have by virtue of concurrent jurisdiction with the County; and
 - 3) Consent is not implied if the applicant fails to pay the agency's required review fees and the agency reports the same to the County within the agency referral period.

Section 4. Public Notice

A. Public Notice

For applications that require public notice, public notice shall be provided according to the standards of this Section.

B. Contents of Public Notice

1. Public notice shall include the following elements:
 - a. The phrase "PUBLIC NOTICE" or "NOTICE OF PUBLIC HEARING" (as appropriate to the notice) at the top of the notice. For posted notice, these letters shall be not less than three inches in height.
 - b. A brief description of the type of application (*e.g.*, Preliminary Plat, Conditional Use, etc.).
 - c. The date, time, and place of the hearing.
 - d. A brief summary of what the applicant is requesting (*e.g.*, Subdivide ## acres into ## lots).
 - e. The physical location of the property, including a map, or "Countywide" where there is general applicability.
 - f. A notice that interested persons may obtain more information from the Director.
 - g. Contact information for the County Planner assigned to the project.

C. Types of Public Notice

Table 7.b, *Types of Public Notice*, sets out standardized requirements for publication, posting, and mail notice that are used for different application types and different phases of the application process. The types of notice that are set out in the table are used to establish notice requirements for each type of application in Table 7.b, *Types of Public Notice*.

TABLE 7.b TYPES OF PUBLIC NOTICE			
TYPE OF NOTICE	WHEN REQUIRED	FREQUENCY OR DURATION	OTHER REQUIREMENTS
<i>Publication</i>	At least 14 days before public hearing	1 publication	N/A
<i>Posting</i>	At least 14 days before public hearing	Post until public hearing commences	N/A
<i>Mail 1</i>	At least 14 days before public hearing	1 mailing	Mail to adjacent property owners (includes properties separated only by a right-of-way)
<i>Mail 2</i>	At least 14 days before public hearing	1 mailing	Mail to property owners within a 1,000 ft. of the boundaries of the subject property

D. Type of Public Notice Required by Application Type

Table 7.c, *Required Public Notice by Application Type*, sets out the notices that are required at each state of processing for each type of application for which notice is required. In addition, any lot or establishment where alcoholic beverages are served, commercial place of amusement or recreation, or any place where live entertainment is provided within two hundred (200) feet of the boundary of a residential district (RES or A5) shall require notice to abutting property owners, regardless of the permit type.

Table 7.c REQUIRED PUBLIC NOTICE BY APPLICATION TYPE			
APPLICATION TYPE	FORM OF REQUIRED PUBLIC NOTICE FOR ...		
	DIRECTOR REVIEW	BOA OR PC REVIEW	BOCC REVIEW
Land Use / Zoning			
<i>Uses that are marked with an "n" in Table 2.b, Land Use by Zoning District</i>	Posting Mail 1	N/A	N/A
<i>Conditional Use</i>	N/A	Publication Posting Mail 2	Posting Mail 1

<i>Rezoning</i>	N/A	Publication Posting Mail 2	Publication Posting Mail 2
<i>Certificate of Designation</i>	N/A	Publication Posting Mail 2	Publication Posting Mail 2
Development Plans and Subdivision Plats			
<i>Boundary Line Adjustment</i>	N/A	N/A	N/A
<i>Minor Plat, Replat</i>	Mail 1	N/A	N/A
<i>Preliminary Plat</i>	N/A	Publication Posting Mail 2	N/A
<i>Final Plat</i>	N/A	N/A	N/A
<i>Final Plat with Improvements Agreements</i>	N/A	N/A	Mail 2
<i>Vacation Plat</i>	N/A	N/A	Posting Mail 1
<i>Location and Extent Certificate</i>	N/A	Mail 1	Mail 1
Variances and Appeals			
<i>Variance</i>	N/A	Posting Mail 1	N/A
<i>Administrative Appeal to BOA</i>	N/A	Mail 1	N/A
<i>Appeal to BOCC</i>	N/A	N/A	Mail 1
Text Amendments			
<i>Text Amendments</i>	N/A	Publication	Publication
Vested Rights			
<i>Vested Rights</i>	N/A	As provided in Chapter 8, Section 6 (E), <i>Special Notice Requirements</i>	

E. Standards for Required Notices

1. **Publication.** Published notice shall be printed in a newspaper of general circulation in Delta County.
2. **Posting.** Posted notice shall be on a sign in a form approved by the Director. Sign(s) shall be posted by the County in a location visible from a public right-of-way.
3. **Mail.** Mailed notice shall be delivered via first class U.S. Mail.

F. Optional Notices

1. **Electronic Mail.** Electronic mail notices 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 unincorporated Delta County. Electronic mail notices shall include the subject line

“PUBLIC NOTICE OF PROPOSED DEVELOPMENT,” and the statement in the body of the email 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 notices may be posted on an 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.

G. Errors in Notices

The standard for compliance with this shall be “substantial compliance.” If the Director determines that there has been substantial compliance with the requirements of this, 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 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.

H. Notice to Mineral Estate Owners

1. Notices to mineral estate owners shall be provided not less than 30 days before the date scheduled for the initial public hearing on an application for development (as the phrase is defined in C.R.S. 24-65.5-102(2)(a)), as required by Article 65.5 of Title 24 C.R.S., *Notification of Surface Development*.
2. **Exceptions.** If notice to mineral estate owners is not required by the statute, the applicant shall state the reason or reasons for the exemption.
3. **Contents of Notice.** The notice shall contain the time and place of the initial public hearing, the nature of the hearing, the location and legal description by section, township, and range of the subject property, and the name of the applicant.
4. **Proof of Notice.** Proof of notice shall be provided to the County not less than 30 days before the hearing that is the subject of the notice.

Section 5. Neighborhood Meetings

A. Applicability

All applicants are encouraged to meet with neighboring property owners to give the community an opportunity to hear from the applicant and ask questions regarding the proposed project. Projects that require or are referred to the Planning Commission and/or Board of County Commissioners for a public hearing shall be required to hold a neighborhood meeting prior to the public hearing.

B. Neighborhood Meetings

Where a neighborhood meeting is required, the applicant shall:

1. Provide the Director a draft copy of any letter or notice prior to sending out to the public to ensure information is complete and correct;

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2. Inform, in writing, all owners of land located adjacent to the property (includes properties separated only by a right-of-way) of the date, time, and location of the meeting. Said notice shall be provided no less than seven (7) but no more than 14 days in advance of the meeting date. A copy of said notice shall be provided to the Director;
 3. Conduct the meeting within the County, preferably in/near the applicable neighborhood at a facility with adequate parking and seating. Said meeting shall be open to the public;
 4. Provide members of the public the opportunity to review application materials, ask questions of the applicant, and provide feedback; and
 5. Provide the Director a summary of any input received from members of the public at the meeting and a copy of the mailing list used for notification in Item 2 above.

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Chapter 8. REVIEW PROCESSES

Section 1. Administrative Review Process

A. Administrative Review Established

1. **Generally.** Administrative approvals and permits are issued by the Director upon a finding of compliance with the applicable requirements of this Code. Administrative Review includes Permitted Uses (Ministerial) and Limited Uses (Discretionary).
2. **Permitted Use Standards.** Permitted uses are subject to a ministerial process that requires review to demonstrate compliance with applicable permits/approvals and this Code:
 - a. Chapter 2, Section 4, *Use Specific Standards*, if applicable.
 - b. Chapter 3, Lots, Buildings, and Structures
 - c. Chapter 4, Site Design and Environmental Stewardship
 - d. Chapter 5, Public Facilities, Infrastructure, and Services
3. **Limited Use Standards.** Limited Uses are subject to a discretionary process (administrative) that requires approval of a zoning permit, including a Site Plan with information necessary to review compliance with the requirements of this Code. The zoning permit and site plan may be approved or conditionally approved if the application demonstrates compliance with:
 - a. Chapter 2, Section 4, *Use Specific Standards*, if applicable.
 - b. Chapter 3, Lots, Buildings, and Structures
 - c. Chapter 4, Site Design and Environmental Stewardship
 - d. Chapter 5, Public Facilities, Infrastructure, and Services
4. **Other Approvals and Permits May Be Required.** These approvals and permits are in addition to other reviews, approvals, and permits that may be required for compliance with other laws, statutes, or regulations, which may include but are not necessarily limited to:
 - a. State or Federal law, including, but not limited to, the Clean Water Act, the Clean Air Act, or the Endangered Species Act;
 - b. Adopted building and safety codes;
 - c. Resolutions that require permits for activities on public land or within public right-of-way; or
 - d. Business licensing resolutions.

B. Administrative Review Process

1. **Generally.** Administrative review includes Permitted Uses (Ministerial), and Limited Uses (Discretionary).
2. **Administrative Decision.** Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant to Chapter 7, Section 2(D), *Recommended Revisions* (or, after finding that no revisions will be required):
 - a. Applications for Administrative Uses require completion of a Development Application that includes:
 - 1) Site Plan Review to demonstrate compliance with this Code; and
 - 2) A checklist to verify compliance with applicable permits/approvals such as site plan review, right-of-way use permits, address assigned, septic permits, and applicable State permits (well, mobile home, electrical, plumbing).
 - b. *Allowed Use.* No review is required; however, Allowed Uses must be in compliance with applicable Standards of this Code.
 - c. *Permitted Use.* The Director shall issue a Zoning Permit for the proposed Permitted Use once verified that the proposed use will be in compliance with applicable Standards (Section 1.A.2 above).
 - d. *Limited Use.*
 - 1) The Director may approve, conditionally approve or deny a Limited Use application. Conditions may be applied to mitigate impacts and/or ensure continuing compliance with the applicable standards of this Code (*see* Section 1.A.3 above).
 - 2) The Director shall issue a Development Application checklist once verified that the proposed Limited Use will be in compliance with applicable Codes and conditions.
 - 3) Limited Use may require a public notice of the proposed action (*see* Table 2.b). If required, notice shall be provided pursuant to Chapter 7, Section 4, *Public Notice*.
 - 4) In the event that a use-specific standard for a Limited Use Permit cannot be met, the use may be processed (at the applicant's option or upon referral by the Director) as a Conditional Use. Upon such election, the proposed use shall be processed in accordance with the Conditional Use standards (Chapter 8, Section 2). The applicable Use-Specific Standards (Chapter 2, Section 4) shall be met to the extent practicable, and the Conditional Use Standards shall be applied to offset the impacts that may result from the inability to fully comply with applicable Use-Specific Standards.

3. **Referral.** If the application is for an administrative approval or permit, the Director may:
 - a. Refer the application to the Board of Adjustment to consider the entire action where a variance is required; or
 - b. Refer the application to the Planning Commission for review and recommendation and Board of County Commissioners for decision according to the applicable standards of this Code, upon a determination by the Director, in his or her sole discretion, that the development, as proposed justifies the referral because it:
 - 1) May have material impacts on neighboring properties or public resources that are unusual in kind or degree due to the unusual context of the subject property; or
 - 2) Involves material potential for reasonable disagreement regarding whether the proposed development complies with the standards of this Code, or whether particular standards of this Code apply; or
 - 3) Consolidates review with other action(s) that requires action by the Planning Commission in addition to the Director.
 - c. If referred, the application shall be processed as a Conditional Use in accordance with Chapter 8, Section 2, *Conditional Use Permits Process*.
 - d. If the application is referred for a public hearing approval, then the Director shall make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the next body that will consider it for further recommendation or approval.
4. **Appeal.** An aggrieved party may appeal the Director's decision to the Board of Adjustment pursuant to Chapter 9 – *Approvals, Denials and Appeals*.

Section 2. Conditional Use Permits Process

A. Conditional Use Application

1. **Application Requirements.** Applications for Conditional Uses shall include specific application requirements, including but not limited to the following:
 - a. *Concept/Development Plan.* An illustrative summary of the project, including information provided in other documents described below, such as: property boundary lines and dimensions, location and arrangement of screening, buffer zones, fencing location and design (designed with wildlife movement in mind), tree preservation, existing/proposed structures, driveways and entrances, existing road edges and rights-of-way abutting the project site, irrigation systems, existing/proposed easements (utility, irrigation, conservation, etc.), wildlife corridors, floodplain considerations, and existing/proposed electrical lines.
 - b. *Project Narrative/Business Plan.* Provide contact information for the owner and operator of the proposed operation, as well as the applicant or representative. Legal description of the subject parcel(s), location and description of physical

characteristics and current land use, zoning, and soil type including NRCS classification for agricultural lands. Include project size in acres and percentage of site coverage. Describe the project and each phase of development, including the approximate number of structures for each phase. Identify baseline conditions, assess potential effects that the project may have on County services and/or capital facilities from the proposed construction and operation. Describe site maintenance during and after construction, and recognize the ability for County to inspect the site upon notification. Also, address any direct or indirect impacts to forests, parks, wildlife management areas, conservation easements, or recreational areas.

- c. *Traffic Study.* See Chapter 5, Section 1 to determine what level of review might be required. At a minimum, the intent is to assess the traffic created by the proposed use and demand for parking during and after construction. Illustrate (map) desired primary and secondary routes on County roads and State Highways. Describe characteristics of loaded vehicles including maximum load capacity and frequency leading to a summary of what impacts construction will have upon transportation patterns in the area intended to be served or affected by the project. Include assessment of road segments/intersections for the number of average daily vehicle trips and accident rates as determined by the County Engineer. Include a construction traffic mitigation plan for public roads, including truck haul routes, off site park-and-ride, and traffic controls (e.g., signage, lane closure, flagging, etc.).
 - d. *Construction Schedule.* Provide an estimated timeline for each step of the project.
 - e. *Irrigation Systems* (where applicable). Provide information relative to ditch alignment and easements to maintain appropriate drainage access. The nature and location of the facility must not interfere with any irrigation systems on or adjacent to the project site.
2. **Environmental Assessments.** In addition to other application requirements, the Director may require information to assess environmental impacts, such as:
- a. *Biological Report.* The intent is to assess potential for sensitive species to be present on the property or impacted by the proposed project, and address wildlife concerns identified by Colorado Parks and Wildlife. If there is potential impact of a species, the report should include recommended mitigation to reduce/avoid impact. Include delineation of wetlands, riparian areas, rivers, streams and floodplain as well as an avian and bat conservation plan. Illustrate the presence/location of wildlife corridors and concentration areas on, and within the immediate proximity to, the subject property.
 - b. *Agricultural Management Plan.* An engineered Plan may be required where irrigated lands are impacted by the proposed development. The Plan must identify best practices to continue agricultural operations based on site/soil conditions. In addition, the Plan needs to address irrigation practices and operation to prevent impact to neighboring properties.
 - c. *Cultural Resource Survey.* A Class III Cultural Resource Survey may be required of the project site to identify eligible or supporting resources potentially impacted by

the proposed project. Specifically include any known historic or cultural resources within three (3) miles of the project boundary.

- d. *Hazardous Materials and Waste Management Plan.* Provide a spill Prevention and Emergency Response Plan identifying potential sources at-risk of causing a spill and planned response if a spill does occur. Wildfire Control Plan including assessment and identification of at-risk communities/facilities with methods (strategies and tactics) for reducing potential impacts and protecting sensitive facilities. Phase I Environmental Site Assessment to research the current and historical uses of a property to assess if current or historical property uses have impacted the soil or groundwater beneath the property and could pose a threat to the environment and/or human health.
- e. *Noise Abatement Plan.* Evaluate potential noise levels of equipment associated with the facility when measured at the property line. Include current, applicable state noise standards and how the proposed project meets those standards, with or without mitigation.
- f. *Visual Analysis.* A visual analysis describing and demonstrating project siting and proposed mitigation, if necessary, to minimize impact on the visual character of the surrounding area (including light and glare). Elevations depicting the general style, size, color and construction materials in sufficient detail to exhibit the relative compatibility of the proposed development with the character of the surrounding areas. Location of exterior lights indicating area of illumination and foot-candles (lighting level). Include accurate, to scale, photographic simulations showing the relationship of the proposed facility and its associated amenities and development to its surroundings. Include perspective from public viewing areas such as public rights-of-way, as deemed necessary by the County.
- g. *Geotechnical and Hydrological Investigation Report*, including but not limited to:
 - 1) Geotechnical. Conduct a preliminary evaluation, prepared by a Professional Engineer licensed in Colorado, of subsurface and site conditions with recommendations for site preparation, slope stability, foundation design, grading criteria, and management of drainage.
 - 2) Drainage. A Preliminary Drainage Report, prepared by a Professional Engineer registered in the State of Colorado, is required. Assess peak flows and flood risk based on a 100-year recurrence interval storm event to model infiltration, runoff and flow depth and velocities in the study area.
 - 3) Vegetation and Noxious Weed Control. Outline the strategy to manage vegetation within the project area. This includes native vegetation, proposed landscaping plan, and abatement of noxious weeds.
 - 4) Dust/Erosion Control. Describe existing and proposed ground cover, including species and coverage area. Provide a plan showing existing and proposed grading for the site. Said plan shall be accompanied by a written description of practices that will be utilized to mitigate dust, erosion and run-off during and after construction. Soils shall be planted and maintained

in perennial vegetation to prevent erosion (water and wind), manage runoff and build soil.

- 5) **Stormwater Management.** Evaluate anticipated work associated with the project in accordance with good engineering, hydrologic, and pollution control practices to comply with requirements of the Colorado Discharge Permit System (CDPS) Water Quality Control Division (WQCD), and the General Permit for Stormwater Discharges Associated with Construction Activity.
- 6) **Hydrology.** Include a surface and groundwater monitoring and reporting plan that addresses where/how water is used, including listed chemicals used in wash water.

Should any information represented on the application change, the applicant must contact the County in writing and provide the updated information.

B. Public Hearing Process

1. **Generally.** Approvals and permits are issued upon a finding of compliance with applicable requirements of this Code following a public hearing with the applicable review body.
2. **Public Hearing Review of Conditional Use Permits:**
 - a. Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant to Chapter 7, Section 2(D), *Recommended Revisions* (or, after finding that no revisions will be required):
 - 1) Generally, applications shall be heard during the next regular meeting of the hearing body that meets the following two conditions:
 - a) There is sufficient time to meet applicable public notice requirements; and
 - b) There is available room on the agenda.
 - 2) The Director, or a designee, shall notify the Applicant regarding the time and place of the public hearings.
 - 3) The Director shall verify public notice has been given (*see* Chapter 7, Section 4, *Public Notice*)
 - 4) The Director shall set the application on the agenda, make a recommendation regarding the application, and forward the recommendation and the application materials and referral comments to the decision-making body for consideration.
 - 5) When reviewed by the Planning Commission, the Planning Commission shall determine if the application complies with this Code. The Planning Commission shall recommend approval, approval with conditions, or denial.

- 6) The Director shall promptly provide written notice, including the reasons for the decision, to the applicant following action by the Planning Commission and that their recommendation will be forwarded to the Board of County Commissioners.
- 7) When reviewed by the Board of County Commissioners, the Board of County Commissioners shall determine if the application complies with this Code. The Board of County Commissioners shall approve, approve with conditions, or deny the application.
- 8) The Director shall promptly provide written notice, including the reasons for the decision, to the applicant following action by the Board of County Commissioners.

C. Conditional Use Approval Standards

1. An application for Conditional Use requires approval of a Conditional Use Permit and a Site Plan. The Board of County Commissioners may approve an application for a Conditional Use Permit if it finds that if the application demonstrates compliance with:
 - a. Chapter 2, Section 4 *Use Specific Standards*;
 - b. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any applicable provisions of this Title and any zoning violation abatement costs have been paid;
 - c. The design, operation, location, and buffering of the use appropriately mitigates its impacts with regard to:
 - 1) Irrigation facilities, sensitive lands, or nearby agricultural operations;
 - 2) Risks associated with the use and storage of hazardous materials or potentially hazardous conditions, such as projectiles leaving the subject property; and
 - 3) Odors, dust, lighting, vibration, and noise.
3. The Board of County Commissioners shall further find that the proposed Conditional Use in its proposed location will not tend to frustrate the implementation of:
 - a. The Master Plan;
 - b. Any special area plans adopted by the County; or
 - c. Intergovernmental Agreement, Master/Comprehensive Plan, or any special area plan adopted by the impacted municipality.

D. Annual Reports

1. **Annual Report.** The operator shall submit an Annual Report to the County by December 31st of each year to include: summary of irrigation and agricultural practices, surface and groundwater testing and analysis, reporting of any chemical or waste spills, County, State or

Federal citations or reports, avian and bird fatalities, traffic increases or decreases, and County road repairs.

2. **Annual Operating Plan (AOP).** Where required, the operator shall submit an AOP to the County by January 15th of each year to include: status of planned and future development (including construction or repair), updated hazardous waste, emergency response, stormwater pollution prevention, irrigation and grazing, and noxious weed and dust control plans. AOP should include updated contact information for local and responsible persons. Every five (5) years, the AOP shall include updated security cost estimates that shall be used to true-up any required bond, if needed.

Delta County and its agents reserve the right to conduct site inspections for monitoring compliance with applicable project permits and conditions.

If ownership changes, the Use Permit shall remain in effect, provided the successor owner/operator assumes, in writing, all of the obligations of the Use Permit, Decommissioning Plan and outstanding Securities.

Section 3. Rezoning Process

A. Public Hearing Process

1. **Generally.** Rezoning may be granted upon a finding of compliance with applicable requirements of this Code following a public hearing with the applicable review bodies.
2. **Public Hearing Review of Rezoning Process:**
 - a. Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant to Chapter 7, Section 2(D), *Recommended Revisions* (or, after finding that no revisions will be required):
 - 1) Generally, the application shall be heard during the next regular meeting of that body that meets the following two conditions:
 - a) There is sufficient time to meet applicable public notice requirements; and
 - b) There is available room on the agenda.
 - 2) The Director, or a designee, shall notify the Applicant regarding the time and place of the public hearings.
 - 3) The Director shall verify public notice has been given (*see* Chapter 7, Section 4, *Public Notice*)
 - 4) The Director shall set the application on the agenda, make a recommendation regarding the application, and forward the recommendation and the application materials and referral comments to the next body that will consider it for further recommendation or approval.

- 5) The Planning Commission shall determine if the application complies with this Code and recommend approval or denial of the rezoning to the Board of County Commissioners.
- 6) The Board of County Commissioners shall consider the Planning Commission recommendation to determine if the application complies with this Code and approve or deny the rezoning.
- 7) The Director shall promptly provide written notice, including the reasons for the decision, to the applicant following action by the Board of County Commissioners.

B. Rezoning Approval Standards

1. **Generally.** The Board of County Commissioners may approve an application for rezoning if it finds that:

- a. The criteria of subsections (2) and (3), below, are met; and
- b. One or more of the alternatives set out in subsection (4), below, are met; and
- c. No lot, tract, or unplatted land will contain multiple zones within its boundaries as a result of the rezoning.

2. **Resource Protection Policy**

- a. It is the policy of the County not to rezone property in a manner that would create or facilitate the creation of development rights or entitlements that would either:
 - 1) Reduce the level of protection for significant natural resources that exist on the subject property; or
 - 2) Expose additional people or personal property to unmitigated natural hazards that are present on the subject property (*e.g.*, fire, flood, or geological hazards).
- b. This policy may be waived upon a finding by the Board of County Commissioners that:
 - 1) Alternative means have been implemented to achieve a comparable or better level of resource protection (*e.g.*, conservation easements, development agreements, or other comparable mechanisms for resource protection); or
 - 2) The policy is outweighed by a community interest that is served by approval of the rezoning.

3. **Plan Consistency and Public Facilities**

All applications for rezoning shall meet the following criteria:

- a. The proposed zoning district, as applied to the subject property, is consistent with its land use designation in the Master Plan or an amendment to the Master Plan prior to (or concurrently with) the approval of the rezoning application; and
 - b. Adequate public facilities are available to serve development in the proposed zoning district; or the proposed zoning district would limit demands upon public facilities more than the existing zoning district; or reasonable assurances are provided that adequate public facilities will be made available to serve new development by the time the new development places demands on the facilities.
4. **Additional Findings.** The Board of County Commissioners may approve an application for rezoning upon a determination that at least one of the following three criteria has been met.
- a. *Alternative #1: Plan Implementation.* The proposed zoning district is more appropriate than the existing zone to implement an adopted or approved current County plan that was developed with public input.
 - b. *Alternative #2: Change in Character of the Area.* The proposed zoning district is more appropriate than the existing zoning district because:
 - 1) There has been a change in character or capacity of public facilities in the area (*e.g.*, installation of public facilities, other rezonings, new growth trends, deterioration, development transitions, etc.); and
 - 2) The proposed zone allows for the reasonable development or redevelopment of the subject property in a manner that will be compatible with its existing or planned context.
 - c. *Alternative #3: Need for Zoning District to Increase Land Inventory.* The proposed zoning district is more appropriate than the existing zoning district because:
 - 1) There is greater need in the County for land in the proposed zoning district than the existing zoning district based on market conditions; and
 - 2) The proposed zoning district will promote a balance of land uses in the County that will improve economic opportunity or community mobility.

Section 4. Administrative Modifications

A. Administrative Modifications and Reasonable Accommodations

1. **Generally.** The purpose of this is to provide a process to allow minor variations to dimensional or numerical standards of this Code in order to:
 - a. Facilitate efficiency in the development review and approval process;
 - b. Facilitate development in accordance with development applications that have received final approval; and
 - c. Allow for reasonable accommodations for disabled persons as required by Federal law.

-
2. **Authority of Director.** The Director may approve, approve with conditions, or deny administrative modifications or reasonable accommodations for any approvals and permits originally approved administratively, and for legally nonconforming development. This does not apply to situations where different amendment or modification procedures are established in this Code.
 3. **Standards for Administrative Modifications.**
 - a. *Setbacks.* The Director shall have authority to Administratively approve modifications to setbacks upon a finding that:
 - 1) The reduction of a setback is not more than 25-percent (25%) of the required setback;
 - 2) The reduction of the setback will not reduce the spacing from one use to another where such spacing is required;
 - 3) The reduction of the setback is not used to change setback requirements that are imposed to ensure compliance with Chapter 4 of this Code.
 - b. *Limitations.* No administrative modification may be approved if:
 - 1) The proposed modification would require an amendment to a previously executed agreement between the applicant and the County, or modify a condition or restriction placed on the subject property by the County (unless the agreement is amended or the condition or restriction removed);
 - 2) The variation would adversely affect reasonable development expectations related to, or the present use and enjoyment of, adjacent land;
 - 3) The variation would create a material negative impact on public health or safety; or
 - 4) The variation would result in an encroachment that is prohibited by an easement, unless the impacted easement holders have submitted a written authorization for the encroachment.
 4. **Reasonable Accommodations.** The Director may authorize a reasonable accommodation in order to allow for the administrative modification of standards of this Code in order to afford a disabled person equal opportunity to use and enjoy a dwelling, compared to a person who is not disabled, in accordance with applicable Federal Law.
 5. **De Minimis Modifications.** If a proposed improvement is so minor in terms of the overall development as to have no impact on the other elements of the approved development or adjacent property, as determined by the Director, such site improvement shall not require an administrative variation. Upon the property owner's request, the Director shall recognize in writing that a proposed improvement is *de minimis*. The *de minimis* exception shall not be used in a manner such that its cumulative effect is to circumvent the application of this Code.

Section 5. Variances

A. Variances

1. **Generally.** The Board of Adjustment ("BOA") may authorize variances from the requirements of this Code, subject to terms and conditions fixed by the BOA. A variance from the terms of this Code shall be considered an extraordinary remedy, and the limitations set forth in subsection (2), below are intended to constrain the BOA's power to authorize variances.
2. **Standards and Limitations.**
 - a. *Findings.* No variance shall be authorized unless the BOA finds all of the following:
 - 1) Due to special circumstances applicable to the subject property, including exceptional narrowness, shallowness, or shape of the subject property, or exceptional topographic conditions, or other extraordinary and exceptional situation or condition of the subject property, the strict application of a regulation in this Code is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification; and
 - 2) That the variance not constitute a grant of special privileges inconsistent with the limitations upon other property in the vicinity and zone in which such property is situated; and
 - 3) A variance shall not be granted for a use or activity that is prohibited by this Code in the zoning district in which the subject property is located.
 - b. In determining findings above, the adequacy of access to sunlight for solar energy devices installed on or after January 1, 1980, is a permissible consideration.
 - c. 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.
3. **Conditions of Approval.** In granting any variance, the BOA may prescribe appropriate conditions and safeguards in conformity with this Code and the Master Plan and particularly the standards set forth in this Section. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code and punishable as provided in Chapter 13, *Enforcement*.
4. **Variances Run with the Land.** Every variance shall transfer and run with the land.
5. **No Precedent.** The granting of any variance shall not constitute or be construed as a precedent, ground or cause for any other variance.

Section 6. Other Land Use Approvals

A. Location and Extent Certificate

1. **Generally.** The Planning Commission shall approve or disapprove the location and extent of any road, park, or other public way, ground, or space; public building or structure; or public utility, whether publicly or privately owned, as provided in C.R.S. § 30-28-110(1), except where such location and extent is established by final plat.
2. **Time Limitation.** The Planning Commission shall approve or disapprove a location and extent certificate within 30 days after the date the request for such certificate is formally presented. Failure to decide the request within 30 days shall constitute approval of the request, unless a longer period is agreed to by the applicant and the County.

B. Text Amendments

Amendments to the text of this Code shall require the same process as its original adoption, as specified in C.R.S. § 30-28-133, as amended.

C. Planned Unit Development

(Reserved)

D. Areas and Activities of State Interest

(Reserved)

Section 7. Vested Rights

A. Purpose

It is the purpose of this Section to provide procedures necessary to implement Article 68, Title 24, C.R.S., titled “Vested Property Rights”.

B. Eligibility

Vested property rights shall not be created except upon specific application for approval of such rights by a landowner, as hereinafter provided in this Section, and approval by the Board of County Commissioners of a site-specific development plan. Any landowner may, but is not required to, apply for the creation of vested property rights, provided that at least the following conditions exist:

1. The site is located within the unincorporated Delta County.
2. The site is zoned to permit the specific use or uses for which vesting is sought.
3. The landowner has completed and submitted all documents and information required by this Code and this Section, and notice and hearing requirements of this Code have been met.
4. The landowner has obtained all other related development approvals, including but not limited to variances, site plan, zoning changes, subdivision, or Conditional Uses.

C. Required Certifications

1. **Generally.** The proposed site-specific development plan shall include the certifications set out in this Section on its cover page.
2. **Acknowledgment.** The acknowledgment of the property owner shall be in the following form (the notary block may be changed as appropriate to the type of entity and the location of the notary):

I, _____, owner, do hereby agree that the above-described property will be developed in accordance with the uses, restrictions and conditions contained in this Site-Specific Development Plan. I understand that failure to abide by the terms and conditions of this Site-Specific Development Plan shall result in the forfeiture of any development rights which may be vested by virtue of the approval of this proposed Site-Specific Development Plan.

Signature of Owner

State of Colorado }

} ss:

_____ County of _____ }

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____ as _____ of _____, a _____.

Witness my hand and notarial seal.

My commission expires _____.

[SEAL]

Notary Public

3. **Vested Rights Notice and County Approval Certification.** The notice of creation of vested rights shall be in the following form:

**APPROVAL OF THIS PLAN MAY CREATE A VESTED PROPERTY
RIGHT PURSUANT TO ARTICLE 68 OF TITLE 24, COLORADO
REVISED STATUTES.**

Approved this ____ day of _____, 20__, by the Board of County
Commissioners of Delta County, Colorado.

Chair

APPROVED AS TO FORM:

County Attorney

Clerk and Recorder

This document was filed for record in the office of the County Clerk
and Recorder of Delta County at ____ .m. on the ____ day of _____
A.D. 20__, in Book _____, Map _____, Reception No. _____.

Clerk and Recorder

Clerk and Recorder

D. Record of Regulations at Time of Application

1. **Meeting Required.** The Director shall schedule a completeness-check meeting with the applicant to confirm the completeness of the application form and proposed site-specific development plan. The meeting shall take place within the time specified for completeness review in Chapter 7, Section 2(A), *Completeness Review*, or at such other time as may be agreed to between the Director and the applicant.
2. **Record.** In order to ensure appropriate implementation of C.R.S. § 24-68-102.5, on the next business day following the Director's determination that the application form and proposed site-specific development plan are complete, this Code and any amendatory resolutions in effect on that day shall become part of the County's official file on the matter.

E. Special Notice Requirements

1. **Generally.** The notice requirements of this apply to the hearing on the vested rights application. Notice is required after the hearing (if the application is approved or approved with conditions) in accordance with section (G) below, *Effective Date of Approval; Public Notice*.
2. **Notice Requirements.**
 - a. *Mailing.* At least 10 calendar days prior to the public hearing date, the applicant shall send notice of the time, place, and subject matter of the public hearing by certified mail to the owners of all adjacent properties. The applicant shall obtain the names of said owners from the last preceding real property tax roll of the County Assessor's office.
 - b. *Posting.*
 - 1) Not less than 15 calendar days prior to the Board of County Commissioners public hearing date, the landowner shall cause the site to be posted by

means of one or more signs, erected in a conspicuous location, with at least one sign posted along each street frontage of the subject property.

- 2) Signs shall be at least 3 ft. by 4 ft. in dimension, supported by corner posts, with the bottom of the sign face at least 4 ft. above ground level. Letters shall be at least one inch in height, or large enough to be intelligible from the nearest public street.
- 3) Signs shall read as follows:

**NOTICE OF PUBLIC HEARING
TO CREATE VESTED PROPERTY RIGHTS**

NOTICE IS HEREBY GIVEN THAT APPLICATION HAS BEEN MADE TO
CREATE VESTED PROPERTY RIGHTS FOR THIS SITE PURSUANT TO
ARTICLE 68 OF TITLE 24, C.R.S.

A PUBLIC HEARING WILL BE HELD BEFORE THE BOARD OF
COUNTY COMMISSIONERS AT _____, AT ____ .M. ON
THE ____ OF _____, 20__.

ALL THOSE WISHING TO BE HEARD SHOULD BE PRESENT AT THE
TIME AND PLACE STATED ABOVE.

[NAME OF LANDOWNER]

- c. *Publication.* Notice of the public hearing shall be published in the County's legal newspaper at least 15 calendar days prior to the Board of County Commissioners hearing. The notice shall read as follows:

**NOTICE OF PUBLIC HEARING
TO CREATE VESTED PROPERTY RIGHTS**

PURSUANT TO ARTICLE 68 OF TITLE 24, C.R.S., NOTICE IS HEREBY
GIVEN THAT AN APPLICATION HAS BEEN FILED WITH DELTA
COUNTY TO CREATE VESTED PROPERTY RIGHTS FOR THE
PROPERTY DESCRIBED AS [general legal description or address].

A PUBLIC HEARING WILL BE HELD BEFORE THE BOARD OF
COUNTY COMMISSIONERS AT _____, AT ____ .M.
ON THE ____ DAY OF _____, 20__, AT WHICH TIME ALL
THOSE WISHING TO BE HEARD SHOULD BE PRESENT AT THE TIME
AND PLACE STATED ABOVE.

Dated this ____ day of _____, 20__.

[NAME OF LANDOWNER]

3. **Certified Statements.** The landowner shall submit to the Director, not less than seven calendar days prior to the scheduled public hearing date, certified statements that the mailing, posting, and publication did occur in compliance with the requirements set out in subsection (2), above. The statement certifying the adequacy of the sign posted on the subject property shall be accompanied by photographs showing the placement of the sign on the subject property, and shall be sufficiently legible to read the text of the notice on the sign. A publisher's affidavit is adequate to certify that the published notice meets the requirements of this Code.

F. Special Provisions for Stale Vested Rights Applications

1. **Generally.** An application form and proposed site-specific development plan shall expire one year after the Director determines completeness pursuant to subsection (D) above, *Record of Regulations at Time of Application* if it is not pursued by the applicant.
2. **Required Revisions.** After the date specified in subsection (1), above, a site-specific development plan may continue to be processed if:
 - a. There have been no changes to this Code since the completeness determination that could affect the decision on the application; or
 - b. There have been changes to this Code since the completeness determination that could affect the decision on the application, but:
 - 1) The Director determines that the application still complies with this Code; or
 - 2) The Applicant agrees to revise the application to comply with this Code, as amended since the completeness determination.

G. Effective Date of Approval; Public Notice

1. **Generally.** For all purposes, including judicial review and referendum, the effective date that a vested property right is deemed to be created shall be the date of publication of a notice advising the general public of the approval of the vested property right.
2. **Notice Requirement.**
 - a. *Contents of Notice.* The landowner shall cause such publication to be made, which shall occur not later than 14 days following Board of County Commissioners approval of the site-specific development plan by resolution. Such notice shall read:

**NOTICE
VESTED PROPERTY RIGHTS CREATED**

Notice is hereby given that on the ____ day of _____, 20____, the Board of County Commissioners of Delta County approved a Site-Specific Development Plan for the property described as [general legal description or address]. This publication of the approval of such Site-Specific Development Plan may have created vested property rights pursuant to Article 68 of Title 24, C.R.S.

The approved Site-Specific Development Plan, for the property described hereinabove, has been recorded in the County of Delta in Book ____ at Page _____. Such approval is subject to all rights of referendum and judicial review.

[NAME OF LANDOWNER]

- b. *Proof of Notice.* A publisher's affidavit shall be provided to the Director as certification that the required notice pursuant to subsection (2)(a), above, was published.

H. Subsequent Regulation Prohibited

1. **Generally.** Any vested property right, once established, shall not be subject to any zoning or land use action by the County which would alter, impair, prevent, diminish or otherwise delay the development or use of the site as set forth in an approved site-specific development plan, with the following exceptions:
 - a. Without payment of compensation by the County, upon the consent of the affected landowner;
 - b. Without payment of compensation by the County, upon the discovery of natural or man-made hazards on or in the immediate vicinity of the site, which hazards could not reasonably have been discovered at the time of site-specific development plan approval or, if reasonably discoverable, are not the result of error or misrepresentation by the applicant or its agents, and which hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare; or
 - c. As long as neither subsection (1)(a) nor (1)(b), above, has occurred, to the extent that the affected landowner receives just compensation for all costs, expenses and liabilities incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning and marketing, legal and other consultant fees incurred after approval of the site-specific development plan by the County, together with interest thereon at the legal rate until paid. Just compensation shall not include any diminution in the value of the site that is caused by such action.

2. **Limitations.** The establishment of a vested property right pursuant to this Section shall not preclude the application of resolutions or regulations which are general in nature and are applicable to all property within the unincorporated Delta County, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes.

I. Extension and Amendments

1. **Extensions.** No extension of the vesting period shall be granted unless such extension is approved by the Board of County Commissioners in its sole discretion following a public hearing. Such requests for extension shall be filed by the landowner, together with all materials and fees required by this Code to be submitted for original approval.
2. **Amendments.**
 - a. Applications for amendment to an approved site-specific development plan must be submitted and reviewed under the same procedures set forth in this Code as required for original approval.
 - b. Amendments to an approved site-specific development plan shall not automatically extend the approved vesting period. Specific application for the extension of an approved vesting period shall be processed in the same manner as the original approval.

J. Repealer

Nothing in this Section is intended to create any vested property right, but only to implement the provisions of Article 68, Title 24, C.R.S. In the event of the repeal of said article or a judicial determination that said article is invalid or unconstitutional, this Article shall be deemed to be repealed and the provisions hereof shall no longer be in effect.

Chapter 9. APPROVALS, DENIALS AND APPEALS

Section 1. Approvals and Denials

A. Recording of Approvals

The following permits and approvals shall be recorded in the public records of Delta County at the applicant's expense: Minor Final Plats, Final Plats, Conditional/Limited Use Approvals, Development Agreements, Improvements Agreements, and Reimbursement Agreements.

B. Effect of Approvals

1. **Generally.** It is the intent of the Board of County Commissioners that development approved pursuant to this Code 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.
2. **Effect of Approval or Permit.**
 - a. Approval of an application means that the County approves the particular use, plan, or other specific activity for which the approval was granted. Physical development of land may require a sequence of related (and increasingly detailed) approvals.
 - b. Supplemental materials that are provided in support of an approval become part of the approval unless otherwise noted in the approval itself.
 - c. Approvals and permits may be transferred to a subsequent owner of the property for which the approval or permit was issued, unless the approval or permit is specifically designated as non-transferable by condition of approval. Transferred permits shall continue to be valid for their full original terms, and the transferee may apply for an amendment to the approval or permit in the same manner as the original applicant.

C. Duration of Approvals

1. **Approvals.** Except as provided in subsections (2) and (3), below, administrative approvals and public hearing approvals shall expire one year from the date of approval if they are not utilized.
2. **Development Agreements.** A Development Agreement is valid for the term set out in the Development Agreement.
3. **Approvals That Do Not Lapse.** Rezoning, vacation or abandonments of easements or rights-of-way, text amendments, Master Plan amendments, and administrative appeals do not lapse.

D. Extensions of Approvals

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

2. Timing of Application for Extension.

- a. Written requests for extensions shall be received no later than 30 days prior to the expiration of the permit or approval.
- b. 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. However, expired permits and approvals cannot be extended.

3. Extensions for Extraordinary Circumstances. The Board of County Commissioners may, by Resolution, extend the term of all permits and approvals County-wide or in designated areas of the County in response to extraordinary circumstances, such as flood, wildfire, tornado, or other natural or man-made disaster which makes it temporarily infeasible to commence or continue with construction. The period of such extensions shall be determined by the Board of County Commissioners.**4. Administrative Extensions.** Unless otherwise provided in the permit or approval, the Director may grant one extension of any permit or approval for a period not to exceed the 12 months. Such extensions may be granted upon timely written request with good cause shown.**5. Extensions after Hearing.**

- a. Unless otherwise provided in the permit or approval, a hearing is required for:
 - 1) Extensions for terms that are longer than those which can be granted by the Director pursuant to subsection (4), above; and
 - 2) Second (and subsequent) extensions.
- b. Extensions of discretionary permits and approvals pursuant to this subsection shall be heard by the body that granted the original approval. Extensions of administrative permits and approvals pursuant to subsection (5)(a)2, above, shall be heard by the Planning Commission.
- c. Extensions may be granted after hearing if it is demonstrated that:
 - 1) There is good and reasonable cause for the request; and
 - 2) 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.

6. Extensions Pursuant to Permit or Approval Terms. If a method of extension is provided within a permit, approval, or related Development Agreement between the applicant and the County, then such method of extension shall supersede this with respect to said permit, approval, or related agreement.**7. Effect of Appeals, Litigation, or Mediation.**

- a. If there is an appeal, litigation, or mediation during the term of an approval granted by the County that limits the Applicant's ability to use or develop land pursuant to the permit or approval, then the term 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.

- b. 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:
 - 1) 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
 - 2) The termination of mediation by resolution of the conflict or impasse.
- c. This subsection does not apply to litigation regarding the enforcement of Delta County Ordinances or Resolutions, including this Code.

E. Correction of Approvals

1. **Generally.** Permits and approvals may be corrected pursuant to this Section.
2. **Correction of Scrivener's Errors.** Permits and approvals, including plats, may be corrected by the Director or upon application to the Director as follows:
 - a. *Generally.* The Director may approve an application to reform a scrivener's error in a development approval, including an error in an application or notice, which error causes the permit or approval to inaccurately reflect the decision-maker's intent, and where it is demonstrated that:
 - 1) The correction does not include a change of judgment, policy, or prior intent of the decision-maker;
 - 2) The reformation of the permit or approval is essential to ensure that the documentation reflects the intent and decision of the decision-maker;
 - 3) The record, including, but not limited to, the staff recommendation, minutes, and motion, evidences the clear intent of the decision-maker;
 - 4) The substance of the decision was clearly evident at the time of the decision, and there was no intent to deceive the public or the decision-maker on the part of the current applicant at any time;
 - 5) Failure to approve the reformation would lead to an unjust result;
 - 6) The error in the development approval did not mislead anyone in a way that would cause them to be prejudiced by the reformation; and
 - 7) Any errors related to public notice did not affect the legal sufficiency of the required notice.
 - b. *Correction within 30 Days.* In the alternative, the Director, within 30 days of the decision on an application for development approval, may correct a clerical or scrivener's error in the development approval if:
 - 1) The error is not related to public notice;

- 2) The error causes the approval, as written, to inaccurately reflect the clear decision of the decision-maker; and
 - 3) The Director promptly notifies the applicant and the decision-maker regarding the corrections.
3. **Effect on Approval.** A permit or approval that is modified pursuant to this shall relate back to the date of the corrected approval, such that the effective date of the corrected language shall be deemed to be the same as the effective date of the original approval.

F. Denials

The denial of any plat, plan, or agreement shall be based only on a failure to conform to the requirements of this Code. The denial of a plat, plan, or agreement shall be supported by written findings specifying the provisions that the plat, plan, or agreement failed to address or satisfy.

Section 2. Continuances and Withdrawal

1. **Continuances.**
 - a. *At Applicant's Request.* Requests for continuance by the applicant of any proceeding called for in this Code may be granted at the discretion of the body holding the public meeting or public hearing. If granted, the applicant shall pay all additional costs associated with the rescheduling of the proceeding.
 - b. *At County's Initiative.* No public hearing shall continue for a period of more than 40 days from the date of commencement without the written consent of the applicant.
2. **Withdrawal.** Any application may be withdrawn, either in writing or on the record, prior to or during the meeting or hearing at which the application is considered, provided that it is withdrawn before official action is taken on the application.

Section 3. Successive Applications

1. **Generally.** It is the policy of the County not to hear successive applications for the same approval or permit after a substantially similar application is denied. The limitations of this prevent the consideration of successive applications.
2. **Time Required Between Substantially Similar Applications.** If an application for a permit or approval is denied, a substantially similar application will not be accepted for:
 - a. Six (6) months from the date of denial in the case of administrative permits; and
 - b. Twelve (12) months from the date of denial for all other permits or approvals.
3. **Exceptions to Successive Application Restrictions.** The Director may allow exceptions to this if there has been a material change of circumstances that justifies consideration of a substantially similar application. By way of example and not limitation:
 - a. If a spacing requirement was the reason for the denial, and the use from which spacing is required moved away; or

- b. If a subsequent amendment to this Code affects the application in a manner that could allow for its approval or approval with conditions.

Section 4. Appeals to Board of Adjustment

1. **Generally.** The Board of Adjustment (“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. The hearing before the BOA shall be “De Novo”. In order to initiate an appeal, an aggrieved party must submit a complete appeal application and filing fee within the prescribed timeline. Said application shall include, but not be limited to, information about how the appellant is aggrieved.

The BOA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made; where the BOA finds that the Director acted:

- a. Without clear and convincing evidence to support the order, requirement, decision or determination; or
 - b. Beyond the Director’s authority.
2. **Timing.** An aggrieved party has fifteen (15) calendar days to file a complete appeal application from the date of the Director’s decision. If additional time is warranted, the Director may afford additional time (up to 30 days total) to file the appeal.
 3. **Automatic Stay; Exception.** An appeal from an order, requirement, decision or determination made by the Director shall stay all proceedings unless the Director certifies that such stay would cause imminent peril to life or property. The BOA shall consider the appeal within thirty (30) calendar days of the filing of the appeal.

Section 5. Appeals to Board of County Commissioners

1. **Generally.** Decisions of the BOA may be appealed to the Board of County Commissioners (“BOCC”) by an aggrieved party. The hearing before the BOCC shall be “Of Record”. In order to initiate an appeal, an aggrieved party must submit a complete appeal application and filing fee within the prescribed timeline. Said application shall include, but not be limited to, information about how the appellant is aggrieved.

The BOCC may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made; where the BOCC finds that BOA decision is without clear and convincing evidence to support the order, requirement, decision or determination.

2. **Timing.** An aggrieved party has up to ten (10) calendar days to file a complete appeal application from the date of the BOA decision.
3. **Automatic Stay; Exception.** An appeal from an order, requirement, decision or determination made by the BOA shall stay all proceedings unless the BOA certifies that such stay would cause imminent peril to life or property. The BOCC shall consider the appeal within thirty (30) days of the filing of the appeal.

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Chapter 10.

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Chapter 11. NONCONFORMITIES; DEVELOPMENT REVIEW BODIES AND PROCEDURES

Section 1. Nonconformities

A. Purpose and Application of Section

1. Purpose of Section.

- a. *Generally.* The application of this Code to existing development may create circumstances in which existing land uses, buildings, structures, lighting, or parking areas do not strictly conform to the Code's requirements. For existing lots or development (including uses, buildings, and structures) that are accordingly "legally nonconforming," this Section sets out equitable rules for whether, when, and how the regulations of this Code apply.
- b. *Conversion of Nonconformities.* Generally, nonconforming uses, buildings, and structures are not allowed to be enlarged, expanded, increased, or used as grounds for adding other uses, buildings, or structures that are now not allowed in the same zoning district. This Section provides standards by which minor nonconforming uses can be made "conforming" through a public hearing process.
- c. *Reduction of Nonconformities.* It is the policy of the County to encourage reinvestments in property that increase its value and utility and reduce its external impacts. Since bringing a developed parcel into full compliance with this Code may involve costs that may discourage reinvestment, subsection (D), *Other Physical Nonconformities*, provides a set of thresholds for determining when new construction or modifications to development trigger a requirement for increasing conformity with the various requirements of this Code.

2. Application of Section.

- a. *Generally.* This Section applies to uses, buildings, structures, lighting, and parking areas that were lawfully established, constructed, installed, planted, or created prior to the effective date of this Code, but do not conform to the requirements of this Code.
- b. *Effect of Section.* Nothing in this Section shall be interpreted to require a change in plans, construction, or designated use of any building, the construction of which commenced prior to the effective date of this Code or subsequent amendment, provided that construction.
- c. *Changes of Ownership.* Nothing in this Section shall be construed to affect or restrict changes in ownership, nor shall changes in ownership affect the application of any of the requirements of this Section.
- d. *Evidence of Status.* Evidence that a nonconforming situation is a legal nonconformity and not a violation of this Code shall be submitted by the owner of the property or use upon request of the Director.

3. Exceptions to Section.

- a. *Existing Lots.* Lots of record that were created prior to the effective date of this Code are “conforming”, regardless of their lot area, lot width, frontage, or zoning district.
- b. *Approved Uses.* Land uses that were approved pursuant to a specific development approval pursuant to the Specific Development Regulations that were in effect prior to the effective date of this Code are “conforming,” provided that they continue to adhere to all applicable conditions of the approval.
- c. *Vested Rights.* This Section does not apply to site-specific development plans for which rights are vested, during the period of vested rights.
- d. *Natural Shifts of Zoning District Boundaries.* If a zoning district boundary changes as a result of a change in location of a river, stream, or ditch channel centerline, other natural boundary-defining feature, or road, such change of boundary does not render existing development nonconforming.
- e. *Taking for Public Use.* Any nonconformity of a building, structure, or parking area that is expressly created or caused by a conveyance of privately-owned land to a federal, state, or local government to serve a public purpose is conforming for the purposes of this Code, and is not subject to limitations in this Section. This exemption applies in cases where private land is obtained by a governmental entity for a public purpose, through condemnation, threat of condemnation, or otherwise, when that transaction creates a nonconformity in the remainder subject property in terms of setback, parking area, or other standards of this Code. However, this exemption does not apply to right-of-way dedication or other public conveyances of land required by the County in the course of subdivision, site plan, or other development approvals.

4. Unlawful Uses, Buildings, or Structures.

- a. *Generally.* This Section does not allow for the perpetuation of unlawful development. Such development is not “legally nonconforming,” but instead, “unlawful,” and is subject to all of the provisions of this Code (including enforcement provisions) and any other applicable law.
- b. *Conversion to Lawful Use.* If unlawful development becomes conforming on the effective date of this Code or any amendments thereto, then it shall be considered lawful development from that date forward, without prejudice to remedies that may be available to the County for the period that the development was unlawful.

B. Nonconforming Uses

- 1. **Generally.** This applies to lawfully nonconforming uses.

- 2. **Continuation of Nonconforming Use.**

- a. *Generally.* Subject to the provisions of this, a nonconforming use may be continued and maintained in reasonable repair, but shall not be altered or extended. The extension of a nonconforming use to a portion of a building or structure that was

arranged or designed for the nonconforming use at the time of adoption of this Code is not an extension of a nonconforming use.

- b. *Casualty Loss.* If the building or structure in which a nonconforming use is conducted is damaged to the extent that the cost of repair exceeds 50-percent (50%) of the appraised value of the subject property (including the building) for tax purposes, then the nonconforming use of the property shall not be resumed.
3. **Change of Nonconforming Use.** If a nonconforming use is changed to a different use, the new use shall be a use that conforms to the regulations of the zoning district in which the use is located. After such change, all future use of the subject property shall comply with applicable provisions of this Code.
4. **Discontinuance of Nonconforming Use.** If a nonconforming use is discontinued from use for a period of 12 months, further use of the subject property shall conform to the requirements of this Code.

C. Nonconforming Buildings or Structures

1. **Generally.** This applies to lawfully nonconforming buildings or structures.
2. **Modifications to Nonconforming Building or Structure.** A building or structure that contains a conforming use, but is nonconforming as to the applicable bulk requirements of this Code, may be altered or extended, provided that the alteration or extension does not increase the degree of nonconformity with this Code.
3. **Completion of Building or Structure.** Nothing contained in this shall require any change in the plans, construction, alteration, or designated use of a building for which construction work has commenced prior to the effective date of this Code. Such buildings may be completed in accordance with plans, provided that completion of the buildings is diligently pursued.
4. **Damage to Nonconforming Building or Structure.**
 - a. *Cost of Repair is 50-Percent (50%) or More of Appraised Value.* If a nonconforming building or structure is damaged to the extent that the cost of repair is 50% or more of the appraised value of the subject property (including the building) for tax purposes, then future construction on the subject property shall conform to the requirements of this Code.
 - b. *Cost of Repair is Less than 50-Percent (50%) of Appraised Value.* If the cost of repair is less than 50% of the appraised value of the subject property (including the building) for tax purposes, then restoration is allowed, provided that it is commenced within 12 months after the damage and completed within 18 months after commencement.

D. Other Physical Nonconformities

1. **Conforming Uses with Physical Nonconformities.**
 - a. *Generally.* A use that is Allowed or Permitted by Chapter 2, Section 2, *Land Use by Zoning District*, or that meets all applicable Limited Use standards (in the case of a

Limited use) or Conditional Use standards (in the case of a Conditional Use), may be established, continued, maintained, modified, enlarged, or extended, even if other nonconformities are present on the subject property, such as:

- 1) The use occupies a nonconforming building;
 - 2) The use occupies or otherwise utilizes a nonconforming structure;
 - 3) The use is illuminated by nonconforming lighting; or
 - 4) The use has nonconforming parking.
- b. *No Implied Waivers.* The authorization in subsection (a)(1), above, shall not be construed as a waiver of the requirements of this Code, or of this Section with respect to the nonconformities that are present on the subject property. Modifications to nonconforming buildings, structures, lighting, or parking may require correction or partial correction of physical nonconformities.

2. Nonconforming Encroachments on Sensitive Lands.

- a. *Generally.* Buildings and structures that encroach upon sensitive lands shall not be modified or expanded in ways that increase their impacts on the sensitive lands.
- b. *Change of Use.* Modifications to nonconforming landscaping or buffering are not required if the use of a building changes from one use to another without further changes to the subject property or the exterior of the building, unless the change of use requires Limited or Conditional Use approval, in which case the conditions for approval may include requirements for avoidance or mitigation of impacts to sensitive lands.

3. Nonconforming Lighting.

- a. Building Expansions, Parking Improvements, and Expansions of Existing Uses.
 - 1) If an existing building, parking lot, or use is expanded or improved, new or relocated lighting shall be required to meet the requirements of Chapter 4, Section 7(H), *Exterior Lighting*.
 - 2) Existing lighting shall be brought into compliance with Chapter 4, Section 7(H), *Exterior Lighting*, when:
 - a) A building is expanded such that its floor area grows by 25-percent (25%) or more; or
 - b) With respect to parking lot lighting, the land area occupied by a parking lot increases by more than 10-percent (10%).
- b. *Change of Use.* Modifications to nonconforming lighting are not required if the use of a building changes from one use to another without further changes to the site or the exterior of the building, unless:
 - 1) A change of use requires additional parking, in which case the parking that is provided to meet that requirement must also comply with the standards in Chapter 4, Section 7(H), *Exterior Lighting*; or

- 2) A change of use requires Limited or Conditional Use approval, in which case the conditions for approval may include requirements for lighting upgrades.

4. Nonconforming Parking.

- a. *Building Expansions and Expansions of Existing Uses.* If an existing building or use is expanded, additional parking is required only in proportion to the new area of the building or use.
- b. *Change of Use.* If the use of a building changes, resulting in a net additional demand for parking, then the number of new parking spaces that are required shall be calculated as the lesser of:
 - 1) The required parking for the new use according to Chapter 4, Section 3, *Parking*; or
 - 2) $(\text{Number of existing parking spaces}) + [(\text{number of parking spaces required for the new use}) - (\text{number of parking spaces required for the existing use})]$
- c. *Redevelopment.* If an existing building is redeveloped, parking shall be brought into conformity with this Code.

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Chapter 12. SUBDIVISION REGULATIONS

Section 1. Scope of Regulations

A. Purpose and Intent

1. Subdivision Regulations, incorporated within the Land Use Code, shall apply to all new divisions of land into one or more parcels where any of the resulting parcels are less than 35 acres.
2. These regulations also apply to divisions of land 35 acres or larger where the statutory exemptions listed in C.R.S. 30-28-101(10)(b), (c) or (d) do not apply. However, C.R.S. 30-28-110(3)(a) applies to subdivisions of all parcels of land, regardless of the size of the parcels within the subdivision (see Section C.4 below).

B. Exemptions

Where the Director determines that the parameters are met and that the creation of such divisions or interests are not for the purpose of evading the terms of this regulation, the following actions shall not be subject to the subdivision regulations of this Code:

1. **Boundary Survey** documenting existing conditions that results in no change from existing conditions. A Boundary Survey may also be used to establish separate legal parcels where an existing legal parcel is divided by land held by a public entity in Fee Title.
2. **Boundary Line Adjustment** where all parcels involved exceed 35 acres, before and after the adjustment.
3. **Boundary Agreements** between adjacent landowners where a boundary line between parcels is unknown or uncertain. Boundary Agreements shall not create any new parcels and shall be accomplished according to Section 38-44-112 C.R.S. All parties involved in the agreement must enter into a written agreement that the new boundary line(s) shall become certain.

C. Standards and Limitations.

1. The Director shall sign the plat certifying that the creation of such divisions or interests are not for purpose of evading the terms of this regulation.
2. The surveyor shall certify that no new lots less than 35 acres are being created as a result of the Boundary Line Adjustment.
3. **Minor Plats, Replats, Boundary Line Adjustments and Preliminary Plats** shall demonstrate compliance with the applicable requirements of this Code, including Chapters 3, 4, 5, & 6.
4. **Street Plans** shall be required for subdivisions of all parcels of land, regardless of size of the parcels within the subdivision (including 35+ acre subdivisions), where the subdivision fronts onto a public right-of-way, and/or where the subdivision includes internal roads that are intended to be dedicated for public use. Said Plan shall be submitted to the Board of

County Commissioners, for review and subsequent approval, conditional approval, or disapproval. Pursuant to C.R.S. 30-28-110(3)(a), it is not lawful to record any such Plan or Plat in any public office unless the same bears thereon, by endorsement or otherwise, the approval of the Board of County Commissioners and after review by the appropriate Planning Commission.

5. Other reviews, approvals, and permits may be required for compliance with other laws, statutes, or regulations, which may include but are not necessarily limited to: State or Federal law, including, but not limited to, the Clean Water Act, the Clean Air Act, or the Endangered Species Act.

Section 2. Minor Plats, Replats, & Boundary Line Adjustments

A. Administrative Review Established

1. **Generally.** The Director has authority to approve Minor Plats (2-lot subdivision), Replats, or Boundary Line Adjustments upon a finding of compliance with the applicable requirements of this Code.
2. All parties must acknowledge their agreement to permanently adjust/create boundary lines(s) by their signature on the Final Plat. All parties involved in the agreement, must have their signatures notarized.
3. **Standards and Limitations.**
 - a. *Minor Plats, Replats, or Boundary Line Adjustments* shall demonstrate compliance with the applicable requirements of this Code, including Chapters 3, 4, 5, & 6.
 - b. *Minor Plats, Replats, or Boundary Line Adjustments* shall demonstrate compliance with the applicable *County Road and Bridge Standards*, as determined by the County Engineer in consultation with the Road and Bridge District Foreman.
 - 1) Review of Minor Plats shall include the dedication of rights-of-way, easements, and the construction of reasonable offsite and onsite improvements for the parcels being created, including but not limited to access, electrical service and water meter for each parcel/lot. Fulfillment of these requirements shall be required prior to accepting the Final Plat.
 - 2) Review of Boundary Line Adjustments shall include all applicable easements. There shall be no requirement to dedicate rights-of-way or construct offsite and onsite improvements for a Boundary Line Adjustment.
 - c. The Director shall verify that no violations of this Code are being created.

B. Administrative Review Process

1. **Administrative Decision or Referral.** All applications for Administrative Review shall be processed in accordance with Chapter 7 - Standardized Application Review Process.:

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- a. Applications for Minor Plats, Replats, and Boundary Line Adjustments require completion of a Development Application that includes:
 - 1) Express written consent from all Parties with ownership interest in the subject properties; and
 - 2) A checklist to verify compliance with applicable regulations, including this Code; and
 - 3) A plat from the applicant's Surveyor showing the existing boundary and the proposed boundary adjustment of all affected parcels.
 - b. The Director shall verify public notice has been given, if required (see Chapter 7, Section 4, *Public Notice*), and either:
 - 1) 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) Refer the Minor Plat or Boundary Line Adjustment to the Board of Adjustment for consideration of the whole project where a variance is required; or
 - 3) Refer the Minor Plat or Replat to the Board of County Commissioners for decision where:
 - a) Dedication of Right-of-Way is required with the Minor Plat; or
 - b) Replat revises a Plat note that specifies Board action to remove the restriction.
 - c. If the Minor Plat or Replat is referred to the Board of County Commissioners, it shall be processed as a Final Plat.
 - d. If the application is referred for a public hearing approval, then the Director shall make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the decision-making body that will consider it.
2. The Director shall review the proposed Plat in accordance with the *Standards and Limitations* listed in subsection "A.3" above.
 3. Following action by the decision-making body, the Director shall promptly provide written notice, including the reasons for the decision, to the applicant.
 4. An aggrieved party may appeal the decision pursuant to Chapter 9 – *Approvals, Denials and Appeals*.
 5. The Director shall determine when all public improvements shown on the Minor Plat are installed and the County has granted preliminary acceptance of the improvements pursuant to Chapter 6, Section 1(C), *Acceptance of Public Improvements*.

6. The Director shall forward the Plat to the County Surveyor who shall review the Plat for form and content in accordance with State statute.
7. Once approved by the County Surveyor, the Plat shall be recorded with the signatures of all property owners (notarized), their surveyor, the mortgage company (notarized, if applicable), the County Treasurer, the County Surveyor, and Planning Director. See Section 6 of this Chapter for applicable signature blocks.
8. New deeds describing all affected lots shall be recorded with the approved Minor Plat or Boundary Line Adjustment. New deeds shall be recorded with the Replat if there is any change to a parcel/lot. Any encumbrances applicable to the project or conditions (Access Agreements, etc.) shall be recorded with the Plat.

Section 3. Preliminary Plats

A. Application Review Process

1. **Generally.** A Preliminary Plat may be approved upon a finding of compliance with applicable requirements of this Code following a public hearing with the applicable review bodies.
2. **Standards and Limitations.**
 - a. Preliminary Plats shall demonstrate compliance with the applicable requirements of this Code, including Chapters 3, 4, 5, & 6.
 - b. Preliminary Plats shall demonstrate compliance with the applicable *County Road and Bridge Standards*, as determined by the County Engineer in consultation with the Road and Bridge District Foreman.
 - 1) Review of Preliminary Plats shall include the dedication of rights-of-way, easements, and the construction of reasonable offsite and onsite improvements for the parcels being created, including but not limited to access, electrical service and water meter for each parcel/lot. Fulfillment of these requirements shall be required prior to accepting the Final Plat.
 - c. The Director shall verify that no violations of this Code are being created.

B. Standard Subdivision Design Standards

1. **Generally.** Development areas shall be divided into blocks, lots, tracts, and/or roads, as appropriate to the subdivision. The boundaries of development areas shall be clearly indicated on the preliminary and final plat.
2. **Blocks.** Subdivision block lengths and widths shall be suitable for the uses or lot sizes that are contemplated, and shall be adequate for requirements pertaining to minimum lot areas and setbacks.
3. **Lots.**
 - a. *Dimensions and Geometry.*

- 1) The lot area, width, depth, shape, and orientation shall be sufficient and appropriate for the type of development and use that is contemplated, and shall facilitate buildings with sufficient access, emergency access, setbacks, open space, on-site parking, privacy, and view.
 - 2) Lot area shall meet the minimum requirements of the underlying zoning district. See Chapter 3, Section 1, *Lot Dimensions by Zoning District*.
 - 3) A flag lot configuration shall be avoided when possible. The minimum width of a flag lot appendage shall be 30 ft. The access along the “flagpole” shall be graded, 20 ft. wide, clear of all encumbrances, and drained in order to provide adequate emergency access to the property.
- b. *Access*. If new residential lots are smaller than five (5) acres, direct access to a collector or arterial road is not allowed unless there is no feasible alternative access.
- c. *Arrangement of Lots*.
- 1) No single lot shall be divided by a municipal or county boundary line.
 - 2) No lot shall be divided by a road, alley, driveway, or other lot.
 - 3) Corner lots shall accommodate the required building setback for both street frontages.
- d. *Tracts*. Stewardship areas, private roads (if present), and commonly-owned recreation or open space areas that are located within the development area shall be located in tracts.

C. Clustered Subdivision Design Standards

1. **Generally**. Clustered subdivisions can generally allow for a decrease in the size of lots and increase in the number of lots from what is otherwise allowed by zoning provided the County determines that the clustering of lots on a portion of the subject property protects a significant agricultural, natural, scenic, or archaeological resources and, if possible, to avoid natural hazards (including flood hazards, wildfire hazards, and geologic hazards).
2. **Design Objectives**.
 - a. Clustered subdivisions shall have a defined stewardship objective or combination of objectives based on either:
 - 1) Protecting a significant amount of identified priority resources (*e.g.*, forest stewardship, water quality preservation and enhancement, wildlife, etc.); or
 - 2) Protecting a significant amount of irrigated agricultural lands with a mechanism that ensures irrigation will continue;
 - 3) Providing a large common open space amenity.
 - b. Stewardship areas shall be interconnected within the subject property and to comparable resources on adjacent properties, where such integration is practical and tends to enhance the resource value of the stewardship areas.

3. Lots.

a. Dimensions and Geometry.

- 1) The lot area, width, depth, shape, and orientation shall be sufficient and appropriate for the type of development and use that is contemplated, and shall facilitate buildings with sufficient access, emergency access, setbacks, open space, on-site parking, privacy, and view.
- 2) Lot area may meet the minimum requirements of the underlying zoning district, or may be altered in accordance with Chapter 3, Section 1, *Lot Dimensions by Zoning District*.
- 3) A flag lot configuration shall be avoided when possible. The minimum width of a flag lot appendage shall be 30 ft. The access along the “flagpole” shall be graded, 20 ft. wide, clear of all encumbrances, and drained in order to provide adequate emergency access to the property.
- 4) Building envelopes shall not exceed one (1) acre of the Stewardship Area.
- 5) Stewardship Area shall make up a significant portion of the total parcel area.

4. **Design Approach.** The approach to designing a clustered subdivision shall follow a four-step process that emphasizes the protection of irrigated agriculture, natural resources and meaningful open space:

- a. Stewardship areas shall be identified and mapped (*see* Chapter 4, Section 5, *Agricultural, Natural, and Cultural Resources* and Chapter 4, Section 6, *Geologic and Wildfire Hazards*).
- b. Areas located within designated building envelopes are developable. Building envelopes shall be located to (in descending order of priority):
 - 1) Avoid flood hazards and geologic hazards;
 - 2) Avoid or reduce wildfire hazards;
 - 3) Avoid irrigated agricultural land;
 - 4) Avoid impacts to critical wildlife habitat, calving areas, winter range, and wildlife corridors;
 - 5) Minimize the impacts of clearing and grading on riparian areas, steep slopes, wetlands, and woodlands;
 - 6) Minimize the visual impact of the cluster subdivision on the landscape;
 - 7) Provide contiguity of common open space, stewardship areas, and, if present, agricultural lands (on-site and, where possible, off-site);
 - 8) Preserve the open sky backdrop above ridgelines, as viewed from public roads within one-quarter (1/4) mile of the subject property; and
 - 9) Provide open space and scenic views for the principal buildings in the clustered subdivision.

- c. The road system shall be designed to allow safe and efficient movement through the subdivision, and to adjacent property as appropriate. The road system shall avoid impacts to the stewardship areas to the maximum feasible extent. Road classifications should be considered when allowing smaller size lots access to major County roads (Collector and Minor Arterial), such as distance between driveways.
 - d. Lot lines and lot areas shall be established to provide for the most appropriate conservation of the stewardship areas, and to optimize the design priorities set out in subsection (2), above.
5. **Long-Term Maintenance.** Financial surety or other mechanism for long-term maintenance of stewardship areas shall be provided to the County.

D. Use of Stewardship Areas

1. **Generally.** Stewardship areas may be used for ecological, agricultural, recreational, utility (underground and overhead lines), drainage (*e.g.*, ponds, pipelines, swales, ditches, and related infrastructure), and access purposes (*e.g.*, trails, maintenance access, or general access if no other feasible alternative exists) that are consistent with the stewardship objectives for the area.
2. **Annotations.** Limitations on the use of or development activities within stewardship areas shall be set forth using annotations on the Preliminary Plat, Final Plat, Site Plan, or by cross-reference to recorded covenants, deed restrictions, or conservation easements.

E. Preliminary Plat Review Process.

1. All applications for Preliminary Plats shall be processed in accordance with Chapter 7 Standardized Application Review Process.
2. Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant to Chapter 7, Section 2(D), *Recommended Revisions* (or, after finding that no revisions will be required):
 - a. Generally, the application shall be heard during the next regular meeting of that body that meets the following two conditions:
 - 1) There is sufficient time to meet applicable public notice requirements; and
 - 2) There is available room on the agenda.
 - b. The Director, or a designee, shall notify the Applicant regarding the time and place of the public hearings.
 - c. The Director shall verify public notice has been given (*see* Chapter 7, Section 4, *Public Notice*)
 - d. The Director shall set the application on the agenda, make a recommendation regarding the application, and forward the recommendation and the application materials and referral comments to the next body that will consider it for further recommendation or approval.

- e. The Planning Commission shall determine if the application complies with this Code. The Planning Commission shall approve, approve with conditions, or deny the Preliminary Plat.
- f. The Director shall promptly provide written notice, including the reasons for the decision, to the applicant following action by the Planning Commission.
- g. An aggrieved party may appeal the Planning Commission decision to the Board of County Commissioners pursuant to Chapter 9 – *Approvals, Denials and Appeals*

Section 4. Final Plats

A. Generally.

1. Final Plats may be accepted by the Board of County Commissioners upon a finding that the Final Plat is substantially consistent with the approved Preliminary Plat and all applicable conditions have been cleared by the appropriate agency.
2. The Director may approve a final, Minor Plat where no dedication is required. If the Minor Plat includes dedication of right-of-way, the Final Plat shall be considered by the Board of County Commissioners with the right-of-way dedication.
3. No Final Plat that includes or requires public improvements (on-site or off-site) shall be recorded, and no Site Plan that requires public improvements (on-site or off-site) or imposes conditions or obligations related to development approval shall be approved until the applicant has been submitted, and the Board of County Commissioners has approved one or a combination of the following:
 - a. An Improvements Agreement in which the applicant agrees to construct any required public improvements shown in the Final Plat documents, together with sufficient financial surety, in the judgment of the Board of County Commissioners, to make reasonable provision for the completion of said improvements in accordance with design and time specifications (see LUC Chapter 6, Section 5); or
 - b. Other agreements or contracts, however titled, setting forth the plan, method, and parties responsible for the construction of any required public improvements shown in the Final Plat documents which, in the judgment of the Board of County Commissioners, will make reasonable provision for completion of said improvements in accordance with design and time specifications; or obligation to satisfy such conditions of approval as may be imposed pursuant to this Code.

B. Timelines, Expiration, Extension

1. A Final Plat shall be submitted within twelve (12) months of Preliminary Plat approval, unless otherwise stated as part of the approval. Failure to submit the Final Plat within twelve (12) months shall result in the application being considered as withdrawn and shall require the applicant to begin the process anew.
2. If a proposed subdivision has multiple lots, a developer may request to complete the subdivision in two (2) or more phases. In order to complete a development in phases, a phasing plan showing which lots will be part of each phase is required to be submitted with

the Preliminary Plat. All requirements for a Final Plat must be met in order to complete any phase of a development. All phases of a subdivision must be completed within three (3) years of completion of the first phase unless otherwise approved through a Subdivision Improvement Agreement.

3. Request for an extension must be received at least thirty (30) days prior to the expiration date and will require proof that progress is being made towards completion of the subdivision. The Director may grant one extension for up to one (1) year if, in the Director's opinion, substantial progress has been made and the developer has demonstrated the ability to complete the project.

C. Final Plat Review Process

1. Upon receiving a Final Plat:
 - a. The Director shall forward the Final Plat to commenting referral agencies to determine compliance with applicable standards and conditions.
 - 1) All public improvements shown on the Plat shall be installed and the County has granted preliminary acceptance of the improvements pursuant to Chapter 6, Section 1(C), *Acceptance of Public Improvements*.
 - 2) Evidence that access has been permitted and installed to all parcels/lots within the subdivision.
 - 3) Evidence that the water supply (tap, meter, well) has been installed to all parcels/lots within the subdivision, and applicable permits numbers are reflected on the Final Plat.
 - 4) Evidence the electrical supply has been installed to all parcels/lots within the subdivision.
 - b. The Director shall forward the Plat to the County Surveyor who shall review the Plat for form and content in accordance with State statute.
 - c. Once the Director determines that all conditions are cleared and the Final Plat is approved by the County Surveyor, the Director shall set the application on the agenda and make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the Board of County Commissioners that will consider it for acceptance.
 - d. The Director shall verify public notice has been given if required (*see Chapter 7, Section 4, Public Notice*)
 - e. When reviewed by the Board of County Commissioners, the Board of County Commissioners shall determine if the Final Plat complies with the approved Preliminary Plat and conditions of approval.
 - f. Final Plats shall be recorded with the signatures of all property owners (notarized), their Surveyor, the mortgage company (notarized, if applicable), the County Treasurer, the County Surveyor, the Planning Director, and the Chair of the Board of

County Commissioners. See Section 6 of this Chapter for applicable signature blocks.

- g. New deeds describing all affected lots and dedications shall be recorded with the Final Plat along with any encumbrances applicable to the project or conditions (Covenants and Restrictions, Access Agreements, Irrigation Plans, etc.).

D. Plat Correction

1. **Generally.** In accordance with C.R.S. § 30-28-133, the Board of County Commissioners may approve a correction plat if:
 - a. The sole purpose of such Correction Plat is to correct one or more technical errors in an approved Final Plat; and
 - b. Such Correction Plat is consistent with the applicable approved Preliminary Plat.
2. **Limitations.** If the technical error or errors of an approved Plat meet the description of any errors under C.R.S. § 38-51-111(2), a Surveyor's Affidavit of Correction, as defined in C.R.S. § 38-51-102, shall be prepared in lieu of a Correction Plat.

Section 5. Format for Signature Blocks, Certifications and Plat Notes

- A. **Generally.** Prior to the County recording a Plat, the following signature blocks, certifications and plat notes shall be included as required by the Director.

B. Dedication

A Final Plat presented for approval shall contain a statement concerning public use of all roadways, the suggested format is:

(I, We), printed name of owner(s), being the owner(s) of the land described as follows: _____ [insert legal description of land being platted and/or subdivided and include area in acres to two decimal places] in Delta County, Colorado, under the name of _____ [complete name of development in capital letters and the number assigned], have laid out, platted and/or subdivided the same as shown on this plat and do hereby dedicate to the public at large the streets, alleys, roads and other public areas as shown hereon and those portions of land labeled as easements for the installation and maintenance of public utilities as shown hereon.

In witness whereof (printed name of the owner) has (have) subscribed (his, her, their) name(s) this _____ day of _____, AD ____.

By: _____
Owner(s)

C. Notarial

Signatures for all responsible property owners shall be notarized in the manner in which they appear on title or in legal documents for trusts or corporations. Documentation may be required to verify the correct manner in which the signatory must sign the plat.

State of Colorado

ss.

County of Delta)

The foregoing instrument was acknowledged before me this ____ day of _____, AD ____, by (printed name of owner(s): if by natural persons here, insert name; if by person acting in a representative official capacity, insert capacity; if by officers of a corporation, then insert the title of said officers and the name of the corporation).

My Commission expires:_____

My address is _____

Witness my hand and official seal.

Notary Public

(Seal)

D. Mortgagees Approval

Where real property is revised, any lien holder(s) shall sign the plat to acknowledge their acceptance of any change from the conditions in which they issued a loan, for each parcel/lot affected.

In witness whereof Mortgagee has subscribed its name approving the content of this final plat.

Dated this ____ day of ____, AD 20__.

Mortgagee: [Insert Name of Mortgagee]

Authorized Signatory: [Insert Printed Name and Title]

E. Delta County Surveyor's Approval

All plats required by the Code shall be reviewed by the County Surveyor to ensure proper form and content pursuant to State Statute. The County Surveyor also maintains record of survey monuments.

Approved for content and form only and not as to accuracy of survey, computations or drafting, pursuant to CRS 38-51-106.

County Surveyor

Date

F. Delta County Planning Department Approval

The Planning Director, or their designee, shall sign plats certifying that the plat meets applicable conditions and regulations or is exempt from review.

This plat of the above subdivision has been checked for compliance by _____ in accordance with Case No. PLN##-###.

Dated this ____ day of ____, AD 20__.

Planning Director

G. Certificate of Taxes Paid

Where real property is revised, the County Treasurer shall certify that taxes and assessments due have been paid.

I, the undersigned, hereby certify that all current, supplemental and delinquent taxes and assessments upon all parcel(s) of real estate described on the subject Plat have

been paid in full, and also an estimate of the amount of taxes that are a lien not yet due and payable as of _____.

Fiscal Year: [Insert Applicable FY]

Tax Account Number: [Insert All Applicable Account Number(s)]

Dated this ____ day of ____, AD 20__.

Treasurer of Delta County, Colorado

H. Board of County Commissioners Acceptance

Where a Preliminary Plat has been approved, the Board of County Commissioners shall accept the Final Plat, certifying that all conditions have been met. Where a Minor Plat requires right-of-way dedication, the Board of County Commissioners shall accept the Final Plat along with the dedication.

The within plat of ____ [insert project number and name of development in capital letters] is accepted by the Delta County Board of County Commissioners. The roads and other public areas are hereby accepted provided; however, that such acceptance shall not in any way be considered as an acceptance for maintenance purposes. Maintenance of, or snow removal from, the subject roads shall be only upon a separate resolution of the Board of County Commissioners passed in accordance with such policies, resolutions or regulations in effect at that time.

Dated this ____ day of ____, AD 20__

Chair, Delta County Board of County Commissioners

Attest:

County Clerk of Delta County, Colorado

I. Standard Notes

Unless specifically excluded by the County, the following plat notes are required for all subdivisions:

1. All structures (including onsite wastewater treatment systems) in this subdivision shall meet applicable setbacks requirements (rights-of-way, property lines, ditches, waterways, etc.) in place at the time the development occurs.
2. All new development, excluding Agricultural uses, is subject to a Development Application. Land uses, including subdivisions, must comply with all applicable standards of this Code.
3. All lots/parcels are limited to one permitted access pursuant to County Road and Bridge Standards, unless otherwise approved by the County Engineer. There shall be no horseshoe driveways within this subdivision.
4. Unless approved otherwise, all lots within this subdivision have been approved for one single residential and/or agricultural uses only. Any further subdivision or any change or intensification of use may require the lot owner to process the request in accordance with applicable regulations of Delta County.
5. All utilities must be placed underground on all parcels (except transmission lines).
6. Outdoor lighting shall be hooded or shielded (cut-off) so that light is directed downward. Outdoor lighting shall not create glare onto adjacent property or public or private roads, nor shall it contribute to sky glow that dilutes the night sky.
7. Each lot owner shall be personally responsible to control noxious weeds within the boundaries of that lot, to prevent the spreading of such weeds to other lands and to comply with the recommendations of the Delta County Weed Coordinator concerning the control of such weeds.
8. NOTICE TO LOT OWNERS: The lots identified on this plat are located in an agricultural area and are subject to the Nuisance Liability of Agricultural Operations Law as well as the Delta County Right to Farm and Ranch Policy.
9. Soils in this area may have severe limitations for septic tank systems and for certain types of construction. Septic tank systems may require engineered systems designed by a Professional Engineer registered in the State of Colorado.
10. Access to all shown or un-shown irrigation ditches for cleaning and maintenance purposes is permitted.
11. Colorado is an "open range" state. It is not the responsibility of a livestock owner to fence in livestock.

J. Special Notes

The County may require notes to be placed on the Final Plat as a condition of approval, including but not limited to the following:

1. Certain Covenants and Restrictions on the property in this Subdivision and other documents have been recorded in the office of the Delta County Clerk and Recorder, Reception No(s). _____. *[This note is required if there are any CC&Rs, including the applicable reception number(s)]*
2. Shares of irrigation water assigned to the subject property shall be assigned as follows:
Lot 1 - ## shares (Applicable Company/ies)
Lot 2 - ## shares (Applicable Company/ies)
Shares of irrigation water conveyed to lots at the time of plat recording are subject to the Irrigation Plan (dated ###) recorded with this subdivision [Reception ###].
3. Emergency and service vehicle access easement(s) or roads, if any, shown hereon shall be constructed and maintained by the property owners and subsequent owners, heirs, successors and assigns. In the event that such construction and maintenance is not performed by said owner, Delta County shall have the right to enter said property and perform necessary work, the cost of which said owners, heirs, successors and assigns agree to pay upon billing.
4. Stormwater drainage easement(s), if any, shown hereon is (are) for the purpose of access, operation, maintenance, repair, and alteration of the stormwater quantity and quality management system/facilities included within the said easement(s). The operation, maintenance, and repair of such stormwater management system/facilities shall be the responsibility of the property owner and subsequent owners, heirs, successors and assigns.

In the event that the operation, maintenance, and repair of the stormwater management system/facilities is not performed by said owners, Delta County shall have the right to enter such easement(s) and perform the necessary work, the cost of which said owner, successor owner, heirs, successor and assigns agree to pay upon billing. Any claims and resulting judgments for damage to downstream properties caused by the lack of adequate maintenance being performed by the said property owners shall be borne solely by the said property owners. The property owner and successor owner, heirs, successor, and assigns hereby releases Delta County for any and all liability created by the lack of adequate maintenance of said stormwater management system/facilities. No buildings, fills, excavations, structures, fences or other alterations shall be constructed within a stormwater drainage easement(s) without the express written consent of the Board of County Commissioners of Delta County.

5. Construction Covenant. All Final Plats involving a Subdivision Improvements Agreement shall contain a plat note, within the dedicatory language, stating the following:

The undersigned owners, mortgagees and beneficiaries under deeds of trust, hereinafter known as dedicators, for themselves, their heirs, successors and assigns, covenant and agree with Delta County that no development, construction or improvements shall be permitted unless and until all required public improvements, as defined by the subdivision regulations of Delta County, are in place and accepted by Delta County or cash funds or other security satisfactory to the County for the improvements are provided to Delta County. [Reception No: ____]

*Date*_____

Owner(s) _____

6. The open space, parks, and drainage facilities within this subdivision are owned by the property owners or Homeowners Association and the operation and maintenance of those facilities are the responsibility of said owners or Homeowners Association.

Section 6. Vacations of Roads, Streets, Right-of-Way, Easements, or a Subdivision

A. Purpose

1. The Board of County Commissioners may vacate a portion or all of a recorded subdivision.
2. The Board of County Commissioners may vacate a public road, street, right of way, alley, lane, parkway, avenue, trail or other public way, dedicated, conveyed by deed or recorded easement, or acquired by prescriptive use, collectively referred to as "Public Way", whether or not it has ever been used as such.

B. Submittals

1. Subdivision Vacations.

- a. *Letter of Intent.* An application for a vacation shall be made by submitting a Letter of Intent explaining the reasons for the request and the required fees to the County Planning Department.
- b. *Petition.* A Vacation of all or a portion of a Final Plat shall be submitted with a petition signed by not less than 50% of the owners of the lots as shown on the Final Plat and 100% of the owners of the lots to be vacated.

2. Public Road, Street, Rights-of-Way, or Easement Vacations.

- a. *Letter of Intent.* An application to vacate any portion of a right-of-way or easement shall include, but not be limited to:
 - 1) Information stating whether any public moneys have been spent on any portion of the public way;
 - 2) Certification that no property will be left without proper access if the vacation is approved;
 - 3) Explanation of the purpose for the request to vacate, including how the propose vacation will not negatively impact public access; and
 - 4) Names and addresses of all the owners of property which abuts the public way; and
 - 5) Name, mailing address and telephone number of the applicants.
- b. *Vacation Plat.* A plat (minimum 11" X 17") illustrating the following:
 - 1) The public way which is proposed to be (all or partially) vacated, including all necessary dimensions including the total right-of-way.

- 2) Cross-hatch or otherwise illustrate the portion of public way to be vacated.
- 3) Title the map "A vacation of (name or description)" and include on, or attach to the map, a legal description of the portion of the public way to be vacated, including Section, Township, Range, and P.M. information.

C. Notification

1. Subdivision Vacations.

- a. The Planning Department shall, by certified mail, notify all owners of record of property within the subdivision. The notice shall state that a request for vacation has been submitted and shall state the date, time and location for consideration by the Board of County Commissioners.

2. Road, Street, Rights-of-Way, or Easement Vacations.

- a. The Planning Department shall, by certified mail, notify all owners of record of property that abuts the portion of public way that is requested to be vacated. The notice shall state that a request for vacation has been submitted and shall state the date, time and location for consideration by the Board of County Commissioners.

D. Procedure and Process

1. Subdivision Vacations.

- a. Upon determining that the petition for vacation of all or part of a Final Plat is complete, the Planning Department shall schedule and process the request as a Final Plat.

2. Road, Street, Rights-of-Way, or Easement Vacations.

- a. Upon determining that the petition for vacation of all or part of a public way is complete, the Planning Department shall schedule the request for a Public Hearing by the Board of County Commissioners.

E. Action by the Board of County Commissioners

After hearing testimony in the Public Hearing, the Board of County Commissioners shall take one of the following actions:

1. Approve the vacation with or without conditions.
2. Deny the vacation.
3. Table the request to a date certain.

F. Recording the Vacation

If the Board of County Commissioners approves the vacation, the Planning Department shall record the Resolution reflecting the Board of County Commissioners action in the office of the Delta County Clerk and Recorder. Where a public way is vacated, the Planning Department shall record the Vacation Plat in the office of the Delta County Clerk and Recorder, along with applicable deeds

including legal descriptions of the: 1) land being transferred; and 2) the property being amended to accept the land.

Chapter 13. ENFORCEMENT AND REMEDIES

Section 1. Violations and Remedies

A. Nature of Remedies

1. **Generally.** The remedies provided in this Code, whether administrative, civil, or criminal, shall be non-exclusive and cumulative, and shall be in addition to any other remedy provided by law.
2. **Each Day a Separate Offense.** Each day that a violation exists constitutes a separate offense.
3. Provisions of this Code shall be enforced by the Board of County Commissioners and any other authorized personnel utilizing all authority granted under Colorado Law, including but not limited to the authority to enforce the provisions of the:
 - a. Zoning Resolution and this Code, including companion documents, in accordance with this Chapter and the governing statutes (C.R.S. § 30-28-124 and C.R.S. § 30-28-124.5, as amended);
 - b. Subdivision Regulations and this Code, including companion documents, in accordance with this Chapter and the governing statutes (C.R.S. § 30-28-110, C.R.S. § 30-28-133 and C.R.S. § 30-28-137, as amended).

Nothing in this Chapter or any other provision of this Code shall be construed to restrict the ability of the Board of County Commissioners to pursue any available means of enforcement available to it under state law.

B. Remedies

1. **Criminal Prosecution.** Only the Board of County Commissioners may authorize the initiation of criminal prosecution for violations of this Code.
2. **Injunction.** The Board of County Commissioners may refer to the County Attorney for the institution of an injunction, mandamus, abatement, or other appropriate action to prevent, enjoin, abate, or remove a violation or to otherwise restore the premises to the condition that existed before the violation, pursuant to state statute.
3. **County Court Action for Civil Remedies.** The Board of County Commissioners may refer the matter to the County Attorney for filing of a County Court action seeking the imposition of civil penalties pursuant to state statute.
4. **Civil Infraction.** The County Code Compliance Officer may issue a Summons and Complaint alleging a violation of a civil infraction to enforce the applicable sections of this Code.
5. Nothing in this chapter or any other provision of this Code shall be construed to restrict the ability of the Board of County Commissioners to pursue any available means of enforcement available to it under state law or this Code, none of which shall be considered an exclusive remedy.

C. Non-Liability

No provision of this Code shall be construed to hold Delta County or any of its employees or officials, acting within the scope of their employment in any manner, responsible or liable for any damages to persons or property resulting from any inspection, enforcement or review as required or permitted by this Code, from any failure to enforce or inspect, from the issuance or denial of any permit, or from the institution or failure to institute any court action as authorized or required by these standards and regulations. In enacting this Code, the Board of County Commissioners intends to preserve all rights of the County, its agencies and departments, its elected and appointed officials, and its employees to immunity from liability as set forth in the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et. seq.

D. Administrative Remedies

No permits to do work in the public right-of-way, County Road access permits, address permits, septic permits or other approvals or permits will be issued that are applicable to or for the benefit of any property in violation of this Code, any applicable statute, ordinance or regulation until said violation has been cured or terminated, except in instances when road right-of-way or other lands for public purposes are established without the necessity of subdividing adjoining lands. Refusal to issue any such permit shall not be considered an exclusive remedy.

E. Subdivision Violations and Remedies

1. Unlawful Subdivision.

- a. No division of land constituting a subdivision under applicable state law shall occur unless it is exempt by terms of C.R.S. § 30-28-101(10), has been approved under the Subdivision Regulations, or has received approval from the Board of County Commissioners for a subdivision exemption or exemption plat.
- b. No lot within a subdivision created prior to the effective date of this document or approved by the Board of County Commissioners under the provisions of this document shall be further divided, rearranged, or reduced in area, nor shall the perimeter boundaries of any subdivision, or any lot within a subdivision, be altered in any manner without the approval of the Board of County Commissioners as provided for in this document.
- c. No person shall offer for recording, in the office of the County Clerk and Recorder, a plat, map or other instrument creating a division of land, or interest therein, unless such land been subdivided in compliance with this Code or with previous regulations.

2. Unlawful Conveyance.

- a. Any subdivider, or agent of a subdivider, who transfers legal or equitable title or sells any subdivided land before a final plat for such subdivided land has been approved by the Board of County Commissioners and recorded or filed in the office of the county clerk and recorder is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars nor less than five hundred dollars for each parcel of or interest in subdivided land which is sold. All fines collected

under this paragraph (a) shall be credited to the general fund of the county. No person shall be prosecuted, tried, or punished under this paragraph (a) unless the indictment, information, complaint, or action for the same is instituted prior to the expiration of eighteen months after the recordation or filing in the office of the county clerk and recorder of the instrument transferring or selling such subdivided land. (C.R.S. 30-28-110(4)(a))

- b. No person shall offer for recording, in the office of the County Clerk and Recorder, a deed, contract for deed or installment land contract conveying or agreeing to convey any parcel or lot, or interest therein, unless such parcel or lot has been subdivided in compliance with this Code or with previous regulations.

F. Zoning Violations and Remedies

1. Unlawful Acts.

- a. It is unlawful to use any building, structure, or land in violation of this Code or with the terms and conditions of any development application approval or development permit, or without first obtaining all development approvals and permits required by this Code.
- b. It is unlawful to violate any provision of C.R.S. 30-28-104 in relation to this Code.

G. Manufactured Housing Violations and Remedies

1. **Moving Permit Required.** Any Owner or Mover involved with placing a Manufactured Housing unit (including Mobile Homes and Pre-HUD Mobile Homes) onto a property and fails to obtain a moving permit through the Delta County Treasurer may be assessed a fine not less than \$500 nor more than \$1000 per violation.

H. Additional Remedies

1. 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 of County Commissioners. Nothing contained herein shall be construed to preclude the Board of County Commissioners from seeking such other remedies in addition to, or in lieu of, the remedies herein granted.
2. In accordance with all applicable Colorado Revised Statutes as amended and this Code, the Delta County Attorney, 7th Judicial District Attorney's Office, the Delta County Sheriff's Office or Delta County Code Compliance Officer shall enforce the Delta County Land Use Code, including companion documents.

Section 2. Condition Compliance

A. Monitoring

Delta County and its agents reserve the right to conduct site inspections for monitoring compliance with applicable project permits and conditions.

B. Failure to Comply with Conditions of Approval

If the County determines that a project 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 property/facility into compliance or mitigate the danger.

If the owner fails to bring such property/facility into compliance or mitigate the danger within said 30 days, the County may revoke the permit and/or abate the violation at the owner's expense.

Section 3. Civil Infraction

A. Generally

Pursuant to C.R.S. § 30-28-124 any person who violates the provision of the Zoning Resolution and this Code, including companion documents commits a civil infraction.

B. Penalty Assessment

The penalty assessment procedure provided in § 16-2-201 C.R.S., is authorized. When a person is issued a summons and complaint alleging a violation of the Zoning Resolution and this Code, including companion documents, the issuing officer may give the person a penalty assessment notice pursuant to § 16-2-201, C.R.S.

C. Penalties

The Board of County Commissioners shall adopt or update, by Resolution a graduated fine schedule, for violations of this Code, including companion documents as applicable. Such graduated fine schedule may provide for increased penalty assessments for repeat offenses by the same property owner(s) or responsible party(s).

D. Fines

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

Section 4. Enforcement Process

A. Complaints

1. Any person may file a complaint that property in Delta County is in violation of this Code, Ordinance, Resolution or Standard referenced in the Land Use Code. Such complaint must be in writing. The County shall not be obligated to investigate anonymous complaints or complaints that are not filed in writing. The complaint shall be filed in the appropriate Delta County Office. Delta County officials and employees, including the Code Compliance Officer, is authorized to investigate and pursue violations in the regular course of their duties; that is, without a complaint being filed.

B. Investigation

1. The Code Compliance Officer will respond to the site within 30 days of receiving a complaint and complete a Field Inspection to confirm, or determine there is no merit, to possible violations on the property.

2. If a violation is present, the Code Compliance Officer will contact the property owner(s) or responsible party(s) to notify them of the violation(s). An Advisory Letter will be completed and provided to the property owner(s) or responsible party(s) outlining the violation(s) present and the necessary action to resolve the violation(s). Voluntary compliance is the preferred method of enforcement. If the violation(s) are resolved no further action is taken.

C. Non-Compliance

1. If the violation(s) are not resolved through voluntary compliance efforts a Notice of Violation (NOV) will be issued to the property owner(s) or responsible party(s). The Notice of Violation will indicate the violation(s) present and a specific timeline for the violation(s) to be resolved. Voluntary compliance is the preferred method of enforcement. If the violation(s) are resolved no further action is taken.
2. If the property remains in Non-Compliance the County, in its sole discretion, may pursue any and all available means of enforcement available to it under state law or this Code.

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Chapter 14. MEASUREMENTS, CALCULATIONS, RULES OF CONSTRUCTION, ACRONYMS AND DEFINITIONS

Section 1. Measurements, Calculations, Rules of Construction, Acronyms and Definitions

A. Lot Area

Lot area is the area contained within the boundaries of a lot.

B. Lot Dimensions

1. **Lot Frontage.** Lot frontage is the length of the lot line that is coterminous with a road right-of-way.
2. **Lot Width.** Lot width is the distance between side lot lines, measured between the points where the front setback line intersects opposite side lot lines.
3. **Lot Depth.** Lot depth is the shortest distance between the front lot line and the rear lot line.

C. Setbacks

Setbacks are measured as offset distances from property lines.

D. Rules of Construction

1. **Generally.** For the purposes of this Chapter and unless the context clearly indicates otherwise, certain terms and words used herein shall be interpreted as follows:
 - a. The present tense includes the future tense;
 - b. The singular number includes the plural and the plural number includes the singular;
 - c. The words “shall” and “must” are mandatory and the word may is permissive;
 - d. The words “used” or “occupied” include the words intended, designed or arranged to be used or occupied; and
 - e. The word “lot” includes the words plot or parcel.
2. **Cross-References.** Unless otherwise explicitly stated as to a particular cross-reference in this Code:
 - a. Cross-references to Federal law (*e.g.*, the AMERICANS WITH DISABILITIES ACT) or regulations, State statutes or regulations, or County ordinances, resolutions, or regulations (*e.g.*, the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS) are intended to refer to the current version of the cross-reference at the time they are applied. If a cross-referenced standard is amended or superseded such that its reference changes, it is the intent of this Code that the cross-reference be updated to

the changed reference. The Director is authorized to update the cross-references in this Code to keep them current.

- b. Except as specifically provided in this Code, cross-references to model codes or standards (e.g., ICC Codes, ANSI Standards, or NFPA Standards) are intended to refer to the version of the cross-referenced model code or standard that is referenced. If a cross-referenced model code or standard is updated and the cross-reference in this Code does not include the phrase “as amended,” then the County may apply the current version upon text amendment to this Code that updates the reference to the current version.
- c. If a cross-referenced standard is repealed and not replaced, it is the intent of this Code that the cross-referenced standard be preserved in the form it took immediately prior to its repeal.

E. Acronyms

Table 14.a, *Table of Acronyms*, sets out the acronyms that are used in this Code.

TABLE 14.a TABLE OF ACRONYMS	
ACRONYM	MEANING
<i>AASHTO</i>	American Association of State Highway Transportation Officials
<i>ac.</i>	Acre
<i>ADA</i>	Americans with Disabilities Act
<i>ADA 502</i>	2010 ADA Standards for Accessible Design § 502, as amended from time to time, and however subsequently titled or numbered
<i>ADT</i>	Average Daily Traffic
<i>ANSI</i>	American National Standards Institute
<i>Art.</i>	Article
<i>ASTM</i>	American Society for Testing and Materials
<i>ATM</i>	Automated Teller Machine
<i>BFE</i>	Base Flood Elevation
<i>BMP</i>	Best Management Practice
<i>BOA</i>	Board of Adjustment
<i>BOCC</i>	Board of County Commissioners
<i>CAAP</i>	Concentrated Aquatic Animal Production
<i>CAFO</i>	Concentrated Animal Feeding Operation
<i>CATV</i>	Cable Television
<i>CCR</i>	Colorado Code of Regulations
<i>CDOT</i>	Colorado Department of Transportation
<i>CDPHE</i>	Colorado Department of Public Health and Environment
<i>C.F.R.</i>	Code of Federal Regulations

<i>CMRS</i>	Commercial Mobile Radio Service
<i>CNSDA</i>	Colorado Notification of Surface Development Act, C.R.S. § 24-65.5-101, <i>et seq.</i>
<i>C.O.</i>	Certificate of Occupancy
<i>COGCC</i>	Colorado Oil and Gas Conservation Commission
<i>C.R.S.</i>	Colorado Revised Statutes
<i>dBA</i>	A-weighted Decibels
<i>DAS</i>	Distributed Antenna Systems
<i>Div.</i>	Division
<i>DOLA</i>	Colorado Department of Local Affairs
<i>du</i>	Dwelling Unit
<i>du/ac</i>	Dwelling Units per Acre
<i>e.g.</i>	exempli gratia (translation: “for example”), which is followed by illustrative, non-exclusive examples
<i>EOPC</i>	Engineer’s Opinion of Probable Cost
<i>ESMR</i>	Enhanced Specialized Mobile Radio
<i>EPA</i>	United States Environmental Protection Agency
<i>FCC</i>	Federal Communications Commission
<i>Ft.</i>	Feet
<i>GESC</i>	Grading, Erosion, and Sediment Control
<i>ICC</i>	International Code Council
<i>i.e.</i>	id est. (translation: “that is”), which is followed by an elaboration of the topic
<i>ISDS</i>	Individual Sewage Disposal System
<i>LAN</i>	Local Area Network
<i>lf.</i>	Linear Feet
<i>MSDS</i>	Material Safety Data Sheet
<i>Max.</i>	Maximum
<i>Min.</i>	Minimum
<i>MUTCD</i>	Manual on Uniform Traffic Control Devices for Streets and Highways
<i>N/A</i>	Not Applicable
<i>NFPA</i>	National Fire Protection Association
<i>NOV</i>	Notice of Violation
<i>NPDES</i>	National Pollutant Discharge Elimination System
<i>OGC Act</i>	Colorado Oil and Gas Conservation Act, C.R.S. § 34-60-101, <i>et seq.</i>
<i>PCS</i>	Personal Communications Services
<i>PC</i>	Planning Commission
<i>RF</i>	Radio Frequency
<i>ROW</i>	Right-of-Way
<i>RV</i>	Recreational Vehicle

<i>Sec.</i>	Section
<i>sf.</i>	Square Feet
<i>sp.</i>	Parking Space (or Parking Spaces)
<i>U.S.</i>	When preceded and followed by numbers, United States Reports (a Supreme Court Reporter); otherwise United States
<i>U.S.C.</i>	United States Code
<i>U.S. DOJ</i>	United States Department of Justice
<i>WWTP</i>	Wastewater Treatment Plant
<i>WTF</i>	Wireless Telecommunications Facilities

Section 2. Definitions

A

Abandoned shall be defined as not occupied or used for legitimate residential, business or agricultural purposes, including but not limited to a temporary or permanent storage unit, a shop or a studio, for one hundred eighty (180) days.

Accessory Dwelling Unit (ADU) means a smaller, independent residential dwelling unit on the same lot as detached single-family residence.

Accessory Use means a use of land that:

1. Is clearly subordinate in area, extent, and purpose to the principal use;
2. Contributes to the comfort, convenience, or necessity of the principal use;
3. Is operated by the owner of the principal use; and
4. Is located on the same lot or parcel as the principal use.

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

Adult Entertainment means an exhibition, display, activity, or dance that involves the appearance or exposure to view of specified sexual activities or specified anatomical areas to an audience for consideration.

Aggrieved Party shall include the applicant, those property owners defined as neighbors and those property owners who received Notification as determined by the Director.

Agricultural and Agribusiness Uses, Operations, and Activities means a group of land uses that are related to grazing or raising livestock or land uses which produce products that originate from the land's productivity, such as farming, ranching, forestry, viticulture, floriculture, beekeeping, tree farming, hemp cultivation, animal husbandry, and horticulture including within greenhouses. The phrase "Agricultural and Agribusiness Uses, Operations, and Activities" does not include the phrase "Intensive Agriculture" or any specific land uses within that group, nor does it include the phrase "Marijuana Uses" or any specific land uses within that group.

Agricultural Support and Rural Industries means a group of land uses that either provide support for agricultural operations, process agricultural outputs or other natural resources, or that are often located in rural areas due to the need for separation from population centers.

Agricultural Workforce Housing means dwelling units that are located on the site of an agricultural or agribusiness use, operation, or activity or an intensive agriculture use, which provide housing for employees or contractors who work on the site.

Airport or Airstrip means any area of land or water that is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas that are used, or intended for use, for supporting buildings (*e.g.*, hangars, fueling areas, terminals, or control towers), or other facilities or rights-of-way, together with all buildings and facilities located thereon. The term “Airport” refers to a publicly owned and managed facility that is open for public use without operational restrictions on its use. The term “airstrip” refers to a runway for take-off and landing of fixed-wing aircraft that is not open for public use (*e.g.*, use is limited to a single property owner, a property owners’ association, or a public safety entity or governmental unit), or offers limited facilities for general aviation purposes.

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.

Animal Units means a unit of measurement for determining the intensity of use of land for the keeping of livestock, by comparing the impacts of various animals to the impacts of a 1,000 lb. cow. Animal units are measured as provided in the table below. Animal unit calculations by the State of Colorado may be different than this chart. As a result, a Large AFO by Delta County definition may or may not be regulated by the State as well as by the County.

ANIMAL UNITS (1 AU = 1,000 LB. COW)	
ANIMAL	ANIMAL UNIT (“AU”) CALCULATION
<i>Cattle-Beef</i>	1.0
<i>Cattle-Dairy</i>	1.4
<i>Chicken</i>	0.02
<i>Elk</i>	0.5
<i>Geese, Ducks, Turkey</i>	0.03
<i>Goat</i>	0.2
<i>Horse</i>	1.0
<i>Sheep</i>	0.2
<i>Swine</i>	0.4
<i>Bison</i>	1.0

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.

Automobile Fueling or Service Station means a commercial facility that is used for the retail dispensing or sales of motor fuels; propane; Level 3 DC fast-charging of electric vehicles; washing of motor vehicles; towing of automobiles and light trucks (but not storage, wrecking, or salvage of inoperable automobiles or light trucks); and/or the sale and installation of lubricants, tires, batteries, brakes, mufflers, and similar vehicle repairs. The phrase “fueling/service station” does not include collision centers or facilities that provide transmission repair, engine overhauls, or repair of commercial vehicles. The phrase “Fueling or Service Station” includes associated retail stores that sell ready-to-eat food products (not intended for on-premises consumption), groceries, consumable motor vehicle supplies, or sundries.

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.

Battery Energy Storage System (BESS) means a rechargeable energy storage system consisting of batteries, battery chargers, controls, power conditioning systems and associated electrical equipment designed to provide electrical power to a building or provide electrical grid-related services

Bed and Breakfast means a single-family dwelling unit in which a maximum of four guest rooms for overnight lodging (for terms of less than 30 days) is provided, which may include meals, and which is operated by the permanent resident of the dwelling unit.

Block means a unit of land bounded by streets or by a combination of streets and public land, railroad right of way, or any other barrier to the continuity of development.

Boundary Agreement means a written agreement between two or more parties, including an illustrative map or plat, to resolve any disputed line, corner, or boundary of an existing parcel of land that is signed (by all parties) and recorded in the real estate records of the County Clerk and Recorder.

Boundary Line Adjustment means an adjustment or revision of established, undisputed, existing boundary lines between parcels or lots less than 35 acres, where such adjustment does not result in creating an additional parcel/lot.

Boundary Survey (aka Record of Results, Certificate) means a detailed map that identifies and documents existing conditions, including physical boundaries or property lines for a specific parcel of land and/or right-of-way. Results in no change from existing conditions.

Buffering or Buffering Strip means open space, landscaping areas, fences, walls, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

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

Campground means a site, lot or parcel of land made available to persons for temporary, non-permanent, overnight accommodations (not to exceed six months in any one calendar year by any particular guest), including for the parking or placement of recreational vehicles, motor homes, trailers, campers, cabins, yurts, tents, or similar devices used for human occupancy. “Campground” is similar to a Recreational Vehicle Park with temporary accommodations, but different from a Manufactured Home Park where there are permanent services (water, wastewater, electricity, etc.).

Camping Unit means any tent, trailer, cabin, lean-to, recreation vehicle, or similar structure established or maintained and operated in a campground or upon any property as temporary living quarters for recreation, education, agricultural worker housing, or vacation purposes.

Cemetery means a place that is dedicated to, used, and intended to be used for the permanent interment of human remains, and may include a burial plot for earth interments, a mausoleum for vault or crypt interments, a columbarium for cinerary interments, or any combination of one or more of the above. The term “cemetery” does not include areas of private property that are used for burials of members of the property owner’s family.

Change of Use means any use that is substantially different from the previous use of a building or land.

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, with reference to categories of land uses, means a group of land uses that involve general commercial activity.

Commercial Facility means land, structures, and/or buildings that are used for commercial purposes, but not including home businesses and incidental commercial activities.

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:

1. To the public; or
2. 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.

Communal Living means more than one family (see definition of “Family”) living on a property in more than one - dwelling unit (see definition of “Dwelling Unit”) built or installed for permanent living. A group of people living together, but in their own private homes. Communal living may include shared community buildings such as a community meeting space.

Community Land Uses means a group of land uses that provide community gathering places or services, such as places of assembly, education, or internment of human remains.

Community Water System means a public water system that supplies at least 15 service connections used by year-round residents or that regularly supplies at least 25 year-round residents.

Concept Plan means a drawing, not necessarily to scale, showing the location of buildings, access, and infrastructure, or other information necessary to demonstrate compliance with the requirements of this Code.

Conditional Use means a use that is permitted in a particular zoning district upon showing that such use in a specific location will comply with all the conditions and standards for the location or operation of the use as specified in this Land Use Code and authorized by the Board of County Commissioners.

Condominium means a building or group of buildings in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all owners on a proportional, undivided basis.

Corner Lot means a lot that has two street frontages that form a corner or sharp curve, generally due to a location at the intersection of two streets.

County means Delta County, Colorado.

Covenants means a restriction on the use of the land set forth on the deed.

D

Delta County Roadway Design and Construction Standards means the Delta County Roadway Design and Construction Standards, dated December 12, 2005, including appendices, as such documents may be amended or superseded from time to time.

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

Developer. See “Subdivider or Developer”

Development Area means the portion of a property or lot remaining after the minimum setbacks, open space, park, or right-of-way dedication, and *stewardship areas* (See Chapter 4 Section 1A)

Density means the number of families, individuals, dwelling units, households, housing structures, or lots per acre per unit of land.

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

Disposition means a contract of sale resulting in the transfer of equitable title to an interest in subdivided land; an option to purchase an interest in subdivided land; a lease or an assignment of an interest in subdivided land; or any other conveyance of an interest in subdivided land which is not made pursuant to one of the foregoing.

Ditch Company means a person or organization (public or private) that owns, controls, or operates a ditch, reservoir, canal, or pipeline in which water is stored or through which water is transported for beneficial use, including but not limited to a mutual ditch company or an irrigation district. The phrase “ditch company” does not include the phrases “public water system.”

Duplex means a residential property with two, attached, dwelling units.

Dwelling Unit means a building or portion of a building that provides complete independent living facilities, including permanent provisions for living, sleeping, eating, cooking and sanitation, for one family. Includes: Mobile Homes, Modular Homes, Tiny Homes, Recreational Vehicles (when connected to permanent infrastructure), Yurts, Cabins, Accessory Dwelling Units, etc.

E

Easement means a grant of one or more of the property rights by the property owner to and/or for use by the public, a corporation, or another person or entity.

Egress means an exit.

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.

Equestrian Facilities means a boarding stable, riding school or academy, riding arena, or exhibition facility for horses, donkeys, or mules, for animals not owned by the owner or lessee of the property. Equestrian facilities typically include barns, stables, corrals, riding arenas, and/or paddocks used for the feeding, housing, and exercising of horses.

Evidence means any map, table, chart, contract, or other document or testimony, prepared or certified by a qualified person to attest to a specific claim or condition, which evidence shall be relevant and competent and shall support the position maintained by the subdivider.

Exempt Well means a well that does not exceed 15 gallons per minute of production and used for ordinary household purposes, fire protection, the watering of poultry, domestic animals and livestock on farms and ranches and for the irrigation of not over one acre of home gardens and lawns but not used for more than three single-family dwellings.

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

Family means one or more persons related by blood, marriage, adoption, guardianship, or similar relationship (including domestic partners), occupying a dwelling unit and living as a single housekeeping unit. Residents of a group home, as defined in this Section, shall also be deemed to constitute a family.

Farm, Orchard, or Ranch means land that is used for commercial crop production, horticulture, floriculture, viticulture, or forestry, or to produce food or fiber products that originate from the land's productivity, and may include value-added agricultural processing (*e.g.*, a vineyard with an on-site winery, or a produce stand on a farm site are both within the definition of the phrase "Farm, Orchard, or Ranch"). The phrase "Farm, Orchard, or Ranch" does not include land that is used to produce food or fiber products for the personal use of the landowner, or for incidental commercial activities. The phrase "Farm, Orchard, or Ranch" does not include any of the specific land uses within the group "Intensive Agriculture," nor does it include any of the other specific land uses within the group "Agricultural and Agribusiness Uses, Operations, and Activities."

Farm Supply/Feed and Seed means a commercial facility that sells, rents, or repairs agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming, beekeeping, or livestock operations.

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.

Fee (Simple) Title means absolute title to land, free of any other claims against the title, which one can sell or pass to another by will or inheritance.

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

G

Greenhouse means a building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of plants for subsequent sale.

Group home means a state-licensed group home that is specifically identified in C.R.S. §§ 31-23-303(2)(a) (community residential homes with eight (8) or fewer residents), (2)(b)(II) (group homes for the aged with eight (8) or fewer residents), and (2)(b.5) (group homes for persons with behavioral or mental health disorders with eight (8) or fewer residents). The phrase "group home" specifically does not include any other type of group living arrangement.

Growth Management Area means an unincorporated area surrounding a municipality within which both the County and the municipality agree to jointly participate in planning and the review of proposed developments in accordance with an Intergovernmental Agreement between the participating entities.

Guest Ranch means a working farm or ranch that also includes rooms for lodging that are rented to guests for terms of less than 30 days. Guest ranches may include areas for outdoor recreation and provide organized outdoor activities such as horseback riding, rock climbing, rafting, hiking, hunting, and fishing. Guest ranches may also provide meals for guests, and may be used for private special events (*e.g.*, private parties, corporate retreats, and weddings).

H

Habitable Structure means a building that contains one or more dwelling units or that can be occupied for residential use. Such structures provide independent living facilities for one or more persons, including provisions for living, sleeping, eating, cooking and sanitation.

Hazardous Waste Landfill means all contiguous land, including publicly-owned land, under common ownership that is used for hazardous waste disposal as such phrase is defined in C.R.S. § 35-15-200.3(4), except that such term shall not include any site that is in compliance with an approved reclamation plan contained in a permit issued pursuant to Article 32 of Title 34, C.R.S., or Article 33 of Title 34, C.R.S.

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.

Hemp Cultivation means a commercial facility that is used for cultivation of industrial hemp, which may include the processing of the industrial hemp on the land where it is produced (*e.g.*, a CBD oil extraction facility on the site of the hemp cultivation operation is within the definition of “Hemp Cultivation”).

Household means one or more persons, whether related or not, living together in a dwelling unit, with common access to and common use of all living and eating areas and all areas and facilities

Hunting, Fishing, or Watersports Club means a commercial facility that provides access to land or water to its members (and not to the general public) for the purposes of hunting, fishing, or watersports (*e.g.*, swimming, boating, or water skiing), and which may include buildings that provide facilities for assembly, dining, camping, and/or temporary or seasonal lodging. Hunting, fishing, or watersports clubs may also be used for special events (*e.g.*, private parties, corporate retreats, and weddings).

I

Improvements Agreement means a legally binding contract made by and between the developer/subdivider and the County whereby the developer guarantees the installation of all improvements (whether proposed by the developer/subdivider or required by the Board of County Commissioners or both) that are designed to serve the occupants of a development or subdivision or the general public, and provides for a financial security arrangement to ensure such installation.

Industrial Hemp means a plant of the genus *cannabis* and any part of the plant, whether growing or not, containing a *delta-9 tetrahydrocannabinol* concentration of no more than three-tenths of one percent (0.3% or 0.003) on a dry weight basis.

Intensive Agriculture means a group of land uses that involve the raising, care, or feeding livestock, where the number of animals is equivalent to or greater than 50 animal units, and, the animals are stabled, confined, fed and/or maintained a total of 45 days or more in any 12-month period, and, where crops, vegetation, forage growth, or post-harvest residues are not growing, irrigated and sustained in the normal growing season over any portion of the lot or facility. The phrase “intensive agriculture” also includes concentrated aquatic animal production (“CAAP”). The phrase “intensive agriculture” does not encompass (without more) cattle and sheep that are moved between winter and summer pastures, including those confined for more than 45 days due to adverse conditions, and breeding stock on property where other cattle are grazing. The phrase “Intensive Agriculture” includes:

1. **Small Animal Feeding Operation (“SAFO”)**, which means any building or outdoor corral, pen, or other enclosure used to confine animals, where the number of animals is between 50 and 149 animal units, for the purpose of feeding or care, where no forage is harvested.
2. **Medium Animal Feeding Operation (“MAFO”)**, which means any building, outdoor corral, pen, or other enclosure used to confine animals, where the number of animals is between 150 and 999 animal units, for the purpose of feeding or care, where no forage is harvested.

3. **Large Animal Feeding Operations (“LAFO”)**, which means any building, outdoor corral, pen, or other enclosure used to confine animals, where the number of animals is 1,000 or more animal units, for the purpose of feeding or care, where no forage is harvested.
4. **Concentrated Aquatic Animal Production (“CAAP”)**, which means a hatchery, fish farm, or other facility that is designated by the U.S. EPA (*see* 40 CFR 122.25), or which satisfies the following criteria:
 - 1) The facilities raise cold water fish species or other cold water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year, except:
 - a) Facilities that produce less than 20,000 pounds of aquatic animals per year; and
 - b) Facilities that feed less than 5,000 pounds of food during the calendar month of maximum feeding.
 - 2) If the facilities raise warm water fish species or other warm water aquatic animals in ponds, raceways, or other similar structures that discharge at least 30 days per year, except:
 - a) Closed ponds which discharge only during periods of excess runoff; or
 - b) Facilities that produce less than 100,000 pounds of aquatic animals per year.
5. **Fish Hatchery (not “CAAP”)**, which means any facility, structure, lake, pond, tank, or tanker truck used for the purpose of propagating, selling, brokering, trading, or transporting live fish or viable gametes, except a concentrated aquatic animal production facility (“CAAP”).

Interior Lot means a lot with one street frontage.

Intergovernmental Agreement (IGA) means any agreement that involves or is made between two or more governments in cooperation to solve problems of mutual concern. Intergovernmental agreements can be made between or among a broad range of governmental or quasi-governmental entities.

J

Junk means wrecked, scrapped, ruined, partially dismantled, dismantled, or inoperable and unlicensed motor vehicles (*e.g.*, recreational vehicles, commercial vehicles, passenger vehicles, construction equipment, trucks, boats, and trailers); inoperable major appliances and equipment (*e.g.*, water heaters, ranges, ovens, refrigerators, mowers); manufactured or mobile homes that are in a dilapidated, uninhabitable condition; construction debris or used construction materials; and household waste. The term “junk” does not include inoperable farm equipment.

Junk Storage means an area of land (outside of an enclosed building) that is used for the storage of junk, except where such junk is input for a rural medium industry or rural heavy industry (in which case the junk storage is considered part of the industrial use); materials that are stored in a salvage yard (*see* definition of phrase “Salvage Yard”); materials that are stored in a waste transfer station; or materials that are permanently disposed of in a landfill.

K

Kennel means a commercial facility for breeding, boarding, training, and/or selling of household pets. The term “kennel” does not include incidental commercial activities.

L

Landfill means an area of land that is used for the disposal of non-hazardous solid wastes.

Lodging means a building or group of buildings which provides guest rooms for overnight lodging (for terms of less than 30 days), which may also provide the following amenities: (1) food service for guests; (2) conference rooms, ballrooms, and comparable special event space; (3) recreational activities or programming (*e.g.*, swimming, golf, tennis, horseback riding, etc.); (4) personal services (*e.g.*, spa services, fitness training, sports instruction, etc.); or (5) entertainment programming (not including in-room televisions or internet access). Inns or lodges may also be used for private special events (*e.g.*, private parties, corporate retreats, and weddings).

Lot means a recognized subdivision of property with a written legal description that addresses permissions or constraints upon its development. A parcel of land that has passed through a legal subdivision process created by the state and the local jurisdiction. (*e.g.*, Lot and Block description)

Lot Frontage means the lot line that is coterminous with a road right-of-way (public or private).

Lot Line means a legal boundary of a lot.

M

Maintenance Agreement means an agreement signed by the developer to ensure facilities or work to ensure correction of failures of improvements required by these regulations, and/or to maintain the same.

Manufactured Housing means a factory-built home (built to standards established under 42 U.S.C. § 5401 *et seq.*, *Manufactured Home Construction and Safety Standards*) that can be placed on a piece of land as a permanent dwelling unit. A manufactured home is a portable structure that is capable of being transported on State Highways in compliance with C.R.S. § 42-4-501, including Mobile Homes, Tiny Homes and Recreational Vehicles. The term “manufactured home” shall not include travel trailers, camper trailers, campers or self-contained motor homes or camper buses. A manufactured home that is less than 400 square feet can also be considered a “Tiny Home.”

Manufactured Home Park means any lot or parcel of land on which is placed or improved for sites for three (3) or more factory-built, moveable structures with water, sewer or septic, and electrical services available for dwelling or sleeping purposes and where Title of the unit is different from the Title of the property, regardless of whether or not a charge is made for such accommodation. For purposes of this section, a factory-built, movable structure includes, but is not limited to, mobile homes, recreational vehicles and tiny homes.

Minerals Extraction/Quarry means a commercial facility involving the extraction of salable minerals (including, but is not limited to, building stone, clay, coal, diatomaceous earth, gravel, precious or semi-precious stones or metals, or sand) from the earth. The phrase “Minerals Extraction/Quarry” does not include the phrase “Oil and Gas Extraction;” cut and fill operations

within a single property or between properties under single ownership; or the construction, cleaning, or reshaping of irrigation ditches or reservoirs (even if the soil is sold for use as fill).

Mitigation means methods used to alleviate or lessen the impact of development.

Mobile Home is one type manufactured housing. A transportable structure suitable for residential or business purposes and having, capable of, or designed to have, water, electrical, sewage connections similar to those of conventional dwellings. A Mobile Home constructed prior to June 15, 1976 may be referred to as a "Pre-HUD Mobile Home."

Modular Home means a customized, prefabricated building system built almost entirely in a factory setting. Once the main modules of a new home are constructed - complete with attached walls, floor, ceiling, wiring, plumbing and interior fixtures - they are transported to the property and placed on a permanent foundation. Each home is designed and constructed to meet all state and national building and fire codes, and a local builder does the final finish work.

Mover (as used in relation to Manufacture Housing) means the person or entity that transports/moves a Manufactured Housing unit, Mobile Home, or Pre-HUD Mobile Home.

Multifamily means multiple units attached to one another by a common wall, designed for occupation by more than one family.

N

Neighbor shall mean owner of a property adjoining the applicant's property AND, other property owners, entities, groups and organizations as determined by the Director.

Non-Community Water System means a public water system that is not a community water system. A non-community water system is either a "transient, non-community water system" or a "non-transient, non-community water system."

Nonconforming means a lot, use, structure, or building where the lot, area, dimensions, or location of which was lawful prior to the adoption, revision, or amendment of this Land Use Code but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of this Land Use Code.

Non-Habitable Structure means any structure not identified as habitable as defined in this Code and would include but is not limited to garages, sheds, barns, and swimming pools.

Non-Transient, Non-Community Water System means a public water system that is not a community water system and that regularly serves at least 25 of the same individuals, corporations, companies, associations, partnerships, municipalities, or State, Federal, or tribal agencies over six months per year.

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

Offices means a building or buildings from which professional, administrative, financial, clerical, brokering, real estate, medical, and limited technical services are provided by a group of three or

more unrelated principals, contractors, or employees. The term “Office” includes, but is not limited to, the following businesses or services:

1. Accounting, auditing, and bookkeeping;
2. Advertising and graphic design;
3. Architectural, engineering, and surveying services;
4. Attorneys and court reporters;
5. Brokering of motor vehicles, commodities, and other items where the thing brokered is not stored on-site;
6. Business incubators (unless the businesses being incubated are classified as another type of use);
7. Computer programming and data recovery services;
8. Corporate headquarters;
9. Data mining, data processing, data storage, and word processing services;
10. Detective agencies;
11. Government administration or services;
12. Insurance;
13. Interior design;
14. Medical offices and clinics;
15. Real estate sales and off-site rental services;
16. Research and development (not including on-site manufacturing or fabrication, and not including marijuana uses);
17. Retail catalog, internet, and telephone order processing, but not warehousing; and
18. Shared office and virtual office services.

Official Hazard Area Maps means maps that are on file with the County that identify the general location of natural hazards.

Oil and Gas Extraction means exploration for and production of oil and/or natural gas.

Oil and Gas Support Services means commercial facilities that provide direct support to oil and gas extraction, including:

- a. Disposal and recycling sites for production waste (except production water disposed through either secondary recovery or deep well disposal methods where the mode of transport to such injection wells is exclusively via pipeline from the source, and no on-site storage occurs)

- b. Oil and gas processing facilities and related equipment, including, but not limited to, compressors that are associated with gas processing or which compress gas to enter a pipeline for transport to market.
- c. Midstream activities, including the processing, storing, transporting, and marketing of oil, natural gas, and natural gas liquids.

The phrase “oil and gas support services” does not include businesses whose activities are primarily manufacturing and fabricating, or whose function is primarily general corporate offices.

Onsite Wastewater Treatment System (OWTS) means an absorption system of any size or flow or a system or facility for treating, neutralizing, stabilizing, or dispersing sewage generated in the vicinity, which system is not a part of or connected to a sewage treatment works.

Other Active Outdoor Recreation means active outdoor recreation activities not otherwise specifically defined by this Code, such as zip line parks, batting cages, and mini golf courses, or other similar activities. The phrase “other active outdoor recreation” does not include outdoor shooting ranges or other uses that are specifically defined in this Code.

Other Wireless Communications Facility means:

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

Outdoor Theater means an outdoor area surrounded by rows of seats or benches (which may be tiered) or lawn seating areas, designed for the viewing of sporting events, rodeos, equestrian events, livestock exhibitions, concerts, or other organized entertainment; or an area of land that includes one or more large outdoor screens or other structures for the display of motion pictures, as well as and an area for parking automobiles from which the motion pictures are viewed. The phrase “Outdoor Theaters” may include concession sales.

Owner means an individual or entity holding a fee-simple or leasehold ownership interest in property, and includes an applicant for approval under this Code 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

Paintball Course means an outdoor area of land used for mock war games using paintball guns or laser equipment. Paintball courses may include structures, bunkers, obstacles, vending, and pro shops.

Parcel means a quantity of land capable of being described in a certificate of title or described in a certificate of title by reference to a plan filed or registered in a land titles office. A quantity of land identified for taxation purposes. (e.g., Metes and Bounds description)

Parks, Passive Recreation, Open Space, or Golf Course means areas of land that provide recreation opportunities outdoors for the public (open to the community) or residents of a subdivision or development, which are generally not commercial in nature (except golf courses, which may be commercial facilities). The phrase “Parks, Passive Recreation, Open Space, Golf Course” includes areas for recreational activities including, but not limited to:

1. Jogging, cycling, tot-lots, fitness trails, and playgrounds;
2. Sports fields (*e.g.*, soccer fields, baseball diamonds, or football fields) or outdoor sports courts (*e.g.*, tennis, racquetball, or basketball);
3. Golf courses and golf driving ranges;
4. Arboretums, wildlife sanctuaries, forests, and other natural areas which may be used for walking, snowshoeing, mountain biking, or hiking; or
5. Passive recreation-oriented parks, including picnic areas.

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.

Place of Assembly means an indoor or outdoor space where people gather for civic, cultural, educational or religious purposes, that is not more specifically defined elsewhere. The phrase “place of assembly” includes, but is not limited to, adult day care facility, church, community center, fraternal organization, grange hall, lecture hall, meeting hall, religious or non-religious retreat center, mosque, and place of worship, private club, synagogue, or temple.

Plat means a map and supporting materials of certain described land prepared in accordance with subdivision regulations as an instrument for recording of real estate interests with the County Clerk and Recorder.

Plat (Final) means a map, or maps, of a land subdivision prepared in accordance with this Code, with necessary affidavits, dedication and acceptances and with complete bearings and dimensions of all lines defining all lots, boundaries, easements, roads, driveways, building areas, non-building areas, intended as an instrument for recording with the County's Clerk and Recorder.

Plat (Minor) means a Final Plat where no more than two lots are created through subdivision

Plat (Preliminary) means a subdivision where 3 or more (3+) lots are created, showing the salient features of a proposed subdivision submitted to an approving authority for purposes of consideration prior to a Final Plat.

Plat (Vacation) means a plat illustrating the vacation of a portion of a dedicated right-of-way. Vacation, as used with land use actions, can also apply to vacating portion(s) of an approved (phased) Plat, consistent with provisions of State law.

Prohibited Uses means a group of land uses that are not allowed anywhere in the unincorporated Delta County.

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.

Public Water System ("PWS") means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. The phrase includes:

1. Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such systems.
2. Any collection or pretreatment storage facilities not under such control, which are used primarily in connection with such systems.

A Public Water System is either a "Community Water System" or a "Non-Community Water System." The phrase "Public Water System" does not include the phrase "Ditch Company."

R

Racetrack means a commercial facility consisting of a track, either paved or unpaved, which is used primarily for the sport of racing motor vehicles (e.g., cars, go-karts, motorcycles, or all-terrain vehicles). A racetrack may include seating, concession areas, restaurants, sky boxes, parking facilities, maintenance facilities, accessory offices, and accessory retail facilities. The phrase "race track" includes any facility used for driving automobiles under simulated racing or driving conditions (test tracks, "shakedown" tracks, or other similar facilities), regardless of whether they include seating, concession areas, or retail facilities for the general public.

Rebuttable Presumption means a fact that is presumed to exist unless it is disproved by a preponderance of the evidence.

Recreational Vehicle means a vehicular-type unit used for living or sleeping and/or recreational, camping, or travel purposes, that either has its own motive power or is mounted on or drawn by another vehicle. Includes automobiles when used for sleeping purposes, pick-up coaches (campers), motorized homes, boats, travel trailers and camping trailers not meeting the definition or specification for a Manufactured or Mobile Home.

Recreational Vehicle (RV) Park means any site, lot or parcel of land occupied or intended for occupancy two (2) or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes by campers, vacationers, or travelers, whether or not a fee is charged. Storage

of two (2) or more unoccupied recreational vehicles does not constitute an R.V. park. “RV Park” is similar to a Campground with temporary accommodations, but different from a Manufactured Home Park where there are permanent services (water, wastewater, electricity, etc.).

Renewable Energy Facility (Personal Scale) means a facility for the production of renewable energy (*e.g.*, solar, wind, or geothermal) where the energy produced is used solely for residential or business purposes on the property where it is located AND does not meet the threshold for commercial scale.

Renewable Energy Facility (Commercial Scale or Utility Scale) means a facility for the generation of renewable energy (*e.g.*, solar, wind, or geothermal) where:

1. The footprint is greater than 10 acres or
2. Energy produced is sold/contracted for use other than the property where the energy is produced (utility, power supplier, power purchase agreement); or
3. Energy produced is used to power a crypto-currency mine or data center.

Renewable energy facilities include necessary transmission and battery storage (see definition of *Battery Energy Storage System*).

Replat means a procedure by which minor amendments may be made to an approved Final Plat where the revision involves minor adjustments to lot lines and/or building envelopes, minor amendments to plat notes, minor right of way adjustments, or minor utility easement adjustments. All lands must be part of a previously recorded Subdivision, 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.

Residential Use means any property, whether developed or not, that is zoned A5RES-2.5 or RES-1.0, and any other property that has a residential tax assessment indicating residential use of the property. For the purposes of measuring setbacks for Intensive Agriculture, the setback should be measured from the property line of the property that meets the Residential Use definition.

Resort or Conference Center Hotel means a commercial facility that provides more than 10 rooms for overnight accommodations for terms of less than 30 days, which may also provide the following amenities: (1) food service for guests; (2) conference rooms, ballrooms, and comparable special event space; (3) recreational activities or programming (*e.g.*, swimming, golf, tennis, horseback riding, etc.); (4) personal services (*e.g.*, spa services, fitness training, sports instruction, etc.); or (5) entertainment programming (not including in-room televisions or internet access).

Restaurant means any commercial facility in which the principal business is the sale of food and beverages to customers in a ready-to-consume state, for consumption either within the restaurant building, outside but on the premises, or off the premises, and which may include a drive-in or drive-through facility. Fermented malt beverages, and/or malt, special malt, or vinous and spirituous liquors may be served pursuant to applicable alcohol beverage licenses.

Retail Sales and Services means a commercial facility characterized by the selling of tangible goods/merchandise or services/intangibles directly to the consumer, generally without an appointment. The phrase “Retail Sales and Services” does not include terms and phrases that are more specifically defined (*e.g.*, “Marijuana Uses,” “Automobile Fueling or Service Station,” or “Truck Stop/Truck Wash”).

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.

Rural Heavy Industry means industrial uses that are not described specifically elsewhere, and which may be described in one of the following four ways:

1. Primary processing or manufacturing or repair operations that involve:
 - a. A material risk of significant environmental contamination, explosion, or fire;
 - b. Perceptible ground vibration at the property line;
 - c. Excessive noise or dust emissions at the property line and downwind;
 - d. Large-scale outdoor storage of inputs or products;
 - e. Significant outdoor installations of processing equipment;
 - f. Outside emission of objectionable odors;
 - g. More than 30 trips by semi-trailer trucks per day; or
2. Processing of minerals (except precious and semi-precious stone cutting for jewelry or precision instruments such as lasers or watches), ores, or fossil fuels; or
3. Activities that are required to undergo New Source Review under the Federal Clean Air Act, or are subject to construction or operation permits pursuant to the Colorado Stationary Sources Program or Title V of the Federal Clean Air Act; or
4. Industrial Wastewater Treatment Facility, which is any facility or group of units used for the pretreatment, treatment, or handling of industrial waters, wastewater, reuse water, and wastes that are discharged into state waters.

Rural Light Industry means an industrial operation that does not emit unusual or excessive dust, smoke, fumes, gas, noxious odors, or noise, and which has operations that are generally confined within buildings or structures. Such uses may include, but are not limited to, grain elevators, grain storage and mixing, gun manufacturing, light manufacturing, warehouses, packing plants, and food or beverage processing and packaging facilities (including wineries, breweries, and distilleries) that are conducted entirely within enclosed buildings.

Rural Medium Industry means an industrial operation that may include outdoor storage or operations, or which emits dust, smoke, fumes, gas, noxious odors, or noise, but which does not involve material hazards or require an individual permit under the Clean Air Act or Clean Water Act. Such uses may include, but are not limited to, farm machinery manufacturing, assembly, or repair; motor vehicle body shops or repair shops; machine shops; manufacturing facilities, hemp processing that involves outdoor storage or flammable chemicals; slaughterhouse or rendering plant; and food or beverage processing and packaging facilities (including wineries, breweries, and

distilleries) that are not conducted entirely within enclosed buildings; and sawmills or pulp mills that do not qualify as “Rural Heavy Industry” due to their scale.

Rural Recreation and Hospitality means a group of land uses that involve outdoor recreation, overnight accommodations, and entertainment in the rural environment.

Rural Residential means a group of residential land uses that are permissible in the County.

S

Salvage Yard means a commercial facility that is maintained, used, or operated for storing, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts (such salvage yards are also referred to by Colorado statutes as “automobile graveyards”).

Sawmill or Pulp Mill means a commercial facility where logs are sawn, split, shaved, stripped, chipped, or otherwise processed, or other plant materials are processed, to produce wood or fiber products. The phrase “sawmill or pulp mill” does not include the processing of timber for use on the same lot by the owner or resident of that lot.

Schools and Child Care Centers means facilities that are operated for the care and education of children, or that provide secondary or vocational education to children or adults. The phrase “Schools and Child Care Centers” does not include any facility that is licensed as a family child care home, a foster care home, or a specialized group facility that is licensed to provide care for three or more children pursuant to C.R.S. § 26-6-102(10), but that is actually providing care for three or fewer children who are determined to have a developmental disability by a community centered board, or who are diagnosed with a serious emotional disturbance.

Sensitive Lands means land that because of its elevation, topography, vegetation, unique or exceptional agricultural value, habitat or wildlife corridor value, water resource value, historic or cultural value has been determined by the Board of County Commissioners (as specified in this Code) or other agencies with jurisdiction to require special consideration or specific regulation.

Sexually-Oriented Business means any business defined by Colorado Revised Statutes or further defined through Colorado case law as a sexually oriented business.

Shall means mandatory.

Shooting Range means a commercial facility with an outdoor area designed and operated for shooting firearms at targets (*e.g.*, skeet, trap, target, or comparable sport shooting). The phrase “shooting range” does not include the phrase “hunting, fishing, or watersports club,” nor does it include hunting on public or private land.

Short-Term (Vacation) Rental means a primary dwelling or accessory dwelling structure that is rented for durations of less than 30 consecutive days. This includes dwellings rented out by individual owners and dwellings rented out on behalf of an owner by a property management entity.

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.

Silviculture means the commercial cultivation of forest trees for wood or pulp. It does not include the phrases “hemp cultivation” or “marijuana uses,” or the incidental sales of firewood or mulch

that is created from trees that are removed, cut, or pruned in the normal course of landscape maintenance, land development, or disaster response.

Single-Family Detached Residence means a dwelling unit that occupies an individual building, and is separated from other buildings and dwelling units by outside walls. Tiny homes, recreational vehicles, yurts, or other structures that are not generally intended for permanent living may be considered single-family detached residences when connected to permanent, reliable infrastructure, including power, water, and either sewer or a permitted individual sewage disposal system.

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.

Site Plan means a drawing, to scale, showing the location of buildings, access, and infrastructure, or other information necessary to demonstrate compliance with the requirements of this code.

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

Slaughterhouse means a commercial facility where livestock is slaughtered and/or prepared (*e.g.*, butchering, processing, packing, or treating) for distribution (*e.g.*, to food distributors, retailers, restaurants, or directly to consumers). The facilities may be designed to accommodate the confinement of live animals prior to slaughter and the storage of meat products prior to distribution or sale.

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:

1. 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 ten percent (10%) 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 ten percent (10%), whichever is greater;
2. Each antenna associated with the deployment, excluding associated antenna equipment is no more than three cubic feet in volume;

3. 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;
4. The facilities do not require antenna structure registration under 47 C.F.R. part 17; and
5. 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).

Structure (Telecommunication) 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).

Subdivided Land. *See* "Subdivision or Subdivided Land"

Subdivider or **Developer** means any person, firm, partnership, joint venture, association, or corporation participating as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, sale, or lease of a subdivision.

Subdivision or **Subdivided Land** means any parcel of land in the unincorporated Delta County that is to be used for condominiums, apartments, or any other multiple-dwelling units, unless such land when previously subdivided was accompanied by a filing that complied with the provisions of this Code, or previous Delta County Subdivisions, with substantially the same density, or which is divided into two or more parcels, separate interests, or interests in common, unless exempted as provided in this definition. As used in this definition, "interests" includes any and all interests in the surface of land but excludes any and all subsurface interests. The following are not included within the definition of "subdivision or subdivided land":

1. Any division of land which creates parcels of land each of which comprises 35 or more acres of land and none of which is intended for use by multiple owners.
2. Unless the method of disposition is adopted for the purpose of evading this Code, the terms "subdivision" and "subdivided land," shall not apply to any division of land:
 - a. Which creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five or more acres per interest;
 - b. Which could be created by any court in this state pursuant to the law of eminent domain, or by operation of law, or by order of any court in this state if the Board of County Commissioners is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of this Code prior to entry of the court order; and, if the Board does not file an appropriate pleading within 20 days after receipt of such notice by the court, then such action may proceed before the court;
 - c. Which is created by a lien, mortgage, deed of trust, or any other security instrument;
 - d. Which is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity;
 - e. Which creates cemetery lots;

- f. Which creates an interest in oil, gas, minerals, or water which is severed from the surface ownership of real property;
- g. Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of this definition as only one interest;
- h. Which is created by the combination of contiguous parcels of land into one larger parcel. If the resulting parcel is less than 35 acres in land area, only one interest in said land is allowed. If the resulting parcel is greater than 35 acres in land area, such land area, divided by the number of interests in the resulting parcel, must result in 35 or more acres per interest. Easements and rights-of-way shall not be considered interests for purposes of this clause.
- i. Which is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to this Code, the land which the purchaser is to acquire pursuant to the contract; and
- j. Which creates a cluster development pursuant to the rural land use process.

Subdivision Improvements Agreement means arrangements that the County accepts in order to guarantee completion and financially securing the cost of construction of such public improvements as are required by subdivision regulations within the subdivision.

Subdivision Regulations means those provisions of this Code that control the subdivision of land, including

- Chapter 3, Section 1.A; Lot Dimensions
- Chapter 4; Site Design and Environmental Stewardship
- Chapter 5; Public Facilities, Infrastructure, and Services
- Chapter 6; Dedication, Impact Fees, Development Improvement Agreements
- Chapter 7; Standard Application Review Process
- Chapter 9; Approvals, Denials and Appeals
- Chapter 11; Nonconformities
- Chapter 12; Subdivision Regulations
- Chapter 13; Enforcement & Remedies
- Chapter 14; Definitions (as applicable)

Standards that are included within the subdivision regulations are applied as provided in this Code (e.g., to Conditional Uses), and are not necessarily limited to subdivision approvals.

Surveyor means one who is licensed by the State of Colorado as a land surveyor and is qualified to make accurate field measurements and to mark, describe, and define land boundaries.

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.

Theater means a building that is used for dramatic, operatic, or other live performances, or for the display of motion pictures, which is open to the public, and where audience members pay for admission. The term “Theater” does not include the phrase “Sexually-Oriented Business.”

Through Lot means a lot with a street frontage at the front and rear lot lines.

Tiny Home means a manufactured dwelling unit with a maximum of 400 square feet of floor area, excluding lofts, to be used as permanent housing with permanent provisions for living, sleeping, eating, cooking, and sanitation built in accordance with the state building code; is mounted on a wheeled trailer chassis and is titled and registered to tow legally; and is designed and built to look like a conventional residential structure, using conventional building materials (thus architecturally distinct from mobile homes and RVs).

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.

Transient, Non-Community Water System means a non-community water system that does not regularly serve at least 25 of the same individuals, corporations, companies, associations, partnerships, municipalities, or State, Federal, or tribal agencies over six months per year.

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.

Triplex means a multifamily residential property with three, attached living units.

Truck Stop/Truck Wash means a commercial facility engaged primarily in the fueling, servicing, repair, washing, or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. The phrase “Truck Stop/Truck Wash” may also include overnight accommodations, showers, or restaurant facilities that are primarily for the use of truck crews.

U

Unincorporated means situated outside of cities and towns, so that, when used in connection with “territory,” “areas,” or the like, it covers, includes, and relates to territory or areas that are not within the boundaries of any city or town.

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)).

Utilities, Communications, Mining, Energy, Transportation, and Disposal Land Uses means a group of land uses that involve utilities, communications, mining, energy, transportation, and disposal.

V

Value-Added Agricultural Processing means the processing and/or packaging of agricultural products, for which the primary ingredient is raised or grown on the site of the processing or packaging. The phrase “Value-Added Agricultural Processing” may include the sales of such products. The phrase “Value-Added Agricultural Processing” does not include processing agricultural products into fuels, lubricants, paints, varnishes, or the like.

Veterinary Hospital or Clinic means a commercial facility where animals are brought for medical or surgical treatment, and where such animals may be held during the time of treatment and recuperation.

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.

Water or Wastewater Treatment Plant means the facility or facilities within a public water system, that is (are) used to alter the physical, chemical, or bacteriological quality of the water (*e.g.*, to make it potable) before it reaches the consumer; or a “Domestic Wastewater Treatment Facility,” which is any facility or group of units used for the treatment of domestic wastewater or for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units is discharging into state waters. The phrase “Water or Wastewater Treatment Plant” does not include the phrase “on-site wastewater treatment system.”

Wetland means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wildfire means a fire occurring in a wildland, rural setting.

Wildfire Hazard Area means an area designated by the Colorado State Forest Service as having a high or severe wildfire hazard rating.

Wildfire Hazard Rating means a rating provided by the Colorado State Forest Service regarding an area’s potential wildfire hazard.

Wildlife Habitat means a natural or man-made environment which contains the elements of food, shelter, water and space in a combination and quantity necessary for the survival of one or more wildlife species.

Wind Energy Facility (WEF) means all necessary devices that together convert wind energy into electricity, including the rotor, nacelle, generator, WEF tower, electrical components, WEF foundation, transformer, and electrical cabling from the WEF tower to the substation(s). WEF shall include MET towers, a meteorological tower for the measurement of wind speed. The term “wind turbine” shall include the turbine, blade, tower, base and pad transformer that converts wind energy into electricity through the use of a wind turbine generator.

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

Y

Yurt means a semi-permanent building (typically round in shape) that is constructed using a pole or lattice framework that is covered by fabric or other flexible material.

Appendices

Right to Farm and Ranch Policy

Floodplain Regulations

**Design and Installation Guidelines for UNDERGROUND IRRIGATION WATER
CONVEYANCE**

Rubbish/Junk Ordinance

Commercial Cannabis Ordinance

Personal Use Cannabis Ordinance

Pre-HUD Mobile Home Ordinance

Highway 50 Overlay Ordinance

Highway 92 Overlay Ordinance

Impact Fee Resolution(s) [Reserved]

Municipal Intergovernmental Agreements

EXHIBIT B
2022 LAND USE CODE UPDATE
SUMMARY OF CHANGES

The following is an outline reflecting the more notable changes in the 2022 LUC Update:

Format

- Placed all Use Specific Standards together in Chapter 2
 - o Separately listed in the Table of Contents
- Consolidated Financial Guarantees/Agreements into Chapter 6
- Consolidate standard process in Chapter 7
 - o Incorporate Development Application Ordinance
- Consolidated all unique process into Chapter 8
 - o Standard process in Chapter 7
- Consolidated Approvals, Denials and Appeals into Chapter 9
- Reserve Chapter 10
 - o Admin Mod moved to Chapter 8
 - o BLA moved to Chapter 12
- Moved all subdivision standards, including Boundary Line Adjustments to Chapter 12

Chapter 1 - Decision Makers

- Appoint one (1) Planning Commissioner to the Board of Adjustment as an Associate member of the BoA.
- Note ability to appeal determination of standards referenced in LUC (e.g. Road standards) to BoA, unless otherwise noted in those standards
- PC Decision Maker vs Recommending Body
 - o Preliminary Plat (Chapter 12).
 - BoCC Final Plat

Chapter 2 - Land Use/Zoning

- Add Zoning Designations [**NOTE: Future Consideration: Update Zoning Maps**]
 - o Residential (RES-1.0)
 - o Residential (RES-2.5)
 - o Urban Growth Area Overlay (UGA) – Density Bonus
 - o Public/Quasi/Public (P/QP)
- Clarify Allowed versus Permitted Uses
 - o Reflecting Development Application Ordinance (Also Chapter 7)
 - o Allowed (“by-right”, no review); non-habitable structures
- Adjust LU Matrix (A vs P) based on clarification [**NOTE: Future Consideration: Separate Industrial and Commercial uses**]
- Clarify Use of Recreational Vehicles
 - o Construction (Temporary, 12 months w/valid permits)
 - o Farmworker (Seasonal)
 - o Residence (Principal)
 - o Manufactured Home Park (3+ MH and/or RV)
- Clarify Events
 - o Special Events; 3 tiers

EXHIBIT B
2022 LAND USE CODE UPDATE
SUMMARY OF CHANGES

- Allowed Use (<150)
 - Permitted Use (151-500)
 - Limited Use (500+)
- o Private Event (Allowed Use) vs Public Event (Limited Use)
- Clarify Home Business
- Add Cottage Industry
- Clarify Density
 - o Units vs Lots
 - o Manufactured Units (Pre-HUD Ordinance to be amended)
- Incorporate Manufacture Home Park regulations (pre-LUC Resolution, repealed)
- Add ADU standards
 - o Restrict from subdivision
- Clarify Additional Units/Communal Living standards
- Add Farmworker Housing
 - o Restrict from subdivision
- Clarify Campground (vs MH/RV Park)
- Add Renewable Energy Facilities standards
- Incorporate Wireless Communication Facilities (draft resolution with 2021 LUC, not adopted, appendix)

Chapter 3 - Lot Design

- Delete Lot Size Variance [**NOTE: Future Consideration: Add Legacy Lot standards**]
- Add Exceptions to lot size requirements
 - o Boundary Line adjustment
 - o Clustered Subdivision
 - o Dedication accepted in Fee Title
- Add reduced setback for non-habitable structures

Chapter 4 - Site Design

- Align with County Standards
 - o Road & Bridge, Rights-of-Way (Utility), Road Naming, Floodplain

Chapter 5 - Infrastructure

- Clarify Traffic Impact Study standards
 - o Depends more on location, project size, and surrounding conditions (less about the type of entitlement)
- Amend restriction of Cisterns
 - o Remove “Prohibited for residential uses”
 - o Add criteria when/if allow cisterns:
 - Process to request hauled water IF no other option
 - Permitted in conjunction with a permitted water source (tap, spring, well)
 - Existing use, versus intensification
- Align with revised OWTS (2022)

EXHIBIT B
2022 LAND USE CODE UPDATE
SUMMARY OF CHANGES

Chapter 6 - Improvement Agreements

- Impact Fees [*NOTE: Future Consideration: nexus study to prepare resolution(s)*]
 - o Add Open Space Impact Fee
 - Establish by resolution
- Add Securities (Bonds)

Chapter 7 - Standard Review

- Incorporate Development Application (Ordinance, to be repealed)
- Remove requirement for Pre-Application meeting (optional)
 - o Add Informal Consultation
 - o Add reference to IGAs
- Clarify Process (SOP)
 - o Technical and Sufficiency Review
 - Concurrent with Referral
- Public Notice
 - o Increase publication
- Add Neighborhood Meeting process
 - o Pre-PC hearing

Chapter 8 - Review Processes

- Clarify Administrative Review
 - o Permitted Use
 - o Limited Use
- Conditional Use
 - o Add Application Requirements
 - o Add Standards/Findings
 - o Add Annual Reports
- Rezone, separate from Conditional Use
- Variances
 - o Revise/Clarify Findings

Chapter 9 - Approvals, Denials, Appeals

- Clarified BoA appeals
- Added BoCC appeals

Chapter 10 [RESERVED]

Chapter 11 – Nonconforming Uses

- No Change

Chapter 12 - Subdivision

- Add Exemptions
 - o Boundary Survey
 - o Boundary Agreement

EXHIBIT B
2022 LAND USE CODE UPDATE
SUMMARY OF CHANGES

- o Boundary Line Adjustment
 - Clarify not a subdivision but subject to land use regulations
- Include Standards and Limitations (basis for approval)
 - o Incorporate 35+ Acre Subdivision Street Plans (pre-LUC Reso, Appendix)
- Clarify Administrative Process
- Amend Cluster Subdivision Standards
 - o Building Envelopes
 - o Clarify Stewardship Areas [**NOTE: Future Consideration: Who responsible, How manage**]
- Clarify Final Plat standards/process
 - o Add Phasing (from prior Subdivision Regulations, repealed with LUC)
- Add Standard Signature Blocks (prior Subdivision Regulations, updated)
- Add Plat Notes (prior Subdivision Regulations, updated)
- Add Vacation process (prior Subdivision Regulations)

Chapter 13 - Enforcement

- Change from Criminal to Civil (Revised Statute)
- Remove replication of State Statute language
- Add Condition Compliance
- Add Process

Chapter 14 - Definitions

- Clarify Surveying Terminology
- Incorporate Wireless Communication Terminology
- Revise Renewable Energy Facilities (Commercial vs Personal)
- Add Habitable versus Non-Habitable structures
- Mobile/Manufactured Home Park vs Campground vs RV Park

LAND USE FEES
DRAFT RESOLUTION

RESOLUTION
OF THE
BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DELTA,
STATE OF COLORADO

RESOLUTION NO. 2022-R-____

**RESOLUTION TO REVISE DELTA COUNTY PLANNING AND
COMMUNITY DEVELOPMENT (LAND USE) FEE SCHEDULE**

WHEREAS, on May 19, 1997, the Board of County Commissioners of Delta County adopted Resolution 97-R-020 establishing Delta County Planning and Community Development review fees, which fees were last modified on November 5, 2012, by Resolution 2012-R-045; and

WHEREAS, on January 5, 2021, the Board of County Commissioners approved and adopted the Delta County Land Use Code; and

WHEREAS, on March 16, 2021, the Board of County Commissioners of Delta County adopted Resolution 2021-R-007 revising Delta County Planning and Community Development (Land Use) review fees; and

WHEREAS, on December 7, 2022, the Board of County Commissioners approved and adopted the 2022 Delta County Land Use Code Update; and

WHEREAS, the Board has determined that it is in the interest of Delta County to revise the fees to reflect current conditions. The Board now finds it necessary to modify the County's fee schedule to reflect those changes.

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

1. The Delta County Planning and Community Development (Land Use) fee schedule reflected in **Exhibit A**, attached hereto and incorporated herein by reference shall be and hereby is adopted as the fee schedule to be used by the Planning and Community Development Department.
2. All previous Planning and Community Development (Land Use) fee schedules, to the extent inconsistent herewith, shall be and hereby are

repealed and rescinded.

3. From time to time, this Board may revise the attached fee schedule by Resolution, following recommendations by the Delta County Planning and Community Development Department.

ADOPTED AS SET FORTH ABOVE on this ___ day of ___, 2022.

BOARD OF COUNTY COMMISSIONERS
COUNTY OF DELTA
STATE OF COLORADO

ATTEST:

Don Suppes, Chair

Wendell Koontz, Vice Chair

Teri Stephenson
Delta County Clerk & Recorder

Mike Lane, Commissioner

EXHIBIT A

DELTA COUNTY PLANNING AND COMMUNITY DEVELOPMENT (LAND USE) FEE SCHEDULE EFFECTIVE ____, 2022

A. LAND USE FEES/PERMITS

- | | |
|---|--|
| 1. Address Permit (GIS) | \$75/address |
| a. Re-Address (<i>Administrative</i>) | No Fee |
| b. Re-Address (<i>if not Administrative</i>) | \$75/address |
| 2. Administrative Modification (Minor Variation) | \$150 |
| 3. Appeal of Administrative and/or BOA Decision/Determination | \$250 |
| 4. Conditional Use Permit | \$500 |
| 5. Consultant Review | Deposit/Escrow |
| <i>Note: County may determine a need to retain outside agencies/consulting firms to assist in the review of applications. The applicant is responsible for all costs incurred for that service.</i> | |
| 6. Impact/Mitigation Fees | |
| a. Public Sites/Open Space | \$300/lot or established by Resolution/Agreement |
| b. Fire | \$500/lot or established by Resolution/Agreement |
| c. Roads | To be established by separate Resolution or Agreement. |
| <i>Note: Subdivisions are charged impact fees based on the number of new lots created.</i> | |
| 7. Land Use Code Amendment | \$250 |
| <i>Note: Includes changing the zoning of a property (rezoning) and/or text amendments to the Code.</i> | |
| 8. Limited Use Permit | |
| a. No Public Notice | \$150 |
| b. Public Notice | \$250 |
| c. Public Hearing (Referral) | \$500 |
| 9. Permitted Use (Zoning Permit) | |

a. No Public Notice	\$75
b. Public Notice	\$250
10. Recording Fees	Clerk & Recorder Fee Schedule
<i>Note: Recording fees are separate and in addition to the land use fees. Planning will record applicable documents upon receiving a check made payable to "Delta County Clerk" for the appropriate amount.</i>	
11. Research/Verification Letter	\$50/hour, 1 hour min.
<i>Note: Applies when research exceeds 30 minutes and/or results requested in writing.</i>	
12. Right-of-Way (Engineering)	
a. Access Permit	\$75/access
b. Utility Permit	\$100/location
13. Road Inspection	\$250/inspection
<i>Note: Includes public and private roads required to meet County Standards. Required for each new road within an approved subdivision.</i>	
14. Road Name Assignment/Rename	\$50
<i>Note: Renaming could also require re-addressing (separate fee). If done administratively there is no fee.</i>	
15. Road Plan Review (35+ Acre Subdivision)	No Fee
16. Signs-Roads	
a. Street Name Identification-1 Paddle	\$125 each
b. Street Name Identification-2 Paddle	\$175 each
c. Traffic Control	\$175 each
17. Site Plan Review (Planning)	\$50
18. Subdivision/Plats-General*	
a. Planning	\$250
b. Engineering	\$150
<i>*Includes Boundary Line Adjustment, Replat/Correction, Vacate (Plat or Right-of-Way).</i>	
19. Subdivision-Minor & Preliminary Plats	
a. Planning	\$650 + \$50/lot
b. Engineering	\$150

- c. Environmental Health See Health Fee Schedule*
- *Note: Septic permits are separate and in addition to land use fees.*

20. Subdivision-Final Plat (Additional Fees)	
a. County Surveyor-Final Plat Review	\$50/lot, \$150 min.
b. Development/Improvements Agreement (if applicable)	\$250, also requires a financial guarantee
c. Final Plat Extension	\$250
21. Variance	\$250
22. Vested Rights	\$500

B. OTHER FEES-COPIES

1. Regulations – Paper Copies (double-sided)	
a. Roadway Design and Construction Standards	\$25
b. Floodplain Regulations	\$25
c. Land Use Code	\$25
d. Recreation and Trail Master Plan	\$25
e. Master Plan	\$15
f. Land Use Maps (color)	\$10
g. Access and Utility Code	\$3
h. Major Utility Siting	\$3
i. Misc. copies	\$0.25/page
2. Regulations - CD	\$5
<i>Note: All Delta County regulations and applications are available online at www.deltacounty.com</i>	

THESE FEES ARE NON-REFUNDABLE AND MAY BE REVISED AT ANY TIME BY RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS

APPLICATION CHECKLISTS

General

Subdivision

BLA/Replat



APPLICATION CHECKLIST

Permitted, Limited & Conditional Uses, Variances

PROJECT DESCRIPTION

Owner/Applicant Name:

Site Address (Parcel ID#)

Case/File # (Project Name):

Project Description:

OVERVIEW

Delta County Planning Department is the lead agency to coordinate the processing of development applications for the unincorporated areas of Delta County. This form provides a checklist of materials, plans, data, and reports required for submitting an application for:

- Permitted Use; Following Site Plan Review through the Development Application, Permitted Uses require a Zoning Permit (ministerial) prior to establishment of the use. Approval of a Site Plan shall be issued by the Director after administrative review if the application is determined to be in compliance with the general requirements of the Land Use Code. Any decision or determination (interpretation) by the Director may be appealed to the Board of Adjustment. Any decision by the Board of Adjustment may be appealed to the Board of County Commissioners.
- Limited Use; Following Site Plan Review through the Development Application, Limited Uses require a Zoning Permit that may be approved, conditionally approved, or denied by the Director after administrative review for compliance with specific standards that pertain to the use, as well as the general requirements of this Code (discretionary). Applications for Limited Uses may be referred to specific referral agencies, and some require public notice of the application before the action is taken. Any decision or determination (interpretation) by the Director may be appealed to the Board of Adjustment. Any decision by the Board of Adjustment may be appealed to the Board of County Commissioners.
- Conditional Use; Following Site Plan Review through the Development Application, Conditional Uses are subject to public hearing review for compliance with specific standards that pertain to the use, the general standards for all Conditional Uses, and the general requirements of this Code (discretionary). Applications for Conditional Use Permits will be referred to referral agencies, and public notice of hearings on the application are required before an action is taken. The Planning Commission makes recommendations to approve, conditionally approve, or deny an application. The Planning Commission recommendation is forwarded to the Board of County Commissioners for final action.
- Variance; A variance is a special exception from the standards of the Land Use Code, subject to specific Findings. The Board of Adjustment is the Approving Authority for this type of land use entitlement. Any decision by the Board of Adjustment may be appealed to the Board of County Commissioners.

REQUIREMENTS FOR APPLICATION

All items checked below MUST be provided for a complete Application Submittal, including any and all requested materials from a pre-application meeting and/or cover letter. Items marked with a “√” indicate items we have received. Failure to provide or complete any of the required items, including applicable fees, will result in the application being incomplete. Incomplete applications will be returned and not be considered filed until all items are received by the Department. Applications will be processed in the order they are deemed complete.

All documents shall also be provided in an electronic format (.pdf). Plans shall be in a format so that they may be reproduced at 11x17 inches or greater.

NOTE: Additional information may be requested based upon review of these materials.

SITE PLANS

Plans illustrating existing and proposed conditions of the project in.

	<u>Summary Table.</u> Information, including: - Total land area proposed to be developed - Number of Units/Cabins (parking 1 space/cabin) - Floor Area (sf) of Restaurant/Bar (parking 1 space/250 sf) - Floor Area (sf) of Retail (parking 3 spaces/1,000 sf) - Floor Area (sf) of Office (parking 1 space/500 sf) - Number of parking spaces required - Number of parking spaces proposed (Standard vs ADA) - Land Use (Zoning) designation(s)
	<u>Site Plan.</u> A bird's-eye view showing structures, major vegetation and topographical data of the subject property including information about how the subject conditions relate to adjacent properties. Illustrate details of the proposed project with the applicable information listed below (legible and clear): - North Arrow <i>Dimensions.</i> 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). <i>Parcel.</i> Illustrate and dimension property lines of the entire parcel, including all rights-of-way and easement lines. Existing and proposed easement lines (utility, slope, conservation, other). <i>Roads.</i> Identify the primary road where the site takes access as well as any secondary roads/access. Indicate if roads are public or private - provide documentation of access/rights from the appropriate authority for private, State, Federal roads. 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. <i>Access.</i> Illustrate all existing and proposed accesses/driveways. Identify any bridge, culvert, or intersection/at-grade crossing (existing or proposed). <i>Utilities.</i> Illustrate 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. Identify existing utility pole locations. Illustrate proposed utility lines, including an easement if required – utility easements are encouraged to be located within or along access roads. <i>Irrigation Ditches/Pipelines.</i> Illustrate and label the location and ownership of all irrigation ditches and pipelines. Identify areas where irrigated agricultural land is located. <i>Existing/Proposed Features.</i> Illustrate the location of all existing and proposed structures (buildings, fences, pump house, etc.), building envelopes/no build areas, setbacks, landscaped areas, service lines, drainage structures and features, wells and distribution lines,

	and septic systems. <i>For a more detail explanation of requirements for the site plan, see Chapter 4 (Site Design and Environmental Stewardship) and Chapter 5, Public Facilities, Infrastructure, and Services of the Land Use Code.</i>
	<u>Agricultural Management Plan</u>. An engineered Plan may be required where irrigated lands are impacted by the proposed development. The Plan must identify best practices to continue agricultural operations based on site/soil conditions. In addition, the Plan needs to address irrigation practices and operation to prevent impact to neighboring properties. <i>See Chapter 8, Section 2.A.2.b of the Land Use Code.</i>
	<u>Biological Report</u>. The intent of an assessment is to evaluate potential for listed species to be present on the property or impacted by the proposed project: If there is potential impact of a species, the report should include recommended mitigation to reduce/avoid impact. <i>See Chapter 4, Section 5.D of the Land Use Code.</i>
	<u>Business Plan/Project Narrative</u>. Describe the project and each phase of development, including the approximate number of structures for each phase. Identify baseline conditions, assess potential effects that the project may have on County services and/or capital facilities from the proposed construction and operation. Describe site maintenance during and after construction, and recognize the ability for County to inspect the site upon notification. Also, address any direct or indirect impacts to forests, parks, wildlife management areas, conservation easements, or recreational areas. <i>See Chapter 8, Section 2.A.1.b of the Land Use Code.</i>
	<u>Construction Schedule</u>. Provide an estimated timeline for each step of the project. <i>See Chapter 8, Section 2.A.1.d of the Land Use Code.</i>
	<u>Concept/Development Plan</u>. An illustrative summary of the project, including information provided in other documents described below, such as: property boundary lines and dimensions, location and arrangement of screening, buffer zones, fencing location and design, tree preservation, existing/proposed structures, driveways and entrances, existing road edges and rights-of-way abutting the project site, irrigation systems, existing/proposed easements (utility, irrigation, conservation, etc.), wildlife corridors, floodplain considerations, and existing/proposed electrical lines. <i>See Chapter 8, Section 2.A.1.a of the Land Use Code.</i>
	<u>Constraints Map</u>. Map illustrating constraints that may affect the design, such as: - Areas with significant agricultural, natural or cultural resources. - General location of areas with natural features such as rivers, streams, draws, ravines, ponds, wetlands, forest areas, tree and hedge lines - Existing and proposed easements (utilities, access, water pipes, irrigation ditches, etc.) - Steep Slopes <i>See Chapter 4, Sections 5 & 6 of the Land Use Code</i>
	<u>Dust Control Plan</u>. Requires all industrial or extraction uses to submit a Dust Control Plan. Said Plan shall include all available practical methods that are technologically feasible and economically reasonable and that will reduce, prevent, and control fugitive dust into the atmosphere, minimizing impacts to livestock, crops, and public health. Said methods shall include but not be limited to use of water for abating dust. <i>See Chapter 5, Section 7.F of the Land Use Code.</i>
	<u>Fuel Management Plan</u>. Illustrate details of the proposed project with the applicable information listed below: - Illustrate the general type/extent of natural vegetation to be retained (e.g. grassland, brush, trees) - Emergency vehicle access (driveway and/or roadway) including width, slope and type of surface. - Illustrate the area where vegetation will be maintained relative to the area where building

	may occur. Indicate if vegetation will be removed or routinely pruned. <i>See Chapter 4, Section 5.E of the Land Use Code.</i>
	<u>Grading/Slope Map.</u> Illustrate details of the proposed project with the applicable information listed below: - North Arrow - General Location of natural features such as rivers, streams, draws, ravines, ponds, wetlands - Existing easements - Survey top/toe of slope lines using 5-foot contours. Illustrate existing and proposed site drainage, including retention/detention areas. Highlight (shade) areas exceeding 25% slope. - Illustrate locations of cut/fill - Section View(s) illustrating the height of excavation and embankment, including proposed retaining walls. - Drainage and erosion control plan <i>See applicable sections of Chapter 4 and 5 of the Land Use Code.</i> <u>NOTE:</u> The Land Use Code set standards to minimize grading on slopes 25%+.
	<u>Landscape/Lighting Plan.</u> Illustrate details of the proposed project with the applicable information listed below: - Illustrate the general location and type/extent of screening – fencing, vegetation, etc. proposed (including existing vegetation) - Describe the type of vegetation (e.g., grassland, brush, trees) and how the vegetation/screening will be maintained. - Illustrate the area where vegetation will be maintained relative to the area where building may occur. Indicate if vegetation will be removed or routinely pruned. - Lighting. Any exterior lighting, except as required for FAA regulations for airport safety, shall be directed/shielded down and manually operated - used only during night maintenance checks or in emergencies. The lighting shall be constructed or located so that only the intended area is illuminated and off-site glare is fully controlled. - Identify anti-climbing measures (security)
	<u>Noise Abatement Plan.</u> Evaluate potential noise levels of equipment associated with the facility when measured at the property line. Include current, applicable state noise standards and how the proposed project meets those standards, with or without mitigation. <i>See Chapter 8, Section 2.A.2.e of the Land Use Code.</i>
	<u>Telecommunication (Justification) Plan.</u> Describe aspects of the project that may affect the design, such as: - Explain how the project site (location) was selected over any other site. - Locate any Scenic By-Way within one mile of the proposed site(s). If a facility is located within ¼ mile of a Scenic By-Way provide a detailed visual analysis from that roadway. - Rationale for proposed tower design including: colors, textures, surfaces, scale, character and siting. Provide photo simulations from various views illustrating what the area looks like with and without the proposed tower. Mitigate as appropriate (screening). - Identify other (existing) poles within the vicinity, and potential for co-location either on an existing tower or on this proposed tower. - Hazard mitigation to withstand maximum forces expected from wind, tornadoes, blizzards and other natural occurrences. - Provide documentation for proof of access to the proposed site (e.g., private road easement, etc.). - Explain compliance with applicable rules, regulations and standards (FCC, FAA) - Assess if there is any environmentally sensitive habitat within 300 feet of the proposed site. - Visual Assessment (Photo Simulation) - Lease/License Agreement <i>See Chapter 2, Section 4.H.10.c of the Land Use Code.</i>

	<u>Truck Routing Plan.</u> Submit a Truck Routing Plan to address the use of semi-trailers, dump trucks, trash hauling trucks, or comparable heavy trucks as they may be disruptive to nearby property owners and could potentially cause damage to the County Roads. Address the type of vehicles that will be used for this operation, the frequency of arrivals/departures, approximate hours of truck traffic, and any hazardous materials/hazmat materials being transported. <i>See Chapter 4, Section 7.K of the Land Use Code.</i>
	<u>Visual Analysis.</u> A visual analysis describing and demonstrating project siting and proposed mitigation, if necessary, to minimize impact on the visual character of the surrounding area (including light and glare). Elevations depicting the general style, size, color and construction materials in sufficient detail to exhibit the relative compatibility of the proposed development with the character of the surrounding areas. Location of exterior lights indicating area of illumination and foot-candles (lighting level). Include accurate, to scale, photographic simulations showing the relationship of the proposed facility and its associated amenities and development to its surroundings. Include perspective from public viewing areas such as public rights-of-way, as deemed necessary by the County. <i>See Chapter 8, Section 2.A.2.f of the Land Use Code.</i>
	If revisions are made to the plans, include a revision block on all plans and reflect all changes made to the original Site Plan/Plat.
ADDITIONAL REQUIRED INFORMATION Information checked below is required because of the type of application and policies affecting the subject property and/or project:	
	<u>Hazardous Materials and Waste Management Plan.</u> Provide a Spill Prevention and Emergency Response Plan identifying potential sources at-risk of causing a spill and planned response if a spill does occur. Wildfire Control Plan including assessment and identification of at-risk communities/facilities with methods (strategies and tactics) for reducing potential impacts and protecting sensitive facilities. Phase I Environmental Site Assessment to research the current and historical uses of a property to assess if current or historical property uses have impacted the soil or groundwater beneath the property and could pose a threat to the environment and/or human health. <i>See Chapter 8, Section 2.A.2.d of the Land Use Code.</i>
	<u>Proof of Water.</u> Provide evidence to justify that the water supply is sufficient in terms of quality, quantity and dependability for the proposed use. <i>NOTE: Cisterns shall not be considered an adequate water supply. Water line and meters must be installed prior to accepting the Final Plat, including the name of the domestic water provider and tap or certificate number on each lot and/or the location of the domestic well and spring.</i> <i>See Chapter 5, Section 3.B of the Land Use Code.</i>
	<u>Water Quality Report.</u> Required when/if a well is (will be) used to provide domestic water. <i>See Chapter 5, Section 3 of the Land Use Code.</i>
	<u>Photographs.</u> Photographs to help visually depict existing conditions of the project site.
	<u>Variance Findings.</u> Narrative describing how the proposed project meets the required findings. <i>See attached Variance Criteria and Findings. Also see Chapter 8, Section 5 of the Land Use Code.</i>
	<u>Photo Simulation.</u> An illustration of the project overlaying the proposed project onto photographs of existing conditions to reflect how the area looks in the future from certain points.
	<u>Preliminary Title Report.</u> Report showing the legal owners and recorded encumbrances. Include description of all existing and evident easements for the subject property.
	<u>Construction Schedule.</u> Provide an estimated timeline for each step of the project. <i>See Chapter 8, Section 2.A.1.d of the Land Use Code</i>
	<u>Traffic Impact Study.</u> The intent is to assess the traffic created by the proposed use and demand for parking. The contents and extent of a Traffic Impact Study depend on the location and size of the proposed development and the conditions prevailing in the surrounding area.

	The appropriate level of traffic evaluation and the specific requirements for this application include: - Location of the subject property - County roads and State highways located in the vicinity, including access points (include name, functional classification, and right-of-way requirements based on classification) - Existing and proposed land use(s) of the subject site - Existing land uses of surrounding properties - Average Daily Traffic (ADT) counts on all roads affected by the proposed project - Trip generation calculations (ADT) - <i>See Chapter 5, Section 1.B and Chapter 8, Section 2.A.1.c of the Land Use Code.</i>
	<u>Biological Report.</u> The intent of an assessment is to evaluate potential for listed species to be present on the property or impacted by the proposed project: If there is potential impact of a species, the report should include recommended mitigation to reduce/avoid impact. <i>See Chapter 8, Section 2.A.2.a of the Land Use Code</i>
	<u>Cultural Resource Survey.</u> A Class III Cultural Resource Survey may be required of the project site to identify eligible or supporting resources potentially impacted by the proposed project. Specifically include any known historic or cultural resources within three (3) miles of the project boundary. <i>See Chapter 8, Section 2.A.2.c of the Land Use Code.</i>
GEOTECHNICAL AND HYDROLOGICAL INVESTIGATION REPORTS Information checked below is required because of the type of application and policies affecting the subject property and/or project: <i>See Chapter 8, Section 2 of the Land Use Code</i>	
	<u>Geology and Soils.</u> Assess soil suitability and site characteristics. Address ground subsidence, expansive soil, and rock analyses, as well as the following potential issues: avalanche, landslide, rockfall, mudflow, debris fan, unstable and potentially unstable slopes, seismic effect, radon and radioactivity. The suitability of the soils will also need to be assessed for individual sewage disposal systems, impacts and limitations for structures and any unusual drainage characteristics.
	<u>Geotechnical.</u> Conduct a preliminary evaluation, prepared by a Professional Engineer licensed in Colorado, of subsurface and site conditions with recommendations for site preparation, slope stability, foundation design, grading criteria, and management of drainage.
	<u>Hydrology.</u> Include a surface and groundwater monitoring and reporting plan that addresses where/how water is used, including listed chemicals used in wash water. If there is evidence that a floodway or floodplain is present on a subject property, such resources shall be mapped on the Site Plan or Plat.
	<u>Erosion Control.</u> Describe existing and proposed ground cover, including species and coverage area. Provide a plan showing existing and proposed grading for the site. Said plan shall be accompanied by a written description of practices that will be utilized to mitigate dust, erosion and run-off during and after construction. Soils shall be planted and maintained in perennial vegetation to prevent erosion (water and wind), manage runoff and build soil.
	<u>Stormwater Management Plan.</u> Evaluate anticipated work associated with the project in accordance with good engineering, hydrologic, and pollution control practices to comply with requirements of the Colorado Discharge Permit System (CDPS) Water Quality Control Division (WQCD), and the General Permit for Stormwater Discharges Associated with Construction Activity.
	<u>Drainage Report.</u> A Preliminary Drainage Report, prepared by a Professional Engineer registered in the State of Colorado, which consists of two parts: 1) a drainage study and 2) a drainage and erosion control plan. Assess peak flows and flood risk based on a 100-year recurrence interval storm event to model infiltration, runoff and flow depth and velocities in the study area. Drainage reports shall be in compliance with any other applicable state or federal standards for grading, erosion, and sediment control.
	<u>Vegetation and Noxious Weed Control.</u> Outline the strategy to manage vegetation within the project

	area. This includes native vegetation, proposed landscaping plan, and abatement of noxious weeds.
OTHER REQUIREMENTS FOLLOWING PLANNING APPROVAL	
	<u>Open Space Impact/Mitigation Fee.</u> Open Space impact fees shall apply to all new development to be applied to public recreational facilities within the applicable Commissioner District (\$300/lot)
	<u>Road Impact Fee.</u> Road impact fees shall apply to all new development upon adoption of any resolution establishing such fee. (TBD)
	<u>Fire Impact/Mitigation Fee.</u> Fire impact fees shall apply to all new development located within any fire district where a resolution establishing such fee is approved and adopted (\$500/lot)
	<u>Deeds:</u> Deeds with legal description to effectuate any change of land (new parcel, transfer of land, etc.).
	Other:

FILING FEES Fees are charged to offset the cost of processing an application for the permit(s) noted above (reviews, notices, hearings, and recordkeeping). The following fee has been calculated based on the entitlement(s) required. Application fees are due and payable with submission of the application materials. We accept Cash, Check or all major Credit Cards (2.5% fee applied at check out) Please make checks payable to: “<u>Delta County</u>” <i>NOTE: Additional fees may be required for referral agencies and/or professional services (consultant) related to the application should they be deemed necessary. This fee does not include recording fees.</i> Total Fee: \$__ SEE LETTER for explanation of fees <i>Itemized list of Land Use fees can be found in Resolution 2021-R-007</i>
DEPARTMENT USE Checklist Sent (date): Pre-Application Meeting (date): IF APPLICABLE Project Planner:



APPLICATION CHECKLIST

Subdivision

PROJECT DESCRIPTION

Owner/Applicant Name:

Site Address (Parcel ID#)

Case/File # (Project Name):

Project Description:

OVERVIEW

Delta County Planning Department is the lead agency to coordinate the processing of development applications for the unincorporated areas of Delta County. This form provides a checklist of materials, plans, data, and reports required for submitting an application for:

- **Minor Plat:** A Plat where no more than two lots are created through subdivision. The Director is authorized to approve Minor Plats; however, the Plat will be referred to the Board of County Commissioners where Right-of-Way dedication is involved. Any decision or determination (interpretation) by the Director may be appealed to the Board of Adjustment. Any decision by the Board of Adjustment may be appealed to the Board of County Commissioners.
- **Preliminary Plat (Standard or Cluster Subdivision):** A subdivision where three or more (3+) lots are created, showing the salient features of a proposed subdivision submitted to an approving authority for purposes of consideration prior to a Final Plat. The Planning Commission is the Approving Authority for this type of land use entitlement. Any decision by the Planning Commission may be appealed to the Board of County Commissioners.

REQUIREMENTS FOR APPLICATION

All items checked below **MUST** be provided for a complete Application Submittal, including any and all requested materials from a pre-application meeting and/or cover letter. Items marked with a “✓” indicate items we have received. Failure to provide or complete any of the required items, including applicable fees, will result in the application being incomplete. Incomplete applications will be returned and not be considered filed until all items are received by the Department. Applications will be processed in the order they are deemed complete.

All documents shall also be provided in an electronic format (.pdf). Plans shall be in a format so that they may be reproduced at 11x17 inches or greater.

NOTE: Additional information may be requested based upon review of these materials.

PLAT REQUIREMENTS.

Items checked below are minimum requirements for a Subdivision application.

	<u>Title Block/ North Arrow.</u> Date of preparation of the map. Name and address of subdivider and record owner in the lower right-hand corner. Name and address of the person who prepared the map in the lower right-hand corner.
	<u>Vicinity Map.</u> Identify the subject parcel. Include parcel numbers of all adjacent property owners and adjacent subdivisions. Illustrate political boundaries (city limits, county lines, etc.) – provide distance from the closest Town/City boundary.
	<u>Aerial View.</u> Overlay the proposed subdivision onto an aerial view to illustrate how the proposed property lines align with existing/natural features. View of the subject parcel and surrounding area at the same scale as the proposed project plan/plat to accurately depict what is on the ground today and how the project aligns (Color Copy).
	<u>Property Description:</u> An accurate and clear metes and bounds property (legal) description of the overall boundary of the subdivision with the acreage of the subdivision. All courses, calls, monuments, etc., used in the description shall be shown and labeled on the drawing, including the point of beginning and point of commencement. Property descriptions in any other format, as may be provided by a title company, deed, etc., may be shown, followed by "also described as (metes and bounds description)". Replats may utilize the legal description of the recorded subdivision including the name of the subdivision, blocks and lots, as appropriate.
	<u>Subdivision Name, Subtitle:</u> Name of subdivision at the top of the sheet (this includes the PLN#), followed by a subtitle identifying the section, township and range information along with City, County and State.
	<u>Summary Table.</u> Information, including: a. Total land area proposed to be subdivided b. Total land area proposed to be dedicated for Right-of-Way c. Number of buildable parcels d. Number of non-buildable parcels e. Size of buildable and non-buildable parcels (existing and proposed), calculated in acreage and square footage f. Land Use (Zoning) designation(s)
	<u>Parcel Configuration:</u> Illustrate and dimension property lines of the entire parcel, including all rights-of-way and easement lines (existing and proposed): a. Graphic representation of the existing parcel configuration for all lots/parcel involved. All buildable parcels shall be illustrated using numbers. All non-buildable parcels (roads, open space, etc.) shall be illustrated using letter designations. b. Proposed uses of all portions of the subdivision, including but not limited to building areas, open space, streets, etc. c. Method of adequate domestic water supply for each parcel within the subdivision. d. Method of wastewater/sewage disposal for each parcel within the subdivision. e. Existing/Proposed Features: Illustrate the location of all existing and proposed structures (buildings, fences, pump house, etc.), utility/service lines, drainage structures and features, wells and distribution lines, and septic systems. f. Existing/Proposed easements: utilities, irrigation and drainage, service lines, etc. g. Building Envelope(s) to identify area for future development that minimizes impact to significant resources (e.g., agricultural lands); existing and proposed. h. Locate Existing Structures, including wastewater/septic disposal. Illustrate setbacks from proposed property lines and Rights-of-Way. i. Survey and label the location and ownership of all irrigation ditches and pipelines. Identify areas where irrigated agricultural land is located. Drainage, existing and proposed.
	<u>Streets:</u> Placement and location of all existing streets, easements, rights-of-way on the land proposed to be subdivided, and those abutting said land.

	a. Alignment of the proposed streets within the subdivision and their connections with existing streets or methods of terminating proposed streets. Streets shall be illustrated with letter designations. Illustrate all existing and proposed accesses/driveways. Identify any bridge, culvert or at-grade crossing (existing or proposed). b. Street improvements, existing and proposed. c. Access, existing and proposed.
	<u>Revisions.</u> If revisions are made to the plans, include a revision block and list changes made to the original Plat. Include a resubmittal date of the revised plat.
ADDITIONAL REQUIRED INFORMATION Items checked below are required because of the type of application and policies affecting the subject property and/or project:	
	<u>Preliminary Title Report/Ownership and Encumbrances.</u> Report showing the legal owners and recorded encumbrances. Include description of all existing and evident easements for the subject property. Proof of ownership may consist of a deed, title insurance policy or Tax Assessor's statements, include encumbrances.
	Surveyor's Statement: The Surveyor's statement shall read: <i>The undersigned Professional Land Surveyor licensed in the State of Colorado, hereby states and declares that the accompanying plat was surveyed and drawn under his/her responsible charge and accurately shows the described tract of land, and subdivision thereof, and that the requirements of Title 38 of the Colorado Revised Statutes, 1973, as amended, have been met to the best of his/her knowledge and belief.</i>
	<u>Standard Signature Blocks:</u> Include all applicable signature blocks including notary where required. - o Property Owner(s); Required to match how names appear on existing Deed(s). Where a Trust or Corporation is involved, provide documentation demonstrating legal authority to sign the plat. - o Mortgagees Approval; Required if there is a loan on any parcel involved - o Delta County Surveyor's Approval; All Plats - o Delta County Planning Department Approval; All Plats - o Certificate of Taxes Paid; Required on all plats where the legal description changes - o Board of County Commissioner Approval; Required if road Right-of-Way dedication is included, or where a Plats require BoCC acceptance of Final Plat <i>Standard/recommended language found in Chapter 12, Section 5 of the Land Use Code.</i>
	<u>Standard Plat Notes (1-11).</u> All subdivision Plats, unless specifically excluded by the County. <i>See Chapter 12, Section 5.I of the Land Use Code.</i>
	<u>Special Plat Note:</u> Covenants and Restrictions <i>See Chapter 12, Section 5.J.1 of the Land Use Code.</i>
	<u>Special Plat Note:</u> Irrigation Shares <i>See Chapter 12, Section 5.J.2 of the Land Use Code.</i>
	<u>Special Plat Note:</u> Emergency Access <i>See Chapter 12, Section 5.J.3 of the Land Use Code.</i>
	<u>Special Plat Note:</u> Stormwater <i>See Chapter 12, Section 5.J.4 of the Land Use Code.</i>
	<u>Special Plat Note:</u> Construction Covenant <i>See Chapter 12, Section 5.J.5 of the Land Use Code.</i>
	<u>Special Plat Note:</u> Homeowners Association <i>See Chapter 12, Section 5.J.6 of the Land Use Code.</i>
	<u>Special Plat Note:</u> Other " "
	<u>Phasing.</u> In order to complete a development in phases, a phasing plan showing which lots will be part of each phase is required to be submitted with the Preliminary Plat.
	<u>Dedication Statements:</u> Statements of tracts of land to be dedicated to the County for parks, open space, drainage or other public uses, grants of easements and dedication of public streets and alleys

	to Delta County are required.
	<u>Inundation Mark</u>: If any part of the subject property is within a designated FEMA flood hazard area, the plat shall clearly show the 100-year floodplain line. Reference the appropriate FEMA panel by which the location of this line has been determined as a plat note. <i>See Chapter 4, Section 6.I of the Land Use Code</i>
	<u>Reception Numbers</u>: Reception numbers of all applicable easements, agreements and documentation as may be referenced on the subdivision plat drawing, or accompanying documentation for recording.
	Copies of any agreements with notarized signatures (access, road maintenance, ditch company, domestic water, subdivision improvements, etc.)
	<u>Proof of Water</u>. Provide evidence to justify that the domestic water supply is sufficient in terms of quality, quantity and dependability for each of the parcels lots included in the subdivision. Cisterns using hauled water shall not be considered an adequate water supply for creating new lots/parcels. <i>See Chapter 5, Section 3 of the Land Use Code</i>
	<u>Augmentation Plan</u>. Required when/if a well is (will be) used to provide domestic water across property lines.
	<u>Water Quality Report</u>. Required when/if a well is (will be) used to provide domestic water. <i>See Chapter 5, Section 3 of the Land Use Code.</i>
	<u>Irrigation Plan</u>. Describe proposed divisions, provide for ditch easements and submit a plan which shall assure the continued water flow and delivery systems in accordance with State of Colorado Water Law. Adjacent property owners and irrigation ditch companies shall be consulted. Illustrate and/or describe how the irrigation water is to be allocated, including the pertinent ditch company. <i>See Chapter 5, Section 3.E Land Use Code</i>
	<u>Traffic Impact Study</u>. The intent is to assess the traffic created by the proposed use and demand for parking. The contents and extent of a Traffic Impact Study depend on the location and size of the proposed development and the conditions prevailing in the surrounding area. The appropriate level of traffic evaluation and the specific requirements for this application include: - Location of the subject property - County roads and State highways located in the vicinity, including access points (include name, functional classification, and right-of-way requirements based on classification) - Existing and proposed land use(s) of the subject site - Existing land uses of surrounding properties - Average Daily Traffic (ADT) counts on all roads affected by the proposed project - Trip generation calculations (ADT) - <i>See Chapter 5, Section 1.B and Chapter 8, Section 2.A.1.c of the Land Use Code.</i>
	<u>Geology and Soils</u>. Assess soil suitability and site characteristics. Address ground subsidence, expansive soil, and rock analyses, as well as the following potential issues: avalanche, landslide, rockfall, mudflow, debris fan, unstable and potentially unstable slopes, seismic effect, radon and radioactivity. The suitability of the soils will also need to be assessed for individual sewage disposal systems, impacts and limitations for structures and any unusual drainage characteristics. <i>See Chapter 8, Section 2 of the Land Use Code</i>
	<u>Constraints Map</u>. Map illustrating constraints that may affect the design, such as: a. Areas with significant agricultural, natural or cultural resources. b. General location of areas with natural features such as rivers, streams, draws, ravines, ponds, wetlands, forest areas, tree and hedge lines c. Existing and proposed easements (utilities, access, water pipes, irrigation ditches, etc.) d. Steep Slopes <i>See Chapter 4, Sections 5 & 6 of the Land Use Code</i>
	Other:

FINAL PLAT.

Items below may be required for a Final Plat, prior to Acceptance/Recording.

	<u>Recording Fees</u> . Recording fees are separate and in addition to the land use fees. (Clerk & Recorder Fee Schedule)
	<u>Final Plat Fees</u> . Land Use Fee Schedule; Resolution 2021-R-007
	<u>Conditions</u> . Final Plats may be accepted by the Board of County Commissioners upon a finding that the Final Plat is substantially consistent with the approved Preliminary Plat and all applicable conditions have been cleared by the appropriate agency.
	<u>Installation of Utilities</u> . The lines for domestic water, public sanitary sewer, and electrical power are required to be extended to the lot line of each new lot prior to approval of a Site Plan or acceptance of a Final Plat by the Chair of the Board of County Commissioners.
	<u>Public Improvements</u> . No Final Plat that includes or requires public improvements (on-site or off-site) shall be recorded, and no Site Plan that requires public improvements (on-site or off-site) or imposes conditions or obligations related to development approval shall be approved until the applicant has been submitted, and the Board of County Commissioners has approved an Agreement in accordance with design and time specifications; or obligation to satisfy such conditions of approval as may be imposed pursuant to the land Use Code.
	<u>Access</u> . Access for all lots/parcels approved in the subdivision must be installed prior to accepting the Final Plat. Subject to access permit(s) approved by the County Engineer.
	<u>Domestic Water</u> . Water line(s) and meters must be installed prior to accepting the Final Plat, including the name of the domestic water provider and tap or certificate number on each lot and/or the location of the domestic well and spring.
	<u>Irrigation Water</u> . The shares of irrigation water to be conveyed to lots in the subdivision shall be noted on the final plat along with all required easements.
	<u>Fire Impact/Mitigation Fee</u> . Fire impact fees shall apply to all new development located within any fire district where a resolution establishing such fee is approved and adopted (\$500/lot)
	<u>Open Space Impact/Mitigation Fee</u> . Open Space impact fees shall apply to all new development to be applied to public recreational facilities within the applicable Commissioner District (\$300/lot)
	<u>Road Impact Fee</u> . Road impact fees shall apply to all new development upon adoption of any resolution establishing such fee. (TBD)
	<u>Monuments</u> : All monuments used to determine and/or describe a boundary (including basis of bearings, point of beginning and point of commencement) shall be shown and clearly labeled on the plat drawing. Monuments for corners defined by the plat, or otherwise found to be missing in the field, shall be placed and set in accordance with the requirements of the State of Colorado.
	<u>Deeds</u> : Deeds describing all affected lots, as well as transferring parcel(s), shall be recorded with the approved Final Plat. Required to effectuate any change of land (new parcel, transfer of land, etc.).
	<u>Appeal</u> : Appeals must be filed within 10 calendar days from the date of decision
	<u>Other</u> :

FILING FEES

Fees are charged to offset the cost of processing an application for the permit(s) noted above (reviews, notices, hearings, and recordkeeping). The following fee has been calculated based on the entitlement(s) required. Application fees are due and payable with submission of the application materials.

We accept Cash, Check or all major Credit Cards (2.5% fee applied at check out)

Please make checks payable to: **“Delta County”**

NOTE: Additional fees may be required for referral agencies and/or professional services (consultant) related to the application should they be deemed necessary. This fee does not include recording fees.

Total Fee: \$__

SEE LETTER for explanation of fees

Itemized list of Land Use fees can be found in Resolution 2021-R-007

DEPARTMENT USE

Checklist Sent (date):

Pre-Application Meeting (date): **IF APPLICABLE**

Project Planner:



APPLICATION CHECKLIST

Boundary Line Adjustment, Replat

PROJECT DESCRIPTION

Owner/Applicant Name:

Site Address (Parcel ID#)

Case/File # (Project Name):

Project Description:

OVERVIEW

Delta County Planning Department is the lead agency to coordinate the processing of development applications for the unincorporated areas of Delta County. This form provides a checklist of materials, plans, data, and reports required for submitting an application for:

- Replat: A procedure by which minor amendments may be made to an approved Final Plat where the revision involves minor adjustments to lot lines and/or building envelopes, minor amendments to plat notes, minor right-of-way adjustments, or minor utility easement adjustments. All lands must be part of a previously recorded Subdivision, no additional lots or building sites are created, no impacts to county roads or other service providers is created, or the revision corrects minor errors on the Plat.
- Boundary Line Adjustment: An adjustment or revision of established, undisputed, existing boundary lines between parcels or lots less than 35 acres, where such adjustment does not result in creating an additional parcel/lot.

The Director is the Approving Authority for this type of land use entitlement. Any decision or determination (interpretation) by the Director may be appealed to the Board of Adjustment. Any decision by the Board of Adjustment may be appealed to the Board of County Commissioners.

REQUIREMENTS FOR APPLICATION

All items checked below MUST be provided for a complete Application Submittal, including any and all requested materials from a pre-application meeting and/or cover letter. Items marked with a “✓” indicate items we have received. Failure to provide or complete any of the required items, including applicable fees, will result in the application being incomplete. Incomplete applications will be returned and not be considered filed until all items are received by the Department. Applications will be processed in the order they are deemed complete.

All documents shall also be provided in an electronic format (.pdf). Plans shall be in a format so that they may be reproduced at 11x17 inches or greater.

NOTE: Additional information may be requested based upon review of these materials.

PLAT REQUIREMENTS.

The following are minimum requirements for a Boundary Line Adjustment or Replat.

	<u>Title Block/ North Arrow.</u> Date of preparation of the map. Name and address of subdivider and record owner in the lower right-hand corner. Name and address of the person who prepared the map in the lower right-hand corner.
	<u>Vicinity Map.</u> Identify the subject parcel. Include parcel numbers of all adjacent property owners and adjacent subdivisions. Illustrate political boundaries (city limits, county lines, etc.) – provide distance from the closest Town/City boundary.
	<u>Aerial View.</u> Overlay the proposed boundary line adjustment/replat onto an aerial view to illustrate how the proposed property lines align with existing/natural features. View of the subject parcel and surrounding area at the same scale as the proposed project plan/plat to accurately depict what is on the ground today and how the project aligns (Color Copy).
	<u>Legal Description.</u> For all parcels and transferring parcels. Subdivision, blocks, lots, recording information. Books and pages of metes and bounds. Bearings on Section and ¼ Section lines (to the nearest second).
	<u>Summary Table.</u> Information, including: a. Size of parcels/lots (before and after) calculated in acreage (square footage where applicable). b. Transferring parcel(s) calculated in acreage (square footage where applicable). c. Land Use (Zoning) designation(s)
	<u>Boundary Line Adjustment (BLA).</u> Illustrate changing parcel lines (drawing of professional quality): a. Graphic representation of existing parcel/lot lines and adjusted parcel/lot lines. Lots should be numbered and parcels should use letter designations. b. Placement and location of all existing streets, easements, rights-of-way on the subject land(s), and those abutting any parcel involved with the Boundary Line Adjustment (identify reception number for recorded documents). c. Illustrate easements and Building Envelopes as shown on the original Subdivision Plat(s) d. Locate existing structures within 50 feet of adjusted property line(s), including wastewater/septic disposal. Illustrate setbacks from proposed property lines and Rights-of-Way. e. Illustrate irrigation drainage, including applicable easements f. Illustrate existing utilities
	<u>Replat.</u> Illustrate changing recorded notes and/or parcel lines (drawing of professional quality): a. Graphic representation of existing lot lines and adjusted lot lines. Lots will be numbered as previously shown on the original recorded Subdivision Plat, followed by a letter designation (e.g. Lot 1 becomes Lot 1A) b. Placement and location of all existing streets, easements, rights-of-way on the subject land(s), and those abutting any lot involved with the Replat (identify reception number for recorded documents). c. Illustrate Easements and Building Envelopes as shown on the original Subdivision Plat(s) d. Locate Existing Structures within 50 feet of adjusted property line(s), including wastewater/septic disposal. Illustrate setbacks from proposed property lines and Rights-of-Way. e. Illustrate irrigation drainage, including applicable easements f. Illustrate existing utilities g. Include Plat Notes from original recorded subdivision (if applicable).
	<u>Revisions.</u> If revisions are made to the plans, include a revision block and list changes made to the original Plat. Include a resubmittal date of the revised plat.

ADDITIONAL REQUIRED INFORMATION

Information checked below is required because of the type of application and policies affecting the subject property and/or project:

	<u>Surveyor's Statement</u> . Certification of compliance with state statute and Delta County Land Use Code, including that no new lots are being created. <i>Form provided by Delta County.</i>
	<u>Standard Signature Blocks</u> : Include all applicable signature blocks including notary where required. - o Property Owner(s); Required to match how names appear on existing Deed(s). Where a Trust or Corporation is involved, provide documentation demonstrating legal authority to sign the plat. - o Mortgagees Approval; Required if there is a loan on any parcel involved - o Delta County Surveyor's Approval; All Plats - o Delta County Planning Department Approval; All Plats - o Certificate of Taxes Paid; Required on all plats where the legal description changes <i>Standard/recommended language found in Chapter 12, Section 5 of the Land Use Code.</i>
	Copies of any agreements with notarized signatures (access, road maintenance, ditch company, domestic water, subdivision improvements, etc.)
	<u>Plat Note (Setbacks)</u> : All structures (including onsite wastewater treatment systems) in this subdivision shall meet applicable setback requirements (rights-of-way, property lines, ditches, waterways, etc.) in place at the time the development occurs.
	<u>Preliminary Title Report/Ownership and Encumbrances</u> . Report showing the legal owners and recorded encumbrances. Include description of all existing and evident easements for the subject property.
	<u>Dedication</u> : In format as described by the Delta County Planning Department <i>See Land Use Code Chapter 12, Section 5</i>
	Other:

OTHER REQUIREMENTS FOLLOWING PLANNING APPROVAL

	<u>Recording Fees</u> . Recording fees are separate and in addition to the land use fees. (Clerk & Recorder Fee Schedule)
	<u>Deeds</u> : Deeds describing all affected lots, as well as transferring parcel(s), shall be recorded with the approved Final Plat. Required to effectuate any change of land (new parcel, transfer of land, etc.).
	Appeal: Appeals must be filed within 10 calendar days from the date of decision
	Other:

FILING FEES

Fees are charged to offset the cost of processing an application for the permit(s) noted above (reviews, notices, hearings, and recordkeeping). The following fee has been calculated based on the entitlement(s) required. Application fees are due and payable with submission of the application materials.

We accept Cash, Check or all major Credit Cards (2.5% fee applied at check out)

Please make checks payable to: "**Delta County**"

NOTE: Additional fees may be required for referral agencies and/or professional services (consultant) related to the application should they be deemed necessary. This fee does not include recording fees.

Total Fee: \$__

SEE LETTER for explanation of fees

Itemized list of Land Use fees can be found in **Resolution 2021-R-007**

DEPARTMENT USE

Checklist Sent (date):

Pre-Application Meeting (date): **IF APPLICABLE**

Project Planner: