

Wireless Telecommunications Facilities

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PART 1. PRELIMINARIES

Division 1.01. Title, Purpose, and Applicability

1.01.010. Title; Short Title

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

1.01.020. Purpose and Findings

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

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

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

1.01.030. Applicability

(a) **Generally.**

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

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

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

PART 2. LOCATION AND DESIGN

Division 2.01. Location

2.01.010. Applicability; Prohibitions

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

2.01.020. Need

- (a) **Generally.** No wireless communication facility shall be approved unless the decision-maker finds that the need for the facility in its proposed location has been demonstrated as provided in this Section.
- (b) **Required Demonstrations.** The applicant shall demonstrate how the proposed site fits into the overall communication network for the County. As applicable, the applicant shall also demonstrate:

- (1) That, to the extent that the applicant seeks approval to address gaps in coverage or capacity, there are no materially preferable alternatives (in terms of compliance with this Resolution) to remedy gaps in the applicant's network; or
- (2) That, to the extent that the applicant provides services under a license granted by a governmental authority, a failure to approve the application will result in the applicant's inability to provide the minimum coverage or capacity it is required to provide pursuant to its license and any applicable law.

2.01.030. Siting Considerations

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

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

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

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

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

2.01.040. Setbacks

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

(1) For towers, the lesser of:

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

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

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

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

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

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

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

2.01.050. Public Rights of Way

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

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

(b) **Wiring.**

(1) Any necessary wiring or cabling shall be located within the pole or, if such location is not technically feasible, within fully enclosed sheathing attached to the pole.

(2) Sheathing shall be the same color as the pole, shall be limited in size to that necessary to cover the wiring or cabling, and may not extend out from the pole more than three inches.

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

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

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

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

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

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

Division 2.02. Design and Operation

2.02.010. Generally

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

2.02.020. Co-Location

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

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

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

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

2.02.030. Height

Towers shall not exceed 100 feet in height.

2.02.040. Footprint

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

2.02.050. Hazards

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

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

(1) Any tower or freestanding communication facility shall be designed and maintained to withstand without failure maximum forces expected from wind, tornadoes, blizzards, and other natural occurrences, when the facility is fully loaded with antennas, transmitters, other wireless communication facilities and concealment elements.

(2) Sufficient anti-climbing measures must be incorporated into each facility to reduce potential for trespass and injury.

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

2.02.060. Concealment Elements

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

(b) **Concealment Elements.**

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

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

(3) *Facilities Attached to Buildings.*

a. Wall-mounted facilities are allowed only if roof-mounted facilities that are hidden behind screening materials cannot be installed due to physical or operational infeasibility.

b. Wall-mounted facilities shall be mounted as flush to the building wall as possible.

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

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

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

2.02.070. Operations.

(a) **Generally.** The wireless communication facilities shall be designed, maintained and operated as required by applicable FCC licenses and regulations.

(b) **Federal Emissions Regulations.** All owners and operators of wireless communication facilities shall comply with federal regulations for radio frequency ("RF") emissions.

Division 2.03. Visual Mitigation and Lighting

2.03.010. Visual Mitigation

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

2.03.020. Lighting

(a) **Generally.** Wireless communication facilities shall not be artificially lighted, unless required by the Federal Aviation Administration ("FAA") or other governmental authority with jurisdiction to mandate lighting.

(b) **Mandated Lighting.** If lighting is required by a governmental authority, the County may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding property owners, livestock operations, or scenic views. Lighting must be shielded or directed to the greatest extent possible so as to minimize the amount of light falling onto nearby properties, particularly residences and livestock operations.

Part 3. Review Procedures

Division 3.01. General Provisions

3.01.010. Applicability; Application Requirements

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

3.01.020. Approval Process by Application Type

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

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

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

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

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

(1) The Director shall process an application as an eligible facilities request, as provided in subsection (d)(2), below, if the Director finds that:

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

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

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

- (1) The Director shall process applications for building-mounted wireless communications facilities.
- (2) Approval of such facilities requires:
- a. An Administrative WCF Permit; and
 - b. If located within public property, a lease or license agreement between the applicant and the County or other governmental entity that owns or controls the subject property, that allows for such installation.

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

- (1) The Director shall process applications for small wireless facilities, except those that do not qualify for administrative review due to the pole spacing requirements of Section 1-01-050(e), above.
- (2) Approval of such facilities requires:
- a. An Administrative WCF Permit (except as provided in subsection (f)(1), above); and
 - b. If located within public property, including but not limited to rights-of-way:
 - i. A lease or license agreement between the applicant and the County or other governmental entity that owns or controls the subject property, that allows for such installation; and
 - ii. If the proposed site is within the right-of-way, a right-of-way permit.

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

Division 3.02. Standardized Review Procedures

3.02.005. Standardized Review Process

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

TABLE 3.02.105
STANDARDIZED PROCEDURES

Process Step ¹	Type of Reviewa	
	Administrative WCF Permit	Public Hearing WCF Permit
3.02.010	Not Applicable	Applicable
3.02.015	Optional	Optional
3.02.020	Required	Required
3.02.025	Required	Required
3.02.030	Required	Required
3.02.035	Applicable	Applicable
3.02.040	Applicable	Applicable
3.02.045	Required	Required
3.02.050	Applicable	Applicable
3.02.055	Not Required	Required
3.02.060	Not Applicable	Required
3.02.065	Not Applicable	Applicable
3.02.070	Applicable	Applicable
3.02.075	Applicable	Applicable
3.02.080	Applicable	Applicable
3.02.085	Applicable	Applicable

TABLE NOTE:

¹ The references in this column are to the Sections of this Division that describe the process step.

3.02.010. Ex Parte Communications

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

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

3.02.015. Pre-Application Meeting

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

3.02.020. Application

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

(b) **Forms.**

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

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

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

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

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

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

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

3.02.025. Application Fees and Escrows

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

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

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

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

(1) *Consultant Review Authorized.*

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

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

(2) *Initial Escrow Payment.*

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

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

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

(4) *Additional Escrow Funds.*

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

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

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

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

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

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

3.02.030. Completeness Review

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

3.02.035. Shot Clocks

(a) Generally.

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

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

(b) Shot Clocks by Application Type; Batching.

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

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

(2) Batching.

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

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

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

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

a. The day after the date when the Director issues a Notice of Deficiency to the applicant until the date when the applicant submits all the documents and information identified by the Director to render the application complete;

b. But only if the Notice of Deficiency is delivered on or before the 30th day after the date when the application was submitted.

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

a. The day after the date when the Director issues a second Notice of Deficiency based on the Director's original notice under paragraph (c)(1) or paragraph (c)(2) of this Section (or a subsequent Notice of Deficiency), until the date when the applicant submits all the documents and information identified by the Director to render the application complete;

b. But only if the second or subsequent Notice of Deficiency is delivered on or before the 10th day after the date when the applicant makes a supplemental submission.

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

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

3.02.040. Stale Applications

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

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

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

3.02.045. Administrative Review

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

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

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

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

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

(d) **Meeting Logistics.**

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

(2) The Director, or a designee, shall notify the Applicant regarding the time and place of scheduled public hearings.

3.02.050. Referrals

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

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

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

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

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

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

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

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

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

3.02.055. Public Notice

(a) **Generally.**

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

(2) For administrative review permits, public notice shall be provided according to the subsection (c)(3) below prior to final decision approval by the Planning Director.

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

(1) The phrase "PUBLIC NOTICE" or "NOTICE OF PUBLIC HEARING" at the top of the notice. For posted notice, these letters shall be not less than two inches in height.

(2) A brief description of the type of application.

(3) The date, time, and place of the hearing.

(4) A brief summary of what the Applicant is requesting.

(5) The physical address of the subject property, or if an address is not available, a location map of the property or a statement that the legal description is on file with the Director.

(6) A notice that interested persons may obtain more information from the Director.

(7) Contact information for the Director.

(c) Required Notice Types.

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

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

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

(d) Optional Notices.

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

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

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

3.02.060. Public Hearings

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

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

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

3.02.065. - Continuances and Withdrawal

- (a) **Continuances.** Requests for continuance by the Applicant of any proceeding called for in this Resolution may be granted at the discretion of the body holding the public hearing. If granted, the Applicant shall pay all additional costs associated with the rescheduling of the proceeding.
- (b) **Withdrawal.** Any application may be withdrawn, either in writing or on the record, prior to or during the hearing at which the application is considered, provided that it is withdrawn before official action is taken on the application.

3.02.070. Form of Decision

- (a) **Approval of Application.** All approved permits shall be in writing and shall specify all design elements that are intended to conceal the wireless telecommunications facility.
- (b) **Denial of Application.** All denials of applications under this Resolution shall be in writing and shall specify the reasons for denial, including reference to substantial evidence in the record that supports the denial.

3.02.075. Effect of Approvals

- (a) **Generally.** It is the intent of the County that development approved pursuant to this Resolution be carried out in a timely manner pursuant to the specifications, terms, and conditions of approval; and that the steps within each approval process be carried out with diligence.
- (b) **Effect of Approval or Permit.**
 - (1) Approval of an Administrative WCF Permit or Public Hearing WCF Permit means that the County consents to the particular wireless communications facility for which the approval was granted, provided that it is constructed in accordance with the approval
 - (2) Supplemental materials that are provided in support of an approval become part of the approval (*e.g.*, elevations, concealment elements, lists of building materials, etc.) unless otherwise noted in the approval itself.
 - (3) Approvals and permits may be transferred to a subsequent owner of the property for which the approval or permit was issued. Transferred permits shall continue to be valid for the duration of their original terms, and the transferee may apply for an amendment to the approval or permit in the same manner as the original Applicant.

3.02.080. Duration of Approvals

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

3.02.085. Extensions of Approvals

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

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

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

(d) **Extensions after Hearing.**

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

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

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

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

Part 4. Enforcement and Remedies

Division 4.01. Approval Conditions

4.01.010. Failure to Comply with Conditions of Approval

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

Division 4.02. Abandonment and Removal

4.02.010. Obsolescence

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

4.02.020. Abandonment

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

4.02.030. Site Restoration

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

Part 5. Definitions

Division 5.01. Acronyms

5.01.010. Table of Acronyms

**TABLE 5.01.010
TABLE OF ACRONYMS**

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

TABLE 5.01.010
TABLE OF ACRONYMS

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

Division 5.02. Definitions

5.02.010. Definitions

A

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

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

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

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

Antenna Facility means an antenna and associated antenna equipment.

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

Application. See Siting Application.

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

B

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

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

The phrase “base station” does not include:

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

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

C

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

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

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

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

County means Delta County, Colorado.

D

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

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

E

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

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

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

F

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

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

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

H

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

N

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

O

Other Wireless Communications Facility means:

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

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

P

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

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

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

R

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

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

S

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

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

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

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

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

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

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

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

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

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

T

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

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

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

U

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

W

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

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

Wireless Communications Tower. See “Tower.”

Appendix A Application Requirements

General Requirements.

(a) Applications must contain an applicant's name, address, general contact telephone number and an emergency number where a representative of the applicant can be contacted 24 hours per day, seven days per week.

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

Consolidated Application for Small Cell Antenna Facilities.

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

Specific Requirements.

(a) All applications shall specify concealment elements as required by Section 2.02.060, Concealment Elements, and illustrate how such elements contribute to concealment of the facility.

(b) At the time of application for approval of a wireless communication facility the owner or operator shall submit a project implementation report that provides cumulative field measurements of radio frequency emissions of all antennas installed at the subject site, and that compares the results with established federal standards.

Eligible Facilities Requests

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

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

(a) The application for any wireless communication facility involving a new tower or other freestanding communication facility shall include evidence that reasonable efforts have been made to co-locate within or upon an existing wireless communication facility within a reasonable distance of the proposed site, regardless of municipal boundaries.

(b) The applicant for a new tower or freestanding communications facility must demonstrate that the proposed wireless communication facility cannot be accommodated on existing facilities due to one or more of the following reasons:

(1) The planned equipment would exceed the structural capacity of existing and approved wireless telecommunication facilities, considering existing and planned use for those facilities.

(2) The planned equipment, if co-located, would cause radio frequency interference with other existing or planned equipment, or exceed radio frequency emission standards which cannot be reasonably prevented.

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

NOTE: THIS IS NOT AN OFFICIAL DOCUMENT.

It is a combination of two ordinances adopted by the Board of County Commissioners and has been prepared for distribution to the general public to provide in one document the current law relating to the accumulation of rubbish (junk) in Delta County, Colorado. Copies of both ordinances are available by request from the offices of the County Administrator, County Attorney and Clerk and Recorder.

DELTA COUNTY, COLORADO
TEXT OF ORDINANCE NO. 2003-06, as amended by ORDINANCE NO. 2007-01
PROHIBITING THE ACCUMULATION OF RUBBISH (JUNK)

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

WHEREAS, § 30-15-401(1)(a), C.R.S., specifically authorizes the adoption of ordinances and regulations to compel the removal of rubbish within the unincorporated areas of Delta County; and

WHEREAS, residents of Delta County experience problems with the accumulation of rubbish upon adjacent or nearby properties; and

WHEREAS, it is the opinion of the Board that in order to preserve the public health, safety and welfare of the citizens of Delta County, the Board should take the following action.

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

Section 1: Purpose.

The purpose of this Ordinance is to protect the public health, safety and welfare of the citizens and residents of Delta County, Colorado, by eliminating and controlling, to the extent possible, the accumulation of rubbish within the County, which if not eliminated or controlled, can result in visual blight; "attractive nuisances"; incompatibility with existing land uses; hazardous or toxic substances being deposited in unapproved sites; attraction of disease-infested rodents and other vermin; air, noise and water pollution; and fire and other hazards.

Section 2: Authority/Effect.

This Ordinance is authorized pursuant to among other things, Part I of Article 11 of Title 30, Part 4 of Article 15 of Title 30, and Part I of Article 20 of Title 29, C.R.S.

Section 3: Applicability.

3.1 This Ordinance shall apply throughout the unincorporated area of Delta County, including public and state lands.

3.2 This Ordinance shall apply within the corporate limits of any incorporated town or city within Delta County which elects by appropriate ordinance or resolution to have the

provisions of this Ordinance apply therein, and upon which an intergovernmental agreement between Delta County and such incorporated town or city has been entered into relating thereto.

Section 4: Definitions.

Agricultural Land. Any parcel of land, presently and for at least two (2) years prior to any alleged violation of this Ordinance, that has been continually used for the primary purpose of obtaining monetary profit as a farm or ranch or forest land, as defined and subject to the restrictions contained in § 39-1-102(1.6), C.R.S.

Board. The Board of County Commissioners of Delta County, Colorado.

Commercial Enterprise. Any use involving the sale, rental, or distribution of goods, services, or commodities (excluding agricultural uses). To qualify hereunder, a commercial enterprise must be located on property designated and taxed by the Delta County Assessor as commercial or industrial and the operator shall have a valid sales tax license issued by the State of Colorado.

County. The unincorporated areas of Delta County, including public and state lands, and the corporate limits of any incorporated town or city within Delta County which elects by appropriate ordinance or resolution to have the provisions of this Ordinance apply therein and upon which an intergovernmental agreement between Delta County and such incorporated town or city has been entered into relating thereto.

Habitable. The condition of a mobile home/recreation vehicle in which inhabitants can live free of serious defects that might harm health and safety.

Industrial Tract. A lot, parcel or tract of land classified by the Delta County Assessor's Office as industrial.

Mobile Home. A transportable structure originally designed for year-round residential or business purposes and having, or designed to have, water, electrical, and sewage connections similar to those of conventional dwellings, not meeting the specification required for a recreation vehicle.

For purposes of this Ordinance, this definition does not apply to units that have been determined by the Enforcement Officer, or his or her designee, to have been built prior to June 15, 1976. (As amended February 26, 2007)

Owner. The owner of record, whether person, partnership, firm, corporation, governmental agency, or other association of persons, any authorized agent or representative of the owner of record, and any occupant of the premises.

Recreation Vehicle. Any building, structure or vehicle designed and/or used for living or sleeping and/or recreational purposes and equipped with wheels to facilitate movement from place to place, and automobiles when used for living or sleeping purposes and including pick-up coaches (campers), motorized homes, boats, travel trailers and camping trailers not meeting the specification required for a manufactured or mobile home.

Rubbish. Because of fiscal and enforcement limitations practically imposed upon the County, rubbish, as used herein, shall include only junk, which for purposes of this Ordinance shall be defined as:

- (a) Outside storage of used tires (except as otherwise regulated pursuant to the Solid Wastes Disposal Sites and Facilities Act, Part I of Article 20 of Title 30, C.R.S., and any rules and regulations promulgated thereunder).

- (b) Junk vehicle or junk recreation vehicle, defined as a vehicle that is inoperable or missing parts so that it is not maintained for driving and which by virtue of its condition cannot be or is not restored to an operable condition within ninety (90) days from the date of the rubbish complaint, but not including a vehicle which is stored within a completely enclosed building or screened. (As amended February 26, 2007)
- (c) Junk mobile home that is in a condition which presents a substantial danger or hazard to public health, safety, or welfare, which is unused by the owner, which is uninhabited because of deterioration or decay, which condition constitutes a fire hazard, or subjects adjoining property to danger or damage by storm, soil erosion, or rodent infestation, or which becomes a place frequented by trespassers and transients seeking a temporary hideout or shelter. (As amended February 26, 2007)
- (d) Worn out or discarded articles or materials, e.g. bottles, glass, cans, scrap metal, used/worn out vehicle parts, rubber, disposable packages or containers, paper, card board, furniture, carpet, construction debris, appliances and any combination thereof, disposed of on the ground and not stored within a completely enclosed building or screened. This material is not permitted to be stored in an abandoned or junk mobile home, recreation vehicle or vehicle.

Salvage Junk Yard. Any lot, site, building, or structure used primarily for any or all of the following purposes:

- (a) The collection, storage, keeping, abandonment or sale of junk, whether of value or valueless.
- (b) The collection, storage, keeping, abandonment or sale of metal parts, scrap metals or any other scrap materials, whether of the same source or kind.
- (c) The collection, storage or keeping for sale, exchange or abandonment of four (4) or more automobiles and other motorized vehicles or parts thereof, or of any other machinery or parts thereof.

Salvage junkyard does not include the storage of implements of husbandry, farm tractors, farm and ranch equipment or vehicles customarily operated in a farm or ranch operation.

Screen, Screened, or Screening. A method of visually shielding or obscuring rubbish, as defined in this section, by permanent construction and maintenance of six (6) foot high solid fences, earth berms or the use of densely planted landscaping materials to lessen the visual impacts on surrounding properties and roads. Fences (including gates) shall be constructed of materials and colors that blend with the surrounding landscape and whose vertical surface is covered by a solid or opaque material through which no complete visual images can be seen. Plastic, cloth or any like material that will deteriorate over time is not permitted as screening material.

Vehicle. Every device in, upon, or by which any person or property is or may be transported upon a road or highway.

Section 5: Exemptions.

5.1 This Ordinance shall not apply to industrial tracts of ten (10) or more acres or to agricultural land, as such terms are defined in this Ordinance.

5.2 This Ordinance shall not apply to salvage junkyards, junk vehicles, mobile homes, and recreation vehicles maintained in the regular course of a commercial enterprise of the owner, so long as such salvage junkyards, junk vehicles, mobile homes and recreation vehicles are screened. Existing salvage junkyards meeting the definition of a commercial enterprise shall be "Grandfathered" for five (5) years with or without the filing of a rubbish complaint, all existing

salvage junkyards shall come into compliance with the screening requirements five (5) years after the date of adoption of this resolution.

Section 6: Unlawful Acts.

6.1 It shall be unlawful for any owner to cause or allow the accumulation of rubbish on any lot or tract of land in the County under such owner's control, possession, or ownership, or upon any alley or sidewalk adjacent to such lot or tract of land.

6.2 It shall be unlawful for any person to dump or dispose of rubbish in the County except in those places permitted and/or duly authorized by the Board for such purpose.

6.3 It shall be unlawful for any person to fail or refuse to comply with any order issued pursuant to this Ordinance.

Section 7: Complaints.

7.1 Any person may file a complaint that a property in Delta County is in violation of this Ordinance. Such complaint must be in writing on a form provided by the Delta County Planning Department and signed by complainant. 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 Delta County Planning Office, Delta County Courthouse, 501 Palmer Street, Room 115, for processing.

7.2 Any complaints on file based upon Ordinance 98-4, adopted November 9, 1998, shall be deemed to be filed as of the effective date of this Ordinance. Complainants shall not be required to refile their complaints.

Section 8: Notice and Order for Removal of Rubbish.

8.1 In the event that rubbish accumulates on any lot or tract of land in the County, or upon any alley or sidewalk adjacent to such lot or tract of land, and a complaint is filed in writing pursuant to Section 7, above, such complaint shall be forwarded to the Enforcement Officer, who will conduct an investigation of the site to determine if an unlawful condition does exist. In the event that the Enforcement Officer determines that an unlawful condition does exist, a Notice and Order shall be issued to the owner requiring the owner to:

- (a) Remove such rubbish within twenty (20) days from the date of said Notice and Order,
- (b) Enter into an agreement to mitigate the accumulation of the rubbish as described in 8.2, below, or
- (c) Request to appear before the Board of County Commissioners within said twenty (20) days to show cause why such Order should not be enforced.

8.2 Should the owner desire to enter into an agreement to mitigate the accumulation of the rubbish such owner shall immediately notify the Enforcement Officer and the parties shall enter into negotiations towards a mitigation agreement. Mitigation includes, but is not limited to, a phased and/or timed removal plan and screening, however such agreement shall not be for a period to exceed ninety (90) days. During such times as the negotiations are taking place, the twenty (20) days for removal described in 8.1, above, shall be stayed. If an agreement is entered into it shall be brought before the Board and be subject to approval by the Board of County Commissioners. If the Enforcement Officer determines that the negotiations have been unsuccessful, he shall issue written notice to the owner and to the Board, such notice requiring

that the owner remove the rubbish within twenty (20) days. Negotiations not successfully concluded within thirty (30) days shall be deemed unsuccessful.

8.3 Said Notice and Order shall be deemed issued by placing the same in the U.S. mails, certified, return receipt requested, to the owner's last known address as indicated on the County's assessment roll. Service shall be complete upon mailing or personal service in the same manner provided in Rule 4 of the Colorado Rules of Civil Procedure. If the Enforcement Officer is unable to locate the owner for certified mail or personal service after diligent efforts, the Notice and Order may be published in such a manner as is in accord with Rule 4 of the Colorado Rules of Civil Procedure concerning publication, except that said publication shall be for a period of ten (10) days and includes the Notice and Order being posted in a conspicuous place at or on the subject property.

Section 9: Show Cause Hearing.

Within twenty (20) days of the date of the Notice and Order issued under Section 8 above, the owner may request and shall be granted a show cause hearing before the Board. No less than three (3) days prior to the date of the show cause hearing, notice of the time, date and place of the hearing shall be placed in the U.S. mail, first class, to the owner and any other party who has expressed an interest in this matter, including the complainant. The owner shall have a full and fair opportunity to present any relevant evidence or witnesses to the Board in order to establish why the Notice and Order should not be enforced or delayed in its enforcement. Any other interested party shall have the same opportunity to present evidence or witnesses. The Board shall consider all such evidence and testimony, along with any presentation made by County staff or other governmental agency, in reaching its decision in accordance with this Ordinance. Upon the request for the hearing, and pending the Board's decision, the removal order shall be stayed.

Section 10: Removal of Rubbish by County: Assessment of Costs; Collection.

10.1 If the owner fails or refuses to remove such rubbish within twenty (20) days from the date of the Notice and Order issued in accordance with Section 8 above, from the notice that negotiations were unsuccessful under 8.2 above, or from the decision of the Board under Section 9, above, the Board shall have the authority by resolution to remove or cause to be removed, such rubbish, either by and through County forces, contract, or otherwise. If the owner fails to pay the costs of removal within five (5) days after receipt of invoice, the whole cost thereof, including five (5) percent for inspection and incidental costs in connection therewith, may be assessed upon the lots and tracts from which such rubbish has been removed. Any assessment pursuant to this subsection 10.1 shall be a lien against such lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.

10.2 In case the assessment prescribed in subsection 10.1 above is not paid within ninety (90) days from the date of the mailing of an invoice for the cost of the removal of such rubbish by Delta County, such assessment may be certified to the Delta County Treasurer, who shall collect such assessment, together with a ten (10%) percent penalty for the cost of collection in the same manner as other taxes are collected. The laws of the State of Colorado for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall govern and apply to the collection of assessments pursuant to this subsection 10.2.

Section 11: Emergency Order.

11.1 Whenever the Board deems that an emergency exists which requires immediate action to protect the public health, safety and welfare, the Board may, without prior notice or hearing, issue an Order stating that such emergency exists and requiring that such action be taken as deemed necessary to meet the emergency. Notwithstanding any provision of this Ordinance to the contrary, such Order shall be effective immediately.

11.2 Any person to whom such emergency Order is issued shall comply therewith immediately, and it shall be unlawful to fail or refuse to so comply.

11.3 In the event that the person to whom such emergency Order is issued fails or refuses to immediately comply therewith, the Board may, without prior notice to the owner, occupant or agent of the owner, provide through County forces, contract, or otherwise, to remove, correct or otherwise abate the condition giving rise to the issuance of the emergency Order, and to assess and collect the whole cost thereof to the owner of the affected property in accordance with Section 10 above.

Section 12: Enforcement.

12.1 The above-prescribed sections of this Ordinance shall be administered and enforced by the Delta County Planning Department and/or the Delta County Enforcement Officer.

12.2 The Board hereby designates the County Attorney, or his/her designee, as the County's legal representative in the enforcement of the provisions of this Ordinance in any court of applicable jurisdiction. In the event the County Attorney or his/her designee cannot represent Delta County or the Board deems it otherwise appropriate, the Board may appoint the District Attorney of the 7th Judicial District to perform such legal enforcement duties in lieu of the County Attorney.

Section 13: Administrative Entry & Seizure Warrant.

13.1 No entry upon private property for the purpose of rubbish removal shall be made until an administrative entry and seizure warrant has been obtained from a court of competent jurisdiction, in accordance with § 30-15-401(1)(a)(I)(B), as amended.

13.2 A sworn or affirmed affidavit shall be prepared and submitted, along with supporting documents or pictures to the court. Said documents shall include a copy of this Ordinance, a copy of the Notice and Order issued to the owner, a copy of the signed return receipt on the certified mail or other proof of service, and a copy of the Board resolution directing the removal of the rubbish. Said affidavit shall establish the factual basis for the issuance of a warrant, including evidence that the property owner has received notice of the violation and has failed to remove the rubbish within a reasonable prescribed period of time, a reasonably specific description of the location of the property, a general list or site plan describing the rubbish to be removed from the property, and the method of disposal or temporary impoundment of such rubbish, whichever the court deems appropriate.

13.3 Within ten (10) days following the date of issuance of an administrative entry and seizure warrant, the warrant shall be fully executed in accordance with the directions of the issuing court; a copy of the issued warrant shall be provided or mailed, first class, to the owner; and proof of execution of the warrant, including a written inventory of any property impounded, shall be submitted to the issuing court.

Section 14: Impoundment.

14.1 Impoundment of removed rubbish shall occur any time so ordered by the court.

13.2 Ordinarily, any material or equipment having salvage or reuse value should be removed to an impound lot, either owned by the County or privately owned and subject to a contract with the County.

14.3 Upon impoundment, notice shall be sent by U.S. mail, first class, to the owner with information as to the impoundment location, the person to contact for reclaiming the property, and the conditions and time limits for retrieving impounded items as provided in subsection 14.4 below.

14.4 Impoundment shall be for a period not to exceed ninety (90) days, whereupon the impounded items shall be regarded as abandoned and may be disposed of by the County as it sees fit. If the owner of the impounded items seeks to reclaim them within the 90-day period, the impounded items shall be released upon the occurrence of all of the following: All of the impounded items owned by the owner are removed from the impound lot; satisfactory evidence is provided that the owner will move the items to a site that will not result in a violation of this Ordinance or the County's Specific Development Regulations; the County has verified that the property from which the impounded items were removed has remained in compliance with the Rubbish Ordinance; and all costs assessable under this Ordinance, including storage costs, have been paid in full, by cash, money order or cashier's check.

Section 15: Criminal Prosecution.

15.1 If so directed by the Board, a criminal prosecution may be brought against the owner in accordance with §§ 30-15-402 and 410, C.R.S.

15.2 Each day that such rubbish continues unremoved from the premises after the date of expiration of the twenty (20) day period prescribed in Section 8 hereinabove shall constitute a separate violation.

15.3 Violation of the provisions of this Ordinance shall be punishable by a fine of not more than six hundred dollars (\$600.00) for each violation. In addition to this penalty, persons convicted of a violation of this Ordinance are subject, pursuant to § 30-15-402, C.R.S., to a surcharge of \$10.00, to be paid to the Clerk of the Court for credit to the Victims and Witnesses Assistance and Law Enforcement Fund established in the judicial district.

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

Section 16: Additional Remedies.

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

Section 17: Safety Clause.

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

Section 18: Severability Clause.

If any section, subsection, clause or phrase of this Ordinance is, for any reason, held to be invalid, such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 19: Repeal of Ordinance 98-4.

Upon the effective date of this Ordinance, Ordinance 98-4, adopted November 9, 1998, shall be repealed.

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

RESOLUTION NO. 2003-R-027

**RESOLUTION REQUIRING REVIEW OF
STREET PLANS IN “35-ACRE PLUS” SUBDIVISIONS**

WHEREAS, Section 30-28-110, C.R.S., as amended, requires that “all plans of streets or highways for public use, and all plans, plats, plots and replots of land laid out in subdivision or building lots and the streets, highways, alleys, or other portions of the same intended to be dedicated to a public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall be submitted to the Board of County Commissioners for review and subsequent approval, conditional approval, or disapproval;” and

WHEREAS, because of the language of Section 30-28-110(4)(e), C.R.S., the Board of County Commissioners of Delta County deems that Section 30-28-110 (3)(a), C.R.S., applies to subdivisions of all parcels of land, regardless of the size of the parcels within the subdivision; and

WHEREAS, Delta County has adopted subdivision regulations which exempt parcels of land subdivided into 35 acres or more in size; and

WHEREAS, this Board deems it necessary in the best interest of the County to review all proposed subdivisions which include lots of 35 acres or more in size to ensure that the planning of the roads meets the health, safety and welfare requirements of the County.

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

1. All plans of streets or highways for public use, and all plans, plats, plots and replots of land laid out in subdivision or building lots and the streets, highways, alleys, or other portions of the same intended to be dedicated to a public use or the use of purchasers or owners of lots fronting thereon or adjacent thereto, when such subdivision or building lots equal or exceed 35 acres in size, shall be submitted to the Delta County Planning Department, accompanied by a letter describing the intended use of the lots within the subdivision and the intended design of the streets and/or highways to be dedicated for public use, the use of such purchasers or owners.

2. Upon receipt of the proposed plans as set forth above, the Planning Department shall schedule a review of such plans by the Delta County Planning Commission, providing notice by mail to the proposed developer and any other property owner which the Planning Department determines in its discretion might be affected by the proposed plans, at least ten (10) days before the meeting. At such meeting, which shall be open to the public, the Planning Commission shall review the proposed plan or plat taking into consideration such

evidence as may be presented by the proposed developer, Planning Staff, and other affected property owners, and make such recommendations as the Planning Commission deems appropriate to the Board of County Commissioners.

3. Upon completion of the Planning Commission meeting, the matter shall be scheduled for review by the Board of County Commissioners, which shall consider the proposed plans or plat, any and all information with respect to the intentions of the proposed developer and evidence submitted by the Planning Staff and other affected property owners, and within fourteen (14) days of such meeting, approve, approve with conditions, or disapprove such plan or plat.

4. The standards by which the proposed plan or plat shall be measured are the design standards included in the Delta County Road Specifications as adopted from time-to-time by the Board, presently incorporated into the Delta County Subdivision Regulations, and the general health, safety and welfare of the County residents. No such plan or plat shall be recorded in the Office of the Clerk & Recorder of Delta County unless the same bears thereon, by endorsement or otherwise, the approval of the Board of County Commissioners. No lots may be sold, transferred to conveyed in accordance with the plan or plat unless the conditions required by the Board are fully complied with, unless such compliance is deferred or waived pursuant to an agreement by the Board.

5. The approval of said plan or plat by such commission shall not be deemed an acceptance of the proposed dedication by the public. Such acceptance, if any, shall be given by action of the Board of County Commissioners.

6. The provisions of this resolution do not apply to plans or plats recorded or filed with the Delta County Clerk and Recorder on or before July 14, 2003, but do apply to any plan or plat, as described above, filed or intended to be filed or recorded after July 14, 2003.

ADOPTED this 14th day of July, 2003.

ATTEST:

Ann B. Eddins
Delta County Clerk and Recorder

[SEAL]

BOARD OF COUNTY COMMISSIONERS
OF DELTA COUNTY, COLORADO

By: _____
Ted H. Hayden, Chairman

Lela J. McCracken, Vice Chairman

Wayne E. Wolf, Member

Signed by the above on 7/14/03

**DELTA COUNTY
FLOOD DAMAGE PREVENTION REGULATIONS**

CERTIFIED BY THE

Delta County Planning Commission
September 26, 2013

ADOPTED BY THE

Board of Delta County Commissioners
December 9, 2013

REVISED BY THE

Board of Delta County Commissioners
Add Sections 4.3.6 and 4.3.7
June 27, 1994
Add Sections 1.5, 2.0, 3.2, 4.3.6 and 5.3.1
August 19, 2010
Major Revisions 2013
December 9, 2013

**DELTA COUNTY
FLOOD DAMAGE PREVENTION ORDINANCE
SECTIONS AND SUBSECTIONS**

Public Notice

Resolution by the Board of County Commissioners of Delta County

SECTION 1.0	Applicability
SECTION 2.0	Statutory Authorization
SECTION 3.0	Statement of Purpose
SECTION 4.0	Methods of Reducing Flood Losses
SECTION 5.0	DEFINITIONS
SECTION 6.0	GENERAL PROVISIONS
SECTION 6.1	Lands to which these Regulations apply
SECTION 6.2	Basis for establishing the Areas of Special Flood Hazards
SECTION 6.3	Compliance
SECTION 6.4	Abrogation and Greater Restrictions
SECTION 6.5	Interpretation
SECTION 6.6	Warning and Disclaimer of Liability
SECTION 7.0	ADMINISTRATION
SECTION 7.1	Establishment of Development Permit
SECTION 7.2	Designation of the Floodplain Administrator
SECTION 7.3	Duties and Responsibilities of the Floodplain Administrator
SECTION 7.3.1	Permit Review and Other Duties
SECTION 7.3.2	Use of Other Base Flood Data
SECTION 7.3.3	Information to be Obtained and Maintained
SECTION 7.3.4	Interpretation of Firm Boundaries
SECTION 7.3.5	Violations and Penalties
SECTION 7.3.6	Fees
SECTION 7.4	Variance Procedure
SECTION 7.4.1	Appeal Board
SECTION 7.4.2	Conditions for Variances
SECTION 8.0	PROVISIONS FOR FLOOD HAZARD REDUCTION
SECTION 8.1	General Standards
SECTION 8.2	Specific Standards
SECTION 8.3	Standards for Areas of Shallow Flooding
SECTION 8.4	Floodways
SECTION 8.5	Alteration of a Water Course

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO

SECTION 8.6 Properties Removed from the Floodplain by Fill
SECTION 8.7 Standards for Critical Facilities

SECTION 9.0 Adoption
SECTION 10.0 Additional Remedies
SECTION 11.0 Severability
SECTION 12.0 Safety Clause
SECTION 13.0 Publication and Effective date

Previous Resolutions by the Board of County Commissioners of Delta County

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO

PUBLIC NOTICE

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO.

NOTICE IS HEREBY GIVEN, that the Board of County Commissioners of the County of Delta, State of Colorado, shall pursuant to statutes, having read and introduced at a regular Board of County Commissioners' Meeting on November 4, 2013, the ordinance to adopt and enforce floodplain management regulations within the unincorporated area of Delta County, consider for adoption this Ordinance amending the existing Delta County Flood Damage Prevention Regulations adopted by Resolution 91-R-042 on September 23, 1991, and further amended by Resolutions 94-R-015 on June 27, 1994, and Resolution No. 2010-R-039 on July 19, 2010, as published below, on a second reading at a regular Board of County Commissioners' Meeting on December 9, 2013, and if adopted shall take effect on January 23, 2014. The Delta County Planning Commission certified the amended regulations contained within this Ordinance at their meeting on September 26, 2013.

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

ORDINANCE NO. 2013-02

**ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT
ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE
PROGRAM (NFIP) AND THE STATE OF COLORADO;**

WHEREAS, pursuant to § 30-15-401, C.R.S., the Board of County Commissioners of Delta County, Colorado (hereinafter the "Board"), has the general enabling power to adopt ordinances for the control or licensing of those matters of purely local concern, and to do all acts and make all regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the present and future residents of Delta County; and

WHEREAS, pursuant to Sections 29-20-102 and 29-20-104, C.R.S., the Board is authorized to adopt ordinances applicable to the unincorporated areas of the County to plan for and regulate the use of land within Colorado and a balancing of basic human needs of a changing population with legitimate environmental concerns.

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO

WHEREAS, the flood hazard areas of Delta County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, these flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss; and

WHEREAS, the Board of County Commissioners of Delta County has authority pursuant to Section 30-28-116 , C.R.S., to amend the existing Delta County Flood Damage Prevention Regulations previously adopted by Resolution 91-R-042 on September 23, 1991, and further amended by Resolutions 94-R-015 on June 27, 1994 and Resolution No. 2010-R-039 on July 19, 2010.

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

This Ordinance shall be known as the Delta County Flood Damage Prevention Ordinance.

Section 1. APPLICABILITY:

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

Section 2. STATUTORY AUTHORIZATION:

- 2.1 The Legislature of the State of Colorado has, in Title 29, Article 20 and 30-28-11, et.seq. of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of County Commissioners of Delta County, Colorado, does hereby adopt the following floodplain management ordinance:

Section 3. STATEMENT OF PURPOSE

- 3.1 It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:
- (a) To protect human life and health;
 - (b) To minimize expenditure of public money for costly flood control projects;
 - (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (d) To minimize prolonged business interruptions;
 - (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
 - (f) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
 - (g) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
 - (h) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Section 4. METHODS OF REDUCING FLOOD LOSSES

- 4.1 In order to accomplish its purposes, this ordinance includes methods and provisions for:
- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
 - (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

- (d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 5. DEFINITIONS

- 5.1 Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

100-YEAR FLOOD - A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

100-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-YEAR FLOOD - A flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

500-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

ADDITION - Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

ALLUVIAL FAN FLOODING - A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

AREA OF SHALLOW FLOODING - A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and

where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

APPEAL - means a request for a review of the Floodplain Administrator's interpretation of any provisions of this ordinance or a request for a variance.

AREA OF SPECIAL FLOOD HAZARD - means the land in the floodplain subject to a one percent or greater chance of flooding in any given year.

BASE FLOOD- means the flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) - The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

CHANNEL - The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

CHANNELIZATION - The artificial creation, enlargement or realignment of a stream channel.

CODE OF FEDERAL REGULATIONS (CFR) - 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.

COMMUNITY - Any political subdivision in the state of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

CONDITIONAL LETTER OF MAP REVISION (CLOMR) - FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

CRITICAL FACILITY - A structure or related infrastructure, but not the land on which it is situated, as specified in Section 8.7, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Section 8.7.

DEVELOPMENT - means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

DFIRM DATABASE - Database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM) - FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

ELEVATED BUILDING - A non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) are completed before the effective date of this ordinance.

EXPANSION TO EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

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

FEMA - Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

FLOOD OR FLOODING- means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (3) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

FLOOD INSURANCE RATE MAP (FIRM) - means the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones.

FLOOD INSURANCE STUDY (FIS) - means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary–Floodway Map, and the water surface elevation of the base flood.

FLOODPLAIN OR FLOOD-PRONE AREA - Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODPLAIN ADMINISTRATOR - means the designated agent or agency of the Board of County Commissioners responsible for administration of these regulations.

FLOODPLAIN DEVELOPMENT PERMIT - A permit required before construction or development begins within any Special Flood Hazard Area (SFHA).

FLOODPLAIN MANAGEMENT - the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOOD CONTROL STRUCTURE - A physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOODWAY - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOOD ZONES - The areas delineated on the Flood Insurance Rate Map that show the probability of flood inundation:

- (1) Zone A - No base flood elevations determined;
- (2) Zone AE - Base flood elevations determined;
- (3) Zone AH - Flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations determined;
- (4) Zone AO - Flood depths 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding velocities also determined;
- (5) Zone AR - Special flood hazard areas formerly protected from the 1% annual chance of flood by a flood control system that was subsequently decertified. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood;
- (6) Zone A99 - Area to be protected from 1% annual chance of a flood by a Federal flood protection system under construction, no base flood elevations determined;
- (7) Zone D - Areas in which flood hazards are undetermined but possible;
- (8) Zone X - Areas of greater than or equal to 0.2% annual chance of a flood, areas of 1% annual chance of a flood with average depths of less than 1 foot or with drainage areas less than 1 mile squared, and areas protected by levees from a 1% annual chance of a flood

FREEBOARD - The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

HIGHEST ADJACENT GRADE - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior or;
 - (b) Directly by the Secretary of the Interior in states without approved programs.

LETTER OF MAP REVISION (LOMR) - FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

LETTER OF MAP REVISION BASED ON FILL (LOMR-F) - FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

LEVEE - A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

LEVEE SYSTEM - A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

MANUFACTURED HOME - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on Delta County's Flood Insurance Rate Map are referenced,

MATERIAL SAFETY DATA SHEET (MSDS) - A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) - FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

NEW CONSTRUCTION - means structures for which the “start of construction” commenced on or after the effective date of the original ordinance, and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these floodplain management regulations.

NO-RISE CERTIFICATION - A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

PHYSICAL MAP REVISION (PMR) - FEMA’s action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

RECREATIONAL VEHICLE - means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGISTERED PROFESSIONAL ENGINEER - An engineer licensed in the State of Colorado in accordance with 12-25-111 C.R.S., as amended

“START OF CONSTRUCTION” INCLUDES SUBSTANTIAL IMPROVEMENT - and means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of pilings, the construction of

columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - means a walled and roofed building or manufactured home that is principally above ground.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

THRESHOLD PLANNING QUANTITY (TPQ) - A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

VARIANCE - means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

VIOLATION - means the failure of a structure or other development to be fully compliant with these regulations. A structure or other development without

the elevation certificate, other certifications, or other evidence of compliance required by these regulations is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the National American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of ravine area.

Section 6. GENERAL PROVISIONS:

6.1 LANDS TO WHICH THIS ORDINANCE APPLIES:

This ordinance shall apply to all areas of special flood hazard within the unincorporated areas of the County of Delta.

6.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD:

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Delta County, Colorado and Incorporated Areas (FIS) with the accompanying Flood Insurance Rate Map (FIRM) dated August 19, 2010, is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and FIRM are on file at the Delta County Health Department, 255 W. 6th Street, Delta, CO 81416.

6.3 COMPLIANCE:

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations. Nothing herein shall prevent Delta County from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

6.4 ABROGATION AND GREATER RESTRICTIONS:

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

6.5 INTERPRETATION:

In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under State statutes.

6.6 WARNING AND DISCLAIMER OF LIABILITY:

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the County of Delta, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 7. ADMINISTRATION:

7.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 6.2.

- 7.1.1 Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:
- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
 - (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
 - (3) Certification by a registered professional engineer or architect that the floodproofing methods for any non residential structure meet the floodproofing criteria in Section 8.2.2; and,

- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
 - (5) Maintain a record of all such information in accordance with Section 7.3.1.
- 7.1.2 Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:
- 1. The danger to life and property due to flooding or erosion damage;
 - 2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - 3. The danger that materials may be swept onto other lands to the injury of others;
 - 4. The compatibility of the proposed use with existing and anticipated development;
 - 5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - 6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - 7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
 - 8. The necessity to the facility of a waterfront location, where applicable;
 - 9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - 10. The relationship of the proposed use to the comprehensive plan for that area.

7.2 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

7.3 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

7.3.1 Duties of the Floodplain Administrator shall include, but not be limited to:

1. Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this ordinance.
2. Review all development permits to determine that the permit requirements of this ordinance have been satisfied;
3. Review all development permits to determine that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required.
4. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5 are met.
5. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
6. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.
7. For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.

8. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.

7.3.2 Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 6.2, BASES FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any Federal, State, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with Section 8.2, SPECIFIC STANDARDS.

7.3.3 Information to be Obtained and Maintained

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved floodproofed structures:
 - (i) Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.
 - (ii) Maintain the floodproofing certifications required in Section 7.1.1(3).
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

7.3.4 Interpretation of FIRM Boundaries

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary

shall be given a reasonable opportunity to appeal the interpretation as provided in Section 7.4.1.

7.3.5 Violations and Penalties

Any person or agent thereof, who makes or intends to make any person-made change to improved or unimproved real estate within the area of special flood hazard without complying with the provisions of these regulations, shall be guilty of a misdemeanor and subject to the penalty as set forth in Section 30-28-124, C.R.S. In addition to such penalties, any person, firm or corporation violating these regulations may be subject to the imposition, by order of the county court, of a civil penalty in an amount of not less than \$500.00 and no more than \$1,000.00 pursuant to Section 30-28-124.5, C.R.S.

7.3.6 Fees

To help defray the expense of flood damage prevention review and approval, a schedule of fees shall be established by the Board of Health. A copy of this schedule will be available in the Delta County Health Department.

7.4 VARIANCE PROCEDURE

7.4.1 Appeal Board

- (1) The Board of County Commissioners, as established by the County of Delta, shall hear and decide appeals and request for variances from the requirements of this ordinance.
- (2) The Board of County Commissioners shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- (3) Those aggrieved by the decision of the Board of County Commissioners or any taxpayer, may appeal such decisions to the District Court as provided in 29-20-101 et seq, C.R.S., as amended and 30-28-111 C.R.S, as amended.
- (4) In passing upon such applications, the Board of County Commissioners shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO

- (i) The danger that materials may be swept onto other lands to the injury of others;
 - (ii) The danger to life and property due to flooding or erosion damage;
 - (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
 - (iv) The importance of the services provided by the proposed facility to the community;
 - (v) The necessity to the facility of a waterfront location, where applicable;
 - (vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) The compatibility of the proposed use with the existing and anticipated development;
 - (viii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - (xi) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.
- (5) Upon consideration of the factors of Section 8 and the purposes of this ordinance, the Board of County Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (6) The Floodplain Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.

7.4.2 Conditions for Variances

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i–xi) in Section 7.4.1 (4) have been fully considered. As the lot size increases beyond one-half acre, the technical justifications required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result,
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in Section 7.4 or conflict with existing local laws or ordinances
- (6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

Section 8. PROVISIONS FOR FLOOD HAZARD REDUCTION

8.1 GENERAL STANDARDS

In all areas of special flood hazard, the following standards are required:

8.1.1 Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.
- (2) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:
 - (i) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;
 - (ii) Frame ties are provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
 - (iii) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and,
 - (iv) Any additions to the manufactured home be similarly anchored.

8.1.2 Construction Materials and Methods

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

8.1.3 Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

8.1.4 Standards for Subdivision Proposals

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of this ordinance.
3. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which are greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to this ordinance.

4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

8.2 SPECIFIC STANDARDS

In all areas of special flood hazard where base flood elevation data has been provided as set forth in Section 6.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or SECTION 7.3.2, Use of Other Base Flood Data, the following provisions are required:

8.2.1 Residential Construction

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a Colorado Registered Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

8.2.2 Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to ONE FOOT ABOVE the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (1) Be flood proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions

of this paragraph. Such certifications shall be provided to the official as set forth in Section 7.3.3(2).

8.2.3 Openings in Enclosures below the Lowest Floor

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- (2) The bottom of all openings shall be no higher than one foot above grade; and,
- (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

8.2.4 Manufactured Homes

- (1) Manufactured homes shall be anchored in accordance with Section 8.1.1(2).
- (2) All manufactured homes or those to be substantially improved shall conform to the following requirements:
 - (i) Require that manufactured homes that are placed or substantially improved on site:
 - (a) Outside of a manufactured home park or subdivision,
 - (b) In a new manufactured Home Park or subdivision,
 - (c) In an expansion of an existing manufactured home park or subdivision, or
 - (d) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated ONE FOOT above the base flood

elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- (ii) Require that manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions that are not subject to the provisions in (i) above be elevated so that either;
 - (a) The lowest floor of the manufactured home is ONE FOOT above the base flood elevation, or
 - (b) The manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

8.2.5 Recreational Vehicles

- (1) Require that recreational vehicles either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and elevation and anchoring requirements for resisting wind forces.

8.3 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES):

Located within the Special Flood Hazard Area established in Section 6.2 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

8.3.1 Residential Construction

All new construction and substantial improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered

Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

8.3.2 Nonresidential Construction

With the exception of critical facilities, outlined in Section 8.7, all new construction and substantial improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Section 7.1.1 are satisfied. Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

8.4 FLOODWAYS

Located within areas of special flood hazard established in Section 6.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

8.4.1 Regulatory Floodway

1. Where a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.

2. If Section 8.4.1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 8.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, encroachments may be permitted within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

8.5 ALTERATION OF A WATERCOURSE;

For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
4. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
5. All activities within the regulatory floodplain shall meet all applicable Federal, State and Delta County floodplain requirements and regulations.
6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not

more than a 0.00-foot rise in the proposed conditions compared to existing conditions in a floodway resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with Section 8.3.1.

7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

8.6 PROPERTIES REMOVED FROM THE FLOODPLAIN BY FILL

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

8.6.1 Residential Construction

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.

8.6.2 Nonresidential Construction

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

8.7 STANDARDS FOR CRITICAL FACILITIES

A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

8.7.1 Classification of Critical Facilities

It is the responsibility of the Delta County Floodplain Administrator to identify and confirm that specific structures in their community meet the following criteria: Critical Facilities are classified under the following categories:

- (a) Essential Services;
 - (b) Hazardous Materials;
 - (c) At-risk Populations; and
 - (d) Vital to Restoring Normal Services.
- (a) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines. These facilities consist of:
1. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
 2. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
 3. Designated emergency shelters;
 4. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
 5. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
 6. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control

towers, air traffic control centers, and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Delta County Floodplain Administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Delta County Floodplain Administrator on an as-needed basis upon request.

- (b) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These Facilities May Include:
1. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
 2. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
 3. Refineries;
 4. Hazardous waste storage and disposal sites; and
 5. Above ground gasoline or propane storage or sales centers.

Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity

(TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation “Designation, Reportable Quantities, and Notification,” 40 C.F.R. § 302 (2010) and OSHA regulation “Occupational Safety and Health Standards,” 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation of this ordinance, but exclude later amendments to or editions of the regulations. Specific exemptions to this category include:

1. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
2. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
3. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.

- (c) At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
1. Elder care (nursing homes);
 2. Congregate care serving 12 or more individuals (day care and assisted living);

3. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);
- (d) Facilities vital to restoring normal services including government operations. These facilities consist of:
1. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
 2. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Delta County Floodplain Administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Delta County Floodplain Administrator on an as-needed basis upon request.

8.7.2 Protection for Critical Facilities

All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:

- (1) Location outside the Special Flood Hazard Area; or
- (2) Elevation of the lowest floor or flood proofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

8.7.3 Ingress and Egress for New Critical Facilities

New Critical Facilities shall, when practicable as determined by the Delta County Floodplain Administrator, have continuous non-inundated access

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO

(ingress and egress for evacuation and emergency services) during a 100-year flood event.

Section 9. ADOPTION:

- 9.1 Amendments: The Delta County Board of County Commissioners may make minor and administrative changes in these regulations without a formal advertised public hearing. No major revision of these regulations may be made without a formal advertised public hearing. Notice of the hearing giving time and place must be placed in a newspaper of general circulation in the county at least one time twenty (20) days prior to the date of the hearing.
- 9.2 All rules adopted by the Board of County Commissioners must be adopted by resolution and must comply with the rules adopted by the Colorado Department of Natural Resources, Water Conservation Board pursuant to 29-20-101 et. seq. C.R.S. as amended.
- 9.3 All rules adopted by the Board of County Commissioners must be transmitted to the Water Conservation Board no later than five days after final adoption. The rules shall become effective forty-five days after final adoption by the Board of County Commissioners unless the Water Conservation Board notifies the Delta County Board of Commissioners before the forty-fifth day that the rules or amendments are not in compliance with the Colorado Flood Damage Prevention Ordinance.
- 9.4 Certification

It is hereby found and declared by the Delta County Board of Commissioners that flooding has occurred in the past within Delta County and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within Delta County; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective as stated in this Section.

Section 10. ADDITIONAL REMEDIES:

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

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO

Section 11. SEVERABILITY

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

Section 12. SAFETY CLAUSE:

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

Section 13. PUBLICATION AND EFFECTIVE DATE:

The foregoing text is the authentic text of Delta County Ordinance No. 2013-02. The first reading of said Ordinance took place on November 4, 2013. It was published in full in the *Delta County Independent* on November 13, 2013. The Ordinance was adopted on second reading on December 9, 2013, and shall take effect January 23, 2014.

ADOPTED this 9th day of December, 2013, at Delta, Colorado.

BOARD OF COUNTY COMMISSIONERS OF
DELTA COUNTY, COLORADO

By: _____
C. Douglas Atchley, Chair

ATTEST:

C. Bruce Hovde, Vice Chair

Ann B. Eddins
Delta County Clerk and Recorder

J. Mark Roeber, Commissioner

[SEAL]

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO.

1800-1984

RESOLUTION
OF
THE BOARD OF DELTA COUNTY COMMISSIONERS
84-R-014
FLOOD DAMAGE PREVENTION REGULATIONS

WHEREAS, Delta County has participated in the Federal Emergency Management Agency's National Flood Insurance Program; and

WHEREAS, Delta County has received approval by Resolution designating floodplain areas subject to an intermediate regional flood (100-year flood or one percent chance flood) from the Colorado Water Conservation Board; and

WHEREAS, Delta County has received final approval from the Federal Emergency Management Agency, including mapping delineating the floodplain and floodway; and

WHEREAS, Delta County desires to promote the public health, safety, and general welfare of its citizens, and to minimize public and private losses due to flood conditions.

NOW, THEREFORE, BE IT RESOLVED BY ORDER of the Board of Delta County Commissioners that the Flood Damage Prevention Regulations be adopted this 5th day of March, 1984.

BOARD OF DELTA COUNTY COMMISSIONERS

(SEAL)

BEN O. SHELDON
BEN O. SHELDON, CHAIRPERSON

Fred Calhoun
FRED CALHOUN, VICE-CHAIRPERSON

John W. Hawkins
JOHN W. HAWKINS, COMMISSIONER

ATTEST:

Roy L. Faris by Jell D. McLendon
ROY L. FARIS,
COUNTY CLERK AND RECORDER
JELL D. MCLENDON
Deputy

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO.

RESOLUTION

NO 87-R-011

WHEREAS, the Federal Emergency Management Agency published a final rule in the Federal Register revising the National Floodplain Insurance Program (NFIP) floodplain management criteria, and

WHEREAS, said revised criteria became effective October 1, 1986; and

WHEREAS, to maintain compliance with the NFIP minimum standards certain amendments to Delta County's Flood Damage Prevention Regulations are necessary; and

WHEREAS, the Delta County Planning Commission certified to the Board its recommendations for amendments to said regulations on February 18, 1987; and

WHEREAS, after due published notice the Board held a public hearing on the proposed amendments to said regulations on March 30, 1987; and

WHEREAS, no public opposition to the proposed amendments was heard at said hearing; and

WHEREAS, Section 30-28-116 C.R.S. authorizes Delta County to amend existing regulations.

NOW THEREFORE BE IT RESOLVED by order of the Board of County Commissioners, Delta County, State of Colorado that:

The amended Delta County Flood Damage Prevention Regulations be adopted as attached (exhibit A) this 6th day of April 1987.

BOARD OF DELTA COUNTY COMMISSIONERS

ABSENT FROM MEETING

Charles V. Hallenbeck, Chairman

TEST:

Josephine M. Gore
Josephine M. Gore

Norman F. Kehmeier
Norman F. Kehmeier, Commissioner

J. V. Coan
J. V. "Jim" Coan, Commissioner

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO.

BOARD OF DELTA COUNTY COMMISSIONERS

RESOLUTION NO. 91 - R - 042

A RESOLUTION REPEALING RESOLUTION NO. 87-R-011 AND ADOPTING THE AMENDED DELTA COUNTY FLOOD DAMAGE PREVENTION REGULATIONS.

WHEREAS, the Federal Emergency Management Agency (FEMA) has advised the Board of Delta County Commissioners (the Board) that the modified base (100 year) flood elevations affecting the Flood Insurance Rate Map (FIRM), Flood Boundary and Floodway Map (FBFM), and the Flood Insurance Study (FIS) for the unincorporated areas of Delta County, Colorado were finalized as the result of a Flood Insurance Study of the unincorporated areas of Delta County and became effective August, 19, 1991; and

WHEREAS, FEMA has reviewed Delta County's current floodplain management regulations as contained in Resolution No. 87-R-011 and finds that certain amendments are necessary in order to maintain compliance with the National Floodplain Insurance Program's (NIFP) minimum standards; and

WHEREAS, the Delta County Planning Commission certified to the Board its recommendations for amendments to said regulations on September 18, 1991; and

WHEREAS, after due published notice the Board held a public hearing on the proposed amendments to said regulations on September 23, 1991; and

WHEREAS, no public opposition to the proposed amendments was heard at said hearing; and

WHEREAS, Section 30-28-116 C.R.S. authorizes Delta County to amend existing regulations.

NOW, THEREFORE, BE IT RESOLVED by order of the Board of County Commissioners, Delta County, State of Colorado, that:

The amended Delta County Floodplain Damage Prevention Regulations be adopted as attached (Exhibit A) this 27th day of September, 1991.

ATTEST:

BOARD OF DELTA COUNTY COMMISSIONERS

Josephine M. Gore
Josephine M. Gore
County Clerk & Recorder

Ted H. Hayden
Ted H. Hayden, Chairman

Robert "Bob" Watson
Robert "Bob" Watson, Vice-Chairman

J. Vastellino
J. Vastellino Member

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO.

DELTA COUNTY, CO 4/83/3 06/28/94 01:50P
BK0723 PG724 JOSEPHINE M. GORE, RECORDER 1 OF 1

Notes
6-28-94
924

RESOLUTION

OF THE

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

478373

NO: 94-R-015

A RESOLUTION TO AMEND RESOLUTION NO. 91-R-042 PERTAINING TO DELTA COUNTY FLOOD DAMAGE PREVENTION REGULATIONS.

WHEREAS, the Board of County Commissioners has authority pursuant to Section 30-28-116 C.R.S. to amend existing regulations; and

WHEREAS, the Delta County Planning Commission certified to the Board its recommendations for amendments to said regulations on September 23, 1991; and

WHEREAS, certain portions of Resolution No. 87-R-011, superseded by Resolution No. 91-R-042, were to be included in Resolution 91-R-042 but were inadvertently deleted. Those portions are as follows:

4.3.6 Violations and Penalties

Any person or agent thereof, who makes or intends to make any person-made change to improved or unimproved real estate within the area of special flood hazard without complying with the provisions of these regulations shall be guilty of a misdemeanor and subject to the penalty as set forth in Section 30-28-209, *et seq.*, C.R.S. 1973, as amended.

4.3.7 Fees

To help defray the expense of flood damage prevention review and approval, a schedule of fees shall be established by the Board of County Commissioners. A copy of this schedule will be available in the Delta County Administrative Offices.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Delta County that Resolution No. 91-R-042 is hereby amended to include the aforescribed sections, 4.3.6 - Violations and Penalties and 4.3.7 - Fees.

ADOPTED AND MADE EFFECTIVE this 27th day of June, 1994.

BOARD OF COUNTY COMMISSIONERS
COUNTY OF DELTA
STATE OF COLORADO

ATTEST:



Ted H. Hayden
Chairman

Donna R. Ferganchick
Vice-Chairman

Josephine M. Gore, Delta County
Clerk & Recorder

Jim D. Ventrelle, Member

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO.

RECEPTION #: 644176, 07/20/2010 at 09:22:56 AM, 1 OF 3, ANN EDDINS, DELTA COUNTY, CO CLERK AND RECORDER

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

RESOLUTION NO. 2010-R-039

RESOLUTION ADOPTING AMENDMENTS TO THE DELTA COUNTY FLOOD DAMAGE PREVENTION REGULATIONS (RESOLUTION 91-R-042)

WHEREAS, the Board of County Commissioners of Delta County has authority pursuant to Section 30-28-116, C.R.S., to amend the existing Delta County Flood Damage Prevention Regulations adopted by Resolution 91-R-042 on September 23, 1991, and further amended by Resolution 94-R-015 on June 27, 1994; and

WHEREAS, by Resolution 2010-R-039, this Board referred a set of proposed amendments to the Delta County Planning Commission for its approval, disapproval or suggestions, as well as to the Colorado Water Conservation Board, and the Board has received statements back from both entity with respect to the proposed amendments; and

WHEREAS, this Board conducted a public hearing with respect to these proposed amendments on July 19, 2010, with at least 14 days' notice of the time and place of said hearing published in the Delta County Independent; and

WHEREAS, the proposed amendments are now found to be in the best interests of the County and its citizens and are required by or consistent with federal and/or state law.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Delta County that the amendments to the Delta County Flood Damage Prevention Regulations, as adopted by Resolution 91-R-042, as set forth in Exhibit A, attached hereto and by reference made a part hereof, shall be and are hereby approved and adopted.

ADOPTED this 19th day of July, 2010.



ATTEST:

Ann B. Eddins
Delta County Clerk and Recorder

[SEAL]

BOARD OF COUNTY COMMISSIONERS
OF DELTA COUNTY, COLORADO

By:
Leila J. McCracken, Chair

C. Bruce Hovde, Vice Chair

R. Olen Lund, Commissioner

s:\Co\Resolutions\2010\Resolution Adopted Amended Floodplain Regulations