

Delta County Land Use Code

Consultant Produce currently under review and discussion by BOCC

January 8, 2020

Prior to Planning Commission certification of this Land Use Code to the Board of County Commissioners for adoption, the Planning Commission shall submit this document to the Division of Planning of the Department of Local Affairs for advice and recommendation regarding the zoning provisions, as required by C.R.S. § 30-28-122.

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In-line notes and commentary are set out in *green italics*.

PART 1. PRELIMINARIES

Division 1.01. Title; Short Title

1.01.010. Title

This document shall be entitled the Delta County Land Use Code.

1.01.020. Short Title

This document may be referred to as the “this Code.”

Division 1.02. Purpose; Interpretation; Authority; Jurisdiction

1.02.010. Purpose. The purposes of this Code are to:

- (a) Promote the health, safety, and general welfare of the residents of Delta County;
- (b) Protect the character and function of the existing rural and urban communities and neighborhoods in Delta County;
- (c) Ensure that developers and subdividers provide adequate, safe, and efficient public utilities and public improvements, and provide for other community facilities and land for public places and uses; and
- (d) Establish adequate and accurate records of land subdivision.

1.02.020. Interpretation

(a) Generally.

- (1) Delta County has a strong commitment to private property rights, as set out in the County’s Master Plan. Often, the freedom to use private property is not just in the owner’s interest, but also in the public interest. However, in some cases the impacts of the use of private property on surrounding properties, public infrastructure, and / or natural resources is a matter of County concern, and therefore a proper subject of County regulation.
- (2) The right to develop and improve private property does not include the right to physically damage or adversely impact the property or property value of neighboring landowners, or to utilize more than the property owner’s fair share of public facilities and resources, even if that means that the property owner cannot utilize property for its perceived “highest and best use.”
- (3) The program of zoning that is set out herein provides an efficient and fair way to provide for the orderly use and development of land in the County, such that, in general, land uses that generate noise, dust, traffic or other potential off-site impacts will locate in certain zoning districts where there are adequate services (including roads, water, and sewer), and where off-site impacts may be more effectively absorbed and / or mitigated.

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(4) The Board of County Commissioners intends that this Code increase understanding among landowners, residents, business owners, and decision-makers as to the boundaries between private property rights and public interests in various areas of the County. In short, this Code describes, in a regulatory format, what it means to be a “good neighbor” in Delta County in terms of the use and development of land.

(5) As this Code affects constitutionally protected rights, it was developed in the context of, and subject to, said rights, which are articulated in the Constitutions of the United States and the State of Colorado and interpreted by federal and state courts with jurisdiction in and over Delta County. Further, this Code was developed in the context of constitutional and statutory provisions that both establish and limit the authority of County government in Colorado.

(b) **Relationship to Policy and Land Use Plans.** It is the County Commission’s intent that this Code provide for implementation over time of the policies that are set out in the Master Plan, as well as any specific area, transportation, or facility plans that may be adopted prior or subsequent to the adoption of this Code. However, neither this Code nor any amendments thereto may be challenged on the basis of any alleged inconsistency or nonconformity with any planning document.

(c) **Permits Issued in Conflict with Code.** Any permit issued in conflict with the provisions of this Code shall be null and void, and shall not be construed as waiving any provision of this Code, except in such cases where a waiver or modification is expressly authorized by variance or other comparable procedure set out herein. No oversight or dereliction of any office or employee of the County shall legalize, authorize, or excuse any violation of any provision of this Code. No legal, vested, or equitable rights shall be acquired under any invalid zoning or subdivision approval.

(d) **Basic Requirements.** In their interpretation and application, the provisions of this Code shall be regarded as the basic requirements for the protection of public health, safety, comfort, convenience, prosperity, and welfare. This Code shall be interpreted in order to further its underlying purposes.

(e) **Construction with Other Laws.** Whenever any provision of this Code or any provision of any other law, rule, contract, resolution, ordinance, or regulation of the County, state, or federal government contains certain standards covering the same subject matter, the interpretation that gives effect to all of the applicable laws controls unless County jurisdiction is pre-empted. Generally, that means that the more restrictive requirements or higher standards control the decision.

1.02.030. Authority and Jurisdiction

(a) **Authority and Specific Limitations.** This Code is authorized and limited by the following state laws:

- (1) C.R.S. § 24-6-401, et seq. (Open Meetings Law)
- (2) C.R.S. § 24-65.5-101, et seq. (Notification of Surface Development);
- (3) C.R.S. § 24-67-101, et seq. (Planned Unit Development Act of 1972);
- (4) C.R.S. § 24-68-101, et seq. (Vested Property Rights)

- (5) C.R.S. § 25-15-200.1, et seq. (State Hazardous Waste Siting Act)
- (6) C.R.S. § 25-15-501, et seq. (State Hazardous Waste Incinerator or Processor Siting Act)
- (7) C.R.S. § 29-20-101, et seq. (Local Government Land Use Control Enabling Act)
- (8) C.R.S. § 29-20-201, et seq. (Regulatory Impairment of Property Rights)
- (9) C.R.S. § 29-20-301, et seq. (Adequate Water Supply)
- (10) C.R.S. § 30-28-101, et seq. (County Planning);
- (11) C.R.S. § 30-28-401, et seq. (Cluster Development);
- (12) C.R.S. § 31-23-212 (Implementation of Municipal Major Street Plan)
- (13) C.R.S. § 43-2-301, et seq. (Vacation Proceedings)

(b) **Additional Authority and Limitations.** The citations in subsection (a), above are expansive, but not necessarily complete. As such, in addition to the specific authorities and limitations set out in subsection (a), above, other statutes may be referenced herein or otherwise utilized as the basis for regulations, procedures, or definitions set out in this Code.

(c) **General Limitations.**

- (1) No part of this Code shall be interpreted in a manner that irreconcilably conflicts with a Colorado statute. See C.R.S. § 30-15-411.
- (2) Regulations and restrictions of the height, number of stories, size of buildings and other structures, and the height and location of trees and other vegetation shall not apply to existing buildings, structures, trees, or vegetation except for new growth on such vegetation. See C.R.S. § 30-28-118(2)(c).
- (3) The application of this Code may be further limited by existing or future federal law that preempts County jurisdiction or authority (e.g., the U.S. Constitution, the U.S. Code, or the Code of Federal Regulations).

(d) **Jurisdiction.** This Code applies within the unincorporated Delta County, Colorado.

Division 1.03. Transitional Provisions

1.03.010. Effect on Pending Applications

(a) **Generally.** An application for approval of a site-specific development plan, as well as the approval, conditional approval, or denial of approval of such plan, shall be governed only by the duly adopted laws and regulations in effect at the time the complete application is submitted. See C.R.S. § 24-68-102.5, *Applications - Approval by Local Government*.

(b) **Immediate Public Health and Safety Exception.** The County may adopt a new or amended ordinance or regulation, when necessary, for the immediate preservation of public health and safety, and may enforce such ordinance or regulation in relation to applications pending at the time such ordinance or regulation is adopted. See C.R.S. § 24-68-102.5, *Applications - Approval by Local Government*.

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1.03.020. Effect on Approvals and Permits that Pre-Date the Effective Date

(a) **Generally.** Development that was approved by the County prior to the effective date, but not completed as of the effective date, may be carried out within the scope of the development approval or permit, provided that the approval or permit is valid and has not lapsed. Work that is authorized by permits must be commenced during the period in which the permit is valid, and then diligently pursued to completion.

(b) **Duration of Development Approvals.**

(1) Development approvals and permits that are valid on the effective date, but for which no further action has been taken with respect to permitting, construction, or establishment of a land use are valid until the their stated expiration date, which may be on the face of the permit or development approval, or within related documents such as development agreements or regulations in force on the date of the approval.

(2) The Director may grant an extension of up to one year for the approvals and permits listed above for good cause shown, provided that a request for the extension is filed with the Director not less than 30 days prior to the expiration date of the approval or permit.

(c) **Scope of Development Approvals.** This Section shall not be interpreted to confer rights upon an applicant that are not set out within the scope of a development approval or permit.

(d) **Conditions of Prior Approvals or Permits.** All conditions of development approvals or permits that were granted or issued prior to the effective date remain in force according to their own terms, regardless of the standards or requirements of this Code. Conditions of approval may be modified or eliminated by amendment to the development agreement through which the conditions were imposed.

(e) **Approvals that are Abandoned.** This subsection will set out what happens when a "specific development" that is approved is abandoned. Currently a petition to extinguish the specific development approval is required. Content for this subsection will be provided after review of a sample of development agreements that are currently in place.

(f) **Effect of Termination of Approval.** Approvals that terminate pursuant to this Section become void on the date of termination, and no further development approvals or permits may be issued in reliance upon them. No application for an extension or modification of an approval or permit will be accepted after termination of the approval or permit for which extension or modification is sought.

1.03.030. Effect of Development Agreements

This Code does not affect existing, executed development agreements, subdivision improvements agreements, public improvements agreements, or other agreements, however titled, between the County and a landowner or applicant, except as may be provided therein or by applicable state or federal law.

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Comment [TM1]: Need to review a few development agreements related to specific development approvals

1.03.040. Effect on "Specific Development Approvals"

(a) **Generally.** Property that is subject to an approved specific development pursuant to the former DELTA COUNTY REGULATION FOR SPECIFIC DEVELOPMENTS, AS AMENDED, dated January 22, 2019 (repealed by this Code), may be developed in accordance with the specific development approval during the term of the specific development approval.

(b) **Modifications to an Existing Specific Development Approval.** Specific development approvals may be modified by amendment to the development agreement that controls the specific development. Such amendments shall be consistent with the requirements of this Code. The Board of County Commissioners may agree to terminate a development agreement related to a specific development approval and allow the use to be addressed as provided in this Code.

1.03.050. Effect on Existing Violations

(a) **Generally.** Any violation of the regulations that were repealed and replaced upon adoption of this Code (see Sec. 1.04.010, *Effective Date; Repealer*) shall be treated as follows:

- (1) If a violation occurred prior to the effective date and continued past the effective date, then the County may pursue remedies for each day of violation, based on the applicable ordinances or resolutions that were in effect on each day that the violation occurred.
- (2) If a violation occurred prior to the effective date, but the same activity is no longer a violation after the effective date, then the County may pursue remedies for each day of the violation, based on the ordinances or resolutions that were in effect on each day prior to the effective date during which the violation occurred.

(b) **Fines and Penalties.** Payment of fines shall be required for any civil penalty assessed prior to the effective date (under the formerly applicable ordinances or resolutions), even if the original violation is no longer considered a violation under this Code.

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

(a) **Generally.** This Code does not modify, abrogate, or annul any easement, covenant, plat note, or any other agreement related to the use or development of land if the easement, covenant, or agreement pre-dates the effective date and does not contemplate modifications based on future changes to County ordinances and resolutions.

(b) **No Effect on Private Restrictions.**

- (1) *Generally.* The Code does not change or override private restrictions on property. The Code will be enforced on property that is subject to private restrictions in the same manner as other properties.
- (2) *No Duty to Search for Private Restrictions.* The County has no duty to search for the existence of private restrictions on property. In the review of applications pursuant to this Code, the County will enforce only its own regulations and agreements to which it is a party or has an interest.

(c) **No Duty to Interpret or Apply Private Restrictions.**

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(1) The County will not interpret, apply, or enforce private restrictions or agreements (e.g., homeowners' association covenants or private road maintenance agreements). However, the County may interpret or apply private restrictions (which may include placing conditions on, or denying, development approvals) if:

- a. It is a party to them, and as a party, the County determines that interpretation or application is necessary or appropriate; or
- b. The private restrictions are a conservation easement provided to a third party, and either:
 - i. The third-party easement holder objects to the proposed development on the basis that it is inconsistent with the terms of the conservation easement; or
 - ii. The County otherwise finds that that proposed development is inconsistent with the terms of the conservation easement.

(2) When the County zones or rezones property or otherwise issues a development approval, such action:

- a. Shall not be considered an interpretation regarding existing private restrictions to which the County is not a party; and
- b. With respect to conservation easements, the County's interpretation shall not bind the easement holder (if different from the County).

(3) Parties to covenants who seek permits or development approvals from the County that are inconsistent with the covenants do so at their own risk that the covenants may be enforced by other parties who may have standing to file suit.

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

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

1.03.070. Existing Public Utility Facilities

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

Division 1.04. Effective Date; Repealer; Severability

1.04.010. Effective Date; Repealer

(a) **Generally.** These Development Regulations shall be effective following adoption by the Board of County Commissioners of Delta County. Upon the Effective Date of approval of these Development Regulations, the DELTA COUNTY SUBDIVISION REGULATIONS 2008 AMENDED, dated January 22, 2019, the DELTA COUNTY REGULATION FOR SPECIFIC DEVELOPMENTS dated September 3, 2019, Mobile Home Park regulations AMENDED XXXXXXXXXXXX, and the Surface Creek Land Value Protection Plan adopted in 1993, the are hereby repealed.

(b) **Amendments.** With respect to amended provisions of these Development Regulations, the "Effective Date" shall be the date that the amended provision became legally operative.

1.04.020. Severability

If any Part, Division, Section, subsection, paragraph, clause, or phrase within these Development Standards is for any reason held to be invalid or unconstitutional, the same shall not affect the validity of these Development Standards as a whole or any part or provision thereof, other than the part so adjudicated to be invalid or unconstitutional.

Division 1.05. Development Review Bodies

1.05.010. Director of Planning and Community Development

(a) **Generally.** The Director shall be selected by the County Manager. The County Manager may appoint himself or herself as the Director.

(b) **Duties and Responsibilities.** The Director shall supervise the administration and enforcement of this Code, including the following functions:

- (1) Developing and promulgating application forms and checklists as provided in Part 8 Standardized Application Process.
- (2) Coordinating and conducting pre-application meetings.
- (3) Coordinating and conducting various meetings with applicants and residents relating to development review and planning activities.

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Comment [EC2]: Redlands Mesa too?

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- (4) Processing and reviewing all applications (or causing applications to be reviewed) and either deciding the applications or making a recommendation regarding how the application should be decided based on the record documents and the applicable provisions of this Code.
- (5) Setting applications on the agendas of the Planning Commission, Board of Adjustment, or Board of County Commissioners, as appropriate.
- (6) Providing public notice (or verifying public notice) as required by this Code.
- (7) Promptly issuing written approvals, permits, resolutions, or orders that reflect the substance of approvals granted pursuant to this Code.
- (8) Maintaining the Zoning Map, including:
 - a. Updates to reflect rezoning;
 - b. Resolution numbers to indicate conditional use approvals.
- (9) Tracking the term of approvals, and keeping records of approvals that have expired.
- (10) Enforcing the provisions of this Code and approvals granted hereunder.
- (11) Making recommendations regarding amendments to this Code and to the Master Plan and other land use or strategic plans approved or adopted by the County.
- (12) Developing or supervising the development of master plans, special area plans, or strategic plans, however titled, as directed by the Board of County Commissioners, or the Planning Commission with the approval of the Board of County Commissioners.

(c) Additional Authorization.

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

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1.05.020. Board of County Commissioners

(a) **Generally.** The Board of County Commissioners shall have all powers conferred upon it by law, and shall make such delegations and take such responsibilities for administration of this Code as are set out herein.

(b) **Special Voting Requirements for Rezonings and Text Amendments.** If the Planning Commission disapproves a proposed rezoning or text amendment within 30 days after same is submitted to the Planning Commission, the proposed rezoning or text amendment may be adopted by the County Commission only by majority vote of the entire Board of County Commissioners. See C.R.S. § 30-28-116.

1.05.030. Board of Adjustment

(a) **Generally.** The Board of County Commissioners shall appoint a Board of Adjustment of three or five members, as provided in subsection (b), below, in order to exercise the powers and duties set out in subsection (c), below.

(b) Composition and Compensation.

- (1) **Qualifications.** All members of the Board of Adjustment shall be residents of the County. Not more than half of the members of the Board of Adjustment may at any time be members of the Planning Commission.
- (2) **Term.** Members of such Board of Adjustment shall serve for terms of three years, and shall be staggered such that the term of at least one member will expire each year.
- (3) **Removal.** Any member of the Board of Adjustment may be removed for cause (misconduct, nonperformance, or ineligibility) by the Board of County Commissioners upon written charges and after a public hearing.
- (4) **Vacancies.** Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments.
- (5) **Associate Members (Alternates).** The Board of County Commissioners may appoint associate members of the Board of Adjustment, and, in the event that any regular member is temporarily unable to act owing to absence from the county, illness, interest in a case before the Board of Adjustment, or any other cause, his place may be taken during such temporary disability by an associate member designated for that purpose.
- (6) **Compensation.** The Board of County Commissioners shall fix *per diem* compensation and terms for the members of the Board of Adjustment, which terms shall be of such length and so arranged that the term of at least one member will expire each year.

(c) Powers and Duties.

- (1) **Powers.** The Board of Adjustment shall have all authority conferred upon it by this Code and C.R.S. § 30-28-101, *et seq.*
- (2) **Officers.** The Board of Adjustment shall elect a chair from its members, whose term shall be for one year, and the Board of Adjustment may create and fill such other offices as it may determine.

Comment [TM3]: Added

Comment [t4]: C.R.S. 30-28-117(3) : "The board of county commissioners may also authorize the board of adjustment to interpret the zoning maps and pass upon disputed questions of lot lines or district boundary lines or similar questions, as they may arise in the administration of the zoning regulations."

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Comment [t5]: Any zoning resolution of the board of county commissioners may provide that the board of adjustment, in appropriate cases and subject to appropriate principles, standards, rules, conditions, and safeguards set forth in the zoning resolution, may make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent. Where feasible, special exception may be made for the purpose of providing access to sunlight for solar energy devices. The board of county commissioners may also authorize the board of adjustment to interpret the zoning maps and pass upon disputed questions of lot lines or district boundary lines or similar questions, as they may arise in the administration of the zoning regulations. C.R.S. § 30-28-117.

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(3) Rules, Regulations, and Records.

- a. The Board of Adjustment may adopt supplemental rules of procedure not inconsistent with this Code or C.R.S. § 30-28-101, et seq.
- b. Meetings of the Board of Adjustment shall be held at the call of the chair and at such other times as the Board of Adjustment in its rules of procedure may specify.
- c. The chair, or in his or her absence the acting chair, may administer oaths and compel the attendance of witnesses by application to the District Court. The District Court, upon proper showing, may issue subpoenas and enforce obedience by contempt proceedings as provided in C.R.S. § 30-28-117(4).
- d. The Board of Adjustment shall keep minutes of its proceedings showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

(4) Open Meetings. All meetings of the Board of Adjustment shall be open to the public.

(d) **Voting Requirement.** As required by C.R.S. § 30-28-118(3), the reversal or modification of an administrative decision pursuant to Section 16.01.010, *Administrative Appeals to Board of Adjustment*, or the grant of a variance pursuant to Section 13.02.010, *Variances*, requires the concurring vote of:

(1) Three members of a three-member BOA; or

(2) Four members of a five-member BOA.

1.05.040. Planning Commission.

(a) **Generally.** The Board of County Commissioners shall appoint a Planning Commission of nine members, as provided in subsection (b), below, in order to exercise the powers and duties set out in subsection (c), below.

(b) **Composition and Compensation.**

- (1) **Membership.** Each member of the Planning Commission shall be a resident of the County. Three members of the Planning Commission shall be selected from each County Commissioner District.
- (2) **Term.** The term of appointed members of the Planning Commission shall be three years and until their respective successors have been appointed, but the terms of office shall be staggered by making the appointments so that approximately one-third of the members' terms expire each year.
- (3) **Removal.** Any member of the Planning Commission may be removed for cause (misconduct, nonperformance, or ineligibility) by the Board of County Commissioners upon written charges and after a public hearing.

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- (4) *Vacancies.* Vacancies shall be filled for the unexpired term in the same manner as in the case of original appointments.
- (5) *Associate Members (Alternates).* The Board of County Commissioners may appoint one associate member of the Planning Commission from each County Commissioner District. Each associate member shall be a resident of the County, and, in the event any regular member is temporarily unable to act owing to absence from the County, illness, interest in any matter before the Planning Commission, or any other cause, his or her place may be taken during such temporary disability by an Associate Member designated for that purpose.
- (6) *Compensation.* The members of the Planning Commission shall receive such compensation as may be fixed by the Board of County Commissioners, and the Board of County Commissioners shall provide for reimbursement of the members of the Planning Commission for actual expenses incurred.

(C.R.S. § 30-28-103)

(c) **Powers and Duties.**

- (1) *Powers.* The Planning Commission shall have all authority conferred upon it by C.R.S. § 30-28-101, *et seq.*
- (2) *Officers.* The Planning Commission shall elect a chair from its members, whose term shall be for one year, and the Planning Commission may create and fill such other offices as it may determine.
- (3) *Rules, Regulations, and Records.* The Planning Commission shall adopt such rules and regulations governing its procedure as it may consider necessary or advisable and shall keep a record of its proceedings, which record shall be open to inspection by the public at all reasonable times.
- (4) *Open Meetings.* All meetings of the Planning Commission shall be open to the public.
- (5) *Experts and Staff.* The Board of County Commissioners has the authority to employ experts and a staff and shall pay such expenses as may be deemed necessary for the Planning Commission to carry out the powers conferred and the duties prescribed in this Code. The Planning Commission is directed to make use of the expert advice and information which may be furnished by appropriate federal, state, county, and municipal officials, departments, and agencies and in particular by the Director of the Division of Planning in the Department of Local Affairs of the State of Colorado.
- (6) *Funding Sources.* The Planning Commission is specifically empowered to receive and expend all grants, gifts, and bequests, specifically including state and federal funds and other funds available for the purposes for which the Planning Commission exists, and to contract with the state of Colorado, the United States, and all other legal entities with respect thereto. The Planning Commission may provide, within the limitations of its budget, matching funds wherever grants, gifts, bequests, and contractual assistance are available on such basis.

(C.R.S. § 30-28-104)

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PART 2. ZONING DISTRICTS AND LAND USE

Division 2.01. Establishment of Zoning Districts

2.01.010. Purpose and Establishment of Zoning Districts

(a) **Purpose.**

- (1) *Relationship to Master Plan.* This Code is designed to bring Delta County's land use regulations into consistency with the 2018 Delta County Master Plan. The Master Plan identified a need to create a simple, clear, fair, and predictable set of regulations. The Master Plan also identified a need to provide clarity and assurances for residents and property owners, and more predictability for commercial activities in the County.
- (2) *Land Use in General.* This Code is designed to clarify where commercial, industrial, agricultural, and residential uses are most appropriately located around the County.
- (3) *Commercial Land Uses.* This Code identifies the range of commercial uses that are anticipated in the County, and further identifies zoning districts in which each type of commercial use is appropriate or may be appropriate if certain conditions are met. Generally, commercial uses are most appropriately located in the RC, UGA, and RI zoning districts. However, most of the other zoning districts allow for multiple land uses and sufficient flexibility such that a wide range of commercial land uses may be located almost anywhere where adequate services can be provided.

(b) **Zoning Districts Established.** In order to carry out the provisions of this Code, the County is divided into the zoning districts that are set out in Table 2.01.010, *Zoning Districts*.

Table 2.01.010 Zoning Districts		
Abbreviation	Zoning District Name	Purposes
A-35	Agriculture (35-acre)	This zoning district is intended principally for agricultural and rural residential uses on larger parcels (generally, 35 acres or more). It allows for the broadest range of agricultural and supporting uses.
A-20	Agriculture (20-acre)	This zoning district is intended principally for agricultural rural residential uses on parcels of land that are generally 20 acres or more. It allows for a broad range of agricultural and supporting uses.
A-5	Agriculture (5-acre)	This zoning district is intended principally for small-scale agricultural and large-lot residential uses.

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Table 2.01.010 Zoning Districts		
Abbreviation	Zoning District Name	Purposes
RI/C	Rural Industrial / Commercial	This zoning district is intended to provide for rural industries that support farming and resource-based industries, or that otherwise benefit from locating outside of municipal boundaries (<i>e.g.</i> , minerals processing, oil and gas services, etc.), as well as for a range of commercial uses in areas where there are sufficient services and infrastructure to accommodate them, in order to help meet demands created by rural residents, businesses, and visitors to the County.
UGA	Urban Growth Area	This zoning district applies to areas near incorporated municipalities, and provides a way for the County to work with the municipalities to achieve ordered urban and suburban growth. Areas around municipalities that are intended for new or continuing agricultural uses should not be zoned UGA.

2.01.020. Official Zoning Map Adopted

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

2.01.030. Interpretation of and Updates to Zoning Map

- (a) **Generally.**
- (1) Updates to the zoning map shall be made administratively following approval of a rezoning by the Board of County Commissioners.
 - (2) Technical changes to the Zoning Map that are necessary to correct the map and ensure that it accurately reflects zoning district boundaries previously approved shall also be made administratively.
 - (3) The precise location of any zoning district boundary line shown on the Zoning Map shall be defined by the rules of subsections (b), (c), (d), and (e), applied sequentially until the location is identified.
- (b) **Rezoning Ordinances.**

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

(c) **Identifiable Features.** In the absence of a rezoning ordinance that specifies parcel boundaries, where zone boundary lines appear to follow identifiable features, their location shall be determined by applying the rules of this subsection in order from (1) to (5):

- (1) *Rights-of-Way.* Boundary lines shown as following, or approximately following, roads, alleys, railroad tracks, or utility lines shall be construed as following the centerline of the right-of-way. Where the location of the actual roads or alleys differs from the location of corresponding roads or alleys on the Zoning Map, the location of the actual roads or alleys controls.
- (2) *Municipal or County Boundaries.* Boundary lines shown as following, or approximately following, municipal or County boundary lines shall be construed as following such lines.
- (3) *Property Lines.* Boundary lines shown as following, or approximately following, lot lines or other property lines shown on the Zoning Map shall be construed as following such lines.
- (4) *Floodplains.* Boundary lines shown as following, or approximately following, floodplain boundary lines shall be construed as following such lines.
- (5) *Service Area Boundaries.* Boundary lines shown as following, or approximately following, special district service area boundary lines shall be construed as following such lines.

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- (6) *Toe or Top of Slope.* Boundary lines shown as following, or approximately following, the toe or the top of a steep slope, shall be construed as following the contour line of the toe or top of slope.
- (7) *Watercourses.* Boundaries shown as following, or approximately following, the centerline of streams, canals, or other watercourses shall be construed as following the channel centerline.
- (8) *Parallel to Features.* Boundaries shown as materially separated from, or shown within a set distance from, any of the boundaries or features listed in paragraphs (1) through (7), above, shall be construed to be separated from such features at such distances as are shown by the scale on the zoning map.
- (9) *Changes in the Location of Identifiable Features.* Generally, the location of identifiable features that are used to identify zoning district boundaries shall be the location of the features on the date that the zoning district was assigned or changed. However, in the event of a natural change in the location of streams or other watercourses, the zoning district boundary shall be construed as moving with the channel centerline, and such movement shall not render existing development nonconforming.

(d) **Un-subdivided Land or No Identifiable Feature.** In the absence of a rezoning ordinance that specifies parcel boundaries, on un-subdivided land, or where a district boundary follows no identifiable feature, the location of zone boundaries shall be determined by applying the following rules in sequential order until the boundaries are known:

- (1) *Text Dimensions.* The boundary shall be located by reference to dimensions shown in text on the zoning map, if any.
- (2) *Map Scale.* The boundary shall be located using the map scale appearing on the Zoning Map.

(e) **All Land Within the Unincorporated County Shall Be Zoned.** It is the intent of the Board of County Commissioners that all land within the unincorporated areas of the County shall be zoned. Accordingly, the A-35 zoning district shall be applied to all land on the zoning map that is not the subject of one of the situations identified in subsections (b), (c), or (d), above, and:

- (1) Within the unincorporated area of the County;
- (2) Not within a public right-of-way; and
- (3) Not shown within the boundaries of a particular zoning district on the Zoning Map.

Division 2.02. Land Use by Zoning District

2.02.010. Interpretation of Land Use by Zoning District Tables

(a) **Generally.** The table set out in Section 2.02.020, Land Use by Zoning District describes which land uses are permitted as-of-right without review, permitted as-of-right after review, permitted if certain conditions are met, permitted after public hearing if certain conditions are met, and not allowed in each zoning district.

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(b) **Legend.** The following symbols are used in the tables in this Division:

- (1) “A” means “allowed as-of-right.” These uses must comply with applicable standards of this Code, but do not require staff review for compliance before they are established. However, they may require other types of permits (*e.g.*, well permits, septic permits, or access permits).
- (2) “P” means “allowed, with a zoning permit.” These uses are subject to a zoning permit requirement that involves administrative review for compliance with the general requirements of this Code prior to establishment of the use. Zoning permits are issued by the Director after administrative review. *See* Division 7.03, *Required Permits and Approvals*. Other types of permits (*e.g.*, well permits, septic permits, or access permits) may also be required.
- (3) “L” means “limited use.” Limited uses are subject to administrative review for compliance with specific standards that pertain to the use, as well as the general requirements of this Code. Applications for limited uses may be referred to specific referral agencies. If there is an asterisk (*) next to the L, then public notice of the application is required pursuant to Section 7.04.110, *Public Notice*. Zoning permits for limited uses are issued by the Director after administrative review. *See* Division 7.03, *Required Permits and Approvals*. Other types of permits (*e.g.*, well permits, septic permits, or access permits) may also be required.
- (4) “C” means “conditional use.” Conditional uses are subject to public hearing review for compliance with specific standards that pertain to the use, the general standards for all conditional uses, and the general requirements of this Code. Applications for conditional uses will be referred to referral agencies. Public notice of hearings on the application are required pursuant to Section 7.04.110, *Public Notice*. Conditional use permits are issued by the County after public hearing review. *See* Division 7.03, *Required Permits and Approvals*. Other types of permits (*e.g.*, well permits, septic permits, or access permits) may also be required.
- (5) “—” means that the use is not allowed in the specified zoning district.

(c) **Multiple Uses.** In instances where a proposed development will combine more than one listed use, each listed shall be evaluated independently for compliance with applicable standards.

2.02.020. Land Use By Zoning District

The land uses that are allowed in each zoning district are set out in Table 2.02.020, Land Use by Zoning District.

TABLE 2.02.020 LAND USE BY ZONING DISTRICT					
Land Use Category / Land Use	Zoning District				
	A35	A20	A5	RI/C	UGA
Agriculture Land Use Category					
Agriculture, Silviculture, Viticulture	A	A	A	A	A
Intensive Agriculture Land Use Category					

In-line notes and commentary are set out in *green italics*.

TABLE 2.02.020
LAND USE BY ZONING DISTRICT

Land Use Category / Land Use	Zoning District				
	A35	A20	A5	RI/C	UGA
Minor Animal Feeding Operation ("MAFO")	P	P	L*	L*	—
Intense Animal Feeding Operation ("IAFO")	L*	L*	L*	L*	—
Concentrated Aquatic Animal Production ("CAAP")	L*	L*	L*	—	—
Concentrated Animal Feeding Operations (Large "CAFO")	L*	L*	—	—	—
Rural Residential Land Use Category					
Single Family Detached	A	A	A	A	A
Duplex or Triplex	A	A	A	A	A
Manufactured Home Park	C	C	C	—	L
Multifamily (4+ dwelling units)	L	L	L	L	L
Assisted Living, Congregate Care, or Nursing Home	—	—	L	—	L
Agricultural Support and Rural Industries Land Use Category					
Farm Supply / Feed and Seed	L	L	L	A	A
Automobile Fueling or Service Station	—	—	—	A	A
Kennel	A	A	A	A	L
Rural Light Industry with Retail	P	P	P	P	P
Rural Light Industry without Retail	A	A	A	A	A
Rural Medium Industry (e.g., hemp processing, slaughterhouse, meat processing, sawmill)	L	L	L	L	L
Rural Heavy Industry (e.g., explosives, rock crushing, tannery)	L	L	C	L	—
Veterinary Hospital or Clinic	A	A	A	A	A
Oil and Gas Support Services	L	L	L	A	L
Community Land Use Category					
Place of Assembly (e.g., churches, grange halls, etc.)	A	A	A	C	A
Schools and Child Care Centers	L	L	P	—	P
Cemetery	P	P	P	P	P
Commercial Land Use Category					
Retail Sales and Services (also includes banks, real estate, etc.)	L	L	L	P	P
Office	L	L	L	A	A
Restaurant	P	P	P	P	P
Sexually-Oriented Business	—	—	—	L	—
Rural Recreation and Hospitality Category					
Bed and Breakfast	A	A	A	C	A
Guest Ranch	P	P	P	C	L
Inn or Lodge	L	L	L	C	L
Overnight Accommodations	L	L	L	C	L
Resort or Conference Center Hotel	C	—	—	L	L

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In-line notes and commentary are set out in *green italics*.

TABLE 2.02.020
LAND USE BY ZONING DISTRICT

Land Use Category / Land Use	Zoning District				
	A35	A20	A5	RI/C	UGA
Equestrian Facilities (training, arenas, horse boarding, etc.)	A	A	A	A	A
Outdoor Shooting Range	C	C	C	C	—
Indoor Shooting Range	L	L	L	L	L
Racetrack	C	C	C	P	—
Paintball Course	A	A	A	—	—
Hunting, Fishing, or Watersports Club	A	A	A	—	P
Campground	L	L	L	—	L
Parks, Passive Recreation, Open Space, or Golf Course	A	A	A	A	A
Other Active Outdoor Recreation	A	A	A	P	P
Theater	—	P	P	—	E
Outdoor Theater	C	P	P	—	C
Utilities, Communications, Mining, Energy, Transportation, and Disposal Category					
Water or Wastewater Treatment Plant	P	P	P	P	P
Wireless Communications Facility	See Wireless Communications Facility Resolution				
Renewable Energy Facility	L	L	L	L	L
Truck Stop / Truck Wash	—	—	—	P	P
Airport or Airstrip	L	—	—	L	—
Salvage Yard	C	C	C	C	C
Minerals Extraction / Quarry	C	C	C	C	C
Oil and Gas Extraction	(reserved)				
Waste Transfer Station	—	—	—	C	—
Landfill	C	C	C	—	—
Hazardous Waste Landfill	C	—	—	—	—

2.02.030. Uses that are Not Allowed in Any Zoning District

The following uses are not allowed in any zoning district:

- (1) Marijuana Uses; and
- (2) Outdoor Junk Storage

2.02.040. Uses that are Not Listed

(a) **Generally.** If a proposed use (including but not limited to any specific type of commercial use) is not listed in the land use table of Section 2.02.020, *Land Use by Zoning District*, or in Section 2.02.030, *Uses that are Not Allowed in Any Zoning District*, then the proposed use shall be evaluated pursuant to this Section.

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(b) Intent.**Formatted:** Font: Bold

- (1) Property rights are a “bundle of rights” that come along with the ownership of property. Among those rights is the right to use property.
- (2) The right to use property as an important part of Delta County’s strong traditions of personal liberty and personal responsibility. It has also historically been a key to innovation and economic development.
- (3) The Board of County Commissioners (“Board”) recognizes that there is a middle-ground between the position that “all uses that are not specifically permitted by this Code are prohibited” and the position that “all uses that are not specifically prohibited by this Code are allowed.” In the view of the Board:
 - a. The former places too much burden on the right to use property to be consistent with the values of the residents of Delta County.
 - b. The latter would frustrate the purposes and administration of this Code by inviting arguments regarding whether a particular use is included in the list of uses regulated by this Code and creating uncertainty that undermines the stability upon which many residents and real estate investors depend for their lifestyles and livelihoods.
- (4) This Section is intended to provide that middle ground. It is the intent of this Section to create sufficient flexibility to allow for a property owner to establish one or more new uses that are not specifically identified in this Code, without necessarily placing upon the property owner the burden of waiting for the County to initiate and process an ordinance amending this Code.
- (5) Where such interpretation is reasonable, this Section should be interpreted to favor the establishment of the new use. Accordingly, if a new use meets the threshold determination under subsection D., below, and is comparable to two or more listed uses, then the listed use which is allowed with the least process shall be selected as the comparable use.
- (6) It is the intent of the Board to provide flexibility, but not to allow this Section to be used to avoid the application of this Code. Likewise, it also is the intent of the Board that this Section not be used to create rules and regulations that are not part of this Code.

(c) Application.**Formatted:** Font: Bold**Formatted:** Don't keep with next

- (1) The first step of this process (the “Threshold Determination” in subsection C., below) is to determine whether a proposed “use” is a “principal use” under this Code, and not something else (see subsection (d), below) that should be allowed without County land use approval, or with a more limited administrative review.
- (2) If a proposed unlisted use is a “principal use,” then it is the intent of the Board that it be approved in the same manner and under the same conditions as the single listed use to which the proposed use is most closely “functionally comparable.”

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- (3) If a proposed unlisted use is not a “principal use,” then it is the intent of the Board to ensure that it is classified appropriately as provided in subsection (d), below. That classification shall be used to determine if any requirements of this Code apply.

(d) **Threshold Determination.**

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- (1) The Director shall review the description of the proposed use and decide whether the proposed use is:
- a. A principal land use, which is a use of land on an ongoing basis for a particular purpose, or a use that occupies permanent buildings or facilities on the land (*e.g.*, a farm, a shop, a dwelling unit, or a new neighborhood);
 - b. A seasonal land use, which is a use of land and temporary buildings or structures for a continuous period of six months or less during any 12-month period, at the conclusion of which the temporary buildings or structures are removed (*e.g.*, a farm stand that is not located on a farm);
 - c. A temporary land use, which is the temporary use of land (with or without temporary buildings or structures) for a purpose which is related to construction, sales, or special events (*e.g.*, a large festival or carnival that is held outside of an amusement park or fairgrounds);
 - d. An accessory use, which is a use of land that is associated with, but clearly subordinate to, a principal use (*e.g.*, a farm stand that is located on a farm, an accessory dwelling unit, or a business use of the home);
 - e. An accessory building or structure (*e.g.*, a shed, ball field lighting, small wind energy conversion systems, fencing, etc.);
 - f. A sign;
 - g. Mechanical, water, wastewater, electrical equipment, or communications equipment that provides services to a building or use on the applicant's property and not to other properties (*e.g.*, air conditioner, water well, septic tank, roof-mounted or building-integrated photovoltaic panels, roof or wall-mounted television or HDTV antennae, etc.); or
 - h. An area or activity that is a customary part of the existing or approved principal use of the applicant's property (*e.g.*, a football field at a high school, or a garden or back yard play equipment on a residential lot).
- (2) Proposed principal land uses shall be evaluated according to the standards of subsection (e), below. Other classifications (listed subsections (d)(1)b. to (d)(1)h., above) do not require further analysis under this Section, but may be subject to other applicable requirements of this Code, and / or to other Delta County Ordinances.

- (e) **Functionally Comparable Principal Land Uses.** New or changed land uses are exempt, permitted, limited, conditional, or prohibited in the same manner as uses to which they are most closely functionally comparable. An unlisted use is functionally comparable to a listed use if, with regard to each of the decision criteria below, the unlisted use has no greater impacts than listed use to which it is being compared.

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- (1) Average daily and peak hour trip generation (personal vehicles and heavy trucks);
 - (2) Impervious surface;
 - (3) Regulated air or water emissions;
 - (4) Noise;
 - (5) Exterior lighting;
 - (6) Dust;
 - (7) Odors (including but not limited to odors from storage of solid wastes prior to pickup);
 - (8) Potentially hazardous conditions (such as risk of fire or explosion, projectiles leaving the site, etc.);
 - (9) Use, storage, or disposal of hazardous materials; and
 - (10) Nature and impacts of operation.
- (f) Effect of Determination.
- (1) If the Director finds that an unlisted use is most closely functionally comparable to an exempt, permitted, limited, or conditional use, then an application for approval of the unlisted use at a particular location shall be processed with the same restrictions as the listed use that is functionally comparable.
 - (2) If the Director determines that an unlisted use is most closely functionally comparable to a prohibited use, or is not functionally comparable to any listed use, then the unlisted use is a prohibited use.

Division 2.03. Temporary Uses and Accessory Business Use of the Home

2.03.010. Purpose and Application of Division

(a) **Purpose of Division.** The purpose of this Division is to establish standards for certain temporary uses and business uses of the home.

(b) **Application of Division.** Section 2.04.020, *Temporary Use of Recreational Vehicle as Dwelling Unit* through Section 2.04.050, *Special Events*, inclusive, establish standards for certain temporary uses in order to increase the flexibility of property owners to use their properties on a temporary basis in ways that may not otherwise be allowed as permanent land uses. Section 2.04.060, *Accessory Business Use of the Home*, addresses accessory business use of the home.

2.03.020. Temporary Use of Recreational Vehicle as Dwelling Unit

A recreational vehicle may be temporarily occupied as a dwelling unit during the period in which a dwelling unit is actively being constructed or installed on a subject property, provided that the occupant of the recreational vehicle is the owner of the property upon which the construction is occurring, or the contractor who is constructing the dwelling unit. Said use of the recreational vehicle shall terminate the earlier of:

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(1) 90 days after it is commenced; or

(2) When the dwelling unit is substantially complete and habitable.

2.03.030. Farm Stands

Farm stands are allowed, provided that they do not take direct access from a state highway or arterial road unless the Department of Roads and Bridges confirms that such access may be safely provided, and provided that the subject property is cleaned up and restored after the stand is removed.

2.03.040. Fireworks Stands

Fireworks stands are allowed, provided that:

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

2.03.050. Special Events

(a) **Generally.** The standards of this section apply to temporary special events that are likely to attract more than 500 people at any one time to a subject property that is not already put to a commercial, community, or hospitality use that would routinely attract large groups of people. Such events may include outdoor entertainment, cultural, religious, or charitable events, as well as flea markets, farmers' markets, craft shows, and comparable events.

(b) **Approval Standards.**

- (1) **Frequency and Duration.** No subject property shall host a temporary special event more than 75 days per year (including setup and teardown), and no individual event shall be longer than 30 days.
- (2) **Impact on Agriculture or Intensive Agriculture.** The location and nature of the special event shall be such that it will not adversely affect adjacent and nearby agriculture and intensive agriculture uses that involve livestock; or create a material risk of trespass onto or damage to agricultural fields, grazing areas, or livestock pens.
- (3) **General Site Requirements.** The event shall be held on a site that is suitable for safely accommodating the expected level of attendance.
- (4) **Buildings and Structures.** If existing buildings and structures are used, they must be in a condition that is safe and appropriate for the intended level of use and occupancy.
- (5) **Access and Circulation.**

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- a. The street from which access is taken must have adequate capacity to serve the temporary special event. The County may require a Traffic Impact Study to evaluate available capacity. A traffic management plan may be required to ensure safe access and safe operation of adjacent roads.
- b. Safe on-site vehicular and pedestrian circulation routes shall be identified and unobstructed emergency access shall be provided.

(6) Parking.

- a. The parking area available for the temporary special event shall be sufficient to accommodate the peak demands of the event, assuming four attendees per vehicle.
- b. Fewer parking spaces may be allowed if the applicant demonstrates that the reduced number is justified based on the nature of the event, the provision of alternative transportation (e.g., buses and vans), or the close association of the event with a permanent use that provides parking for attendees.
- c. Parking may be provided in remote locations, provided that if parking is provided more than 800 feet from the boundaries of the temporary special event, an appropriate level of shuttle service is provided between the event and the parking area.
- d. Truck parking and loading areas shall be provided as necessary to service the event and provide for storage of trucks and trailers that will remain on-site. Trucks shall be routed away from local residential streets.

(7) Noise. Noise controls may be required for temporary special events that are expected to generate high levels of noise or to operate after 9:00 p.m.

(8) Security and Fire Protection. Adequate security and fire protection shall be provided for the proposed temporary special event. The County may require a fire prevention and emergency response plan that is approved by the applicable fire protection district.

(9) Sanitation. Adequate restrooms (portable restrooms are acceptable) shall be provided to serve the event. Trash containers and recycling bins shall be placed in convenient areas, including principal places of assembly, near food and beverage vendors, near restrooms, and at pedestrian entry and exit points.

(10) Cleanup and Restoration.

- a. The site of the temporary event and the adjoining right-of-way shall be cleared of all litter and debris from the event, including temporary signage, not more than two days after the last day of the event.
- b. If grass parking was utilized, restoration / re-seeding may be required to control dust in impacted areas.
- c. The County may require a refundable deposit for site clean-up and restoration.

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2.03.060. Accessory Business Use of the Home

Accessory business use of the home is allowed as-of-right.

Division 2.04 Permitted Uses Approval Standards & Process Requirements

2.04.010. Applicability of Permitted Use Development Standards

(a) **Generally.** An application for a permitted use requires issuance of a zoning permit and review of a sketch plan to certify compliance with this Code. The zoning permit and sketch plan shall be approved if the application demonstrates compliance with:

(1) Part 3, Lots, Buildings, and Structures

(2) Part 4, Site Design and Environmental Stewardship

(3) Part 5, Public Facilities, Infrastructure, Services

(4) OTHERS?

(b) Application & Process:

(1) Applications for permitted use zoning permit and sketch plan approval shall submit an application in compliance with Section 8.01.020 Application.

(2) All applications will be reviewed administratively in accordance with Section 9.01.020 Administrative Review.

(3) Conditions of Approval. The Director shall issue a zoning permit once verified that the proposed permitted use will be in compliance with the requirements of this code.

Division 2.05. Limited Use Approval Standards

2.05.010. Applicability of Limited Use Development Standards

(a) **Generally.** An application for a limited use requires approval of a zoning permit and sketch plan. The Director may require submittal of a site plan if it is determined that additional information or detail is necessary to review compliance with the requirements of this code. The zoning permit and sketch or site plan may be approved if the application demonstrates compliance with:

(1) Section 2.05.020 Use Specific Standards, if applicable.

(2) Part 3, Lots, Buildings, and Structures

(3) Part 4, Site Design and Environmental Stewardship.

(4) Part 5, Public Facilities, Infrastructure, Services.

(5) OTHERS?

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(b) Application & Process.

- (1) Applications for limited use zoning permit and sketch plan approval shall submit an application in compliance with Part 8, *Standardized Application Review Process*.
- (2) All applications will be reviewed administratively in accordance with Division 9.01, *Administrative Review for Zoning Permits, Sketch Plan and Site Plan Approval*.
- (3) Conditions of Approval. The Director may approve a limited use with conditions to mitigate its impacts, and / or in order to ensure continuing compliance with the review standards identified in subsection (a), above.

(c) Conversion to a Conditional Use.

- (1) In the event that a use-specific standard for a Limited Use Permit cannot be met, the use may be processed (at the applicant's option or upon referral by the Director, subject to the exceptions of subsection (c)(2), below) as a Conditional Use. Upon such election, the proposed use shall be processed in accordance with the Conditional Use standards in Division 2.06, *Conditional Use Approval Standards*, and Division 9.02, *Public Hearing for Conditional Use Permits and Rezoning*s. The applicable use-specific standards from this Division shall be met to the extent practicable, and the Conditional Use Standards in Division 2.06 shall be applied to offset the impacts that may result from the inability to fully comply with applicable use-specific standards.
- (2) The flexibility created by subsection (c)(1), above may be limited with regard to certain uses as specified in this Division.

2.05.020. Use Specific Standards**(a) Intensive Agriculture Uses**

- (1) *Minimum Lot Area*. The minimum lot area for IAFO and CAFO uses is 35 acres. There is no minimum lot area for MAFO or CAAP uses.
- (2) *Setbacks*. Intensive agriculture uses shall be set back as provided in Table 2.05.020, *Setback Standards for Intensive Agriculture*. Additional setbacks may be required in order to implement the requirements of subsections (3), (4), and (5), below. If the requirements of subsections (3), (4), and (5) are met, and within the limits of subsection (h), below, setbacks may be reduced as provided in Section 2.05.010, *Applicability of Limited Use Development Standards*.

TABLE 2.05.010
SETBACK STANDARDS FOR INTENSIVE AGRICULTURE

Standard	Facility Type			
	MAFO	IAFO	CAAP	Large CAFO
Part A: Setbacks for feedlots, confinement buildings or pens, waste lagoons, and carcass disposal areas				
From Streams and Rivers	200 ft.	200 ft.	200 ft.	200 ft.
From Irrigation Ditches	100 ft.	100 ft.	100 ft.	100 ft.
From Community Water Sources	300 ft.	300 ft.	300 ft.	300 ft.

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TABLE 2.05.010 SETBACK STANDARDS FOR INTENSIVE AGRICULTURE				
Standard	Facility Type			
	MAFO	IAFO	CAAP	Large CAFO
From Domestic Water Wells	150 ft.	150 ft.	150 ft.	150 ft.
From Residential Uses	Greater of 150 ft. or 1 ft. / AU	1 ft. / AU (min. 300 ft.)	150 ft.	1,000 ft.
From Public Schools	2,640 ft.	2,640 ft.	2,640 ft.	5,280 ft.
Part B: Setbacks for buildings used for confinement of animals, water or wastewater storage tanks, and accessory buildings or structures that are not covered by Part A, above.				
From all property lines	100 ft.	100 ft.	50 ft.	100 ft.

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(3) Dust and Odor Management.

- a. A dust management plan and odor management plan are required. Mitigation measures that are set out in the dust and odor management plans shall be conditions of approval of the intensive agriculture use.
- b. Animal confinement structures, structures or lagoons used to store and / or treat wastewater, solids, or sludges, and areas used to process and dispose of carcasses shall be designed to incorporate ventilation, aeration, treatment, and / or filtration technologies to reduce odors and pathogens.
- c. Building exhaust vents shall include control equipment to prevent emissions of dust and odors to the greatest extent practicable.

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(4) Water Quality. A water quality management plan is required for all intensive agriculture uses. Mitigation measures that are set out in the water quality management plan shall be conditions of approval of the intensive agriculture use.

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(5) Noise Mitigation. A noise mitigation plan is required for all intensive agriculture uses. Mitigation measures that are set out in the noise management plan shall be conditions of approval of the intensive agriculture use.

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(6) Pest Management. A pest management plan is required for all intensive agriculture uses. Mitigation measures that are set out in the pest management plan shall be conditions of approval of the intensive agriculture use.

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(7) Truck Routing. A truck routing plan is required for all intensive agriculture uses. Routes and hours of operation that are set out in the truck routing plan shall be conditions of approval of the intensive agriculture use.

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(8) Limitations on Modifications.

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- a. Setbacks for intensive agriculture uses shall not be modified using the conditional use review process described in Section 2.05.010, *Applicability of Limited Use Development Standards*, except as follows:
 - i. Setbacks to residential uses may be reduced by up to 50 percent; and

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ii. Setbacks to property lines may be reduced by up to 25 percent, provided that setbacks to schools are not thereby reduced below minimum requirements.

b. In determining whether setback reductions will be allowed, the decision-maker shall consider the concentration of intensive agriculture facilities in the vicinity, in order to evaluate the cumulative impacts of such uses on the land uses from which spacing is required.

(b) Rural Residential Uses

(1) *Manufactured Home Park.* In addition to all other applicable standards of this Code, manufactured home parks shall meet the following standards:

a. *Development Area.*

i. Manufactured home parks (including all spaces, supporting infrastructure, common areas, and minimum required perimeter setbacks) shall be located within a designated, contiguous "development area." See Section 4.01.010, *Generally*.

ii. Areas outside of the development area shall be designated as "stewardship areas." See Section 4.01.010, *Generally*. Stewardship areas shall be managed in accordance with Part 4 of this Code.

iii. The development area shall not exceed the land area set out in Table 2.05.020A1, *Development Areas for Manufactured Home Parks*.

iv. Contiguous properties may be aggregated to meet the development area requirement, provided that deed restrictions or conservation easements in a form approved by the County Attorney are recorded against the land outside of the development area, restricting its use as provided in Section 4.01.01 subsection (a)(2)b.

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TABLE 2.05.020A1 DEVELOPMENT AREAS FOR MANUFACTURED HOME PARKS	
Zoning District	Max. Development Area
A35	10 percent of the subject property
A20	15 percent of the subject property
A5	20 percent of the subject property
RC	100 percent of the subject property
UGA	100 percent of the subject property

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b. *Perimeter Setbacks and Building Spacing.* The minimum setback from the perimeter of the subject property and the minimum spacing between manufactured homes shall be as set out in Table 2.05.030A2, *Manufactured Home Park Perimeter Setbacks and Building Spacing*.

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TABLE 2.05.030A2 MANUFACTURED HOME PARK PERIMETER SETBACKS AND BUILDING SPACING		
Zoning District	Min. Perimeter Setback	Min. Building Spacing
A35	50 ft.	15 ft.
A20	50 ft.	10 ft.
A5	25 ft.	10 ft.
RC	25 ft.	10 ft.
UGA	25 ft.	10 ft.

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c. Common Buildings. Manufactured home parks may include common buildings for administration, assembly, and utility purposes, such as leasing, recreation, storage, and laundry.

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(2) Multifamily. In addition to all other applicable standards of this Code, multifamily uses shall meet the following standards:

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a. Development Area.

01. Multifamily uses (including all dwelling units, supporting infrastructure, common areas, and minimum required perimeter setbacks) shall be located within a designated, contiguous development area. See Section 4.01.010, Generally.
02. Areas outside of the development area shall be designated as "stewardship areas." See Section 4.01.010, Generally. Stewardship areas shall be managed in accordance with Part 4 of this Code.
03. The development area shall not exceed the area set out in Table 2.05.040B1, Development Areas for Multifamily Uses.
04. Contiguous properties may be aggregated to meet the development area requirement, provided that deed restrictions or conservation easements in a form approved by the County Attorney are recorded against the land outside of the development area, restricting its use as provided in Section 4.01.01 subsection (a)(2)b.

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TABLE 2.05.040B1 DEVELOPMENT AREAS FOR MULTIFAMILY USES	
Zoning District	Max. Development Area
A35	10 percent of the subject property
A20	15 percent of the subject property
A5	20 percent of the subject property
RI	100 percent of the subject property
RC	100 percent of the subject property
UGA	100 percent of the subject property

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b. Perimeter Setbacks and Building Spacing. The minimum setback from the perimeter of the subject property and the minimum spacing between multifamily buildings shall be as set out in Table 2.05.040B2, *Multifamily Perimeter Setbacks and Building Spacing.*

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TABLE 2.05.040B2 MULTIFAMILY PERIMETER SETBACKS AND BUILDING SPACING		
Zoning District	Min. Perimeter Setback	Min. Building Spacing
A35	50 ft.	30 ft.
A20	50 ft.	25 ft.
A5	30 ft.	25 ft.
RI	30 ft.	25 ft.
RC	30 ft.	25 ft.
UGA	25 ft.	20 ft.

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c. Common Buildings. Multifamily uses may include common buildings for administration, assembly, and utility purposes, such as leasing, recreation, storage, and laundry.

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(3) Assisted Living, Congregate Care, or Nursing Home. In addition to all other applicable standards of this Code, assisted living, congregate care, and nursing home uses shall meet the following standards:

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a. Development Area.

01. Assisted living, congregate care, and nursing home uses (including all dwelling units, supporting infrastructure, common areas, and minimum required perimeter setbacks) shall be located within a designated, contiguous development area. See Section 4.01.010, Generally.
02. Areas outside of the development area shall be designated as "stewardship areas." See Section 4.01.010, Generally. Stewardship areas shall be managed in accordance with Part 4 of this Code.
03. The development area shall not exceed the area set out in Table 2.05.050C1, Development Areas for Assisted Living, Congregate Care, or Nursing Home Uses.
04. Contiguous properties may be aggregated to meet the development area requirement, provided that deed restrictions or conservation easements in a form approved by the County Attorney are recorded against the land outside of the development area, restricting its use as provided in Section 4.01.01 subsection (a)(2)b.

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TABLE 2.05.050C1 DEVELOPMENT AREAS FOR ASSISTED LIVING, CONGREGATE CARE, OR NURSING HOME USES	
Zoning District	Max. Development Area
A5	20 percent of the subject property
RI	100 percent of the subject property
RC	100 percent of the subject property
UGA	100 percent of the subject property

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- b. Perimeter Setbacks and Building Spacing. The minimum setback from the perimeter of the subject property and the minimum spacing between multifamily buildings shall be as set out in Table 2.05.050C2, *Assisted Living, Congregate Care, or Nursing Home Perimeter Setbacks and Building Spacing.*

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TABLE 2.05.050C2 ASSISTED LIVING, CONGREGATE CARE, OR NURSING HOME PERIMETER SETBACKS AND BUILDING SPACING		
Zoning District	Min. Perimeter Setback	Min. Building Spacing
A5	30 ft.	25 ft.
RI	30 ft.	25 ft.
RC	30 ft.	25 ft.
UGA	25 ft.	20 ft.

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- c. Common Buildings. Multifamily uses may include common buildings for administration, assembly, and utility purposes, such as leasing, recreation, storage, and laundry.
- d. Location. The subject property shall be located not more than three miles from the boundaries of an incorporated municipality.

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(c) Agricultural Support & Rural Industry Uses

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(d) Community Uses

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

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(e) Commercial Uses

(1) Sexually-Oriented Businesses. Sexually-oriented businesses are regulated under the authority of C.R.S. 30-15-401(f). In addition to all other applicable standards of this Code, sexually-oriented business uses shall meet the following standards:

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- a. No sexually-oriented business shall be located within 1,000 feet of a place of assembly, day care, dwelling unit, or school, measured from property line to property line. Spacing standards related to Sexually-Oriented Businesses shall not be modified using the conditional use review process described in Section 2.05.010, *Applicability of Limited Use-Approval Standards.*

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- b. Access to the use shall be configured to allow for verification of age of customers before entry into rooms where sexually-oriented merchandise is displayed or sexually-oriented entertainment activities occur.
- c. The interior of the use shall be configured so that sexually-oriented activity, sexually-oriented merchandise, and depictions of said activity or merchandise, are not visible from outside of the building through windows or doors.

(f) Rural Recreation & Hospitality

(1) Indoor Shooting Range. In addition to all other applicable standards of this Code, indoor shooting range uses shall be:

- a. Located within a free-standing building;
- b. Sound-proofed so that the shooting activities are not audible at property lines;
- c. Designed with closed loop range ventilation systems with HEPA filtration, dedicated to the range and not connected to the general HVAC system for the building;
- d. Designed to prevent dangers from ricochets, backslash, and lead dust;
- e. Designed such that no door or entrance is located forward of the rearmost firing point, unless secured from the inside; and
- f. Designed such that a red light is installed above all doors giving direct access to the range itself (not the building), with such lights turned on whenever the range is in use.

(2) Outdoor Shooting Range. In addition to all other applicable standards of this Code, outdoor shooting ranges shall be:

- a. Either designed to mitigate noise impacts on residential uses, community uses, and / or livestock operations within 2,000 feet to a level that does not exceed 70 dBA, or located not less than:
 - i. 2,000 feet from residential buildings;
 - ii. Two miles from the boundaries of a municipality; and
 - iii. Three miles from an airport or airstrip;
- b. Designed to prevent projectiles from leaving the subject property; (a scaled site plan, elevations, and construction plans must show how all projectiles will be contained within the site);
- c. Secured to prevent entry into surface danger zone areas;
- d. Designed according to the most recent version of "Range Design Criteria," promulgated by the U.S. Department of Energy, Office of Health, Safety, and Security; and

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- e. Designed to provide an impervious layer in the area where bullets land to intercept lead leachate and direct it to a monitored pond.

(3) *Racetrack.* In addition to all other applicable standards of this Code, racetrack uses shall meet the following standards:

- a. The minimum area of the subject property shall be 60 acres;
- b. The use shall be located not less than:
 - i. One-half mile from buildings used for residential purposes, places of assembly, day cares and schools; and
 - ii. Five miles from the boundaries of a municipality;
- c. All parts of the track and stands shall be set back:
 - i. 100 feet from all property lines; and
 - ii. 300 feet from arterial streets; and
- d. If the use is open to the public, access shall be provided by an arterial road or a local commercial or industrial road.

(4) *Campground.* In addition to all other applicable standards of this Code, campgrounds shall be developed according to the standards for a "Developed" campground as defined in 6 CCR 1010-9, Section 2.10.d.

Note that 6 CCR 1010-9 is available online at
<https://www.sos.state.co.us/CCR/GenerateRulePdf.do?ruleVersionId=410&fileName=6%20CCR%201010-9>

(5) *Outdoor Theater.* In addition to all other applicable standards of this Code, outdoor theater uses shall meet the following standards:

- a. Access shall be taken from a collector or arterial road, or a local commercial or industrial road.
- b. No outdoor theater shall be located within 1,000 feet of a dwelling unit or agriculture or intensive agriculture operation involving livestock, measured as the closest distance from the boundaries of the development area of the outdoor theater to the property line of the agriculture use, intensive agriculture use, or residential use.
- c. Amphitheater stages and drive-in screens shall face away from the nearest residential or livestock uses, and the applicant shall provide evidence that the use will comply with the standards of Section 4.07.030, *Noise*.

(g) **Utilities, Communications, Mining, Energy, Transportation, and Disposal Uses**

(1) *Airport.* In addition to all other applicable standards of this Code, airport uses shall meet the following standards:

- a. *Airports.* Airports shall provide a master plan for its physical expansion, and a forecast of aviation activity. The master plan and activity forecast may be

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approved as a component of the site plan and land use approval if it is demonstrated that:

- b. The subject property is not less than 350 acres in area;
- c. The proposal is designed to minimize the impact on residential uses by:
 - i. Minimizing the number of existing residences that are brought within the 55 DNL noise zone; and
 - ii. Ensuring that residential uses do not come within the 65 DNL noise zone unless they are subject to an aviation easement that allows inclusion in this zone;
- d. The proposal does not interfere with the implementation of the County's Comprehensive Plan or the comprehensive plan or three-mile area plan of any municipality within the County; and
- e. The plan for the airport shall demonstrate compliance with all other applicable federal regulations.

(2) *Airstrips.* In addition to all other applicable standards of this Code, airstrip uses shall meet the following standards:

- a. Airstrips shall be located on a tract that is at least 80 acres in area;
- b. Applications for approval of an airstrip shall include a determination by the Federal Aviation Administration (FAA) of "no objection" or "conditional," pursuant to 14 CFR § 157.7, FAA Determinations. If the determination is "conditional," then the applicant shall demonstrate how the conditions will be met; and
- c. Airstrips shall be spaced not less than 1,500 feet, measured as the shortest distance from the edge of the airstrip to the nearest property line of the use from which spacing is required, from:
 - d. Lots that are developed with dwelling units;
 - e. Municipal boundaries;
 - f. Schools, public parks, and child care centers; and
 - g. Places of assembly.

(3) *Salvage Yard.* In addition to all other applicable standards of this Code, salvage yard uses shall be located at least 660 feet away from State highways.

(4) *Minerals Extraction / Quarry.* In addition to all other applicable standards of this Code, minerals extraction / quarry uses shall meet the following standards:

- a. The reclamation plan (however titled), if required for an applicable state permit (see, e.g., Rule 3, Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for the Extraction of Construction Materials; Rule 3, Mineral Rules and Regulations of the Colorado Mined Land Reclamation Board for Hard Rock, Metal, and Designated Mining Operations;

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and Rule 4, Rules and Regulations of the Colorado Mined Land Reclamation Board Pursuant to the Colorado Surface Coal Mining Reclamation Act) shall provide for reclamation of the subject property for a use that is permissible on the Subject Property under this Code;

b. If the boundaries of the mining operation are within 2,000 feet of a residence or livestock operation, a Noise Control Plan is required (see Section 4.07.030, *Noise*);

c. A Dust Control Plan is required (see Section 4.07.060, *Dust Control*); and

d. An Operational Hazard Mitigation and Risk Management is required (see Section 4.07.110, *Operational Hazard Mitigation and Risk Management*).

(5) *Waste Transfer Station*. In addition to all other applicable standards of this Code, waste transfer station uses shall meet the following standards:

a. *State Review*. The County shall request a technical review of the site and facility documents and operation plan from CDPHE pursuant to 6 CCR 1007-2 § 7.1 for all applications for approval of a waste transfer station.

b. *Setbacks*. No building or area in which the unloading, storage, processing, or transfer of wastes or recyclable materials takes place shall be located within 300 feet of:

i. The lot line on which the waste transfer station is located; or

ii. Any area of special flood hazard;

iii. Any wetland;

iv. Any water well;

v. Any natural or artificial pond (including a detention or retention pond or facility); natural stream, water way, or water course; or

vi. An artificial drainage way or irrigation canal.

c. *Minimum Area of Parcel Proposed for Development*. The minimum area of a parcel proposed for development as a waste transfer station is 40 acres.

d. *Design Requirements*.

i. Generally. The site shall be designed such that all activities associated with waste transfer, such as tipping, sorting, storage, compaction, transfer, reloading, and related activities are conducted in a fully enclosed building. No outdoor storage of materials or equipment is allowed. Appropriate enclosed office / and plumbed employee restroom facilities must be provided on-site.

ii. Mitigation of Hazards to Aircraft. Waste transfer stations handling putrescible wastes within 10,000 feet of any airport runway end used by turbojet aircraft or within 5,000 feet of any airport runway end used only by piston-type aircraft shall be designed and operated

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- in a manner that will not result in hazards (including bird strike hazards) to aircraft.
- e. *On-Site Parking and Roads.*
- i. Public streets shall not be utilized at any time for parking, stacking, or storage of employee vehicles, visitor vehicles, or trucks.
 - ii. The facility shall be designed with sufficient drive aisles and parking areas to avoid potential conflicts between facility operations by trucks and passenger vehicles (e.g., for drop-off of household wastes), and the use of emergency access easements and fire lanes.
 - iii. The road surface design shall be suitable for heavy vehicles and the road base shall be capable of withstanding all expected loads.
 - iv. On-site roads shall be passable by loaded collection and transfer vehicles in all weather conditions.
 - v. The road system shall be designed to eliminate the need for the backing of truck traffic.
- f. *Capacity.* Solid wastes shall not remain at the transfer station for more than 72 hours. Any solid waste that is to be kept overnight at the station shall be stored in an impervious, enclosed structure.
- g. *Unloading and Loading Areas.*
- i. The unloading area shall be adequate in size and design to facilitate efficient unloading from the collection vehicles and the unobstructed movement of vehicles.
 - ii. The unloading and loading pavement areas shall be constructed of concrete or asphalt paving material and equipped with adequate drainage structures and systems.
 - iii. Processing, tipping, sorting, storage, and compaction areas shall be located within an enclosed building.
 - iv. Provisions shall be made for weighing or measuring all solid wastes transferred to the facility.
 - v. Sufficient internal storage areas shall be provided for incoming solid wastes.
- h. *Fencing and Aesthetics.* Waste transfer station design shall include an opaque six foot perimeter fence or wall, interrupted only by necessary access and maintenance gates.
- i. *Waste Liquid Collection and Disposal.*
- i. All waste transfer stations shall be designed and constructed to include a collection and disposal system that will prevent liquids contained in waste materials and generated by normal operations, such as wash-out and cleaning of equipment, trucks, and floors

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- (“waste liquids”), from contaminating the soil, surface water, or ground water.
- ii. Tipping, loading, and unloading areas shall be constructed of impervious material and equipped with drains connected to either:
 - iii. A sanitary sewer system if approved by the utility provider; or
 - iv. A corrosion-resistant holding tank; or
 - v. An alternative system, if the applicant demonstrates that the alternate design will prevent waste liquids from contaminating the soil, surface water, and ground water.
- j. *Operational Requirements.*
- i. Waste Acceptance. Only household wastes, commercial, and industrial wastes and recyclable materials shall be accepted at any waste transfer station. Unless otherwise collected in accordance with a plan approved by the County, no wastes classified as hazardous in accordance with C.R.S. § 25-15-101 *et seq.* shall be knowingly accepted. No asbestos wastes shall be knowingly accepted at a waste transfer station facility. The operator shall employ a plan for proper identification, control, and disposal of hazardous and asbestos wastes.
 - k. *Overnight Truck Parking.* Trucks or vehicles shall not be parked or stored overnight at the waste transfer station unless screened from public rights-of-way. Any vehicle maintenance services shall be a secondary and subordinate use of the site and shall be limited to maintenance of vehicles associated with trash collection and transfer at the waste transfer station. Junked or inoperable vehicles shall not be stored at a waste transfer station.
 - l. *Emergency Access Required.* Emergency access easements and fire lanes shall be maintained at all times in an unobstructed and fully accessible condition.
 - m. *Supervision of Facility.* The waste transfer station or recycling center shall have an on-site operator on duty at all times that the facility is open. Such operator shall be licensed and/or certified if licensure or certification is required by state law. Suitable security measures and signage shall be provided to limit unauthorized persons from access to the facility when the station is closed.
 - n. *Management Plans.* The following management plans are required pursuant to Section 4.07, *Environmental Quality*:
 - i. A pest management plan;
 - ii. An odor management plan;
 - iii. A dust control plan;
 - iv. An operational hazard and risk management plan; and

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- v. A truck routing plan.
- o. Other Operational Requirements and Prohibitions.
 - i. No liquids, other than those used to disinfect, to suppress dust, or to absorb or cover odors from the solid waste, shall be added to the solid waste.
 - ii. Open burning is prohibited.
 - iii. Scavenging is prohibited.

(6) Landfill. In addition to all other applicable standards of this Code, landfill uses shall meet the following standards:

- a. Certificate of Designation Required. No landfill shall be developed or operated without a certificate of designation, as required by Title 30, Article 20, Part 1, Solid Wastes Disposal Sites and Facilities, Colorado Revised Statutes.
- b. State Review.
 - i. Applications for approval of a disposal facility shall be reviewed by the Colorado Department of Public Health and Environment ("CDPHE") pursuant to Title 30, Article 20, Part 1, Solid Wastes Disposal Sites and Facilities, Colorado Revised Statutes.
 - ii. The report and recommendation of CDPHE are required prior to the processing of the application by the County.
 - iii. In addition to the application of the standards of this Code, no disposal site shall be approved without a recommendation of approval by CDPHE.
 - iv. Technical conditions of approval made by CDPHE shall be incorporated into the certificate of designation.
- c. General Evaluation Criteria. No certificate of designation shall be issued unless the facility has a recommendation of approval by the CDPHE and the Board of County Commissioners finds that:
 - i. There is no exclusive site for solid waste disposal (pursuant to Section 30-20-107, Colorado Revised Statutes) with capacity to serve the County's needs;
 - ii. There is a demonstrated need for the facility to serve the residents and businesses of Delta County;
 - iii. The facility will not frustrate the implementation of the Comprehensive Plan, as amended from time to time;
 - iv. The facility complies with all technical rules promulgated by CDPHE;
 - v. The financial assurances provided pursuant to C.R.S. § 30-20-104.5 are adequate to serve their purposes; and

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- vi. The landfill would create a net public benefit to the region and the residents and property owners of Delta County, taking into account:
01. The effect that the solid wastes disposal site and facility will have on the surrounding property, considering the types of processing to be used, surrounding property uses and values, and wind and climatic conditions;
 02. The convenience and accessibility of the landfill site and facility to potential users;
 03. The ability of the applicant to comply with the health standards and operating procedures provided for in Title 30, Article 20, Part 1, Solid Wastes Disposal Sites and Facilities, Colorado Revised Statutes, and such rules and regulations as may be promulgated by the CDPHE; and
 04. Recommendations by health departments that have jurisdiction within five miles of the facility.
- d. Minimum Area of Subject Property. The minimum area of the subject property is 100 acres.
- e. Minimum Setbacks. All disposal operations must be set back at least 200 feet from all property lines.
- f. Spacing.
- i. The landfill shall be spaced not less than 2,000 feet, measured as the shortest distance from the principal entrance of the use to the nearest property line of the use from which spacing is required, from:
 - ii. Lots that are developed with dwelling units;
 - iii. Residential zone boundaries;
 - iv. Parcel boundaries of schools, public parks, and child care centers; and
 - v. Places of assembly.
 - vi. Landfills that are located within 10,000 feet of any airport runway end used by turbojet aircraft or within 5,000 feet of any airport runway end used only by piston-type aircraft shall be designed and operated in a manner that will not result in bird strike hazards to aircraft.
- g. Management Plans. The following management plans are required pursuant to Section 4.07, *Environmental Quality*:
- i. A pest management plan;
 - ii. An odor management plan;
 - iii. A dust control plan;

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- iv. An operational hazard and risk management plan; and
 - v. A truck routing plan;
 - h. Limitations on Location. Disposal facilities are not allowed within:
 - i. Areas of special flood hazard;
 - ii. Areas of wildfire hazard;
 - iii. Areas of geologic hazard; or
 - iv. Critical wildlife habitat.
 - i. Buffering and Screening. Landfills shall be buffered from surrounding property and public rights-of-way using berms, fences, topography, or landscaping, in order to minimize the visual impacts of the landfill operations from ground-level vantage points.
- (7) Hazardous Waste Landfill. In addition to all other applicable standards of this Code, hazardous waste landfill uses shall meet the following standards:
- a. Certificate of Designation Required. No hazardous waste landfill shall be developed or operated without a certificate of designation, as required by Title 25, Article 15, Part 2, Hazardous Waste Disposal Sites, Colorado Revised Statutes.
 - b. Evaluation Criteria. No certificate of designation shall be issued unless the Board of County Commissioners finds all of the following:
 - c. CDPHE has made a recommendation of approval pursuant to Section 25-15-202(4)(c)(III), Colorado Revised Statutes.
 - d. The hazardous waste landfill would not pose a significant threat to the safety of the public, taking into consideration:
 - i. The density of population of the areas neighboring the subject property;
 - ii. The density of population of the areas adjacent to the delivery roads within a 50 mile radius of the subject property; and
 - iii. The risk of accidents during the transportation of waste to or at the site.
 - e. The applicant has demonstrated a need for the facility by Colorado hazardous waste generators.
 - f. The applicant has documented its financial ability to operate the proposed site.
 - g. The applicant, taking into account its prior performance record, if any, in the treatment, storage, or disposal of hazardous waste, has documented sufficient reliability, expertise, and competency to operate and manage the proposed facility.

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- h. The site conforms to the officially adopted land use plans, policies, regulations, and resolutions of the County.
- i. Management Plans. The following management plans are required pursuant to Section 4.07, Environmental Quality:
 - i. A pest management plan;
 - ii. An odor management plan;
 - iii. A dust control plan;
 - iv. An operational hazard and risk management plan; and
 - v. A truck routing plan.
- j. Limitations on Location. Disposal facilities are not allowed within:
 - i. Areas of special flood hazard;
 - ii. Areas of geologic hazard; or
 - iii. Critical wildlife habitat.

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Division 2.06. Conditional Use Approval Standards.

(a) Applicable Standards. An application for conditional use requires approval of a conditional use permit and a site plan. The conditional use permit and site plan may be approved if the application demonstrates compliance with:

(1) Part 3, Lots, Buildings, and Structures

(2) Part 4, Site Design and Environmental Stewardship

(3) Part 5, Public Facilities, Infrastructure, Services:

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(4) That the proposed conditional use in its proposed location will not tend to frustrate the implementation of:

- a. The Comprehensive Plan;
- b. Any special area plans adopted by the County; or
- c. If the subject property is located within the UGA zoning district, the comprehensive plan or any special area plan adopted by the impacted municipality;

(5) The location, size, design and operating characteristics of the proposed conditional use are such that the use will not create significant impacts on irrigation facilities, sensitive lands, or nearby agricultural operations;

(6) The design, operation, location, and buffering of the use appropriately mitigates its impacts with regard to:

- a. Risks associated with the use and storage of hazardous materials; or
- b. Potentially hazardous conditions, such as projectiles leaving the subject property; and

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c. Odors, dust, lighting, vibration, and noise.

(b) Application & Process

- (1) Applications a site plan and development agreement plan approval shall submit an application in compliance with Division 8, *Standardized Application Review Process*.
- (2) All applications will be reviewed in accordance with Part 9 *Land Use Review Process*.
- (3) An application for a conditional use permit may be approved if is demonstrated that the application complies with the standards of this Code.
- (4) Conditions of approval. The BOCC may approve a conditional use with conditions to mitigate its impacts, and / or in order to ensure continuing compliance with the review standards identified in subsection (a), above.

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PART 3. LOTS, BUILDINGS, AND STRUCTURES

Division 3.01. Lot Dimensions by Zoning District

3.01.010. Lot Dimensions

(a) **Generally.** The minimum lot area, lot width, and lot frontage by zoning district is set out in Table 3.01.010, *Lot Dimensions*.

TABLE 3.01.010 LOT DIMENSIONS						
Standard	Zoning District					
	A35	A20	A5	RI	RC	UGA
Lot Area	35 ac.	20 ac.	5 ac.	2.5 ac.	2 ac.	7,500 sf. ¹
Lot Width	600 ft.	450 ft.	200 ft.	150 ft.	150 ft.	75 ft. ¹
Lot Frontage	75 ft.	75 ft.	75 ft.	75 ft.	75 ft.	30 ft.
TABLE NOTE: ¹ Applies to residential uses. Nonresidential uses shall meet the standards of the RC zoning district.						

(b) **Existing Lots.** The standards of this Section apply to lots created after the effective date of this Code. Lots that were lawfully created prior to the effective date shall be considered “conforming” to the requirements of this Code regardless of their zoning designation or dimensions.

(c) **Variations to Lot Size.** The County may approve the creation of new lots that do not conform to the requirements of Table 3.01.010, *Lot Dimensions*, provided that:

- (1) The subdivision conforms to all other requirements of this Code;
- (2) The new lots have at least the minimum dimensions set out in the standards for the UGA zoning district;
- (3) The size and configuration of the new lots allows for the continued use of at least 80 percent of the land from which they were separated for agricultural or open space purposes (e.g., the creation of a new two-acre lot on each corner of a pivot-irrigated farm would allow for the continued agricultural use of 80 percent of the property as a pivot-irrigated farm); and
- (4) The final plat is annotated such that no further subdivision of small lots pursuant to this subsection (c) is allowed.

3.01.020. Bulk Standards

(a) **Generally.** All principal buildings, accessory buildings, and accessory structures (except as specifically provided in Division 3.03, *Other Improvements*) shall meet the standards of this Section.

(b) **Setbacks.** Buildings and structures shall be set back as provided in Table 3.01.020, *Minimum Setbacks*.

Comment [TM14]: Added for family subdivisions and sales of lots needed to provide money to sustain farming operations when resources are scarce.

Comment [TM15]: If Division 3.03 is not used, the exceptions could be set out here: fences, boundary walls, signs, retaining walls, etc.)

Comment [TM16]: Don't want to regulate these items

**TABLE 3.01.020
MINIMUM SETBACKS**

Minimum Setback	Zoning District				
	A35	A20	A5	RI/C	UGA
Front	25 ft.	25 ft.	25 ft.	25 ft.	25 ft.
Road Side	25 ft.	25 ft.	15 ft.	25 ft.	15 ft.
Interior Side	25 ft.	25 ft.	15 ft.	25 ft.	10 ft.
Rear	25 ft.	25 ft.	15 ft.	25 ft.	15 ft.

(c) **Height.** There is no maximum height limitation. However, the height of buildings or structures may be limited as a result of the standards in Division 4.05, *Agricultural, Natural, or Cultural Resources*; and Division 4.06, *Geologic and Wildfire Hazards*.

Division 3.02. Accessory Residential Uses

3.02.010. Purpose and Application of Division

(a) **Purpose.** The purpose of this Division is to set out standards for the development of accessory residential uses, including additional residences on a lot, and seasonal farmworker housing, in order to ensure that adequate services are provided to said residential uses, and that proper permits or taps for water and wastewater disposal are secured.

(b) **Application of Division.**

(1) Section 3.02.020, *Additional Residences or Communal Living*, provides standards for the development of more than one single-family dwelling unit on a lot.

(2) Section 3.02.030, *Seasonal Farmworker Housing*, provides standards for the development of housing for seasonal use by farmworkers.

3.02.020. Additional Residences or Communal Living

(a) **Generally.**

(1) In general, one residence is allowed per lot. Additional residences may be constructed, placed, or installed on a lot in accordance with the provisions and limitations of this Section. The number of additional residences is not specifically limited, but adequate water, sewer, power, fire protection, and access must be provided for each unit in accordance with the standards of this Code and other applicable law.

(2) A subject property that is developed with additional residences may also include accessory buildings that are not used as dwelling units (e.g., common buildings, storage buildings, barns, stables, etc.).

(3) This Section allows for additional residences that are intended for permanent occupancy; however, such additional residences may also be used for seasonal housing, including seasonal farmworker housing. Additional residences that are used as temporary residential uses may be subject to Division 2.03, *Temporary Uses*.

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(b) Site Design and Utilities.

- (1) Although subdivision is not required, additional residences shall be accessed, located, spaced, oriented, and served by utilities such that the subject property could be subdivided into a standard subdivision or a cluster subdivision in the future. See Part 4, Site Design and Environmental Stewardship, for applicable design standards.
- (2) Construction or installation of net new dwelling units requires compliance with Part 5, Public Facilities, Infrastructure, and Services, as applicable.
- (3) Design according to the standards referenced in this subsection (b) shall not create a vested right to future subdivision. Future subdivision will be evaluated based on the standards in place on the date of application for the subdivision.

(c) Traffic Impacts. If a subject property is proposed to include more than three net new dwelling units, a traffic impact study is required. See Division 5.01, Traffic Impacts.

3.02.030. Seasonal Farmworker Housing

(a) Seasonal farmworker housing may be constructed, placed, or installed on a lot, provided that:

- (1) The principal use of the lot (or a larger area of commonly-owned property within which the lot is integrated) is agriculture or intensive agriculture; and
- (2) The format for the seasonal farmworker housing is allowed in the zoning district in which the farm is located (e.g., manufactured home park, multiple-family, or campground); and
- (3) The seasonal farmworker housing meets all of the applicable standards of this Code, based on its format and the zoning district in which the subject property is located:
 - a. Additional residences or communal living (see Sec. 3.02.020, Additional Residences or Communal Living);
 - b. Manufactured home parks (see Sec. 2.05.020(b), Rural Residential Uses);
 - c. Multiple-family housing (see Sec. 2.05.020(b), Rural Residential Uses);
 - d. Campgrounds (see Sec. 2.05.020(f), Rural Recreation and Hospitality Uses), provided that farmworker housing that will be occupied for periods of 30 days or more is in the format of a recreational vehicle, tiny home, cabin, or mobile home. Tents, yurts, and tepees shall not be occupied as farmworker housing for periods longer than 30 days.

Division 3.03. Other Improvements

(Reserved)

This Division is included as a placeholder in order to provide a location for standards for improvements such as fences and retaining walls, if such standards are ever desired. Additional Sections could be included in order to provide standards for the placement and design of other

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accessory buildings and structures, such as small wind energy conversion systems, storage buildings, greenhouses, etc. No such standards are proposed at this time.

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PART 4. SITE DESIGN AND ENVIRONMENTAL STEWARDSHIP

Division 4.01. Site Layout

4.01.010. Purpose and Application of Division

(a) **Generally.** Development shall be designed as set out in this Division (and this Part 4), as applicable to the type of development that is proposed. The principal objective of this Division is to ensure that the various elements of proposed development are appropriately configured.

(1) **Application of Division.** This Division applies to development for which a sketch plan, site plan, preliminary plat, or final plat is required.

(2) **Designation of Development Areas and Stewardship Areas.** To the extent that development areas must be designated (*e.g.*, pursuant to Section 2.05.020(b), *Rural Residential Uses*) or that stewardship areas must be designated (*e.g.*, pursuant to Division 4.05, *Natural and Cultural Resources, Wildlife, and Irrigation Systems* or Division 4.06, *Geologic and Wildfire Hazards*), sketch plans, site plans, preliminary plats, and final plats shall show the extents of “development areas” and “stewardship areas”:

- a. **Development Areas.** Development areas are one or more areas of a subject property that are designated in accordance with this Code, within which all development must occur, including, but not limited to, grading, horizontal infrastructure (*e.g.*, roads, sidewalks, drainage facilities, and trails), buildings, structures, utilities, wells and septic systems, landscaping, and vegetation removal or disturbance, except as the same may be allowable in a stewardship area.
- b. **Stewardship Areas.** Stewardship areas are those areas that are designated for agriculture, irrigation infrastructure, passive outdoor recreation activities, open space, or environmental stewardship. Grading, wells, fencing, retaining walls, landscaping, vegetation removal or disturbance, and other activities or construction that are consistent with such stewardship (*e.g.*, thinning of vegetation for wildfire mitigation, irrigation infrastructure, habitat or wildlife migration corridor mitigation or restoration, weed control or invasive species control, nature trails, etc.) are allowed in stewardship areas subject to the standards of this Code.

4.01.020. General Design Objectives

(a) **Generally.** The design objectives of this Section are intended to result in plans for development or redevelopment that reflect high quality design, but not to require a reduction of development potential to less than is allowed by this Code.

(b) **Application.** These objectives are to be applied to new development to the extent that:

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- (1) They do not directly conflict with the other requirements of this Code;
- (2) They do not result in conditions of approval that prevent a permitted use of a subject property that complies with the other standards of this Code; and
- (3) They are used in ways that ensure development is done a manner that takes into account the unique natural features of a site, as well as its available or required infrastructure and services.

(c) **Design Objectives.** The design of new development shall:

- (1) Coordinate with surrounding property with regard to the alignment of road rights-of-way, utility and drainage easements, open space, and wildlife habitat conservation; and minimize interference with existing access to adjacent and nearby properties, unless new and improved access is provided by the proposed development;
- (2) Minimize impacts to surface and subsurface water quality from runoff, erosion, or discharge of pollutants;
- (3) Protect and enhance natural and historic resources through incorporation of natural topographic and geologic features and historic, archaeological, and / or natural resources in ways that are consistent with their preservation or stewardship;
- (4) Avoid impervious cover over, or erosion of, prime agricultural soils and sensitive lands; and
- (5) Implement master street plans, as applicable.

4.01.030. Standard Subdivision Design Standards

(a) **Generally.** Development areas shall be divided into blocks, lots, tracts, and / or roads, as appropriate to the subdivision. The boundaries of development areas shall be clearly indicated on the preliminary and final plat.

(b) **Blocks.** Subdivision block lengths and widths shall be suitable for the uses or lot sizes that are contemplated, and shall be adequate for requirements pertaining to minimum lot areas and setbacks.

(c) **Lots.**

(1) *Dimensions and Geometry.*

- a. The lot area, width, depth, shape, and orientation shall be sufficient and appropriate for the type of development and use that is contemplated, and shall facilitate buildings with sufficient access, emergency access, setbacks, open space, on-site parking, privacy, and view.
- b. Lot area shall meet the minimum requirements of the underlying zoning district. See Section 3.01.010, Lot Dimensions.
- c. A flag lot configuration shall be avoided when possible. The minimum width of a flag lot appendage shall be 30 feet. The access along the "flagpole" shall

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be graded, 20 feet wide, clear of all encumbrances, and drained in order to provide adequate emergency access to the property.

(2) Access. If new residential lots are smaller than five acres, direct access to a section line road is not allowed unless there is no feasible alternative access.

(3) Arrangement of Lots.

a. No single lot shall be divided by a municipal or county boundary line.

b. No lot shall be divided by a road, alley, driveway, or other lot.

c. Corner lots shall accommodate the required building setback for both street frontages.

(4) Tracts. Stewardship areas, private roads (if present), and commonly-owned recreation or open space areas that are located within the development area shall be located in tracts.

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4.01.040. Clustered Subdivision Design Standards

(a) **Generally.** In general, the layout of clustered subdivisions shall be organized to protect significant agricultural, natural, scenic, or archaeological resources on the subject property and, if possible, to avoid natural hazards (including flood hazards, wildfire hazards, and geologic hazards).

(b) **Design Objectives.**

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(1) Clustered subdivisions shall have a defined stewardship objective or combination of objectives based on either:

a. Protecting identified priority resources (e.g., forest stewardship, water quality preservation and enhancement, wildlife, etc.); or

b. Protecting irrigated agricultural lands with a mechanism that ensures irrigation will continue.

c. Providing a large common open space amenity.

(2) Stewardship areas shall be interconnected within the subject property and to comparable resources on adjacent properties, where such integration is practical and tends to enhance the resource value of the stewardship areas.

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

(1) Stewardship areas shall be identified and mapped (see Division 4.05, *Agricultural, Natural, and Cultural Resources* and Division 4.06, *Geologic and Wildfire Hazards*). Stewardship areas shall be designated as tracts.

(2) Development areas shall be located to (in descending order of priority):

a. Avoid flood hazards and geologic hazards;

b. Avoid or reduce wildfire hazards;

c. Avoid irrigated agricultural land;

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- d. Avoid or impacts to critical wildlife habitat, calving areas, winter range, and wildlife corridors;
- e. Minimize the impacts of clearing and grading on riparian areas, steep slopes, wetlands, and woodlands;
- f. Minimize the visual impact of the cluster subdivision on the landscape;
- g. Provide contiguity of common open space, stewardship areas, and, if present, agricultural lands (on-site and, where possible, off-site);
- h. Preserve the open sky backdrop above ridgelines, as viewed from public roads within one-quarter mile of the subject property; and
- i. Provide open space and scenic views for the principal buildings in the clustered subdivision.

(3) The road system shall be designed to allow safe and efficient movement through the subdivision, and to adjacent property as appropriate. The road system shall avoid impacts to the stewardship areas to the maximum feasible extent.

(4) Lot lines and lot areas shall be established to provide for the most appropriate conservation of the stewardship areas, and to optimize the design priorities set out in subsection (b)(2), above.

(d) **Long-Term Maintenance.** Financial surety or other mechanism for long-term maintenance of stewardship areas shall be provided.

4.01.050. Use of Stewardship Areas

(a) **Generally.** Stewardship areas may be used for ecological, agricultural, recreational, utility (underground and overhead lines), drainage (e.g., ponds, pipelines, swales, ditches, and related infrastructure), and access purposes (e.g., trails, maintenance access, or general access if no other feasible alternative exists) that are consistent with the stewardship objectives for the area.

(b) **Annotations.** Limitations on the use of or development activities within stewardship areas shall be set forth using annotations on the preliminary plat, final plat, site plan, or sketch plan, or by cross-reference to recorded covenants, deed restrictions, or conservation easements.

Division 4.02. Roads, Access, and Circulation

4.02.010. Purpose and Application of Division

(a) **Generally.** Development shall be designed as set out in this Division (and this Part 4), as applicable to the type of development that is proposed. The principal objective of this Division is to ensure that the roads, access points, and internal circulation systems of a development are appropriately designed to promote public health and safety, mobility, and the efficient use of land.

(b) **Application of Division.** This Division applies to development for which a sketch plan, site plan, preliminary plat, or final plat is required.

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4.02.020. Access to State Highway System Required

(a) **Generally.** No person may submit an application for preliminary or final plat approval unless the plat provides, pursuant to C.R.S. § 43-2-147, that all lots and parcels created by the subdivision will have access to the state highway system in conformance with the state highway access code. See C.R.S. § 30-28-133.1.

(b) **Access Permits.** All connections to County Roads, State Highways, or Federal Highways shall be authorized by an access permit issued by the entity that controls access to the road or highway. A copy of the access permit is a prerequisite to sketch plan, site plan, or final plat approval.

4.02.030. Circulation Objectives

(a) **Internal Circulation.**

(1) **Interconnection.** Circulation systems (roads and driveways) within a subject property shall be interconnected.

(2) **Alternate Routes of Travel.** If proposed development includes more than one road or more than 100 parking spaces, then the internal circulation system shall be designed such that alternative travel routes are provided through the development.

(b) **Private Access.**

(1) **Relationship to Overall Site Design.** Access to parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic ingress and egress, and safety for traffic on the subject property.

(2) **Number of Access Points.** In general, the number of access points to a subject property shall be limited to the minimum number that:

a. Will allow the property to accommodate the traffic to be anticipated;

b. Will allow for access by emergency services, or for evacuation of the subject property in the event of a fire or flood hazard, if the risk of such hazards is elevated due to the location of the subject property.

(3) **Location of Access Points.** Access points to individual properties shall not be located closer than 15 feet to an interior side lot line, except that a common access to two adjoining properties may be provided at the shared lot line. Access points shall be located and configured such that normal maintenance, including dust control and snow removal, will not damage livestock or boundary fences.

(4) **Further Restrictions.** Additional restrictions on access to State and County roads may be imposed by the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS and Colorado Department of Transportation rules.

(c) **Shared Driveway Access to Individual Lots.**

(1) Shared driveways that provide access to individual lots are allowed. Shared driveways that are anticipated at the time of final plat shall be shown on the final plat.

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(2) Location and Width; Exceptions. Such driveways shall be located on the lot line between the two lots, and the minimum width of the access easement shall be 60 feet. The Director may authorize exceptions to these requirements if topography or other practical considerations justify the exceptions and equivalent access is provided.

(d) Subdivision Road Network Configuration.

(1) Proposed major subdivisions shall connect to existing and planned roads where necessary to complete planned road networks, and, as applicable, allow for the implementation of the major street plan of a municipality within its extraterritorial jurisdiction to implement such plan (its "three-mile planning area").

(2) Where feasible, roads shall be aligned and configured to:

- a. Avoid and minimize impacts to hillsides and sensitive lands;
- b. Enhance the scenic value of development; and
- c. Ensure that normal maintenance, including dust control and snow removal, will not damage livestock or boundary fences on adjoining properties.

(3) At least two points of connection to existing roads (different roads if practicable) shall be provided in proposed major subdivisions that:

- a. Include more than eight lots; or
- b. Include more than four lots and are located within a wildfire hazard area.

4.02.040. Right-of-Way Dedication Requirements

(a) Generally. Rights-of-way shall be sized and located to accommodate roads, sidewalks, and trails in accordance with the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS (see Sec. 4.01.030, *Engineering Standards and Cross-Sections*). Where required rights-of-way within and along the perimeter of a subject property are not present, or where existing rights-of-way are not adequate, rights-of-way shall be dedicated in conformance with this Code and the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS.

(b) Off-Site Rights-of-Way.

(1) Where a traffic study concludes that additional right-of-way is necessary to bring an existing road into conformance with the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS in order to mitigate traffic impacts, the applicant shall acquire the necessary right-of-way prior to approval of a final plat or site plan.

(2) As an alternative to the acquisition of right-of-way by the applicant, the applicant may request the County's participation in the right-of-way acquisition, either through purchase or condemnation.

- a. County participation in the acquisition or condemnation of right-of-way, including the manner and timing of such acquisition, shall be in the sole discretion of the Board of County Commissioners.

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b. If the County participates, the applicant will be required to reimburse the County for all costs associated with the acquisition, including, but not limited to, appraisals, purchase price, consultant and legal fees, and project administration.

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

4.02.050. Engineering Standards and Cross-Sections

(a) **Generally.** Roads, driveways, drainage, access points shall be designed and constructed in accordance with the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS, as may be amended from time to time.

(b) **Paving.** Roads within and along the perimeter of a new subdivision shall be paved if:

- (1) The boundary of the subdivision is located within the UGA zoning district;
- (2) The boundary of the subdivision is located within one-half mile of the boundaries of a municipality at the time of the final plat application;
- (3) The subdivision creates more than six new buildable lots; or
- (4) The subdivision creates six or fewer buildable lots, but paving is warranted by a required dust control plan; grading, erosion, and sediment control plan; need for all-season emergency access; or other extraordinary circumstances.

4.02.060. Road Naming

(a) **Generally.** In cases where a subdivision will be accessed from a County Road or a State Highway, and will serve more than two lots and / or dwelling units, the road shall be assigned a road name from the County road grid system, and the lots shall be addressed accordingly.

(b) **Selection of Road Name.** All new road names shall be approved by the Director in consultation with the County's addressing staff. New roads shall be named in a manner that is consistent with the County's road grid system and the NEW ROAD NAMING GUIDELINES FOR DELTA COUNTY, as may be amended from time to time.

4.03.030. Site-Specific Determinations

(a) **Generally.** Parking requirements shall be established by a site-specific determination pursuant to this Section, if:

- (1) The use is listed in Table 4.03.020, *Parking Ratio Guidelines and Surfacing Standards*, and there is "No Guideline" in the parking ratio column;
- (2) The use is not listed in Table 4.03.020, *Parking Ratio Guidelines and Surfacing Standards* at all, but is allowed pursuant to Section 2.02.040, *Uses That Are Not Listed*; or

(3) The use is otherwise subject to a specific parking ratio guideline, but due to the nature of the operations and / or location of the proposed use, the applicant seeks a reduction from the guideline.

(b) Site-Specific Determination Requirements.

(1) A site-specific determination for a limited or conditional use shall be conducted by a qualified transportation planner or traffic engineer at the applicant's expense. The Director shall develop and maintain a list of qualifications and / or certifications that are acceptable to the City for this purpose.

(2) A site-specific determination for a permitted use may be conducted by the applicant or any third party, provided that the information is accurate and the calculations and projections are based on sound methodologies.

(3) The special study shall provide:

a. A parking analysis of at least two functionally comparable uses.

b. Documentation regarding the comparability of the referenced uses, including: name, function, location, gross floor area, parking availability, and access to transportation network.

(c) Approval of Site-Specific Determination.

(1) The County may rely upon the site-specific determination or may request additional information or analysis, including, but not limited to: alternative or new data points, or consideration of additional or alternative factors related to comparability or peak demand, as supported by sound engineering principles.

(2) As a condition of approval of a site-specific determination, the County may require that land be reserved for additional parking if there is a reasonable probability the use could change, resulting in a higher demand for parking. Such additional land shall be located within the development area of the subject property, and shall be accessible from the area that is improved for parking.

Division 4.03. Parking

4.03.010. Purpose and Application of Division

(a) Purpose. The purpose of this division is to ensure that:

(b) Adequate motor vehicle parking areas are provided outside of road rights-of-way for uses that are approved pursuant to this Code, in order to prevent obstruction of road rights-of-way, traffic backups, and overflow parking onto adjacent and nearby private property; and

(c) Appropriate parking areas and accessible routes will be provided for persons with disabilities when parking lots or structures are developed, expanded, or reconfigured.

(d) Application.

(1) An applicant may demonstrate that adequate parking is provided in two ways:

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- a. The applicant may demonstrate that the proposed development meets the applicable guideline from Section 4.03.020, *Parking Ratio Guidelines*; or
- b. The applicant may demonstrate that the proposed development includes adequate parking based on a site-specific determination as provided in Section 4.03.030, *Site-Specific Determinations*.

(2) The design and construction of parking lots is subject to the standards set out in Sections 4.03.040, *Parking Area Surfacing* (which cross-references Table 4.03.020, *Parking Ratio Guidelines and Surfacing Standards*) and Section 4.03.050, *Parking Area Design and Location*.

4.03.020. Parking Ratio Guidelines

(a) **Generally.** Parking in accordance with the guidelines set out in Table 4.03.020, *Parking Ratio Guidelines and Surfacing Standards*, shall be considered to be adequate for the purposes of this Code. Alternative parking ratios may be approved for any land use pursuant to Section 4.03.030, *Site-Specific Determinations*.

TABLE 4.03.020 PARKING RATIO GUIDELINES AND SURFACING STANDARDS	
<u>Land Use Category / Land Use</u>	<u>Parking Ratio</u>
<u>Agriculture Land Use Category</u>	
<u>Agriculture, Silviculture, Viticulture</u>	<u>None²</u>
<u>Intensive Agriculture Land Use Category</u>	
<u>Minor Animal Feeding Operation ("MAFO")</u>	<u>No Guideline³</u>
<u>Intense Animal Feeding Operation ("IAFO")</u>	<u>No Guideline</u>
<u>Concentrated Aquatic Animal Production ("CAAP")</u>	<u>No Guideline</u>
<u>Concentrated Animal Feeding Operations (Large "CAFO")</u>	<u>No Guideline</u>
<u>Rural Residential Land Use Category</u>	
<u>Single Family Detached</u>	<u>2 sp. / d.u.</u>
<u>Duplex or Triplex</u>	<u>2 sp. / d.u.</u>
<u>Manufactured Home Park</u>	<u>1.5 sp. / d.u.</u>
<u>Multifamily (4+ dwelling units)</u>	<u>1.5 sp. / d.u.</u>
<u>Assisted Living, Congregate Care, or Nursing Home</u>	<u>1 sp. / 4 beds</u>
<u>Agricultural Support and Rural Industries Land Use Category</u>	
<u>Farm Supply / Feed and Seed</u>	<u>1 sp. / 600 sf. GFA</u>
<u>Automobile Fueling or Service Station</u>	<u>1 sp. / 2 fueling or charging stations + 1 sp. / service bay</u>
<u>Kennel</u>	<u>1 sp. / 1,000 sf. GFA</u>
<u>Rural Light Industry with Retail</u>	<u>1 sp. / 600 sf. GFA</u>
<u>Rural Light Industry without Retail</u>	<u>1 sp. / 1,000 sf. GFA</u>
<u>Rural Medium Industry (e.g., hemp processing, slaughterhouse, meat processing, sawmill)</u>	<u>1 sp. / 1,000 sf. GFA</u>

In-line notes and commentary are set out in *green italics*.

TABLE 4.03.020 PARKING RATIO GUIDELINES AND SURFACING STANDARDS	
Land Use Category / Land Use	Parking Ratio
<u>Rural Heavy Industry (e.g., explosives, rock crushing, tannery)</u>	<u>No Guideline</u>
<u>Veterinary Hospital or Clinic</u>	<u>1 sp. / 600 sf. GFA</u>
<u>Oil and Gas Support Services</u>	<u>No Guideline</u>
<u>Community Land Use Category</u>	
<u>Place of Assembly (e.g., churches, grange halls, etc.)</u>	<u>Greater of 1 sp. / 100 sf. in principal assembly area or 3 sp. / 1,000 sf. GFA</u>
<u>Schools and Child Care Centers</u>	<u>No Guideline</u>
<u>Cemetery</u>	<u>1 sp. / acre; but if cemetery includes internal roads and grave sites are set back 10 ft. from roads, formal parking is not required</u>
<u>Commercial Land Use Category</u>	
<u>Retail Sales and Services (also includes banks, real estate, etc.)</u>	<u>3 sp. / 1,000 sf. GFA</u>
<u>Office</u>	<u>1 sp. / 500 sf. GFA</u>
<u>Restaurant</u>	<u>1 sp. / 250 sf. GFA</u>
<u>Sexually-Oriented Business</u>	<u>3 sp. / 1,000 sf. GFA</u>
<u>Rural Recreation and Hospitality Category</u>	
<u>Bed and Breakfast</u>	<u>1 sp. / rentable room</u>
<u>Guest Ranch</u>	<u>1 sp. / rentable room or cabin</u>
<u>Inn or Lodge</u>	<u>1 sp. / rentable room</u>
<u>Overnight Accommodations</u>	<u>1 sp. / rentable room</u>
<u>Resort or Conference Center Hotel</u>	<u>1 sp. / rentable room</u>
<u>Equestrian Facilities (training, arenas, horse boarding, etc.)</u>	<u>If arena, then 3 sp. / arena + 1 sp. / 10 lf. of bleachers; if no arena, then 1 sp. / 4 stables</u>
<u>Outdoor Shooting Range</u>	<u>1 sp. / 2 stations</u>
<u>Indoor Shooting Range</u>	<u>1 sp. / 2 stations</u>
<u>Racetrack</u>	<u>No Guideline</u>
<u>Paintball Course</u>	<u>2 sp. / acre</u>
<u>Hunting, Fishing, or Watersports Club</u>	<u>No Guideline</u>
<u>Campground</u>	<u>1 sp. / campsite</u>
<u>Parks, Passive Recreation, Open Space, or Golf Course</u>	<u>No Guideline</u>
<u>Other Active Outdoor Recreation</u>	<u>No Guideline</u>
<u>Theater</u>	<u>Greater of 1 sp. / 100 sf. in theaters or 3 sp. / 1,000 sf. GFA</u>
<u>Outdoor Theater</u>	<u>No Guideline</u>
<u>Utilities, Communications, Mining, Energy, Transportation, and Disposal Category</u>	
<u>Water or Wastewater Treatment Plant</u>	<u>1 sp. / employee on maximum shift</u>
<u>Wireless Communications Facility</u>	<u>None</u>

In-line notes and commentary are set out in *green italics*.

TABLE 4.03.020 PARKING RATIO GUIDELINES AND SURFACING STANDARDS	
Land Use Category / Land Use	Parking Ratio
Renewable Energy Facility	None
Truck Stop / Truck Wash	1 sp. / 2 fueling or charging stations + 1 sp. / service or wash bay
Airport or Airstrip	No Guideline
Salvage Yard	1 sp. / acre
Minerals Extraction / Quarry	Special Study
Oil and Gas Extraction	None
Waste Transfer Station	3 sp. / 2 employees on maximum shift
Landfill	3 sp. / 2 employees on maximum shift
Hazardous Waste Landfill	3 sp. / 2 employees on maximum shift
TABLE NOTES: ¹ Details of the surface requirements are set out in Section 4.03.050, <i>Parking Area Surfacing</i> . ² Where the table provides a parking ratio of "None," no parking areas are required. ³ Where the table provides a parking ratio of "No Guideline," the applicant shall propose a minimum parking requirement and provide adequate evidence that such minimum parking requirement will be sufficient to meet the purposes of this Division as expressed in Section 4.03.010, <i>Purpose and Application of Division</i> . See Section 4.03.040, <i>Site-Specific Determinations</i> .	

(b) **Parking Spaces.**

(1) Parking spaces do not have to be striped, except as required pursuant to subsection (c), below. However, the applicant shall demonstrate that the parking area will accommodate the required number of parking spaces (per guidelines above or per Section 4.03.030, *Site Specific Determinations*, by showing that parking areas could, if striped, accommodate required parking with the dimensions set out in Table 4.03.020B, *Parking Dimensions*, using a 90-degree configuration.

TABLE 4.03.020B PARKING DIMENSIONS					
Measurements	Parking Space Angle (from Aisle Centerline in the Direction of Travel)				
	0° / Parallel	45°	60°	75°	90°
One Way Drive Aisle Width	13 ft.	14 ft.	16 ft.	18 ft.	24 ft.
Two-Way Drive Aisle Width	19 ft.	Not allowed	Not allowed	Not allowed	24 ft.
Parking Space Dimensions	8 ft. x 25 ft.	9 ft. x 18 ft.	9 ft. x 18 ft.	9 ft. x 18 ft.	9 ft. x 18 ft.

(2) If configurations other than 90 degrees are required, markers, rail ties, parking stops, or similar materials shall be placed to indicate the parking angles and aisle widths.

(c) **Accessible Parking Spaces.** Accessible parking spaces shall be provided as set out in the most current revision of the ADA Standards for Accessible Design ("ADAAG"), Section 208, as may be amended or re-titled from time to time. Such spaces are counted towards (and not in addition to) parking requirements.

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(d) **Residential Parking Spaces.** Parking spaces for residential uses, except multifamily buildings with more than four units per building, may be located on driveways or gravel pads. Where access is provided from a collector or higher-order road directly to a driveway, parking shall be configured so that vehicles do not back out onto the road.

4.03.040. Parking Area Surfacing

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

4.03.050. Parking Area Design and Location

(a) **Generally.** The design and location of parking areas shall be in accordance with this Section.

(b) **Location.** Parking spaces and drive aisles for all uses except single-family detached and uses in the agriculture land use category shall be set back at least 10 feet from property lines except at points of access to the subject property.

(c) **Design.** Parking areas shall be designed to allow for safe circulation. Terminal ends of parking areas shall provide adequate room for vehicle turn-around.

(d) **Accessibility.**

(1) The design and location of accessible parking spaces shall be as required by the current revision of the ADA Standards for Accessible Design, Section 502 ("ADA 502"), as may be amended or re-titled from time to time;

(2) Accessible routes to and from accessible parking spaces shall be provided as required by ADA 502, at the time the parking spaces are striped; and

(3) Accessible routes shall be graded according to the standards of ADA 502, at the time the parking lot is developed or any time it is re-graded.

Division 4.04. Utilities

4.04.010. Purpose and Application of Division

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

(b) **Application of Division.**

(1) Section 4.04.030, *Utility Connections Required*, sets out requirements for connection to available public water and sewer systems.

(2) Section 4.04.040, *Location of Utilities*, sets out guidelines for the location of utilities and utility easements.

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(3) Section 4.04.050, *Utility Easements*, requires documentation of utility easements on final plats.

(4) Section 4.04.050, *Installation of Utilities*, sets out standards for the timing of the installation of utilities that are intended to serve individual subdivision lots.

4.04.020. Availability of Utilities

Where a land use or subdivision requires electric or natural gas utilities, the applicant shall provide evidence of the availability and adequacy of such utilities. A letter of agreement between the applicant and utility serving the subject property shall be sufficient to establish that electric or, as applicable, natural gas service is available and adequate.

4.04.030. Utility Connections Required

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

(b) **Special District Water Providers.** If a subject property is located within the boundaries of a special district that provides water and / or sewer service, the subject property shall connect to the water and / or sewer lines of the District as a condition of development approval if the District has available capacity and has notified the applicant that such connection is required pursuant to the Special District Act (C.R.S. § 32-1-101, *et seq.*)

(c) **Other Water Providers.** If the subject property can feasibly be served water by an existing water company, or municipality the subject property shall connect to the water lines of the existing water company or municipality as a condition of development approval if the water company or municipality has available capacity and has notified the applicant that such connection is feasible.

4.04.040. Location of Utilities

(a) **Generally.** All utilities shall follow road and driveway corridors where possible. All new utilities (except electrical transmission lines) shall be installed underground, unless the undergrounding the lines would require significant blasts to clear masses of outcrops or rock formations, or such installation is otherwise technically impracticable. Utility locations shall be in accordance with the requirements of the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS.

(b) **Installation Standards.** Utilities in and along roadway corridors shall be installed in accordance with DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS § 4.10, *Utility Installation Standards*.

(c) **Alternative Locations.** The Director, in consultation with the County Engineer, may approve alternatives to the requirements of subsection (a), above, with good cause shown.

4.04.050. Utility Easements

Easements for the placement of, installation of and / or access to public or private utilities and drainage facilities and irrigation ditches and systems shall be shown on the final plat and dedicated to the appropriate entity. The width of the easement shall be provided as required by the utility

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companies. Wherever practical, utility easements shall be located within or along road right of way lines.

4.04.060. Installation of Utilities

The lines for domestic water, public sanitary sewer, electrical power are required to be extended to the lot line of each new lot prior to the signing of the final plat by the Chair of the Board of County Commissioners.

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Division 4.05. Agricultural, Natural, and Cultural Resources

4.05.010. Purpose and Application of Division

(a) Purpose. The purpose of this Division is to ensure that areas with significant natural or cultural resources, wildlife use, or irrigation system infrastructure are developed or utilized in ways that take into account the long-term stewardship or management of the impacted resource.

(b) Mapping of Resources.

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- (1) If there is evidence that the resource areas enumerated in subsection (c), below exist on the subject property, then preliminary plats and site plans shall identify and delineate their boundaries and essential characteristics.
- (2) The Director may require the applicant to submit a title report and copies of documents that affect title in order to determine whether conservation easements or recorded irrigation ditch easements affect the subject property.
- (3) Development that does not require a preliminary plat or site plan, but is located on a subject property that was not subdivided in accordance with the requirements of this Section, shall provide a summary evaluation in accordance with subsection (d), below.

(c) Resource Area Identification. The following resources shall be mapped by a qualified professional according to the stated criteria or methodology:

- (1) Prime Agricultural Soils. Prime agricultural soils shall be identified using data from the U.S. Department of Agriculture Natural Resource Conservation Service or other publicly available data sources that are approved by the Director.
- (2) Historic or Archaeological Resources. Obvious historical or archeological resources shall be identified.
- (3) Wetlands and Riparian Buffers.
 - a. Wetlands shall be delineated according to the most recent version of the U.S. Army Corps of Engineers Wetland Delineation Manual. The type of wetland ecological system shall be identified using the criteria promulgated by the Colorado Wetland Information Center. A functional assessment of the wetlands shall be provided using the current version of the Functional Assessment of Colorado Wetlands ("FACWet").

- b. Riparian buffers shall be mapped as an area that extends 50 feet landward of the ordinary high-water mark or top of bank, as applicable, from rivers, streams, and creeks.
- c. *Forests and Woodlands.* Forests and woodlands are naturally occurring areas that of at least 40 contiguous acres in which trees have overlapping crowns that provide at least 50 percent land cover. Forests and woodlands are delineated by the outer edges of the crowns at the outer boundaries. Orchards are not considered forests and woodlands.
- d. *Critical Wildlife Habitat, Critical Winter Range, Calving Areas, and Big Game Migration Corridors.* Critical wildlife habitat, critical winter range, calving areas, and big game migration corridors shall be mapped in consultation with Colorado Parks and Wildlife ("CPW").
- e. *Geologic Hazard Areas.* Geologic hazard areas shall be identified using geologic hazard maps from the Colorado Geological Survey or those on file with Delta County. The extent of each type of geologic hazard on a subject property shall be mapped.
- f. *Irrigation Ditches and Irrigation Infrastructure.* The extent of irrigation ditches and irrigation infrastructure on or adjacent to a subject property shall be mapped.
- g. *Scenic Byways or Significant View Corridors.* The applicant shall map those areas that are located within one-quarter mile of the right-of-way of a scenic byway, or that are located within a significant view corridor as identified in the Delta County Master Plan.

(d) **Summary Evaluation.** If the proposed development does not require resource mapping in accordance with subsection (b)(2), above, the applicant shall provide a summary evaluation that is limited to prime agricultural soils, irrigation ditches and irrigation infrastructure, and scenic byways or significant view corridors.

4.05.020. Agricultural Operations and Prime Agricultural Soils

(a) **Generally.** The agricultural resources of the County are essential to its economic base, and it is a central policy of this Code to support and protect the viability of agricultural operations in the County. The standards of this Section are intended to ensure that new development does not compromise existing agricultural operations, allowing new development and agriculture to co-exist in the same landscape.

(b) **Impacts.**

- (1) Proposed development shall not adversely affect, or have the potential to limit the viability of, existing agricultural operations on surrounding and nearby property, including but not limited to their use of irrigation ditches, irrigated hay meadows, row crop operations, orchards, livestock operations, and historic stock drives.
- (2) To the extent reasonably feasible, proposed development shall be designed to avoid impacts to prime agricultural soils on the subject property.

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(c) **Buffers.** Depending upon the nature and management practices of agricultural operations adjacent to a subject property, a buffer area of up to 100 feet in width may be required to protect the agricultural operations from the impacts of proposed development, and vice versa.

(d) **Fencing.**

(1) Where proposed development is located next to existing agricultural operations, partition fences must either exist or be installed to separate the proposed development from adjoining agricultural land or stock drives. As appropriate to the boundary, openings in the fence may be restricted to wood or metal gates or cattle guards.

(2) *Ongoing Maintenance.* Where partition fences are required by this subsection (d), language shall be included in covenants, conditions, and restrictions, and on the final plat, to ensure that the partition fences are maintained by the lot owners or the homeowners' association at all times that the adjoining land is used for agricultural purposes.

(e) **Plat Notes.** Where a non-agricultural subdivision is created adjacent to land used for agricultural purposes, a note shall be included on the final plat that indicates that the adjacent property is put to agricultural use, and a right-to-farm disclaimer in the following form shall be included on the plat:

NOTICE TO LOT PURCHASERS. As of the date of this final plat, adjacent property is used for agricultural purposes. The land within this plat may be impacted by agricultural activities, including but not limited to noise from tractors and equipment; slow-moving farm vehicles on rural roads; dust from animal pens, field work, harvest and gravel roads; odor from animal confinement, silage, and manure; smoke from ditch burning; flies and mosquitoes; hunting and trapping activities; shooting sports; legal hazing of nuisance wildlife; and the use of pesticides and fertilizers in the fields, including the use of aerial spraying.

4.05.030. Historic or Archeological Resources

(a) **Generally.** If there is evidence that historic or archeological resources exist on a subject property, the Director may require a report that delineates or describes such resources and provides stewardship measures to avoid, minimize, or mitigate (in descending order of priority) impacts on those resources.

(b) **Stewardship Measures.** Stewardship measures shall include, to the extent feasible:

(1) The preservation of archaeological resources in their original location.

(2) Necessary excavations for purposes of recording and documenting the archaeological site, structure, or artifact.

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(3) Examination and investigation sufficient to obtain necessary information to ensure the preservation of the historic, archaeological, and other scientific significance of the site, structure, or artifact.

(4) The completion of necessary mapping, photographing, or recording of any historical structure in accordance with standards of the Historical American Building Survey and the Historic American Engineering Record.

4.05.040. Wildlife

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

(b) **Wildlife Report.**

(1) The wildlife report shall consist of narrative and maps necessary to identify critical habitat areas and characteristics, big game winter ranges, and big game migration corridors.

(2) The wildlife report shall describe proposed measures for the protection of wildlife, habitat, and migration corridors, which shall first seek to avoid impacts, then to minimize impacts, then to mitigate impacts. The wildlife report shall demonstrate compliance with the following standards:

- a. Elements of habitat or range that are interdependent shall not be separated in ways that materially compromise the overall habitat or range.
- b. Protected areas of big game migration corridors and big game winter ranges shall provide a continuous connection to off-site big game migration corridors and big game winter ranges, such that large-scale regional wildlife movements are not impeded by the proposed development of the subject property.
- c. Fencing and grading shall be designed so that it does not materially interfere with wildlife movement across critical habitats, big game migration corridors, and big game winter ranges.

(3) The report shall be prepared in consultation with the Colorado Parks and Wildlife ("CPW") personnel and resources, including documentation of any CPW recommendations.

(c) **Conditions of Approval.** The County may condition development approval on the implementation of the identified measures to avoid, minimize, and / or mitigate wildlife impacts.

4.05.050. Wetlands

(a) **Generally.** If there is evidence that wetlands are present on a subject property, such resources shall be identified in a wetlands delineation and a functional assessment report shall be provided.

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(b) **Exception.** The Director may waive the report requirement if it is demonstrated that the proposed development is sufficiently distant from the wetlands that the requirements of subsection (d), below will be met, and impacts from the development (e.g., from stormwater runoff) on the wetlands are unlikely to be material; or

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(c) **Development in Proximity of Wetlands.** Development shall not occur within delineated wetlands and within 100 feet of the boundary of delineated wetlands, unless:

- (1) The proposed development within said area enhances the functional value (or protects and maintains a high functional value) of the wetlands (e.g., wetlands enhancement, remediation, management, or restoration) according to plans approved by the U.S. Army Corps of Engineers and other governmental authorities with jurisdiction; or
- (2) The wetlands delineation and functional assessment report indicate that development closer to the wetlands will not materially degrade the quality of the wetlands nor materially increase the risk of damage to the wetlands.

4.05.060. Irrigation Systems

(a) **Generally.**

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- (1) Construction and maintenance of irrigation ditches and rights-of-way are subject to the rights and obligations of Article XVI of the Colorado Constitution, C.R.S. 37-86-101, *et seq.*, as amended, and other applicable law. Construction and maintenance of reservoirs and associated infrastructure is subject to the rights and obligations of C.R.S. 37-87-101, *et seq.*, as amended, and other applicable law. Irrigation ditch rights-of-way may be created in a number of ways, including by deed, by prescription, by prior use, by estoppel, or by irrevocable license. Not all of these involve a written public record.
- (2) Operation of irrigation infrastructure may involve inspections; remote sensing; operation of headgates, flumes, and siphons; mowing and weed control (which may involve chemicals or flamethrowers); grading; tree removal; service road repair; ditch lining, conversion of ditches to pipelines; reshaping and excavation of ditches; trash and debris removal; and other activities.
- (3) Ditches (even if lined or piped) may seep, and easements for such seepage may be express (e.g., by deed) or implied (e.g., created by prescription). Seepage may result in high water tables.

(b) **Crossings and Modifications within Ditch Rights-of-Way.**

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- (1) Development shall not involve crossings of or modifications to ditch rights-of-way (below the surface, on the surface, or above the surface), unless:
 - a. The affected ditch company consents to such crossing or modification in writing, upon such terms as may be agreed between the applicant and the ditch company; or
 - b. If the right-of-way is an easement (and not a fee-simple ownership interest of the ditch company) a court authorizes the crossing by final, non-appealable order finding that the crossing or modification does not

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significantly lessen the utility of the easement, increase the burdens on the owner of the easement, or frustrate the purpose for which the easement was created.

- c. If a crossing agreement is to be assigned to the County or another governmental entity (e.g., the Colorado Department of Transportation), the applicant shall obtain approval of the anticipated assignee of the crossing agreement (as applicable) as to the form of the agreement and the conditions of assignment (if any) prior to approval of the application.

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(c) Construction De-watering and Drainage Systems.

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(1) No drainage system shall direct stormwater runoff into an irrigation ditch or reservoir without the written consent of the affected ditch company.

(2) All construction de-watering activities and drainage systems (either surface or subsurface) that are located within 100 feet of a ditch or reservoir bank shall be evaluated at the applicant's expense by a qualified engineer with regard to their potential impacts on seepage into or out of the ditch or reservoir. If such activities or systems are determined to create a material risk of such seepage, then the applicant shall:

- a. Propose appropriate and durable mitigation measures to prevent such seepage; or
- b. Enter into an agreement with the ditch company to address such seepage impacts on terms that are mutually acceptable to the applicant and the ditch company.

(d) County Approval Conditions.

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(1) Where a subject property is bounded by or crossed by an irrigation ditch right-of-way or other irrigation infrastructure, the boundaries of the ditch right-of-way or other irrigation infrastructure shall be shown on the approved plans and plat documents, as applicable.

(2) Delineated ditch easements shall be of sufficient width to allow for access and maintenance (both routine and extraordinary), including staging areas and dimensions sufficient to accommodate overswing of construction machinery, as necessary or appropriate. In making the determination of sufficiency, the County shall consider input from the affected ditch company.

4.05.070. Scenic Impacts

(a) **Generally.** This Section applies to a subject property that is located within one-quarter mile from the right-of-way of a scenic byway, or is located within a Significant View Corridor (as identified in the Delta County Master Plan).

(b) **Report Required.** A scenic impacts report shall contain the following information:

(1) A graphic illustration of the impact of the proposed development on the views from designated Scenic Byways or Significant View Corridors, as applicable, to include:

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(2) An illustration of ground elevations, existing buildings and structures, and vegetative cover before development (the “pre-development condition”), in plan view and elevation view, taking into account the elevation of the road and the distance to the scenic resource;

(3) An illustration of the proposed development (the “post-development condition”) in plan view, and in elevation view from the same vantage points that were used to illustrate the pre-development condition;

(4) A narrative that describes the measures that are proposed in order to mitigate the impact of the proposed development on the scenic resource.

(c) Implementation of Mitigation Requirements.

(1) The scenic impact of a proposed development shall not, by itself, be a reason for denying an application for development approval. However, the County may require mitigation measures such as alternative setbacks, building placement, building design, and landscaping techniques.

(2) The County may approve modifications to the development standards of this Code in order to improve the mitigation of the impacts of development on scenic resources, provided that such modifications do not materially impact public safety.

Division 4.06. Geologic and Wildfire Hazards

4.06.010. Purpose and Application of Division

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

(b) **Application of Division.**

(1) Section 4.06.030, *Designation of Hazard Areas*, identifies resources for determining if there is a material probability that a subject property includes geologic or wildfire hazards. If the Director determines that such resources are present on a subject property, the Director may require a site-specific evaluation.

(2) Section 4.06.040, *Geologic Hazard Mitigation*, sets out standards for studies and mitigation measures to address identified geologic hazards.

(3) Section 4.06.050, *Wildfire Hazard Mitigation*, sets out standards for studies and mitigation measures to address identified wildfire hazards.

(4) Section 4.06.060, *Steep Slopes*, sets out standards for mitigation measures to address development on steep slopes.

(5) Section 4.06.070, *Abandoned Mines and Quarries*, sets out standards for measures to secure, close, and remediate abandoned mines and quarries prior to development that may be impacted by such hazards.

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(6) Section 4.06.080, *Abandoned ("Orphaned") Oil and Gas Wells*, sets out standards for addressing the presence of abandoned ("orphaned") oil and gas wells prior to development.

4.06.020. Disclaimer

The degree of hazard protection intended to be provided by this Division is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. This regulation does not imply that the areas outside of established hazard boundaries or uses permitted within these boundaries will be totally free from damage caused by these hazards. This regulation shall not create any liability on the part of, or cause an action against, the County, the Board of County Commissioners, or any officer or employee or official (elected or appointed) thereof for damages that may result from reliance upon the regulations set out in this Division.

4.06.030. Designation of Hazard Areas

(a) **Official Hazard Area Maps.** Maps and documentation regarding the general location of geologic and wildfire hazard areas ("OFFICIAL HAZARD AREA MAPS") are on file at the Department.

(b) **Wildfire Hazard Areas.** Wildfire hazard areas are identified on maps prepared by the Colorado Forest Service.

(c) **Steep Slopes.** Steep slopes are those areas on a subject property with an average grade of 30 percent or more. Steep slopes shall be identified using U.S. Geological Survey topographic maps, site-specific surveys, or other techniques that are approved by the Director.

(d) **Areas of Special Flood Hazard.** Areas of special flood hazard shall be mapped according to their boundaries as shown on the most recent official maps available from the Federal Emergency Management Agency ("FEMA").

(e) **Abandoned Mines.** Abandoned mines are identified on maps promulgated by the Colorado Division of Reclamation Mining and Safety in conjunction with the U.S. Forest Service.

(f) **Abandoned Oil and Gas Wells.** Abandoned oil and gas wells shall be identified using records from Colorado Oil and Gas Conservation Commission and physical inspection of the subject property.

(g) **Site-Specific Delineation.** The maps described in subsection (a), above, define only approximate boundaries of hazard areas. The maps serve primarily as notice that geologic and / or wildfire and / or slope hazards are known to exist on or near a subject property, such that further analysis may be necessary. Precise boundary delineations require site-specific evaluation by qualified professionals.

4.06.040. Geologic Hazard Mitigation

(a) **Generally.** This Section is not intended to categorically preempt all future development. The mitigation that may be required by this Section shall be proportionate to the nature, severity, probability, and frequency of the hazard and the nature and intensity of the proposed land use.

(b) **Engineering Study.**

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(1) *Scope of Study.* If a subject property is known or reasonably suspected to be located in a geologic hazard area or wildfire hazard area, then the Director may require the applicant to provide a site-specific engineering study to:

- a. Delineate the hazard;
- b. Define its degree of severity;
- c. Determine its frequency / probability of recurrence;
- d. Evaluate the compatibility of the proposed land use;
- e. Propose appropriate mitigation measures to reduce risks to people, property, and natural resources; and
- f. Propose ongoing operations and maintenance programs to ensure that the mitigation measures function properly.

(2) *Qualifications of Investigator.* All reports and studies required by this Section shall be prepared by a “professional geologist” (as defined by C.R.S. § 34-1-01, as amended) as to geologic investigations; or a “registered professional engineer” (as defined by C.R.S. § 12-25-102, as amended) as to engineering studies, each retained by, under the direction of, and at the expense of the owner or applicant. For the purposes of this Section, the geologist or engineer is referred to as the “investigator”.

(3) *Extent of Investigation.* The extent of the site-specific investigation required shall be determined by the investigator; however, the investigation shall be of sufficient thoroughness and accuracy to allow such expert to certify to one of the following:

- a. The subject property can be developed for the specific development that is proposed, without corrective engineering, engineered construction, or other mitigation or alterations; or
- b. The subject property is a geologically sensitive area, but the specific development that is proposed:
 - i. Can be constructed with corrective engineering, engineered construction, or other mitigation or alterations that reduce the risks to the occupants of the development such that they are reasonable; and
 - ii. Will not increase the hazard to other property or structures or to public buildings, rights-of-way, roads, easements, utilities or facilities, or other properties of any kind; or
- c. The subject property is a geologically sensitive area on which the specific proposed development is not appropriate because there are no mitigation techniques that could reduce the risks created by the geologic hazard to a reasonable level with respect to:
 - i. Occupants, improvements, and personal property on the subject property; and

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- ii. Other property or structures, public buildings, rights-of-way, roads, easements, utilities, or facilities of any kind that are currently affected by the hazard or that would likely be affected by the hazard if the proposed development occurred.

(4) Effect of Study.

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

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

- (1) Retaining walls, fill, rock bolting, or pilings;
- (2) Diversion, channeling, damming, or barriers;

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(3) Excavation of unstable areas, bridging of weak zones, or proper distribution of loading;
or

(4) Improvement of surface and subsurface drainage.

(d) **Notice Requirements.** In order to provide reasonable notice of the presence of geologically sensitive lands in or affecting a proposed development, the following notices shall be provided for all new development in geologically sensitive lands:

(1) All final plats that are recorded after the effective date of this Code shall identify and designate each tract, lot, and block, or portions thereof, located within any geologically sensitive area, together with appropriate specific hazard designations.

(2) All other plans submitted after the effective date of this Code shall delineate geologically sensitive areas and identify the nature of the hazards.

(e) **Existing Uses Continued; Exceptions.** Existing use of land, structures, or property that does not conform to this Section may be continued; except that no approval shall be granted for the expansion, alteration, or addition to existing buildings or structures in geologically sensitive areas unless all of the requirements of this Section are met.

4.06.050. Wildfire Hazard Mitigation

(a) **Generally.** The Wildland-Urban Interface ("WUI") is a geographical area where structures and other human development meets or intermingles with wildland or vegetative fuels. The WUI creates a potentially dangerous situation for flames or embers from a wildland fire to come in contact with buildings and structures. The purpose of this Section is to provide a means to protect the public health, safety, and welfare by establishing standards for development within a WUI area in order to:

(1) Reduce threats to life safety, property, and resources by improving development and construction standards, access to and defensibility of developments, homes, and other property in WUI areas;

(2) Minimize the potential of spreading fire from wildland areas to buildings or structures and from building or structure fires to wildland areas;

(3) Identify the appropriate use of cul-de-sacs, hammer head turnarounds, and turnouts on streets and roads providing legal and physical access to subdivisions with the intent to provide better emergency access to remote areas; and

(4) Require homeowners and neighborhoods to plan, create, and maintain defensible space that utilizes fire resistant construction and landscaping.

(b) **Compliance with NFPA 1144.** Proposed development that is located in the WUI shall provide and implement a wildfire hazard mitigation plan in accordance with NFPA 1144, and shall be designed and constructed in a manner that is consistent with NFPA 1144.

4.06.060. Steep Slopes

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

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Comment [t18]: NFPA 299 was replaced with NFPA 1144. We do not have access to either standard. The County should evaluate this standard.

(b) **Minimization of Cut and Fill.** Cut and fill of steep slopes shall be minimized in one or more of the following ways:

- (1) Generally, sites shall be regraded as a stable slope that is comparable to existing natural conditions.
- (2) Large-scale grade changes (where such changes are necessary) shall be divided into a series of benches and / or terraces. Parking areas that are planned for steep slopes shall be located on terraces that are designed to follow site contours. Benches and terraces shall be arranged so that they are not located in or immediately uphill or downhill from areas of potentially unstable slopes or known landslide areas, unless such areas are stabilized.
- (3) Roads and driveways shall be designed to minimize cuts and fills in a manner that is consistent with safe geometric design and the long-term stability and durability of the road or driveway, while:
 - a. Minimizing the alteration of the physical and visual character of the hillside (e.g., large notches in ridgelines should be avoided); and
 - b. Retaining natural landforms by utilizing gentle horizontal and vertical curves in alignments (i.e., alignments on the hillside should be neither wider nor straighter than necessary).
- (4) Where feasible, building foundations shall be stepped to follow significant existing contours, and the major axes of buildings shall run parallel to existing contours.

(c) **Geologic and Soils Report.** A geologic and soils report is required prior to development upon very steep slopes. See Section 5.02.020, *Geologic and Soils Report*.

4.06.070. Abandoned Mines and Quarries

(a) **Generally.** Abandoned mines and quarries involve significant hazards, potentially including, but not limited to, the presence of toxic gasses, chemicals, and metals; unstable soils and structures; and radioactive materials, in and around the mines or quarries. Abandoned mines or quarries may be a source of air and water pollution in areas that are distant from the mines or quarries.

(b) **Evaluation.** If there is evidence that the subject property was impacted by past mining activities, the subject property shall be evaluated pursuant to the methodologies set out in the current version of "Best Practices in Abandoned Mine Land Reclamation," promulgated by the Colorado Division of Minerals and Geology.

(c) **Reporting and Inspection.** If an abandoned mine or quarry is located, it shall be reported to the Colorado Division of Reclamation, Mining, and Safety, and an inspection by the Division shall be requested.

(d) **Closure and Lateral Support.** Prior to development of the subject property, the applicant shall obtain approval of a closure plan, remediation plan, and / or lateral support plan, as appropriate, and implement such plan to the extent necessary to allow for safe development of the subject property. The County may allow development to proceed prior to full implementation of the

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

4.06.080. Abandoned ("Orphaned") Oil and Gas Wells

(a) **Generally.** Abandoned wells shall be plugged, remediated, and reclaimed, as appropriate, according to state requirements, prior to development.

(b) **Exceptions.** The County may allow development to proceed prior to plugging, remediation, and reclamation if:

- (1) The location of the abandoned well is secured; and
- (2) The development area is sufficiently distant from the abandoned well that the risks to the development from the abandoned well are minimal.

Division 4.07. Environmental Quality

4.07.010. Purpose and Application of Division

(a) **Purpose.** The purpose of this Division is to establish minimum standards for maintaining environmental quality within the County. These standards apply to the planning, design, and operation of land uses in the County.

(b) **Application.** The Divisions within this Division are applied as follows:

- (1) Section 4.07.020, *Stormwater Management, Grading, Erosion, and Sediment Control*, establishes storm drainage standards and design principles for grading and drainage system design.
- (2) Section 4.07.030, *Noise*, establishes standards for the maximum amount of noise that land uses may generate in each zoning district.
- (3) Section 4.07.040, *Odor Management*, establishes standards for managing odors that are associated with intensive agriculture and certain industrial land uses.
- (4) Section 4.07.050, *Pest Management*, establishes standards for managing pests that may be associated with intensive agriculture and certain industrial land uses.
- (5) Section 4.07.060, *Dust Control*, establishes standards for control of fugitive dust.
- (6) Section 4.07.070, *Weed Control*, establishes standards for control of noxious weeds.
- (7) Section 4.07.080, *Exterior Lighting*, establishes standards for exterior illumination and illumination within greenhouses.
- (8) Section 4.07.090, *Junk*, establishes standards for the storage of junk on property that is not used for industrial, recycling, or disposal purposes.
- (9) Section 4.07.100, *Domestic Animal Control*, establishes standards for ensuring that domestic animals do not interfere with livestock or wildlife on sensitive lands.

In-line notes and commentary are set out in *green italics*.

(10) Section 4.07.110, *Operational Hazard Mitigation and Risk Management*, establishes requirements for planning documents to ensure that intensive agriculture operations and certain extractive and industrial uses have plans in place to address operational hazards and to mitigate operational risks, and to ensure that first responders are prepared to respond to emergency situations.

(c) **Right-to-Farm.**

(1) The right-to-farm, as described and protected by C.R.S. §§ 35-3.5-101, *et seq.* shall not be compromised by this Division. Uses in the agriculture land use category shall not be found in violation of this Division to the extent that they employ methods or practices that are commonly or reasonably associated with agricultural production.

(2) C.R.S. § 35-3.5-102(2)(a)(I) provides protection against nuisance suits for agricultural uses that are established prior to surrounding land uses. Pursuant to the authority granted by C.R.S. § 35-3.5-102(7), the protection against nuisance suits that is created by C.R.S. § 35-3.5-102(2)(a) is expanded to uses in the agriculture land use category regardless of when they are established.

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

(a) **Generally.** Colorado follows the modified civil law rule that the owner of upstream property possesses a natural easement on land downstream for drainage of surface water flowing in its natural course. Natural drainage conditions may be altered by the owner of the upstream land, provided that the water is in the post-development condition is not sent down in a manner or quantity to do more harm to the downstream land than prior to development. Development proposals that would result in drainage volumes or patterns that would likely violate the modified civil law rule will not be approved unless the applicant obtains appropriate approvals and / or easements from the affected property owner(s).

(b) **Stormwater Management Plans.** All site plans associated with limited and conditional uses shall be accompanied by a stormwater management plan, sealed by a professional engineer, that certifies compliance with the requirements of subsection (a), above.

(c) **State Permits.** A Colorado Discharge Permit System ("CDPS") permit shall be obtained if required by state law.

4.07.030. Noise

(a) **Generally.** Noise that is generated by development shall not exceed the thresholds set out in C.R.S. § 25-12-103, *Maximum Permissible Noise Levels*, except as provided in 25-12-109, *Exception - Sport Shooting Ranges - Legislative Declaration - Definitions*, or any other specific exceptions created by the State of Colorado after the effective date of this Section.

(b) **Development Design.** Proposed development shall be designed to ensure that noise does not exceed the statutory limits. Where design is not sufficient to mitigate noise impacts, the applicant shall submit a noise mitigation plan that includes operational limitations to mitigate the noise impacts. Adherence to the noise mitigation plan shall be a condition of approval.

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4.07.040. Odor Management

(a) **Generally.** An odor management plan is required for intensive agriculture uses, and may be required for other land uses that tend to generate offensive or noxious odors. Odor management plans shall meet the minimum requirements of this Section, and shall achieve compliance with 5 CCR 1001-4, Part A or Part B, as appropriate.

(b) **Intensive Agriculture.** Odor management plans for intensive agriculture shall include:

(1) A description of and a map that demonstrates the location of each of the operations and processes at the intensive agriculture operation, including the following:

- a. Animal confinement structures and open animal feeding operations;
- b. Manure collection, storage, and treatment systems, including anaerobic process wastewater vessels and impoundments and aerobic impoundments;
- c. Composting storage sites; and
- d. Land application equipment and sites.

(2) Construction and design plans for odor controls and management practices, including for the following technologies as applicable:

- a. All necessary and appropriate technology to minimize to the greatest extent practicable off-site odor impacts from all aspects of the intensive agriculture operations, including confinement structures, animal waste, and composting storage sites, and odor and aerosol drift from land application equipment and sites;
- b. Operation plans for odor controls and management practices, including plans for the following, if applicable:
 - i. Proper operation and maintenance of the necessary technology or practices to minimize to the greatest extent practicable off-site odor impacts;
 - ii. Operation of the required equipment in compliance with manufacturer's specifications and recommendations;
 - iii. Proper operation and maintenance of covers, technologies and/or practices employed for anaerobic process wastewater vessels and impoundments to capture, recover, incinerate, or otherwise manage odorous gases to minimize, to the greatest extent practicable, the emission of such gases into the atmosphere; and
 - iv. Proper operation and maintenance of the necessary technology employed for aerobic impoundments to ensure maintenance of aerobic conditions or otherwise to minimize the emission of odorous gases to the greatest extent practicable.

- c. An animal waste management plan for odor control and management practices necessary to minimize to the greatest extent practicable off-site odor impacts
- d. All plans and specifications for odor control equipment and management practices included in the odor management plan must conform to common and accepted professional practices.
- e. Testing, sampling, and analysis requirements appropriate for the intensive agriculture use.

(c) Other Land Uses.

- (1) Odor management plans for other uses (not intensive agriculture) shall identify:
 - a. The location of odor-emitting activities or procedures;
 - b. The source or sources of the odors;
 - c. The timing of odor-emitting activities;
 - d. The controls (e.g., administrative, structural, chemical, or mechanical) that will be used to mitigate odor impacts; and
 - e. The maintenance program that will be followed to ensure the effectiveness of the proposed controls.
- (2) Proposed odor controls shall be based on best available control technologies.
- (3) Odor management plans shall also provide for complaint tracking. Complaint records shall be provided to the County within three business days after request by the Director.

4.07.050. Pest Management

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

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4.07.060. Dust Control

(a) **Generally.** Dust controls are required for industrial uses that generate dust, and for intensive agriculture uses. Dust controls may also be required for roads, driveways, parking areas, and outdoor storage or processing areas that are not constructed with a dust-free hard surface.

(b) **Industrial and Extraction Uses and Intensive Agriculture.**

(1) Industrial and extraction uses that generate dust, and intensive agriculture uses shall submit a dust control plan to accompany the proposed sketch plan or site plan. The dust control plan shall include all available practical methods that are technologically feasible and economically reasonable and that will reduce, prevent, and control fugitive dust into the atmosphere.

(2) For those materials, equipment, services or other resources (such as water for abatement and control purposes), which are likely to be scarce at any given time, an alternative control method must be included in the dust control plan.

(3) Where the proposed land use is accessed by an unpaved road or access easement, the County may require that the dust control plan provide for mitigation of dust along the unpaved road or access easement.

(c) **Other Uses or Improvements.** Dust control may be required for subdivision roads, private driveways, parking areas, and outdoor storage or processing areas, in order to minimize adverse impacts to livestock, crops, and public health.

4.07.070. Weed Control

(a) **Generally.** As mandated by the Colorado Noxious Weed Act (C.R.S. § 35-5.5-101, *et seq.*) all persons shall eliminate, contain, or suppress (as appropriate) noxious weeds on their property if:

(1) Such weeds are a threat to neighboring landowners or natural ecosystems; or

(2) Such control is required by C.R.S. § 35-5.5-101, *et seq.* or 8 CCR § 1206-2, Rules Pertaining to the Administration and Enforcement of the Colorado Noxious Weed Act.

(3) Weed control programs shall be integrated in approach (using all available prudent technologies to achieve weed control), to the extent required by 8 CCR § 1206-2.

(b) **Weed Control Plans.** The County may condition approval of subdivisions, limited uses, and conditional uses (or amendments thereto) upon approval of a plan for the control of the noxious weeds identified by the State or federal government or designated undesirable by the Board of County Commissioners. The plan shall include the interim time period during which the land is converted from its current use to its proposed use.

(c) **Plat Note.** All final plats shall contain the following statement:

Each lot owner shall be personally responsible to control undesirable, noxious weeds within the boundaries of that lot, to prevent the spreading of such weeds to other lands and to comply with the recommendations of the Delta County Weed

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4.07.080. Exterior Lighting

(a) **Generally.** Outdoor lights shall be hooded or shielded (cut-off) so as to not cast light or glare onto adjacent property, or upwards in a manner that contributes to sky glow that dilutes the night sky.

(b) **Required Plat Note.** All final plats shall contain the following statement:

Outdoor lighting shall be hooded or shielded (cut-off) so that light is directed downward. Outdoor lighting shall not create glare onto adjacent property or public or private roads, nor shall it contribute to sky glow that dilutes the night sky.

4.07.090. Junk

(a) **Generally.** Junk storage of junk is not allowed, except as provided in this Section.

(b) **Temporary Junk Storage.** Temporary junk storage is allowed for periods of not more than 30 consecutive days while repair or permanent disposal of the junk is pending, provided that:

(1) The junk is stored in as orderly and compact a manner as reasonably practicable;

(2) The junk is secured as appropriate to prevent windblown debris and prevent unauthorized access to potential hazards; and

(3) The junk is one or more of the following:

a. Materials that the owner or occupant of the property is using for personal purposes (e.g., repair of an automobile or farm equipment); or

b. Materials that are generated by the owner or occupant on-site (e.g., construction wastes generated when a home is remodeled); or

c. Materials that are a by-product of the owner or occupant's business (e.g., construction wastes generated by a contractor off-site, but brought back to the subject property and stored temporarily prior to recycling or disposal).

(c) **Long-Term Junk Storage.** Long-term junk storage is allowed for junk that is used for parts that allow for repairs to operable (or potentially operable) licensed motor vehicles owned by the property owner or occupant, provided that the junk is screened from view from adjacent property and public rights-of-way.

4.07.100. Domestic Animal Control

(a) **Generally.** Dogs and other domestic animals that are not used to assist with the herding or care of livestock are not permitted to interfere with livestock, the care of livestock on agricultural lands, or with wildlife that is present on sensitive lands. Domestic animals must be controlled by kenneling, leash, fencing, or other physical or voice control constraints.

(b) **Covenants.** The County may require that subdivisions include covenants that provide that any expense of enforcement of this domestic animal control restrictions by the County shall be at the expense of the responsible association or the individual.

4.07.110. Operational Hazard Mitigation and Risk Management

(a) **Generally.** An operational hazard mitigation and risk management plan is required for uses as specifically identified in this Code and for uses that the Director determines may involve substantial risks or hazards to nearby property owners, natural resources (including wildlife and sensitive lands), or water supplies due to the nature of the operations or materials likely to be used, stored, or disposed of on the subject property.

(b) **When Required.** For the uses that require operational hazard mitigation and risk management plans, such plans shall be submitted with sketch plans or site plans.

(c) **Updates.** The operational hazard mitigation and risk management plans shall be updated on a bi-annual basis, or within ten working days as conditions change (responsible field personnel change, ownership changes, etc.).

(d) **Contents.** The operational hazard mitigation and risk management plan shall, at a minimum, consist of the following information:

- (1) Name, address and phone number, including 24-hour emergency numbers for at least two persons responsible for emergency field operations.
- (2) After the proposed development is completed, an as-built facilities map or map series, showing the name, location, and description of potential risks and hazards.
- (3) A written response plan for foreseeable potential emergencies that may be associated with the land use. This plan shall include but not be limited to any or all of the following: explosions, fires, gas, chemical, or water tank or pipeline leaks or ruptures, toxic gas emissions, hazardous material transport vehicle accidents or spills, and / or natural disasters.
- (4) Project-specific emergency response plans are required for any mining or oil and gas extraction project that involves drilling or penetrating through known zones of hydrogen sulfide gas.

(e) **Confidentiality.** To the extent allowed by law, the operational hazard mitigation and risk management plan shall be held confidentially by the entities to which they are provided, and shall only be disclosed in the event of an emergency.

4.07.120. Truck Routing Plans

(a) **Generally.** A truck routing plan is required for uses as specifically identified in this Code and for uses that the Director determines will involve the use of semi-trailers, dump trucks, trash hauling trucks, or comparable heavy trucks at a frequency that is likely to be disruptive to nearby property owners or potentially damaging to roads.

(b) **When Required.** For the uses that require truck routing plans, such plans shall be submitted with sketch plans or site plans.

(c) **Updates.** Truck routing plans shall be updated when:

- (1) New truck routes are proposed by the applicant.
- (2) The applicant proposes to increase truck traffic by more than 10 percent compared to that set out in the approved truck routing plan.
- (3) Truck routes are changed by the County or other relevant transportation authority in a manner that affects the approved truck routing plan, and the County or other transportation authority requests an update to the plan.

(d) **Contents.** The truck routing plan shall include, at a minimum:

- (1) The type or class of vehicles that will be used by the proposed land use;
- (2) The anticipated frequency of arrival and departures of trucks;
- (3) The hours of truck traffic;
- (4) A map illustrating the route(s), from a paved County arterial road or State Highway, of all trucks used by the proposed land use.

PART 5. PUBLIC FACILITIES, INFRASTRUCTURE, AND SERVICES

Division 5.01. Traffic Impacts

5.01.010. Purpose and Application of Division

(a) **Purpose of Division.** The purpose of this Division is to ensure that the traffic impacts of proposed development and subdivision are evaluated and that the impacts of such development on the County transportation system are offset by public improvements.

(b) **Application of Division.** The requirements of this Division apply to sketch plans associated with permitted uses, sketch plans or site plans associated with limited or conditional uses, and preliminary plats (or final plats, where no preliminary plat is required prior to final plat approval), and also to additional residences, communal living, and seasonal farmworker housing if such accessory residential uses result in five or more dwelling units on a single lot. Uses that are allowed as-of-right are not subject to the requirements of this Division.

(c) **Scope of Study.**

(1) A Level I Traffic Impact Study is required for all application types listed in subsection (b), above.

(2) Where a Level I traffic study indicates that a proposed development or subdivision will impact more than 20 percent of a road's capacity, a Level II traffic study shall be required.

(3) Where a Level II Traffic Impact Study indicates that improvements to the existing road network are necessary to address the traffic impacts of a proposed development or subdivision, a Level III Traffic Impact Study shall be required.

5.01.020. Traffic Impact Study Contents

(a) **Generally.** Traffic impact studies shall include, at a minimum, the information required by this Table 5.01.020, *Traffic Impact Study Scope*, based on the level of study required.

<u>TABLE 5.01.020</u>			
<u>TRAFFIC IMPACT STUDY SCOPE</u>			
<u>Contents</u>	<u>Level I</u>	<u>Level II</u>	<u>Level III</u>
<u>Site Plan and Mapping Information</u>			
<u>Location of the subject property, with the following information about all adjacent County roads: (i) name; (ii) functional classification; and (iii) right-of-way requirement based on functional classification</u>	<u>Required</u>	<u>Required</u>	<u>Required</u>
<u>Sight distances for all existing and proposed access points</u>	<u>Not required</u>	<u>Required</u>	<u>Required</u>
<u>The proximity and location of all access points and intersections within ½ mile of the subject property</u>	<u>Not required</u>	<u>Required</u>	<u>Required</u>

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TABLE 5.01.020 TRAFFIC IMPACT STUDY SCORE			
Contents	Level I	Level II	Level III
Identification of adjacent land uses	Required	Required	Required
Proposed location, number, and use of lots within the subject property	Required	Required	Required
Proposed location of roads within the subject property	Required	Required	Required
Location of all proposed access points to County roads or State highways	Required	Required	Required
Traffic Counts			
Average daily traffic ("ADT") counts on adjacent roads ¹	Required	Required	Required
AM / PM peak hour traffic counts on adjacent roads	Not required	Required	Required
Trip Generation Calculations and Projections			
Trip generation calculations (ADT) ²	Required	Required	Required
Trip generation calculations (AM / PM peak hour) ²	Not required	Required	Required
20-year ADT and AM / PM peak projections, including background and project-generated	Not required	Required	Required
Analysis			
Trip distribution analysis ³	Not required	Required	Required
Current level of service ("LOS") of all impacted roads	Not required	Required	Required
LOS including project-generated traffic from the proposed development.	Not required	Required	Required
Existing and proposed traffic controls on impacted roads	Not required	Required	Required
Indication if a CDOT Access Permit will be required	Not required	Required	Required
Additional cost and mitigation analysis (see subsection (b), below)	Not required	Not required	Required
TABLE NOTES: ¹ From County records ² Calculations shall be based on the current version of the Institute of Traffic Engineers Trip Generation Manual ("ITE Manual"), with the following modifications: (i) single-family detached generate 10 average daily trips ("ADTs") per unit; (ii) multi-family attached generate 6 ADTs per unit; and (iii) manufactured homes in manufactured home parks generate 5 ADTs per unit. ³ The Study shall indicate the projection distribution of traffic entering and leaving the development, the projected direction and specific roads that are likely to be used and the total ADT and AM / PM peak hour trips of all potential distribution routes. Traffic distribution studies shall provide information on all potential routes to which the impact of the development on existing conditions is 5 percent or more.			

(b) Additional Cost and Mitigation Analysis. A Level III Traffic Impact Study must include additional cost and impact mitigation analysis that is appropriate to the situation that created the need for the Level III Traffic Impact Study. Such analysis may include, at the direction of the Director:

(1) A Dust Mitigation Plan.

In-line notes and commentary are set out in *green italics*.

(2) Proposed road design changes that are intended to:

- a. Offset degradation of existing LOS;
- b. Address the functional classification of the road;
- c. Address a proposed improvement to an existing intersection or road segment;
- d. Address design requirements imposed by a CDOT access permit.

(3) A safety analysis, including conflict points, turning movements and accident history for the last three years.

(4) An analysis of the sensitivity of the adjacent properties and/or other areas that may be impacted by the proposed development.

(5) An analysis of the capacity of the existing road in relation to the marginal increase in traffic attributable to the proposed development, and the feasibility of road improvements to address the projected increase in traffic.

(6) An analysis of feasible alternatives to mitigate the impacts of the proposed development.

(7) An enhanced trip distribution analysis that includes an evaluation of current ADT and AM / PM peak hour traffic data (including turning movements) at all intersections to where the impact of the development on existing conditions is 5 percent or more.

(8) Identification of any other specific problems or deficiencies that may result from the proposed development and proposed mitigation and / or improvements that are required to address the situation.

(9) A engineer's estimate of probable cost of identified improvements.

(10) If signalization is required, an analysis that addresses all signal-related requirements of the CDOT State Highway Access Code (2 CCR 601-1) Section 2.3(5) for traffic signal analysis.

Division 5.02. Soils Suitability and Drainage Analysis

5.02.010. Purpose and Application of Division

(a) **Purpose of Division.** The purpose of this Division is to establish minimum requirements for soils and drainage reports, to ensure that new development is constructed on suitable soils, that natural geologic hazards are avoided or mitigated where possible, and that drainage is designed in a manner that is consistent with State law.

(b) **Application of Division.** Each section of this Division sets out the types of applications to which the section applies.

In-line notes and commentary are set out in *green italics*.

5.02.020. Geologic and Soils Report

(a) **Generally.** Geologic and soils reports are required for sketch plans or site plans associated with limited or conditional uses, and preliminary plats. Where other application types involve a mandatory dedication of right-of-way (e.g., to mitigate a traffic impact), the County may require a geologic and soils report for the area of land to be dedicated as right-of-way.

(b) **Site Characteristics.** The geologic and soils report shall include the observations of a site visit by a qualified engineer regarding the site characteristics outlined in Colorado Geological Survey, SP-06 GUIDELINES AND CRITERIA FOR IDENTIFICATION AND LAND-USE CONTROLS OF GEOLOGIC HAZARD AND MINERAL RESOURCE AREAS. The report shall address ground subsidence, expansive soil, and rock. The report shall also address the following as may be applicable to the subject property or its immediate environs:

- (1) Avalanche
- (2) Landslide
- (3) Rockfall
- (4) Radioactivity
- (5) Mudflow
- (6) Debris fan
- (7) Unstable and potentially unstable slopes
- (8) Seismic effects

(c) **Soils Suitability.** The report shall assess the suitability of the soils for:

- (1) Building foundations and structures;
- (2) Infrastructure;
- (3) Proposed individual sewage disposal systems, including the cumulative impact of all proposed ISDS on the subject property; and
- (4) Implementation of the proposed drainage plan.

(d) **Irrigation Infrastructure.** The report shall assess the impacts of proposed excavation and development on irrigation infrastructure within 100 feet of the limits of construction, including impacts on the stability of ditch banks and seepage into or out of irrigation ditches.

5.02.030. Drainage Report

(a) **Generally.** A drainage report consists of two parts: a drainage study and a drainage and erosion control plan. Drainage reports are required for sketch plans or site plans associated with limited or conditional uses, and preliminary plats. Drainage reports shall demonstrate compliance with Section 4.07.020, *Stormwater Management, Grading, Erosion, and Sediment Control*, and any applicable state or federal standards for grading, erosion, and sediment control.

(b) **Drainage Study.** The drainage study is intended to analyze the drainage characteristics of the subject property under both the existing condition (pre-development) and proposed condition (post-development). Its principal purpose is to evaluate the drainage impacts of proposed development on downstream properties. The drainage study includes:

- (1) Identification of the major drainage basin, sub basins, and drainageways; and
- (2) Calculation of pre-development and post-development stormwater discharge rates for the five-year and 100-year storm events;
- (3) An evaluation of the impacts of proposed development on adjacent and downstream properties; and
- (4) Proposed mitigation measures and temporary, permanent, structural, and non-structural best management practices ("BMPs"), as appropriate, to ensure that stormwater runoff from the post-development condition does not affect adjacent or downstream properties in a manner or quantity that does more harm than the pre-development condition. The description of BMPs shall include information regarding the use, design, installation, maintenance, and removal of the BMP.

(c) **Drainage and Erosion Control Plan.** The drainage and erosion control plan details the locations and specifications of the mitigation measures and best management practices that are detailed in the drainage study. The drainage and erosion control plan includes:

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

Division 5.03. Water Supply and Sanitary Sewage Disposal

5.03.010. Purpose and Application of Division

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

(b) **Application of Division.**

- (1) Section 5.03.020, *Determination of Adequacy of Water Supply*, sets out the standards for determining whether a proposed water supply is adequate to serve proposed development.
- (2) Section 5.03.030, *Fire Protection Report*, sets out requirements for a fire protection report that demonstrates that the applicable fire protection district has approved the fire protection plan for the proposed development or subdivision.
- (3) Section 5.03.040, *Sanitary Sewage Disposal*, sets out requirements for verification that sanitary sewer connections and capacity is available, or that individual sewage disposal systems are permissible and appropriate.
- (4) Section 5.03.050, *Irrigation Water*, sets out standards for the planning and design of subdivisions that are intended to be served with irrigation water.

5.03.020. Determination of Adequacy of Water Supply

(a) **Generally.** Proof of adequacy of water supply is required for sketch plans associated with permitted uses, sketch plans or site plans associated with limited or conditional uses, preliminary plats, and final plats, and also to additional residences, communal living, and seasonal farmworker housing if such accessory residential uses result in two or more dwelling units on a single lot.

(b) **Exceptions.**

- (1) Proof of adequacy of water supply is not required if previously provided during the review for a prior approval related to the same proposed development (*e.g., if proof of adequacy was provided for a preliminary plat, and subsequently a final plat application is filed that is consistent with the preliminary plat, additional proof of adequacy is not required*).
- (2) However, additional proof of adequacy of water supply may be required if:
 - a. The County determines that the proposed development has changed since the prior determination in a manner that will require additional water supply or changed water supply parameters (*e.g., a subdivision is approved for residential development, and then a conditional use permit is requested for a nonresidential use*); or
 - b. The County determines that the water supply that was previously evaluated has materially changed since the prior determination of adequacy.

(c) **Scope of Evidence.**

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(1) Adequate evidence shall be provided that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision or development proposed.

(2) Such evidence may include, but shall not be limited to:

- a. Evidence of ownership or right of acquisition of or use of existing and proposed water rights;
- b. Historic use and estimated yield of claimed water rights;
- c. Amenability of existing rights to a change in use;
- d. Evidence that public or private water owners can and will supply water to the proposed subdivision stating the amount of water available for use within the subdivision and the feasibility of extending service to that area;
- e. Evidence concerning the potability of the proposed water supply for the subdivision.

(d) **Limitations.** Cisterns shall not be considered an adequate water supply for residential uses.

5.03.030. Fire Protection Report

Fire protection facilities shall be reviewed and approved by the appropriate Fire Protection District for sketch plans associated with permitted uses, sketch plans or site plans associated with limited or conditional uses, and preliminary plats. An improvements agreement and appropriate collateral shall be required for all fire improvements.

5.03.040. Sanitary Sewage Disposal

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

(b) **Evidence Required.** The applicant shall provide evidence to establish that, if a public sewage disposal system is proposed, provision has been made for such system and, if other methods of sewage disposal are proposed, evidence that such systems will comply with state and local laws and regulations that are in effect at the time of application for development approval.

5.03.050. Irrigation Water

(a) **Generally.** This Section applies to subdivisions in which irrigation water is to be divided and allocated among the lots.

(b) **Contents of Irrigation Plan.** The irrigation plan shall describe the ditch infrastructure, easements, and maintenance that will be required to provide for continued water flow and delivery to the lots in the subdivision, along with the allocation of maintenance and operational responsibilities. If existing irrigation infrastructure on the subject property is owned, controlled, or operated by a ditch company, or otherwise connected to ditch company infrastructure, then the irrigation plan shall be approved by the ditch company.

(c) Plat Requirements.

- (1) Shared irrigation infrastructure shall be located within tracts that are either commonly owned by the lot owners in the subdivision, or owned by the ditch company that owns, controls, or operates the irrigation infrastructure.
- (2) Tracts shall be large enough to accommodate the channel or pipeline, appurtenances, service roads, and additional areas that may be necessary for routine and periodic maintenance.
- (3) If the tracts are commonly owned by the lot owners but the irrigation infrastructure is controlled or operated by a ditch company, then the applicant and the ditch company shall execute an agreement to provide for the long-term operation, maintenance, and repair of the ditch infrastructure. Such agreement (or a memorandum thereof) shall be recorded before or contemporaneously with the final plat.
- (4) Easements shall be provided to distribute the water to the lots.
- (5) The County may waive the requirements of this subsection (c) upon demonstration that an alternative legal arrangement will provide for the efficient long-term operation and maintenance of the irrigation infrastructure.

Division 5.04. Improvements Agreements and Financial Guarantees

5.04.010. Purpose and Application of Division

(a) Purpose of Division. Public improvements shall include all improvements required by this Code and the Delta County Roadway Design and Construction Standards, and all public improvements proposed for installation by the applicant, including, but not limited to, roads, bridges, sidewalks, trails, drainage, water, sewer, utilities, landscaping, buffering, noise mitigation, right-of-way monumentation and any other public improvements required to be installed or completed as part of a subdivision or development.

(b) Application of Division. Improvements agreements are required to accompany final plats, sketch plans, and site plans that involve the construction or installation of public improvements.

5.04.020. Improvements Agreements

(a) Generally. At the time that construction plans, profiles, and specifications for public improvements are approved by the County, the applicant shall prepare an improvements agreement providing for the installation of all approved public improvements. No final plat that involves public improvements shall be approved by the County or recorded until an improvements agreement has been fully executed.

(b) Minimum Contents of Agreement. The improvements agreement shall address, at a minimum:

- (1) The manner and timing of the completion of all public improvements;
- (2) The responsibility for payment of the costs of the public improvements;

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- (3) The provision of as-built road construction and drainage plans, stamped by a registered Professional Engineer prior to preliminary acceptance of the improvements by the County;
- (4) The provision of a financial guarantee (in the amount of 100 percent of the estimated cost of construction / installation of the public improvements) to ensure the completion of public improvements within a period of time specified within the improvements agreement; and
- (5) The provision of a financial guarantee (in the amount of 20 percent of the estimated cost of construction / installation of the public improvements) to warrant the quality of materials and workmanship of all public improvements after inspection, as required by the Delta County Roadway Design and Construction Standards.

(c) **County Participation in Public Improvements.** If the County is to participate in the cost of constructing any public improvements, then the improvements agreement shall:

- (1) Establish and set forth the extent to which the County is to participate, including, without limitation, improvements to collector or arterial roads.
- (2) State that County financial commitments shall be subject to appropriation if they extend beyond the current budget year.
- (3) Require the applicant to fully account to the County for all costs incurred in the construction of any public improvement that is subject to County participation, and to open the books and records of the applicant relating to such public improvement to the County at all reasonable times for the purpose of auditing or verifying such costs.

(d) **Reimbursement Provisions.**

- (1) An applicant may request fair-share reimbursement of the cost of any roads, storm drainage facilities, and other public improvements that the County requires the applicant to construct adjacent to or outside the subdivision, if the improvements are oversized in comparison to the demands created by the proposed development of the subject property.
- (2) The reimbursement provisions shall:
 - a. Specifically identify the off-site improvements that are covered by the reimbursement requirement;
 - b. Provide for verification of costs associated with said improvements;
 - c. Delineate the area that is benefitted by the improvements;
 - d. Set out the methodology for assessing the benefitted properties for their fair share of the improvement costs as they are developed; and
 - e. Identify timing and mechanism for reimbursement payments.
- (3) The reimbursement period shall not exceed 15 years from the date of completion of an improvement.

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(4) All improvements agreements that include reimbursement provisions shall be approved by the Board of County Commissioners after public hearing for which the owners of the benefitted properties receive mailed notice.

(e) **Recordation.** The improvements agreement shall be recorded at the applicant's expense, and if it includes reimbursement provisions, it shall include an attachment that describes the properties that are subject to the reimbursement obligation.

(f) **Optional Contents of Agreement.** An improvements agreement may include any other provisions agreed to between the applicant and the County, as may be necessary to ensure that the development is carried out in accordance with the approval, and as may be necessary to identify the timing, phasing, and responsibilities for construction and maintenance of public improvements.

5.04.030. Maintenance Agreements

(a) **Generally.** Maintenance agreements shall be provided to ensure perpetual maintenance of local roads, stormwater facilities, and private recreation and open space areas. Maintenance agreements shall be recorded in the chain of title of the affected properties (the property to be maintained and the property that has maintenance obligations imposed upon it), and shall be enforceable by the County.

(b) **Local Roads.** All new local roads within a subdivision shall be publicly-owned and privately maintained. The maintenance agreement shall provide for ongoing maintenance, right-of-way mowing, and snow removal at the expense of the owners of the lots in the subdivision (generally by way of a property owners' association).

(c) **Drainage Facilities.** Drainage facilities shall be maintained by the owners of lots within subdivisions (generally by way of a property owners' association), or by the owner of the property upon which the facilities are located.

(d) **Private Open Space and Recreation Facilities.** Private open space and recreation facilities shall be maintained by the owners of lots within subdivisions (generally by way of a property owners' association), by the owner of the property upon which the facilities are located, or by the holder of a conservation easement over the private open space.

5.04.040. Financial Guarantees

Financial guarantees that are required by this Division shall take the form of cash escrows, irrevocable standby letters of credit, or performance bonds. Documentation of the financial guarantees shall be in a form approved by the County Attorney.

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PART 6. LAND DEDICATION AND FEES-IN-LIEU

Division 6.01. Land Dedication

6.01.010. Purpose and Application of Division

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

(b) **Application of Division.**

(1) Section 6.01.020, *Land, Easements, and Public Improvements Dedicated or Conveyed to County*, sets out the minimum standards for the physical and legal condition of property that is dedicated or conveyed to the County (e.g., for roads, trails, parks and open space, etc.) to meet the requirements of this Code.

(2) Section 6.01.030, *Preliminary and Final Acceptance of Public Improvements*, details the process for obtaining preliminary and final acceptance of public improvements that are dedicated to the County or for which warranties are required.

(3) Section 6.01.040, *Park Land Dedication*, sets out specific standards for the dedication of land for parks and open space when property is either developed or subdivided for residential purposes.

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

(a) **Generally.** Land, easements, and public improvements that are dedicated or conveyed to the County pursuant to this Code shall meet the requirements of this Section.

(b) **Physical Condition.** In addition to any other requirements of this Division, the physical condition of the land or easements dedicated to the County shall be appropriate for the purposes to which the land or easement is to be used. The County may require documentation of the physical condition of the land or easement, including studies outlined in Division 5.02, *Reports and Plans Regarding Drainage and Hazards* and including a Phase I Environmental Assessment (and a Phase II Environmental Assessment if the need for such assessment is identified by the Phase I Environmental Assessment). Such documentation shall be certified to the County and provided at the applicant's expense.

(c) **Condition of Title.** In addition to any other requirements of this Division, all land or easements dedicated or conveyed to the County shall be free and clear of:

(1) Financial liens or encumbrances, including but not limited to deeds of trust, enforcement liens, tax liens, and mechanics liens, the foreclosure of which could eliminate the County's interest;

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(2) Reversionary interests, unless the County specifically finds that such interests are not inconsistent with the purposes of the dedication or conveyance; and

(3) Easements, servitudes, or surface use agreements that conflict with or are inconsistent with the intended use of the land or easement by the County.

(d) **Tax Obligations.** All real estate taxes and assessments on land or easements to be dedicated or conveyed to the County shall be paid in full as of the date of the dedication or conveyance.

6.01.030. Acceptance of Public Improvements

Public improvements that are detailed in an improvements agreement are subject to preliminary and final acceptance as provided the Delta County Roadway Design and Construction Standards, as may be amended from time to time.

6.01.040. Park Land Dedication

(a) **Generally.** Land shall be dedicated for parks and open space as provided in this Section. The County may accept such dedications, or require that such dedications be made directly to School Districts; Metropolitan Districts providing park and recreation services, or Park/Recreation Districts that have agreed to accept and manage such lands for public parks, recreation, and open space purposes.

(b) Requirements and Credits.

(1) Land for neighborhood parks shall be dedicated at a rate of six acres per 1,000 residents that are projected to live in a proposed subdivision (0.0143 acres per dwelling unit) or development, except that where the average density of the subdivision or development is less than one dwelling unit per 10 acres, no dedication for neighborhood parks is required.

(2) Land for regional parks and open space shall be dedicated at a rate of four acres per 1,000 residents that are projected to live in a proposed subdivision (0.0095 acres per dwelling unit).

(3) Commercial and industrial subdivisions are not required to provide land for parks.

(4) **Credit for Private Parks.** Private land that is developed to serve the residents of a subdivision or development may be credited on an acre-for-acre basis toward the neighborhood park dedication requirement, provided that arrangements are made to maintain and guarantee that the amenities are retained for the intended open space / recreational uses for the life of the subdivision or development. Such arrangements may include deed restrictions; plat notes; or other similar mechanisms that are approved by and enforceable by the Board of County Commissioners.

(5) Characteristics of Dedicated Land.

a. Land for neighborhood parks shall be:

i. Not less than one acre in area;

ii. Located outside of sensitive lands; and

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iii. Relatively level, in order to allow for the development of active recreational facilities.

b. Land for regional parks and open space shall be:

i. Not less than 20 contiguous acres in area; and

ii. Suitable for its intended use in terms of topography, hazards, and sensitive areas, as determined by the County, special district, or other entity that will be responsible for owning and operating the regional park or open space.

(c) **Infrastructure and Services.** All lands dedicated pursuant to this Section shall be served by adequate and appropriate roads, utilities, and other public infrastructure necessary to support the intended use of the dedicated land for parks or open space, or an improvements agreement and appropriate collateral shall be provided in lieu of installing the required infrastructure and services prior to recordation of a final plat.

Division 6.02. Fees-in-Lieu for Parks, Recreation, and Open Space

6.02.010. Purpose and Application of Division

(a) **Purpose of Division.**

(1) As an alternative to land dedication for parks and open space pursuant to Division 6.01, *Land Dedication*, the Board of County Commissioners may require the payment of fees-in-lieu, or a combination of land and fees-in-lieu, not to exceed the market value of such land as served by the improvements proposed by the applicant.

(2) Fees-in-lieu shall be required if the amount of land that is required to be dedicated does not meet the minimum area requirements of Section 6.02.040, *Park Land Dedication*.

(b) **Application of Division.**

(1) *Land Value.* On the effective date, the Board of County Commissioners finds that the average value of land with available services is \$12,600 per acre. Fees-in-lieu are based on this value. The Board of County Commissioners may by resolution after hearing adequate evidence, update the average value from time to time.

(2) *Individual Assessment.* An applicant may petition the Board of County Commissioners for an individual assessment of the value of the applicant's land to be considered for fees-in-lieu. The applicant shall provide evidence in the form of an appraisal by a qualified appraiser as to land that meets the requirements of Division 6.01, *Land Dedication*. The Board of County Commissioners may approve the petition if the Board finds that the applicant's appraisal is credible.

6.02.020. Fees-in-Lieu for Parks and Open Space

(a) **Generally.** Fees-in-lieu for parks and open space shall be paid per net new dwelling unit created by a proposed subdivision, sketch plan, or site plan.

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(b) **Timing of Payment.** Fees-in-lieu for parks and open space shall be paid to the County for each net new residential lot or dwelling unit as follows as a condition of recordation of the final plat.

6.02.030. Administration

(a) **Generally.** The fees-in-lieu that are paid pursuant to this Division shall be used only for the purpose of providing parks and open space. All fees-in-lieu, or proceeds from the sale of dedicated land, that are collected by the County shall be kept in a separate account to be used as provided in subsection (b), below.

(b) **Use of Funds.**

(1) All fee-in-lieu or proceeds from the sale of dedicated land collected by the County shall be used by the County exclusively for the acquisition and development of parks, recreational facilities, and open spaces to serve present and future residents of the County. Parks funds may be allocated between neighborhood parks and regional parks as appropriate to provide optimal services and amenities.

(2) The eligible uses of fees-in-lieu or proceeds from the sale of dedicated land shall be for site acquisition for new parks, recreation, and open space lands. The County may distribute lands or fees-in-lieu as provided in subsection (c), below, or the County may retain the fees-in-lieu for County expenditures that comply with this Section.

(c) **Distribution of Fees-in-Lieu.** The County may distribute lands or funds from land sales or fees-in-lieu to support eligible projects conducted by the following entities: school districts; metropolitan districts that provide park and recreation services, or parks and recreation districts. Eligibility is based on the following criteria:

- (1) The project for which funds are requested is authorized by the entity requesting the funds by way of a formally adopted plan or a formal resolution.
- (2) The project for which funds are requested is specific in terms of size, use, location, timing, and cost. A reasonable means of funding the entire project is described to the County, although not all funding has to be in hand at the time of request.
- (3) The development is consistent with the Delta County Comprehensive Plan and the Comprehensive Plan for the affected municipality of the project is located within an urban growth area.
- (4) The project for which funding is requested is needed to support new development.

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Part 7 Development Approval Required & Exemptions

Division 7.01 Development Approvals Required

7.01.010. Development Approval Required

(a) **Generally:** Unless specifically exempted by this Code, development approval is required for development and redevelopment activities. The required development approvals are set out in this Division. Other approvals (*e.g.*, access permits, well permits, septic permits, or federal or state permits or licenses) may also be required.

7.01.020. Exemptions from Approval Requirement

(a) **Generally.** The following are not subject to approval pursuant to this Code, but may be subject to other permitting processes (*e.g.*, access permits, well permits, septic permits, or federal or state permits or licenses):

- (1) The establishment, continuation, or modification of land uses that are listed as “allowed as-of-right” in Division 2.02, *Land Use by Zoning District* in the zoning district in which the subject property is located.
- (2) The establishment, continuation, or modification of accessory business uses of the home.
- (3) The subdivision of land that is statutorily exempt from County Subdivision authority.

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Part 8 Standardized Application Review Process

Division 8.01. Application Submittal Requirements

8.01.010. Pre-Application Meeting

(a) Generally.

- (1) A pre-application meeting is an opportunity for the potential applicant to meet with County staff before filing an application, in order to:**
 - a. Identify the applicable review procedures and likely timelines;**
 - b. Review preliminary materials and identify potential issues and related information requirements; and**
 - c. Identify what fees will be due, including whether an escrow payment will be required for professional consultant review.**
- (2) 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.**

(b) When Required.

- (1) A pre-application meeting is required for all application types except:**
 - a. A zoning certificate for a permitted use;**
 - b. When waived by the Director.**
- (2) Informal meetings may be scheduled prior to a pre-application meeting, at the discretion of the Director.**

(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.

(e) Summary. Upon request by the potential applicant, within 21 calendar days of 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.**

(f) Courtesy Presentations. At the pre-application meeting, a potential applicant may request an opportunity to make a courtesy presentation of a proposed development concept or conceptual subdivision map in a design charrette process. Attendees may include appropriate staff, referral

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agencies, design professionals, and other persons identified by the Director or the potential applicant.

8.01.020. Application:

(a) **Generally.** Every application for approval that is required by this Code shall be submitted on a form approved by the Director, along with the corresponding application fee (fees are established by resolution of the County Commission). 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 Code.

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

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

b. The administration of this Code.

(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) **Waiver or Expansion of Requirements.** Application requirements may be waived or expanded by the Director if the nature of the application is such that the requirements would serve no useful purpose, or such that additional information is needed to evaluate compliance with the requirements of this Code. The Director may not waive application fees.

(5) **Schedule.** The Director is authorized, but not required, to establish regular intake days or times for any or all classifications of applications for development approval, except administrative appeals.

8.01.030. 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 delay or denial of an application.

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(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 Code.
- 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.
- b. A schedule of minimum required escrows for different application types may be attached to the fee resolution described in subsection (a), above.
- c. 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. Failure of the applicant to timely provide additional escrow funds may result in delays in application processing.
- 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.

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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 Director, then, in addition to the other remedies the County may have, the County shall be entitled to a lien on the subject property, or the County may elect to certify the assessed costs and expenses to the office of the County Treasurer for collection in the same manner as general property taxes are collected. Such lien shall be perfected and may be foreclosed upon in accordance with applicable state laws.

- 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.

Division 8.02. Initial Application Review Process

8.02.010. Completeness Review

(a) **Generally.** The Director shall review all submitted applications for completeness. A complete application includes all of the materials required on the application forms, materials requested at the pre-application conference, any required professional certifications, and all fees and escrows that are required for application processing.

(b) **Schedule.** Generally, all applications shall be reviewed for completeness within seven calendar days after an application is submitted.

(c) **Incomplete Applications.**

- (1) **Incomplete applications shall be returned to the Applicant, along with any fee included with the application, with a written explanation that describes in general terms the materials that must be submitted in order to complete the application.**

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(2) An application that does not include the applicable processing fee shall not be considered complete.

(3) Incomplete applications are not considered filed.

(d) **Complete Applications.** Upon a determination of completeness, the Director shall promptly provide notice to the applicant in the manner requested on the application (e.g., email or U.S.P.S.) regarding the status of the application. Complete applications shall be processed according to the applicable procedures of this Article.

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8.02.020. Sufficiency Review

(a) **Generally.** All applications shall be technically sufficient for review, meaning that:

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(1) The application materials are internally consistent, and presented as required by this Code and the applicable application forms.

(2) Materials are prepared by qualified professionals (where such qualifications are required), and signatures and certifications are present, if required.

(3) The application materials are technically sufficient (e.g., legal descriptions and calls and distances on surveys describe closed polygons within acceptable tolerances, calculations that are provided are performed according to the methodologies referenced in this Code, etc.) to demonstrate compliance with applicable standards of this Code.

(b) **Insufficient Applications.**

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(1) An application is insufficient if it does not meet the standards of subsection (a). above.

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(2) If an application is determined to be insufficient, the Director shall notify the Applicant and provide a written explanation regarding the materials that must be submitted, or revisions that must be made, in order to continue processing the application.

(c) **Sufficient Applications.** Technically sufficient applications shall be processed according to the applicable standards and procedures of this Chapter.

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8.02.030. Technical Review:

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(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 Code, as follows:

(1) Appropriate County staff or consultants shall review the application; and

(2) If required or determined appropriate by the Director, the application shall be promptly referred to applicable referral agencies and adjacent property owners for review and comment pursuant to Section 8.03.010, *Referrals* and 8.04.010 *Public Notice*.

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8.02.040. Recommended Revisions.

(a) **Generally.** Following review of the application, referral agencies, and adjacent property owners, the Director shall:

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

8.02.050. Stale Applications

- (a) **Generally.** This Section is intended to extinguish applications that become "stale" due to prolonged inaction or nonresponsive action by the Applicant prior to a decision by the County.
- (b) **Expiration of Stale Applications.** When an action by the Applicant is required for further processing of an application (e.g., if a notice of insufficiency is issued pursuant to Section 7.04.070, *Sufficiency Review*, or if revisions are requested pursuant to Section 7.04.090, *Administrative Review*), the application shall become void if the requested action is not taken within 10 business days after additional notice to the Applicant, such notice given six months after the date that the action is requested.
- (c) **Extension of Time.** The time for expiration of an application pursuant to subsection (b), above, 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.

Division 8.03. Referral to Agencies, Consultants, and Adjacent Property Owners.

8.03.010. Referrals

- (a) **Generally.** Applications shall be referred for additional review by agencies or consultants according to the procedures set out in this Section. Referral agencies are identified in Section 7.02.060, *Referral Agencies*.
- (b) **Referral Required.** Referral is required for the following types of applications:
 - (1) Preliminary Plats (*see C.R.S. § 30-28-136*)
 - (2) Conditional Use Permits
 - (3) Certificate of Designation

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(c) **Discretionary Referrals.** The Director may refer any type of application not enumerated in subsection (b), above, if the Director finds that such referral will provide analysis or facts that are helpful in determining the application's compliance with this Code.

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

(1) The Director shall maintain a list of referral agencies that may be affected by land use and development within the unincorporated County, or that may provide technical expertise with respect to development review. Except as provided by Colorado law, referral agency comments are advisory in nature.

(2) *Referral Agency List.* The list of referral agencies, and the applications types and topics for which review must be requested, are set out in Table 7.02.060, *Referral Agency Review*. The table sets out minimum requirements and is not intended to limit the entities to which referrals may be sent, or the scope of review that the referral agencies provide.

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TABLE 7.02.060 REFERRAL AGENCY REVIEW		
Agency	Topic	When Required
Delta County School District 50J	Projected impact on Schools; School capacity; ability of School District to serve anticipated population	Preliminary Plat Review
Electric Power Provider	Ability and willingness to serve; required facilities and easements	Preliminary Plat Review
Natural Gas Provider	Ability and willingness to serve; required facilities and easements	Preliminary Plat Review
Water Provider	Ability and willingness to serve; Adequacy of water supply; required facilities and easements	Preliminary Plat Review
Wastewater Treatment Provider	Ability and willingness to serve; required facilities and easements	Preliminary Plat Review
Communications Provider	Ability and willingness to serve; required facilities and easements	Preliminary Plat Review
Municipalities and Adjacent Counties	Potential Impacts on the Municipality or County	Preliminary Plat Review (if any part of a proposed subdivision is within two miles of a municipal or county boundary, the application shall be referred to that municipality or county); and limited or conditional uses, if any part of the subject property is within one mile of a municipal or County boundary.

In-line notes and commentary are set out in *green italics*.

TABLE 7.02.060 REFERRAL AGENCY REVIEW		
Agency	Topic	When Required
Ditch Companies	Impacts on ditch, canal, pipeline, or reservoir infrastructure or operations	Preliminary Plat Review, Final Plat Review, Site Plan Review, and Sketch Plan Review where the ditch company owns, operates, or controls a ditch, canal, pipeline, reservoir, or other property (including easements, whether recorded or not) within 100 feet of a proposed development, or that may be directly affected by development due to topography or drainage patterns
Local Improvements and Service Districts	Impacts on the services provided by the Local Improvements or Service District	Preliminary Plat Review, Site Plan Review, and Sketch Plan Review, when the subject property is located within the District boundary, or when the property is obligated to join the District
Colorado State Forest Service	Evaluation of potentially sensitive lands; wildfire risks and risk mitigation	Preliminary Plat Review, Site Plan Review, and Sketch Plan Review, when the subject property is in an area of elevated wildfire risk or includes sensitive lands
Delta Conservation District	Soil suitability; floodwater problems; wetland evaluation; and watershed protection	Preliminary Plat Review or Final Plat Review (where Preliminary Plat is not required)
Delta County Environmental Health Division or Colorado Department of Public Health and Environment ("CDPHE")	On-site septic systems; adequacy of existing or proposed sewage treatment works to handle the estimated effluent; and water quality of the proposed water supply to serve the development	Preliminary Plat Review, Final Plat Review (where Preliminary Plat is not required), Site Plan Review, and Sketch Plan Review, where on-site septic systems are proposed
State Engineer	Potential for material injury to water rights of others; adequacy of water supply (see C.R.S. § 30-28-136(1)(h))	Preliminary Plat Review or Final Plat Review (where Preliminary Plat is not required)
Colorado Geological Survey	An evaluation of those geologic factors that would have a significant impact on the proposed use of the land	Preliminary Plat Review; except that, upon written request from the Board of County Commissioners or the Board's authorized representative, the Colorado Geological Survey may exempt any preliminary plan from this referral and review requirement.

In-line notes and commentary are set out in *green italics*.

TABLE 7.02.060 REFERRAL AGENCY REVIEW		
Agency	Topic	When Required
Colorado Parks and Wildlife ("CPW")	Comments regarding wildlife and habitat values; implementation of State Wildlife Action Plan	Preliminary Plat Review, Final Plat Review (where Preliminary Plat is not required), Site Plan Review, and Sketch Plan Review, where the Director determines that CPW review would facilitate processing the application

(3) Limitations. Table 7.02.060, *Referral Agency Review*, is not intended to restrict the comments provided by referral agencies or prevent the County from referring application materials to other entities, agencies, or individuals. Referral agencies may provide any comments that the agency determines will be helpful to the processing of the application.

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(e) Process.

(1) The Director shall refer the application as required by Section 7.02.060, *Referral Agencies*, and may refer the application to any other agency, jurisdiction, ditch company, land management entity, utility, or department that the Director determines is likely to be materially affected by the application, or that has expertise in a subject matter potentially impacted by the application. The Director's determination regarding such additional referrals is not appealable.

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(2) The agency referral period is 21 calendar days. The referral period may be extended by up to 30 additional days by mutual consent of the Applicant and the Director.

(3) Failure of an agency to respond within the prescribed agency referral period is interpreted as consent by that agency to the contents of the application. However:

- a. For a preliminary plat that involves twenty or more dwelling units, the school district shall be required to submit within said time limit specific recommendations with respect to the adequacy of school sites and the adequacy of school structures;
- b. An agency that does not timely respond does not waive any authority it may have by virtue of concurrent jurisdiction with the County; and
- c. Consent is not implied if the Applicant fails to pay the agency's required review fees and the agency reports same to the County within the agency referral period.

(f) 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.

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Division 8.04. Public Notice

8.04.010. Public Notice

(a) **Generally.** For applications that require public notice, public notice shall be provided according to the standards of this Section.

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

- (1) The phrase "PUBLIC NOTICE" or "NOTICE OF PUBLIC HEARING" (as appropriate to the notice) at the top of the notice. For posted notice, these letters shall be not less than three inches in height.
- (2) A brief description of the type of application (e.g., application for preliminary plat approval).
- (3) The date, time, and place of the hearing.
- (4) A brief summary of what the Applicant is requesting (e.g., approval of a subdivision).
- (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 (this requirement does not apply to text amendments that are generally applicable).
- (6) A notice that interested persons may obtain more information from the Director.
- (7) Contact information for the Director.

(c) **Types of Public Notice.** Table 7.04.110C, *Types of Public Notice*, sets out standardized requirements for publication, posting, and mail notice that are used for different application types and different phases of the application process. The types of notice that are set out in the table are used to establish notice requirements for each type of application in Table 7.04.110D, *Required Public Notice by Application Type*.

TABLE 7.04.110C TYPES OF PUBLIC NOTICE			
Type of Notice	When Required	Frequency or Duration	Other Requirements
Publication	At least 14 days before public hearing	1 publication	N/A
Posting	At least 14 days before public hearing	Post until public hearing commences	N/A
Mail 1	At least 14 days before public hearing	1 mailing	Mail to adjacent property owners (includes properties separated only by a right-of-way)
Mail 2	At least 14 days before public hearing	1 mailing	Mail to property owners within a 1,000 ft. of the boundaries of the subject property

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(d) **Type of Public Notice Required by Application Type.** Table 7.04.110D, *Required Public Notice by Application Type*, sets out the notices that are required at each state of processing for each type of application for which notice is required.

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TABLE 7.04.110D REQUIRED PUBLIC NOTICE BY APPLICATION TYPE			
Application Type	Form of Required Public Notice for ...		
	Director Review	BOA or PC Review	BOCC Review
Land Use / Zoning			
Zoning certificate for limited use (and associated sketch plan or site plan) that is marked with an asterisk (*) in Table 2.02.020, Land Use by Zoning District	Posting Mail 1	N/A	N/A
Conditional use permit (and associated sketch plan or site plan)	N/A	Posting Mail 1	Posting Mail 1
Rezoning	N/A	Posting Mail 1	Publication Posting Mail 1
Certificate of Designation	N/A	Publication Posting Mail 2	Publication Posting Mail 2
Development Plans and Subdivision Plats			
Final Plat, Minor	Posting Mail 1	N/A	N/A
Preliminary Plat	N/A	Posting Mail 1	Posting Mail 1
Final Plat and Improvements Agreements	N/A	N/A	Posting Mail 1
Location and Extent	N/A	Mail 1	Mail 1
Variances and Appeals			
Variance	N/A	Posting Mail 1	N/A
Administrative Appeal to BOA	N/A	Posting Mail 1	N/A
Administrative Appeal to BOCC	N/A	N/A	Posting Mail 1
Text Amendments			
Text Amendments	N/A	Publication	Publication
Vested Rights			
Vested Rights	N/A	As provided in Sec. 7.08.050, Special Notice Requirements	

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(e) **Standards for Required Notices.**

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(1) *Publication.* Published notice shall be printed in a newspaper of general circulation in Delta County.

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

(3) *Mail.* Mailed notice shall be delivered via first class U.S. Mail.

(f) 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 unincorporated County. Electronic mail notice shall include the subject line "PUBLIC NOTICE OF PROPOSED DEVELOPMENT," 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 an official web site of the County, on a page or pages that are designated for such notices. However, internet notice is also provided as a courtesy and is not official notice. Therefore, failure of internet notice shall not constitute a failure of public notice.

(g) Errors in Notices. The standard for compliance with this 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.

(h) Notice to Mineral Estate Owners.

(1) Notices to mineral estate owners shall be provided not less than 30 days before the date scheduled for the initial public hearing on an application for development (as the phrase is defined in C.R.S. 24-65.5-102(2)(a)), as required by Article 65.5 of Title 24 C.R.S. *Notification of Surface Development.*

(2) *Exceptions.* If notice to mineral estate owners is not required by the statute, the applicant shall state the reason or reasons for the exemption.

(3) *Contents of Notice.* The notice shall contain the time and place of the initial public hearing, the nature of the hearing, the location and legal description by section, township, and range of the subject property, and the name of the applicant.

(4) *Proof of Notice.* Proof of notice shall be provided to the County not less than 30 days before the hearing that is the subject of the notice.

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Part 9 Land Use Review Process

Division 9.01. Administrative Review for Zoning Permits, Sketch Plan, and Site Plan Approval

9.01.010. Administrative Review Established

(a) Generally.

- (1) Administrative approvals and permits are issued by the Director upon a finding of compliance with the applicable requirements of this Code. **No public hearing is required.**
- (2) The administrative approvals and permits that are required by this Code are set out in Table 9.01.010, *Administrative Approvals and Permits*. These approvals and permits are granted or issued by the Director.

TABLE 9.01.010 ADMINISTRATIVE APPROVALS AND PERMITS				
Approval or Permit	Purpose	Timing	Exceptions	Reference
<u>Land Use Approvals</u>				
<u>Zoning Permits</u>	Certifies compliance with this Code prior to establishment or major modification of a Permitted Use or Limited Use	Prior to establishment or major modification of the use	None	<i>passim</i>
<u>Sketch Plan Approval</u>	Shows general layout of uses, buildings, structures, and improvements on a subject property to demonstrate that a Permitted Use, Limited Use, Additional Residence, Communal Living, or Seasonal Farmworker Housing proposal complies with this Code	Prior to first to occur of: establishment of the use (or accessory use) or construction related to the use or accessory use	Where Director determines that Site Plan approval is necessary to evaluate compliance with Code requirements for a limited use; where Code requires a site plan approval for the specific use	<u>§</u>

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TABLE 9.01.010 ADMINISTRATIVE APPROVALS AND PERMITS				
Approval or Permit	Purpose	Timing	Exceptions	Reference
Site Plan Approval	Shows specific, scaled layout of uses, buildings, structures, and improvements on a subject property to demonstrate that a Limited Use, Additional Residence, Communal Living, or Seasonal Farmworker Housing proposal complies with this Code	Prior to first to occur of: establishment of the use (or accessory use) or construction related to the use or accessory use	None	§
Reasonable Accommodation	Providing a "reasonable accommodation" for one or more disabled persons in accordance with Federal law	Generally, prior to development of or change to subject property in a manner that requires the reasonable accommodation; may be granted retroactively for good cause shown	N/A	§ 7.05.030

(b) **Other Approvals and Permits May Be Required.** These approvals and permits are in addition to other reviews, approvals, and permits that may be required for compliance with other laws, statutes, or regulations, which may include but are not necessarily limited to:

- (1) State or federal law, including, but not limited to, the Clean Water Act, the Clean Air Act, or the Endangered Species Act;
- (2) Adopted building and safety codes;
- (3) Ordinances that require permits for activities on public land or within public rights-of-way; or
- (4) Business licensing ordinances.

9.01.020. Administrative Review Process

(a) **Administrative Recommendation, Decision, or Referral.** Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant to Section 8.02.040 *Recommended Revisions* (or, after finding that no revisions will be required):

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(1) If the application is for an administrative approval or permit, then the Director shall verify public notice has been given, if required (see Sec. 8.04.010, Public Notice), and either:

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- a. 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
- b. Refer the application to the Planning Commission for review and recommendation and Board of County Commissioners for decision according to the applicable standards of this Code, upon a determination by the Director, in his or her sole discretion, that the development, as proposed justifies the referral because it:
 - i. May have material impacts on neighboring properties or public resources that are unusual in kind or degree due to the unusual context of the subject property; or
 - ii. Involves material potential for reasonable disagreement regarding whether the proposed development complies with the standards of this Code, or whether particular standards of this Code apply.

(2) If referred, the application shall be processed as a Conditional Use permit in accordance with Section 9.02.010 Public Hearing for Conditional Use Permits and Rezoning.

(3) If the application is referred for a public hearing approval, then the Director shall make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the next body that will consider it for further recommendation or approval.

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Division 9.02. Public Hearing for Conditional Use Permits and Rezoning

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9.02.010. Public Hearing Process

(a) Generally.

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- (1) Approvals and permits are issued upon a finding of compliance with applicable requirements of this code following a public hearing with the applicable review body.
- (2) The public hearing approvals and permits that are required by this Code are set out in Table 9.02.010, Public Hearing Approvals and Permits. These approvals and permits are in addition to other reviews, approvals, and permits that may be required for compliance with other laws, statutes, or regulations, which may include but are not necessarily limited to:
 - a. State or federal law, including, but not limited to, the Clean Water Act, the Clean Air Act, or the Endangered Species Act;
 - b. Adopted building and safety codes;
 - c. Ordinances that require permits for activities on public land or within public rights-of-way; or

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d. Business licensing ordinances.

TABLE 9.02.010 PUBLIC HEARING APPROVALS AND PERMITS						
Approval or Permit	Required For	Timing	Exceptions	Recommendation By	Decision-Maker	Reference
Conditional Use Permit	Approval of a Conditional Use	Prior to the first to occur of: establishment of a Conditional Use or construction related to improvement that will be put to the Conditional Use	None	PC	BOCC	§ 7.05.060
Site Plan Approval	Establishment or Major Modification to a Conditional Use, if required by this Code or the Director	Concurrently with Conditional Use Permit, or prior to construction not shown on previously approved site plan	None	PC	BOCC	§ 7.05.070
Zoning or Rezoning	Changing the zoning that is applicable to a subject property	Any	N/A	PC	BOCC	§ 7.05.040

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(b) Public Hearing Review of Conditional use or Rezoning Process:

(1) Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant to Section 8.02.040 *Recommended Revisions* (or, after finding that no revisions will be required):

- a. The Director shall **verify public notice has been given (see Sec. 8.04.010, Public Notice)**
- b. The Director shall make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the next body that will consider it for further recommendation or approval.

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- c. The Director shall set the application on the agenda of the next body that will consider the application.
- d. Generally, the application shall be heard during the next regular meeting of that body that meets the following two conditions:
 - i. There is sufficient time to meet applicable public notice requirements; and
 - ii. There is available room on the agenda.
- e. The Director shall coordinate with recommending and decision-making bodies to fix reasonable times for hearings. Said bodies are authorized to convene special meetings to hear applications as they determine appropriate.
- f. The Director, or a designee, shall notify the Applicant regarding the time and place of the public hearings.
- g. When reviewed by the Planning Commission, The Planning Commission shall determine if the application complies with this Code. The Planning Commission shall recommend approval, approval with conditions, or denial.
- h. When reviewed by the Board of County Commissioners, the Board of County Commissioners shall The Planning Commission shall determine if the application complies with this Code. The Board of County Commissioners shall approve, approve with conditions, or deny the application,
- i. The Director shall promptly provide written notice, including the reasons for the decision, to the applicant following action by the Board of County Commissioners.

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9.02.020. Rezoning Approval Standards

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

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

(b) **Resource Protection Policy.**

- (1) It is the policy of the County not to rezone property in a manner that would create or facilitate the creation of development rights or entitlements that would either:
 - a. Reduce the level of protection for significant natural resources that exist on the subject property; or

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- b. Expose additional people or personal property to unmitigated natural hazards that are present on the subject property (e.g., fire, flood, or geological hazards).

(2) This policy may be waived upon a finding by the Board of County Commissioners that:

- a. Alternative means have been implemented to achieve a comparable or better level of resource protection (e.g., conservation easements, development agreements, or other comparable mechanisms for resource protection); or
- b. The policy is outweighed by a community interest that is served by approval of the rezoning.

(c) **Plan Consistency and Public Facilities.** All applications for rezoning shall meet the following criteria:

- (1) The proposed zoning district, as applied to the subject property, is consistent with its land use designation in the Comprehensive Plan or an amendment to the Comprehensive Plan prior to (or concurrently with) the approval of the rezoning application; and
- (2) Adequate public facilities are available to serve development in the proposed zoning district; or the proposed zoning district would limit demands upon public facilities more than the existing zoning district; or reasonable assurances are provided that adequate public facilities will be made available to serve new development by the time the new development places demands on the facilities.

(d) **Additional Findings.** The Board of County Commissioners may approve an application for rezoning upon a determination that at least one of the following three criteria has been met. This finding is in addition to the findings regarding the criteria of subsections (b) and (c), above:

- (1) *Alternative #1: Plan Implementation.* The proposed zoning district is more appropriate than the existing zone to implement an adopted or approved current County plan that was developed with public input.
- (2) *Alternative #2: Change in Character of the Area.* The proposed zoning district is more appropriate than the existing zoning district because:
 - a. There has been a change in character or capacity of public facilities in the area (e.g., installation of public facilities, other rezonings, new growth trends, deterioration, development transitions, etc.); and
 - b. The proposed zone allows for the reasonable development or redevelopment of the subject property in a manner that will be compatible with its existing or planned context.
- (3) *Alternative #3: Need for Zoning District to Increase Land Inventory.* The proposed zoning district is more appropriate than the existing zoning district because:
 - a. There is greater need in the County for land in the proposed zoning district than the existing zoning district based on a market conditions; and

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b. The proposed zoning district will promote a balance of land uses in the County that will improve economic opportunity or community mobility.

(4) Alternative #4: Proposed Zoning District Does Not Diminish Agricultural or Natural Resources. The proposed rezoning will not operate to, directly or indirectly, individually or cumulatively, diminish the agricultural or natural resource value of nearby properties.

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Part 10. Subdivision Process

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Division 10.01 General Application Requirements

10.01.010. Application Requirements & Review Procedures

(a) **Generally.** All applications for subdivision shall be processed in accordance with Part 8 *Standardized Application Review Process*.

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(b) **Minor, Preliminary, Final Plat Application Requirements.** Applicants for a subdivision shall provide data, surveys, analyses, studies, plans, and designs, in the form required by this Code and prescribed by Director, to address, at a minimum, the following items:

- (1) Property survey and ownership of the surface and mineral estates including mineral lessees, if any;
- (2) Relevant site characteristics and analyses applicable to the proposed subdivision including the following:
 - a. Reports concerning streams, lakes, topography, and vegetation;
 - b. Reports required by Division 5.02, Soils Suitability and Drainage Analysis;
 - c. In areas of potential radiation hazard to the proposed future land use, evaluations of these potential radiation hazards;
 - d. Maps and tables concerning suitability of types of soil in the proposed subdivision, in accordance with any standard soil classifications and procedures therefor, for the proposed use;
 - e. A plat and other documentation showing the layout or plan of development, including, where applicable, the following information:
 - i. Total development area;
 - ii. Total number of proposed dwelling units;
 - iii. Total number of square feet of proposed nonresidential floor space;
 - iv. Total number of proposed off-street parking spaces, excluding those associated with single-family residential development;
 - v. Estimated total number of gallons per day of water system requirements where a distribution system is proposed;
 - vi. Estimated total number of gallons per day of sewage to be treated where a central sewage treatment facility is proposed or sewage disposal means and suitability where no central sewage treatment facility is proposed;
 - vii. Estimated construction cost and proposed method of financing of the roads and related facilities, water distribution system, sewage collection system, storm drainage facilities, and such other utilities as may be required of the applicant by the County;

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viii. Maps and plans for facilities to prevent storm waters in excess of historic runoff, caused by the proposed subdivision, from entering, damaging, or being carried by conduits, water supply ditches and appurtenant structures, and other storm drainage facilities;

f. Adequate evidence that a water supply that is sufficient in terms of quality, quantity, and dependability will be available to ensure an adequate supply of water for the type of subdivision proposed. See Section 5.03.020, *Determination of Adequacy of Water Supply*.

g. Evidence that provision has been made for facility sites, easements, and rights of access for electrical and natural gas utility service sufficient to ensure reliable and adequate electric and, if applicable, natural gas service for the proposed subdivision. See Section 4.04.020, *Availability of Utilities*.

(3) Compliance with the requirements of Part 6, *Land Dedication and Fees-in-Lieu*.

Division 10.02. Administrative Review for Minor Development, Lot Line Adjustment, Boundary Adjustment

10.01.020. Administrative Review Established

(a) **Generally,** Minor developments, lot line adjustments, and boundary adjustments approvals are issued by the Director upon a finding of compliance with the applicable requirements of this Code. **No public hearing is required.**

(b) The administrative approvals that are required by this Code are set out in Table 10.01.010, *Administrative Approvals and Permits*. These approvals and permits are granted or issued by the Director. The subdivision process may be in addition to other approvals, and permits that may be required for compliance with other laws, statutes, or regulations, which may include but are not necessarily limited to:

(1) State or federal law, including, but not limited to, the Clean Water Act, the Clean Air Act, or the Endangered Species Act;

(2) Adopted building and safety codes;

(3) Ordinances that require permits for activities on public land or within public rights-of-way; or

(4) Business licensing ordinances.

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TABLE 10.01.030 ADMINISTRATIVE APPROVALS AND PERMITS				
Approval or Permit	Purpose	Timing	Exceptions	Reference
Final Plat, Minor	Creation or consolidation 2 or fewer lots or tracts	Prior to recordation of the final plat	Not applicable to subdivisions that require internal land dedications to the County; not applicable to subdivide or resubdivide land previously within minor plat	
Lot Line/Boundary Adjustments	Adjustment of lot lines or the boundary of a subdivision that does not lead to the creation of an additional lot, and that is in compliance with the limits set out in Administrative Adjustments Section XXX.	Prior to construction; to resolve a legal nonconformity, to address nonconforming setbacks		
Reasonable Accommodation	Providing a "reasonable accommodation" for one or more disabled persons in accordance with Federal law	Generally, prior to development of or change to subject property in a manner that requires the reasonable accommodation; may be granted retroactively for good cause shown	N/A	§ 7.05.030

10.01.030. Administrative Review Process

(a) **Administrative Recommendation, Decision, or Referral.** Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant to Section 8.02.040 *Recommended Revisions* (or, after finding that no revisions will be required):

- (1) If the application is for an administrative approval or permit, then the Director shall **verify public notice has been given, if required (see Sec. 8.04.010, *Public Notice*), and either:**

- a. 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

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b. Refer the application to the Planning Commission for review and recommendation and Board of County Commissioners for decision according to the applicable standards of this Code, upon a determination by the Director, in his or her sole discretion, that the development, as proposed justifies the referral because it:

- i. May have material impacts on neighboring properties or public resources that are unusual in kind or degree due to the unusual context of the subject property; or
- ii. Involves material potential for reasonable disagreement regarding whether the proposed development complies with the standards of this Code, or whether particular standards of this Code apply.

(2) If referred, the application shall be processed as a preliminary plat in accordance with Section 10.03.020 Preliminary Plat.

(3) If the application is referred for a public hearing approval, then the Director shall make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the next body that will consider it for further recommendation or approval.

Division 10.03. Public Hearing Review for Preliminary and Final Plats

10.03.010. Public Hearing Process

(a) **Generally.** The process for subdivision including referral and reviewing bodies is outlined in Table 10.03.010, *Subdivision Review Process*. The subdivision process may be in addition to other approvals, and permits that may be required for compliance with other laws, statutes, or regulations, which may include but are not necessarily limited to:

- (1) State or federal law, including, but not limited to, the Clean Water Act, the Clean Air Act, or the Endangered Species Act;
- (2) Adopted building and safety codes;
- (3) Ordinances that require permits for activities on public land or within public rights-of-way; or
- (4) Business licensing ordinances.

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TABLE 10.03.010 SUBDIVISION REVIEW PROCESSES						
Approval or Permit	Required For	Timing	Exceptions	Recommendation By	Decision-Maker	Reference
Development Plans and Subdivision Plats						
Preliminary Plat	Evaluating proposed subdivision design and availability of infrastructure, services, and utilities	Prior to final plat approval	Does not apply to minor final plats or statutory exemptions from platting	PC	BOCC	§ 7.05.080
Final Plat	Creation of new lots and conveyance of lots with reference to recorded plat	After Preliminary Plat approval	Does not apply to minor final plats or statutory exemptions from platting	N/A	BOCC	§ 7.05.080
Development or Improvements Agreement	Providing security for public improvements and other matters as appropriate, including the imposition of conditions of approval; modification of conditions of approval previously imposed by specific development review	Concurrently with final plat, sketch plan, or site plan approval	Where subdivision does not include public improvements or conditions of approval	Director	BOCC	§ 7.05.090

Comment [EC21]: Internal road dedication not perimeter road dedication

In-line notes and commentary are set out in *green italics*.

TABLE 10.03.010 SUBDIVISION REVIEW PROCESSES						
Approval or Permit	Required For	Timing	Exceptions	Recommendation By	Decision-Maker	Reference
Location and Extent Permit	Establishing the location and extent of a road, park, public way or public space, public building or structure, or public utility (whether publicly or privately owned)	Prior to construction	Where such location is established by a final plat	Director	PC	§ 7.05.100; C.R.S. § 30-28-110(1)
Corrections						
Plat Correction	To correct one or more technical errors in an approved final plat	Any time	See § 7.05.110	Director	BOCC	§ 7.05.110

(b) **Application Review Process:** All applications for subdivision shall be processed in accordance with Part 9 *Standardized Application Review Process*.

(c) **Public Notice Requirement:** Public notice shall be made in accordance with Section 8.04.010 *Public Notice*.

(d) **Public Hearings Requirements:** Except for minor final plats, all subdivision applications are reviewed and considered for approval, approval with conditions, or denial at public hearings.

10.03.020. Preliminary Plat

(a) **Generally.** Except in the case of a minor final plat, preliminary plat approval is required prior to the approval of a final plat. Preliminary plats shall demonstrate compliance with this Code, including Parts 3, 4, 5 and 6.

(b) Preliminary Plat Review Process.

(1) Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant Section 8.02.040 *Recommended Revisions* (or, after finding that no revisions will be required):

- The Director shall **verify public notice has been given (see Sec. 8.04.010, Public Notice)**
- The Director shall make a recommendation regarding the application and forward the recommendation and the application materials and referral

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comments to the next body that will consider it for further recommendation or approval.

- c. The Director shall set the application on the agenda of the next body that will consider the application.
- d. Generally, the application shall be heard during the next regular meeting of that body that meets the following two conditions:
 - i. There is sufficient time to meet applicable public notice requirements; and
 - ii. There is available room on the agenda.
- e. The Director shall coordinate with recommending and decision-making bodies to fix reasonable times for hearings. Said bodies are authorized to convene special meetings to hear applications as they determine appropriate.
- f. The Director, or a designee, shall notify the Applicant regarding the time and place of the public hearings.
- g. When reviewed by the Planning Commission, The Planning Commission shall determine if the application complies with this Code. The Planning Commission shall recommend approval, approval with conditions, or denial.
- h. When reviewed by the Board of County Commissioners, the Board of County Commissioners shall determine if the application complies with this Code. The Board of County Commissioners shall approve, approve with conditions, or deny the application.

10.03.030. Final Plat

(a) **Generally.** Final plats may be approved by the Board of County Commissioners upon a finding that they are consistent with the preliminary plat and meet all applicable requirements of this Code.

(b) **Final Plat Submittal Requirements:**

(1) Copy of the Approved Preliminary Plat

(2) Five copies of the Final Plat Map showing at a minimum:

- a. The title under which the subdivision is to be recorded and the number assigned to that subdivision by the Planning Department. The name shall be the same as the approved preliminary plat.
- b. Date of preparation, scale and north arrow.
- c. Delta County requires all final plats to be tied into the Delta County Local Coordinate System using mapping control points for accurate dimensions for all lines, angles, and curves used to describe boundaries, streets, alleys, easements, areas to be reserved for public use, and other important features.

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- (3) Data base for County Mapping Control Points is available upon request for the Delta County GIS Department.
- (4) Survey data shall be in accordance with the US Government Manual for Public Land Surveys as modified by Title 38-51-103,105,106 C.R.S.
- a. All dimensions, both linear and angular, are to be determined by an accurate control survey in the field which must balance and close within a limit of one in ten thousand. Dimensions will be carried to two decimal points.
 - b. Names of all adjoining subdivisions shall be shown with a dotted line adjacent to the perimeter boundary line. If the adjoining land is un-platted the names of the property owners from the County Assessor's records shall be shown.
 - c. Lot numbers and acreage, and Block numbers if Blocks are designated.
 - d. Name or number and centerline designation of adjacent roads, dimensions and purpose of easements, designations and dimensions of park sites and other public facilities.
 - e. A description of all monuments, both found and set, which mark the boundaries of the property, and a description of all control monuments used in conducting the survey.
 - f. Certification by a Land Surveyor, registered in the State of Colorado, that the survey was performed by him in accordance with Sections 8-51-103, 105 and 106, Colorado Revised Statutes, as amended, or under direct responsibility and supervision of a Colorado Registered Surveyor, with the Surveyor's signature and seal.
 - g. A statement by the land surveyor explaining how bearings were determined. (See #3 above)
 - h. Signature blocks for the Chairman of the Board of County Commissioners, Owners, Mortgagees, County Recorder, Planning Department, and others as required for approval.
 - i. Vicinity Map (scale of 1:2000 preferred) showing the site and the surrounding area with reference to major roads, towns, highways, streams, rivers or other recognizable natural or man made features.
- (5) All required plat notes.
- (6) Agreements made with ditch and other utility companies in compliance with conditions required for approval of the application or as determined necessary to establish the rights of the applicant and communicated to the applicant.
- (7) A copy of the property owner's recorded deed for the property being subdivided and an original deed or deeds for the new lots being created by the subdivision.
- (8) Executed Copies of all deeds dedicating or conveying Land, Easements, and Public Improvements to the County

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(9) A report prepared by a title insurance company authorized to do business in the State of Colorado, or an Attorney's Certificate signed by an attorney licensed to practice law in Colorado, giving the name and current mailing address of all persons having any record interest in the land being subdivided and describing the nature of each such interest. The report may be a current title insurance commitment dated no more than two weeks prior to the date of final plat submittal or an updated report of the original title commitment submitted with the application for sketch plan. The report shall show all parties who must join in the dedication of any streets or other public places shown on the plat.

(10) Necessary supporting documentation to demonstrate compliance with all conditions of approval.

(11) Copies of approved Development Agreements, if any.

(12) Deed restrictions, agreements with other persons and other documents and easements that may have been specified as a condition of approval by the Board of County Commissioners.

(13) Signature Blocks and Certifications

a. All final plats shall have the following signature blocks and certifications in a format approved by the Director:

i. Property Owner Dedication & Notary

ii. Mortgagee Approval

iii. Delta County Surveyor Approval

iv. Delta County Planning Approval

v. Board of County Commissioners Approval

vi. Certification of Taxes Paid

vii. Delta County Clerk & Recorder's Acceptance

(c) Final Plat Review Process:

(1) Promptly after determination that a complete, sufficient application addresses the comments and recommendations provided pursuant to Section 8.02.040 *Recommended Revisions* (or, after finding that no revisions will be required):

a. The Director shall **verify public notice has been given if required (see Sec. 8.04.010, Public Notice)**

b. The Director shall make a recommendation regarding the application and forward the recommendation and the application materials and referral comments to the Board of County Commissioners that will consider it for approval.

c. The Director shall set the application on the agenda of the County Commissioners.

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- d. Generally, the application shall be heard during the next regular meeting of that body that meets the following two conditions:
 - i. There is sufficient time to meet applicable public notice requirements; and
 - ii. There is available room on the agenda.
- e. The Director shall coordinate with recommending and decision-making bodies to fix reasonable times for hearings. Said bodies are authorized to convene special meetings to hear applications as they determine appropriate.
- f. The Director, or a designee, shall notify the Applicant regarding the time and place of the public hearings.
- g. When reviewed by the Board of County Commissioners, the Board of County Commissioners shall determine if the application complies with the approved preliminary plat and conditions of approval.

(d) **Recordation:** Final plats may be recorded when all public improvements shown on the plat are installed and the County has granted preliminary acceptance of the improvements pursuant to Section 6.01.030, *Acceptance of Public Improvements*.

10.03.040. Plat Correction

(a) **Generally.** In accordance with C.R.S. § 30-28-133, the Board of County Commissioners may approve a correction plat if:

- (1) The sole purpose of such correction plat is to correct one or more technical errors in an approved final plat; and
- (2) Such correction plat is consistent with the applicable approved preliminary plat.

(b) **Limitations.** If the technical error or errors of an approved plat meet the description of any errors under C.R.S. § 38-51-111(2), a surveyor's affidavit of correction, as defined in C.R.S. § 38-51-102, shall be prepared in lieu of a correction plat.

10.03.050. Development or Improvements Agreements

(a) **Generally.** No final plat that includes or requires public improvements (on-site or off-site) shall be recorded, and no sketch plan or site plan that requires public improvements (on-site or off-site) or imposes conditions or obligations related to development approval shall be approved until the applicant has submitted, and the Board of County Commissioners has approved one or a combination of the following:

- (1) An improvements agreement in which the applicant agrees to construct any required public improvements shown in the final plat documents, together with collateral which is sufficient, in the judgment of the Board of County Commissioners, to make reasonable provision for the completion of said improvements in accordance with design and time specifications; or

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(2) Other agreements or contracts, however titled, setting forth the plan, method, and parties responsible for the construction of any required public improvements shown in the final plat documents which, in the judgment of the Board of County Commissioners, will make reasonable provision for completion of said improvements in accordance with design and time specifications; or obligation to satisfy such conditions of approval as may be imposed pursuant to this Code.

(b) **Reimbursements.** Applicants may be reimbursed for a proportionate fair share of the costs of oversized infrastructure that is required by the County to serve a final plat, limited use, or conditional use, provided that a reimbursement agreement is executed pursuant to this subsection.

(1) The reimbursement agreement shall identify the oversized infrastructure and the marginal cost of the infrastructure that was not necessary to serve the applicant's subdivision or use, as well as the area benefitted by the excess capacity that will be created by the oversized infrastructure.

(2) Reimbursement shall be in proportion to the benefits provided to the property from which reimbursement is required. The proportionate share for each property owner, or, alternatively, the method of calculation of the benefits shall be included in the reimbursement agreement.

(3) The reimbursement agreement shall specify that as a condition of development approvals or permits (including access permits if issued by the County) for property within the benefitted area, reimbursable costs shall be paid to the applicant, less any reimbursement by the County.

(4) The reimbursement agreement shall establish the period during which reimbursement will be required, but said period shall not exceed 15 years from the date of completion of an improvement.

Part 11 Other Land Use Review Processes

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Division 11.01. Other Land Use Approvals

11.01.010. Location and Extent Certificate

(a) **Generally.** The Planning Commission shall approve or disapprove the location and extent of any road; park; or other public way, ground, or space; public building or structure; or public utility, whether publicly or privately owned, as provided in C.R.S. § 30-28-110(1), except where such location and extent is established by final plat.

(b) **Time Limitation.** The Planning Commission shall approve or disapprove a location and extent certificate within 30 days after the date the request for such certificate is formally presented. Failure to decide the request within 30 days shall constitute approval of the request, unless a longer period is agreed to by the applicant and the County.

11.01.020. Text Amendments

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

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11.01.030. Administrative Sketch Plans and Site Plans

(reserved)

11.01.040. Minor Plats

(reserved).

11.01.050. Planned Unit Development

(Reserved)

IF THE COUNTY WANTS TO INCLUDE P.U.D. REGULATIONS, IT MUST ADHERE TO THE FOLLOWING REQUIREMENTS: The resolution or ordinance shall establish maximum time periods within which any application shall be reviewed and approved, disapproved, or conditionally approved. At least one public hearing shall be held by the board designated pursuant to paragraph (c) of this subsection (1) prior to approval, disapproval, or conditional approval of a planned unit development. Public notice of the public hearing shall be given in the manner prescribed by section 30-28-116 or 31-23-304, C.R.S., whichever is applicable, for the amendment of zoning resolutions and ordinances. Written notice of the public hearing shall be delivered or mailed, first-class postage prepaid, at least fifteen days prior to the public hearing to adjoining landowners.

Approval of a PUD requires a finding by the county that such plan is in general conformity with any master plan or comprehensive plan for the county.

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11.01.060. Areas and Activities of State Interest

(Reserved)

This Division provides a space for 1041 Regulations.

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Division 11.02. Vested Rights

11.02.010. Purpose

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

11.02.020. Eligibility

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

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

11.02.030. Required Certifications

(a) **Generally.** The proposed site specific development plan shall include the certifications set out in this Section on its cover page.

(b) **Acknowledgment.** The acknowledgment of the property owner shall be in the following form (the notary block may be changed as appropriate to the type of entity and the location of the notary):

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

Signature of Owner

State of Colorado

1

SS:

County of

}

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

Witness my hand and notarial seal.

My commission expires _____.

[SEAL]

Notary Public

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

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

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

Chair

APPROVED AS TO FORM:

County Attorney

ATTEST:

Clerk and Recorder

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

Clerk and Recorder

By:

Clerk and Recorder

11.02.040. Record of Regulations at Time of Application

(a) **Meeting Required.** The Director shall schedule a completeness-check meeting with the Applicant to confirm the completeness of the application form and proposed site specific development plan. The meeting shall take place within the time specified for completeness review in Section 8.02.010, *Completeness Review*, or at such other time as may be agreed to between the Director and the applicant.

(b) **Record.** In order to ensure appropriate implementation of C.R.S. § 24-68-102.5, on the next business day following the Director's determination that the application form and proposed site specific development plan are complete, this Code and any amendatory ordinances in effect on that day shall become part of the County's official file on the matter.

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11.02.050. Special Notice Requirements

(a) **Generally.** The notice requirements of this Section apply to the hearing on the vested rights application. Notice is required after the hearing (if the application is approved or approved with conditions) in accordance with Section 11.02.70, *Effective Date of Approval; Public Notice*.

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(b) **Notice Requirements**

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(1) **Mailing.** At least 10 calendar days prior to the public hearing date, the applicant shall send notice of the time, place, and subject matter of the public hearing by certified mail to the owners of all adjacent properties. The applicant shall obtain the names of said owners from the last preceding real property tax roll of the County Assessor's office.

(2) **Posting.**

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- a. Not less than 15 calendar days prior to the Board of County Commissioners public hearing date, the landowner shall cause the site to be posted by means of one or more signs, erected in a conspicuous location, with at least one sign posted along each street frontage of the subject property.
- b. Signs shall be at least three feet by four feet in dimension, supported by corner posts, with the bottom of the sign face at least four feet above ground level. Letters shall be at least one inch in height, or large enough to be intelligible from the nearest public street.
- c. Signs shall read as follows:

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

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

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

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

[NAME OF LANDOWNER]

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

In-line notes and commentary are set out in *green italics*.

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

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

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

Dated this _____ day of _____, 20____.

[NAME OF LANDOWNER]

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

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11.02.060. Special Provisions for Stale Vested Rights Applications

(a) **Generally.** An application form and proposed site specific development plan shall expire one year after the Director determines completeness pursuant to Section 11.02.040, *Record of Regulations at Time of Application* if it is not pursued by the applicant.

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(b) **Required Revisions.** After the date specified in subsection (a), above, a site specific development plan may continue to be processed if:

- (1) There have been no changes to this Code since the completeness determination that could affect the decision on the application; or
- (2) There have been changes to this Code since the completeness determination that could affect the decision on the application, but:
 - a. _____ The Director determines that the application still complies with this Code; or
 - b. _____ The Applicant agrees to revise the application to comply with this Code, as amended since the completeness determination.

In-line notes and commentary are set out in *green italics*.

11.02.070. Effective Date of Approval: Public Notice

(a) **Generally.** For all purposes, including judicial review and referendum, the effective date that a vested property right is deemed to be created shall be the date of publication of a notice advising the general public of the approval of the vested property right.

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(b) **Notice Requirement.**

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- (1) *Contents of Notice.* The landowner shall cause such publication to be made, which shall occur not later than 14 days following the date of the second reading of the ordinance adopted by the Board of County Commissioners approval of the site-specific development plan. Such notice shall read:

NOTICE
VESTED PROPERTY RIGHTS CREATED

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

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

[NAME OF LANDOWNER]

- (2) *Proof of Notice.* A publisher's affidavit shall be provided to the Director as certification that the required notice pursuant to subsection (b)(1), above, was published.

11.02.080. Subsequent Regulation Prohibited

(a) **Generally.** Any vested property right, once established, shall not be subject to any zoning or land use action by the County which would alter, impair, prevent, diminish or otherwise delay the development or use of the site as set forth in an approved site specific development plan, with the following exceptions:

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- (1) Without payment of compensation by the County, upon the consent of the affected landowner;
- (2) Without payment of compensation by the County, upon the discovery of natural or man-made hazards on or in the immediate vicinity of the site, which hazards could not reasonably have been discovered at the time of site specific development plan approval or, if reasonably discoverable, are not the result of error or misrepresentation by the

In-line notes and commentary are set out in *green italics*.

Applicant or its agents, and which hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare; or

(3) As long as neither subsection (a)(1) nor (a)(2), above has occurred, to the extent that the affected landowner receives just compensation for all costs, expenses and liabilities incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning and marketing, legal and other consultant fees incurred after approval of the site specific development plan by the County, together with interest thereon at the legal rate until paid. Just compensation shall not include any diminution in the value of the site that is caused by such action.

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

11.02.090. Extension and Amendments

(a) **Extensions.** No extension of the vesting period shall be granted unless such extension is approved by the Board of County Commissioners in its sole discretion following a public hearing. Such request for extension shall be filed by the landowner, together with all materials and fees required by this Code to be submitted for original approval.

(b) **Amendments.**

(1) Applications for amendment to an approved site specific development plan must be submitted and reviewed under the same procedures set forth in this Code as required for original approval.

(2) Amendments to an approved site specific development plan shall not automatically extend the approved vesting period. Specific application for the extension of an approved vesting period shall be processed in the same manner as the original approval.

11.02.100. Repealer

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

11.02.200. Recording of Approvals

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

11.02.300. Effect of Approvals

(a) **Generally.** It is the intent of the Board of County Commissioners that development approved pursuant to this Code be carried out in a timely manner pursuant to the specifications,

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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 application means that the County approves the particular use, plan, or other specific activity for which the approval was granted. Physical development of land may require a sequence of related (and increasingly detailed) approvals.
- (2) Supplemental materials that are provided in support of an approval become part of the approval 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, unless the approval or permit is specifically designated as non-transferable by condition of approval. Transferred permits shall continue to be valid for their full original terms, and the transferee may apply for an amendment to the approval or permit in the same manner as the original Applicant.

11.02.400. Duration of Approvals

(a) Approvals. Except as provided in subsections (b) and (c), below, the administrative approvals described in Table 10.01.020, *Administrative Approvals and Permits*, and in Table 10.03.010, *Public Hearing Approvals and Permits*, shall expire one year from the date of approval if they are not utilized.

(b) Development Agreements. A development agreement is valid for the term set out in the development agreement.

(c) Approvals That Do Not Lapse. Rezoning, vacations or abandonments of easements or rights-of-way, text amendments, Master Plan amendments, and administrative appeals do not lapse.

11.02.500. Extensions of Approvals

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

(b) Timing of Application for Extension.

- (1) Written requests for extensions shall be received not later than 30 days prior to the expiration of the permit or approval.
- (2) Untimely requests for extensions will not be granted unless it is demonstrated that extraordinary circumstances (e.g., an unusual severe weather event) justify the request. However, expired permits and approvals cannot be extended.

(c) Extensions for Extraordinary Circumstances. The Board of County Commissioners may, by resolution, extend the term of all permits and approvals County-wide or in designated areas of the County in response to extraordinary circumstances, such as flood, wildfire, tornado, or other natural or man-made disaster which makes it temporarily infeasible to commence or continue with construction. The period of such extensions shall be determined by the Board of County Commissioners.

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

(e) **Extensions after Hearing.**

(1) Unless otherwise provided in the permit or approval, 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 of discretionary permits and approvals pursuant to this subsection shall be heard by the body that granted the original approval. Extensions of administrative permits and approvals pursuant to subsection (e)(1)b., above, shall be heard by the Planning Commission.

(3) 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.

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

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

(1) If there is an appeal, litigation, or mediation during the term of an approval granted by the County that limits the Applicant's ability to use or develop land pursuant to the permit or approval, then the term shall be tolled for the duration of the appeal, litigation, or mediation, and the date shall be recalculated upon conclusion of the appeal, litigation, or mediation.

(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 regarding the enforcement of Delta County ordinances, including this Code.

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11.02.600. Correction of Approvals

(a) Generally. Permits and approvals may be corrected pursuant to this Section.

(b) Correction of Scrivener's Errors. Permits and approvals, including plats, may be corrected by the Director or upon application to the Director as follows:

(1) Generally. The Director may approve an application to reform a scrivener's error in a development approval, including an error in an application or notice, which error causes the permit or approval to inaccurately reflect the decision-maker's intent, and where it is demonstrated that:

- a.** The correction does not include a change of judgment, policy, or prior intent of the decision-maker;
- b.** The reformation of the permit or approval is essential to ensure that the documentation reflects the intent and decision of the decision-maker;
- c.** The record, including, but not limited to, the Staff recommendation, minutes, and motion, evidences the clear intent of the decision-maker;
- d.** The substance of the decision was clearly evident at the time of the decision, and there was no intent to deceive the public or the decision-maker on the part of the current Applicant at any time;
- e.** Failure to approve the reformation would lead to an unjust result;
- f.** The error in the development approval did not mislead anyone in a way that would cause them to be prejudiced by the reformation; and
- g.** Any errors related to public notice did not affect the legal sufficiency of the required notice.

(2) Correction Within 30 Days. In the alternative, the Director, within 30 days of the decision on an application for development approval, may correct a clerical or scrivener's error in the development approval if:

- a.** The error is not related to public notice;
- b.** The error causes the approval, as written, to inaccurately reflect the clear decision of the decision-maker; and
- c.** The Director promptly notifies the applicant and the decision-maker regarding the corrections.

(c) Effect on Approval. A permit or approval that is modified pursuant to this Section shall relate back to the date of the corrected approval, such that the effective date of the corrected language shall be deemed to be the same as the effective date of the original approval.

11.02.700. Denials

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

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Part 12. Approvals and Denials

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Division 12.01 Approvals and Denials

12.01.010. Recording of Approvals

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

12.01.020. Effect of Approvals

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

(b) Effect of Approval or Permit.

- (1) Approval of an application means that the County approves the particular use, plan, or other specific activity for which the approval was granted. Physical development of land may require a sequence of related (and increasingly detailed) approvals.
- (2) Supplemental materials that are provided in support of an approval become part of the approval 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, unless the approval or permit is specifically designated as non-transferable by condition of approval. Transferred permits shall continue to be valid for their full original terms, and the transferee may apply for an amendment to the approval or permit in the same manner as the original Applicant.

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12.01.030. Duration of Approvals

(a) **Approvals.** Except as provided in subsections (b) and (c), below, the administrative approvals described in Table 7.03.030, *Administrative Approvals and Permits*, and in Table 7.03.040, *Public Hearing Approvals and Permits*, shall expire one year from the date of approval if they are not utilized.

(b) **Development Agreements.** A development agreement is valid for the term set out in the development agreement.

(c) **Approvals That Do Not Lapse.** Rezoning, vacation or abandonments of easements or rights-of-way, text amendments, Master Plan amendments, and administrative appeals do not lapse.

12.01.040. Extensions of Approvals

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

(b) Timing of Application for Extension.

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(1) Written requests for extensions shall be received not later than 30 days prior to the expiration of the permit or approval.

(2) Untimely requests for extensions will not be granted unless it is demonstrated that extraordinary circumstances (e.g., an unusual severe weather event) justify the request. However, expired permits and approvals cannot be extended.

(c) **Extensions for Extraordinary Circumstances.** The Board of County Commissioners may, by resolution, extend the term of all permits and approvals County-wide or in designated areas of the County in response to extraordinary circumstances, such as flood, wildfire, tornado, or other natural or man-made disaster which makes it temporarily infeasible to commence or continue with construction. The period of such extensions shall be determined by the Board of County Commissioners.

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

(e) **Extensions after Hearing.**

(1) Unless otherwise provided in the permit or approval, 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 of discretionary permits and approvals pursuant to this subsection shall be heard by the body that granted the original approval. Extensions of administrative permits and approvals pursuant to subsection (e)(1)b., above, shall be heard by the Planning Commission.

(3) 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.

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

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

(1) If there is an appeal, litigation, or mediation during the term of an approval granted by the County that limits the Applicant's ability to use or develop land pursuant to the permit or approval, then the term shall be tolled for the duration of the appeal, litigation, or mediation, and the date shall be recalculated upon conclusion of the appeal, litigation, or mediation.

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(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 regarding the enforcement of Delta County ordinances, including this Code.

12.01.050. Correction of Approvals

(a) **Generally.** Permits and approvals may be corrected pursuant to this Section.

(b) **Correction of Scrivener's Errors.** Permits and approvals, including plats, may be corrected by the Director or upon application to the Director as follows:

(1) **Generally.** The Director may approve an application to reform a scrivener's error in a development approval, including an error in an application or notice, which error causes the permit or approval to inaccurately reflect the decision-maker's intent, and where it is demonstrated that:

- a. The correction does not include a change of judgment, policy, or prior intent of the decision-maker;
- b. The reformation of the permit or approval is essential to ensure that the documentation reflects the intent and decision of the decision-maker;
- c. The record, including, but not limited to, the Staff recommendation, minutes, and motion, evidences the clear intent of the decision-maker;
- d. The substance of the decision was clearly evident at the time of the decision, and there was no intent to deceive the public or the decision-maker on the part of the current Applicant at any time;
- e. Failure to approve the reformation would lead to an unjust result;
- f. The error in the development approval did not mislead anyone in a way that would cause them to be prejudiced by the reformation; and
- g. Any errors related to public notice did not affect the legal sufficiency of the required notice.

(2) **Correction Within 30 Days.** In the alternative, the Director, within 30 days of the decision on an application for development approval, may correct a clerical or scrivener's error in the development approval if:

- a. The error is not related to public notice;
- b. The error causes the approval, as written, to inaccurately reflect the clear decision of the decision-maker; and

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c. The Director promptly notifies the applicant and the decision-maker regarding the corrections.

(c) **Effect on Approval.** A permit or approval that is modified pursuant to this Section shall relate back to the date of the corrected approval, such that the effective date of the corrected language shall be deemed to be the same as the effective date of the original approval.

12.01.060. Denials

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

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Park 13. Administrative Modifications & Variances

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Division 13 Administrative Modifications

13.01.010. Administrative Modifications and Reasonable Accommodations

(a) **Generally.** The purpose of this Section is to provide a process to allow minor variations to dimensional or numerical standards of this Code in order to:

- (1) Facilitate efficiency in the development review and approval process;
- (2) Facilitate development in accordance with development applications that have received final approval; and
- (3) Allow for reasonable accommodations for disabled persons as required by Federal law.

(b) **Authority of Director.** The Director may approve, approve with conditions, or deny administrative modifications or reasonable accommodations for approvals and permits set out in Section 10.01.030, *Administrative Review Process*, and for legally nonconforming development. This Section does not apply to situations where different amendment or modification procedures are established in this Code.

(c) Standards for Administrative Modifications.

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(1) Setbacks. The Director may approve administrative modifications to setbacks upon a finding that:

- a. The reduction of a setback is not more than 25 percent of the required setback;
- b. The reduction of the setback will not reduce the spacing from one use to another where such spacing is required;
- c. The reduction of the setback is not used to change setback requirements that are imposed to ensure compliance with Part 4 of this Code.

(2) Lot Area or Lot Width. The Director may approve an administrative modification to lot area or lot width, or both, on a minor final plat in accordance with Section 3.01.010, *Lot Dimensions*.

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(3) Limitations. No administrative modification may be approved under this subsection (c) if:

- a. The proposed modification would require an amendment to a previously executed agreement between the applicant and the County, or modify a condition or restriction placed on the subject property by the County (unless the agreement is amended or the condition or restriction removed);
- b. The variation would adversely affect reasonable development expectations related to, or the present use and enjoyment of, adjacent land;

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c. The variation would create a material negative impact on public health or safety; or

d. The variation would result in an encroachment that is prohibited by an easement, unless the impacted easement holders have submitted a written authorization for the encroachment.

(d) **Reasonable Accommodations.** The Director may authorize a reasonable accommodation in order to allow for the administrative modification of standards of this Code in order to afford a disabled person equal opportunity to use and enjoy a dwelling, compared to a person who is not disabled, in accordance with applicable Federal Law.

(e) **De Minimus Modifications.** If a proposed improvement is so minor in terms of the overall development as to have no impact on the other elements of the approved development or adjacent property, as determined by the Director, such site improvement shall not require an administrative variation. Upon the property owner's request, the Director shall recognize in writing that a proposed improvement is *de minimus*. The *de minimus* exception shall not be used in a manner such that its cumulative effect is to circumvent the application of this Code.

Division 13.02 Variances

13.02.010. Variances

(a) **Generally.** The Board of Adjustment ("BOA") may authorize variances from the requirements of this Code, subject to terms and conditions fixed by the BOA. A variance from the terms of this Code shall be considered an extraordinary remedy, and the limitations set forth in subsection (b), below are intended to constrain the BOA's power to authorize variances.

(b) Standards and Limitations.

(1) No variance shall be authorized unless the BOA finds all of the following:

a. Due to the exceptional narrowness, shallowness, or shape of the subject property on the effective date of this Code, or exceptional topographic conditions, or other extraordinary and exceptional situation or condition of the subject property, the strict application of a regulation in this Code would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the subject property;

b. A variance from the strict application of the regulation at issue would relieve such difficulties or hardship; and

c. The requested variance would not create substantial detriment to the public good or substantially impair the intent and purpose of this Code.

(2) In determining whether difficulties to, or hardship upon, the owner of a subject property exist, as used in subsection (b)(1)a., above, the adequacy of access to sunlight for solar energy devices installed on or after January 1, 1980, is a permissible consideration.

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(3) Neither a nonconforming use of neighboring lands or structures in the same zoning district, nor a permitted or nonconforming use of lands or structures in other zoning districts shall be grounds for the issuance of a variance.

(4) Under no circumstances shall the BOA grant a variance to allow a use that is prohibited by this Code in the zoning district in which the subject property is located.

(c) **Conditions of Approval.** In granting any variance, the BOA may prescribe appropriate conditions and safeguards in conformity with this Code and the Master Plan and particularly the standards set forth in this Section. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this Code and punishable as provided in Part 17, *Enforcement*.

(d) **Variances Run with the Land.** Every variance shall transfer and run with the land.

(e) **No Precedent.** The granting of any variance shall not constitute or be construed as a precedent, ground or cause for any other variance.

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PART 14. NONCONFORMITIES; DEVELOPMENT REVIEW BODIES AND PROCEDURES

Division 14.01. Nonconformities

14.01.010. Purpose and Application of Division

(a) Purpose of Division.

- (1) *Generally.* The application of this Code to existing development may create circumstances in which existing land uses, buildings, structures, lighting, or parking areas do not strictly conform to the Code's requirements. For existing lots or development (including uses, buildings, and structures) that are accordingly "legally nonconforming," this Division sets out equitable rules for whether, when, and how the regulations of this Code apply.
- (2) *Conversion of Nonconformities.* Generally, nonconforming uses, buildings, and structures are not allowed to be enlarged, expanded, increased, or used as grounds for adding other uses, buildings, or structures that are now not allowed in the same zoning district. This Division provides standards by which minor nonconforming uses can be made "conforming" through a public hearing process.
- (3) *Reduction of Nonconformities.* It is the policy of the County to encourage reinvestments in property that increase its value and utility and reduce its external impacts. Since bringing a developed parcel into full compliance with this Code may involve costs that may discourage reinvestment, Section 14.01.040, *Other Physical Nonconformities*, provides a set of thresholds for determining when new construction or modifications to development trigger a requirement for increasing conformity with the various requirements of this Code.

(b) Application of Division.

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

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(c) Exceptions to Division.

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

(d) Unlawful Uses, Buildings, or Structures.

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

14.01.020. Nonconforming Uses

- (a) Generally.** This Section applies to lawfully nonconforming uses.

(b) Continuation of Nonconforming Use.

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

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

(2) *Casualty Loss.* If the building or structure in which a nonconforming use is conducted is damaged to the extent that the cost of repair exceeds 50 percent of the appraised value of the subject property (including the building) for tax purposes, then the nonconforming use of the property shall not be resumed.

(c) **Change of Nonconforming Use.** If a nonconforming use is changed to a different use, the new use shall be a use that conforms to the regulations of the zoning district in which the use is located. After such change, all future use of the subject property shall comply with applicable provisions of this Code.

(d) **Discontinuance of Nonconforming Use.** If a nonconforming use is discontinued from use for a period of 12 months, further use of the subject property shall conform to the requirements of this Code.

14.01.030. Nonconforming Buildings or Structures

(a) **Generally.** This Section applies to lawfully nonconforming buildings or structures.

(b) **Modifications to Nonconforming Building or Structure.** A building or structure that contains a conforming use, but is nonconforming as to the applicable bulk requirements of this Code, may be altered or extended, provided that the alteration or extension does not increase the degree of nonconformity with this Code.

(c) **Completion of Building or Structure.** Nothing contained in this Section shall require any change in the plans, construction, alteration, or designated use of a building for which construction work has commenced prior to the effective date of this Code. Such buildings may be completed in accordance with plans, provided that completion of the buildings is diligently pursued.

(d) **Damage to Nonconforming Building or Structure.**

(1) *Cost of Repair is 50 Percent or More of Appraised Value.* If a nonconforming building or structure is damaged to the extent that the cost of repair is 50 percent or more of the appraised value of the subject property (including the building) for tax purposes, then future construction on the subject property shall conform to the requirements of this Code.

(2) *Cost of Repair is Less than 50 Percent of Appraised Value.* If cost of repair is less than 50 percent of the appraised value of the subject property (including the building) for tax purposes, then restoration is allowed, provided that it is commenced within 12 months after the damage and completed within 18 months after commencement.

14.01.040. Other Physical Nonconformities

(a) **Conforming Uses with Physical Nonconformities.**

(1) *Generally.* A use that is allowed as-of-right or permitted by Division 2.02, *Land Use by Zoning District*, or that meets all applicable limited use standards (in the case of a limited use) or conditional use standards (in the case of a conditional use), may be

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established, continued, maintained, modified, enlarged, or extended, even if other nonconformities are present on the subject property, such as:

- a. The use occupies a nonconforming building;
- b. The use occupies or otherwise utilizes a nonconforming structure;
- c. The use is illuminated by nonconforming lighting; or
- d. The use has nonconforming parking.

(2) No Implied Waivers. The authorization in subsection (a)(1), above, shall not be construed as a waiver of the requirements of this Code, or of this Division with respect to the nonconformities that are present on the subject property. Modifications to nonconforming buildings, structures, lighting, or parking may require correction or partial correction of physical nonconformities.

(b) Nonconforming Encroachments on Sensitive Lands.

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(1) Generally. Buildings and structures that encroach upon sensitive lands shall not be modified or expanded in ways that increase their impacts on the sensitive lands.

(2) Change of Use. Modifications to nonconforming landscaping or buffering are not required if the use of a building changes from one use to another without further changes to the subject property or the exterior of the building, unless the change of use requires limited or conditional use approval, in which case the conditions for approval may include requirements for avoidance or mitigation of impacts to sensitive lands.

(c) Nonconforming Lighting.

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(1) Building Expansions, Parking Improvements, and Expansions of Existing Uses.

- a. If an existing building, parking lot, or use is expanded or improved, new or relocated lighting shall be required to meet the requirements of Section 4.07.080, *Exterior Lighting*.
- b. Existing lighting shall be brought into compliance with Section 4.07.080, *Exterior Lighting*, when:
 - i. A building is expanded such that its floor area grows by 25 percent or more; or
 - ii. With respect to parking lot lighting, the land area occupied by a parking lot increases by more than 10 percent.

(2) Change of Use. Modifications to nonconforming lighting are not required if the use of a building changes from one use to another without further changes to the site or the exterior of the building, unless:

- a. A change of use requires additional parking, in which case the parking that is provided to meet that requirement must also comply with the standards in Section 4.07.080, *Exterior Lighting*.
- b. A change of use requires limited or conditional use approval, in which case the conditions for approval may include requirements for lighting upgrades.

In-line notes and commentary are set out in *green italics*.

(d) Nonconforming Parking.

- (1) Building Expansions and Expansions of Existing Uses.* If an existing building or use is expanded, additional parking is required only in proportion to the new area of the building or use.
- (2) Change of Use.* If the use of a building changes, resulting in a net additional demand for parking, then the number of new parking spaces that are required shall be calculated as the lesser of:
- a. The required parking for the new use according to Division 4.03, *Parking*; or
 - b. $(\text{Number of existing parking spaces}) + ((\text{number of parking spaces required for the new use}) - (\text{number of parking spaces required for the existing use}))$
- (3) Redevelopment.* If an existing building is redeveloped, parking shall be brought into conformity with this Code.

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In-line notes and commentary are set out in *green italics*.

Part 15. Public Meetings and Public Hearings Protocols

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Division 15.01 Public Meetings and Public Hearings Protocols

15.01.010 General Protocols

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

(b) **Voting; Special Circumstances.** Except as provided in Division 1.05, *Development Review Bodies*, or by Colorado law, a recommending or decision-making body may act on an application by majority vote of a quorum present.

15.01.01. 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.

Comment [EC22]:

Comment [EC23]: Referenced in table above, but misplaced? This is not something that can be waived.

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(b) **Timing.** The prohibition on *ex parte* communications begins on the date of application and ends when the appeal period for an issued approval or permit has expired.

(c) Inadvertent Communications.

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(1) It is not always possible to prevent *ex parte* communications. Elected and appointed officials who hear applications required by this Code shall not privately discuss the merits of a pending application or appeal.

(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).

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15.01.020. Continuances and Withdrawal

(a) Continuances.

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(1) *At Applicant's Request.* Requests for continuance by the Applicant of any proceeding called for in this Code may be granted at the discretion of the body holding the public meeting or public hearing. If granted, the Applicant shall pay all additional costs associated with the rescheduling of the proceeding.

(2) *At County's Initiative.* No public hearing shall continue for a period of more than 40 days from the date of commencement without the written consent of the applicant.

Comment [TM24]: C.R.S. 30-28-133.5(5)

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

15.01.030. Successive Applications

(a) **Generally.** It is the policy of the County not to hear successive applications for the same approval or permit after a substantially similar application is denied. The limitations of this Section prevent the consideration of successive applications.

(b) **Time Required Between Substantially Similar Applications.** If an application for a permit or approval is denied, a substantially similar application will not be accepted for:

(1) Six months from the date of denial in the case of administrative permits; and

(2) 12 months from the date of denial for all other permits or approvals.

(c) **Exceptions to Successive Application Restrictions.** The Director may allow exceptions to this Section if there has been a material change of circumstances that justifies consideration of a substantially similar application. By way of example and not limitation:

(1) If a spacing requirement was the reason for the denial, and the use from which spacing is required moved away; or

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

Part 16. Appeals

16.01.010. Administrative Appeals to Board of Adjustment

(a) **Generally.** The Board of Adjustment ("BOA") shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Director in the administration of this Code. The BOA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made; where the BOA finds that the Director acted:

- (1) Without clear and convincing evidence to support the order, requirement, decision or determination; or
- (2) Beyond the Director's authority.

(b) **Timing.** Appeals made to the BOA must be made in writing and filed with the Director within 30 days following the action or decision of the Director from which the appeal is taken.

(c) **Automatic Stay; Exception.** An appeal from an order, requirement, decision or determination made by the Director shall stay all proceedings unless the Director certifies that such stay would cause imminent peril to life or property.

(d) **Supermajority Vote Required.**

16.01.020. Administrative Appeals to Board of County Commissioners

(a) **Generally.** The Board of County Commissioners shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Planning Commission in the administration of this Code.

(b) **Parties to Appeal.** Any person or persons who are aggrieved by the decision of the Planning Commission may file an appeal. If the appeal is not brought by the applicant, the applicant shall be promptly notified that the applicant is a party to the appeal and has a right to participate in the processing of the appeal.

(c) **Form of Relief.** The Board of County Commissioners may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made; where the Board of County Commissioners finds that the Planning Commission acted:

- (1) Without clear and convincing evidence to support the order, requirement, decision or determination;
- (2) In error as to the interpretation of the applicable requirements of this Code; or
- (3) Beyond its authority.

(d) **Timing.** Appeals made to the Board of County Commissioners must be made in writing and filed with the Director within 21 days following the action or decision of the Planning Commission from which the appeal is taken.

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Division 2.03. Use-Specific Development Standards

2.03.010. Applicability of Use-Specific Development Standards

Generally, The standards in this Division apply to uses designated in Section 2.02.020, Land Use By Zoning District, as Limited Use ("L") or Conditional Use ("C"). All uses designated as limited use and conditional use must comply with Part 4, Site Design and Environmental Stewardship. Some uses shown as a limited use or conditional use also have use specific standards (see Section 2.03.020, General Standards for Limited and Conditional Uses) that must be complied with. When there is no use specific standard defined, the use must only comply with Part 4, Site Design and Environmental Stewardship. Where a provision requires the application of Conditional Use standards, the use is also subject to Conditional Use standards (see Section 2.03.020, General Standards for Limited and Conditional Uses) and procedures, as applicable.

Conversion to a Conditional Use.

In the event that a use-specific standard for a Limited Use cannot be met, the use may be processed (at the applicant's option, subject to the exceptions of subsection (b)(2), below) as a Conditional Use. Upon such election, the proposed use shall be processed in accordance with the Conditional Use standards in Section 2.03.020, General Standards for Limited and Conditional Uses, and the Conditional Use procedures described in Part 7, Nonconformities, Development Review Bodies, and Procedures. The applicable use-specific standards from this Division shall be met to the extent practicable, and the Conditional Use process shall be applied to offset the impacts that may result from the inability to fully comply with applicable use-specific standards.

The flexibility created by subsection (b)(1), above may be limited with regard to certain uses as specified in this Division.

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PART 17. ENFORCEMENT AND REMEDIES

Division 17.01. Violations

17.01.010. General Violations

(a) **Construction and Alterations.** It is unlawful to erect, construct, reconstruct, or alter any building or structure in violation of any regulation in, or of any provisions of, this Code, or any amendment hereto.

(b) **Use.** It is unlawful to use any building, structure, or land in violation of any regulation in, or of any provision of, any zoning resolution, or any amendment thereto.

Lunk and Garbage; weeds and brush – removal can be required 30-15-401, except 10 ac. + industrial and agriculture land. Administrative entry and seizure warrant.

(lien for costs?)

17.01.020. Subdivision Violations

(a) Unlawful Subdivision.

- (1) No person shall subdivide any parcel of land which is located in unincorporated Delta County into two or more parcels except in compliance with this Code, unless all parcels created by the division contain thirty five (35) acres or more or as allowed for cluster developments in accordance with Section 30-28-401 et. seq. C.R.S.
- (2) No lot within a subdivision created prior to the effective date of this document or approved by the Board of County Commissioners under the provisions of this document shall be further divided, rearranged, or reduced in area, nor shall the perimeter boundaries of any subdivision, or any lot within a subdivision, be altered in any manner without the approval of the Board of County Commissioners as provided for in this document.

(b) Unlawful Conveyance.

- (1) No person shall offer for recording, in the office of the County Clerk and Recorder, a deed or contract for deed or installment land contract conveying or agreeing to convey a parcel of land less than 35 acres, or interest therein, unless such a parcel of land has been subdivided or otherwise created in compliance with the rules set forth in this document or in compliance with previous regulations.
- (2) No person shall transfer legal or equitable title or sell any subdivided land less than 35 acres before a final plat for such subdivided land has been approved by the Board of County Commissioners and recorded or filed in the office of the County Clerk and Recorder.

Comment [TM25]: Discuss – is this in a different resolution or ordinance?

Comment [TM26]: Discuss with Brad Lewis in County Attorney's office

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Comment [t27]: Update – unless exempt

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Comment [t28]: Update with Statutory nuance

(3) No person may construct or offer for sale or lease upon any parcel of land, condominiums, apartments or other multiple family dwellings, except in compliance with the rules set forth in this document and/or those in the Delta County Regulations for Specific Development and State law.

Division 17.02. Remedies

17.02.010. Nature of Remedies: Preference for Civil Remedies

(a) **Generally.** The remedies provided in this Code, whether administrative, civil, or criminal, shall be non-exclusive and cumulative, and shall be in addition to any other remedy provided by law.

(b) **Each Day a Separate Offense.** Each day that a violation exists constitutes a separate offense.

(c) **Policy Preference for Civil Remedies.** It is the intent of the County to apply administrative and civil remedies described in this Division, and to use criminal enforcement only in egregious cases, including, but not limited to, multiple repeated offenses or extreme circumstances.

17.02.020. Administrative Remedies

No permits to do work in the public right of way, County Road access permits, or other approvals or permits or address assignments will be issued that are applicable to or for the benefit of any property found to be in violation of this Code until said violation has been cured or terminated, except in instances when road rights-of-way or other lands for public purposes are established without the necessity of subdividing adjoining lands. Refusal to issue any such permit shall not be considered an exclusive remedy. The County, in addition to any other remedies provided in this document or by law, may institute judicial proceedings to prevent, enjoin, abate, or remove such violations.

17.02.030. Civil Remedies

(a) **Generally.**

(1) In the event that any building or structure is or is proposed to be erected, constructed, reconstructed, altered, or used, or any land is or is proposed to be used, in violation of any regulation or provision of this Code, the County Attorney may institute an action for injunction, mandamus, abatement, or other appropriate relief in order to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, or use.

(2) In the event that there is no County Attorney or in the event that the Board of County Commissioners deems it appropriate, the Board of County Commissioners may appoint the District Attorney to perform such enforcement duties.

See C.R.S. § 30-28-124

(b) **Subdivision Violations.** The owner and any agent of the owner of any land, building, or structure found to have violated the Subdivision Regulations of Delta County shall be subject, upon

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conviction thereof, to a maximum fine of not more than one thousand dollars (\$1,000) for each parcel of or interest in subdivided land which is sold. Each day during which such violation continues shall be deemed a separate offense.

17.02.040. Criminal Remedies

Any person, firm, or corporation violating any provision of this Code is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ten days, or by both such fine and imprisonment.

See C.R.S. § 30-28-124(1)

Division 17.03. Enforcement Procedures

17.03.010. Notice of Violation

The Director shall, upon personal information and belief that a violation of any regulation or provision of this Code has occurred, give written notice to the alleged violator to correct the violation within 10 days after the date of the notice.

17.03.020. Failure to Timely Cure

(a) Summons and Complaint.

(1) Generally. If an alleged violator fails to correct a specified violation within the 10-day period set out in Section 8.03.010, Notice of Violation, or within any extension period granted by the Director, the County may issue a summons and complaint (as provided below) to the alleged violator, stating the nature of the violation with sufficient particularity to give notice of the charges. The summons and complaint shall require that the alleged violator appear in county court at a definite time and place stated therein to answer and defend the charge.

(2) Civil Complaints.

- a. The summons and complaint may be served by the Director, the County Sheriff, or the County Attorney
- b. One copy of the summons and complaint shall be served upon the alleged violator in the manner provided by law for the service of a county court civil summons and complaint in accordance with the Colorado rules of county court civil procedure.
- c. The summons and complaint shall also be filed with the clerk of the county court and thereafter the action shall proceed in accordance with the Colorado rules of county court civil procedure.

(3) Criminal Complaints.

- a. The summons and complaint may be served by the County Sheriff upon request of the Director.

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In-line notes and commentary are set out in *green italics*.

- b. One copy of said summons and complaint shall be served upon the alleged violator by the County Sheriff in the manner provided by law for the service of a criminal summons.
- c. One copy each shall be retained by the County Sheriff and the Director, and one copy shall be transmitted by the County Sheriff to the clerk of the county court.

(b) **Cure Prior to Appearance Date.** In the event that the alleged violation has been cured or otherwise removed and the alleged violator has notified the Director of the cure or removal at least five business days prior to the appearance date in the summons, then the County Attorney shall so inform the court and request that the action be dismissed without fine or appearance of the defendant.

17.03.030. Adjudication

Upon adjudication of a matter brought pursuant to this Division, civil and / or criminal penalties may be imposed by the Court as provided in C.R.S. § 30-28-124 and C.R.S. § 30-28-124.5.

PART 18. MEASUREMENTS, CALCULATIONS, RULES OF CONSTRUCTION, ACRONYMS AND DEFINITIONS

Division 18.01. MEASUREMENTS, CALCULATIONS, RULES OF CONSTRUCTION, ACRONYMS AND DEFINITIONS

18.01.010. Lot Area

Lot area is the area contained within the boundaries of a lot.

18.01.020. Lot Dimensions

(a) **Lot Frontage.** Lot frontage is the length of the lot line that is coterminous with a road right-of-way.

(b) **Lot Width.** Lot width is the distance between side lot lines, measured between the points where the front setback line intersects opposite side lot lines.

(c) **Lot Depth.** Lot depth is the shortest distance between the front lot line and the rear lot line.

18.01.030. Setbacks

Setbacks are measured as offset distances from property lines.

18.01.040. Rules of Construction

(a) **Generally.** For the purposes of this Chapter and unless the context clearly indicates otherwise, certain terms and words used herein shall be interpreted as follows:

- (1) The present tense includes the future tense;
- (2) The singular number includes the plural and the plural number includes the singular;
- (3) The words shall and must are mandatory and the word may is permissive;
- (4) The words used or occupied include the words intended, designed or arranged to be used or occupied; and
- (5) The word lot includes the words plot or parcel.

(b) **Cross-References.** Unless otherwise explicitly stated as to a particular cross-reference in this Code:

- (1) Cross-references to Federal law (e.g., the AMERICANS WITH DISABILITIES ACT) or regulations, State statutes or regulations, or County ordinances, resolutions, or regulations (e.g., the DELTA COUNTY ROADWAY DESIGN AND CONSTRUCTION STANDARDS) are intended to refer to the current version of the cross-reference at the time they are applied. If a cross-referenced standard is amended or superseded such that its reference changes, it is the intent of this Code that the cross-reference be updated to the changed reference. The Director is authorized to update the cross-references in this Code to keep them current.

In-line notes and commentary are set out in *green italics*.

(2) Except as specifically provided in this Code, cross-references to model codes or standards (e.g., ICC Codes, ANSI Standards, or NFPA Standards) are intended to refer to the version of the cross-referenced model code or standard that is referenced. If a cross-referenced model code or standard is updated and the cross-reference in this Code does not include the phrase “as amended,” then the County may apply the current version upon text amendment to this Code that updates the reference to the current version.

(3) If a cross-referenced standard is repealed and not replaced, it is the intent of this Code that the cross-referenced standard be preserved in the form it took immediately prior to its repeal.

18.01.050. Acronyms

Table 9.02.020, *Table of Acronyms*, sets out the acronyms that are used in this Code.

TABLE 9.02.020 TABLE OF ACRONYMS	
Acronym	Meaning
AASHTO	American Association of State Highway Transportation Officials
ac.	Acre
ADA	Americans with Disabilities Act
ADA 502	2010 ADA Standards for Accessible Design § 502, as amended from time to time, and however subsequently titled or numbered
ADT	Average Daily Traffic
ANSI	American National Standards Institute
Art.	Article
ASTM	American Society for Testing and Materials
ATM	Automated Teller Machine
BFE	Base Flood Elevation
BMP	Best Management Practice
BOA	Board of Adjustment
BOCC	Board of County Commissioners
CAAP	Concentrated Aquatic Animal Production
CAFO	Concentrated Animal Feeding Operation
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
CMRS	Commercial Mobile Radio Service
CNSDA	Colorado Notification of Surface Development Act, C.R.S. § 24-65.5-101, <i>et seq.</i>
COGCC	Colorado Oil and Gas Conservation Commission

In-line notes and commentary are set out in *green italics*.

TABLE 9.02.020
TABLE OF ACRONYMS

<u>Acronym</u>	<u>Meaning</u>
<u>C.R.S.</u>	<u>Colorado Revised Statutes</u>
<u>dBA</u>	<u>A-weighted Decibels</u>
<u>Div.</u>	<u>Division</u>
<u>du</u>	<u>Dwelling Unit</u>
<u>du/ac</u>	<u>Dwelling Units per Acre</u>
<u>e.g.</u>	<u>exempli gratia (translation: “for example”), which is followed by illustrative, non-exclusive examples</u>
<u>EOPC</u>	<u>Engineer’s Opinion of Probable Cost</u>
<u>EPA</u>	<u>United States Environmental Protection Agency</u>
<u>ft.</u>	<u>Feet</u>
<u>GESC</u>	<u>Grading, Erosion, and Sediment Control</u>
<u>ICC</u>	<u>International Code Council</u>
<u>i.e.</u>	<u>id est (translation: “that is”), which is followed by an elaboration of the topic</u>
<u>ISDS</u>	<u>Individual Sewage Disposal System</u>
<u>lf.</u>	<u>Linear Feet</u>
<u>Max.</u>	<u>Maximum</u>
<u>Min.</u>	<u>Minimum</u>
<u>MUTCD</u>	<u>Manual on Uniform Traffic Control Devices for Streets and Highways</u>
<u>N/A</u>	<u>Not Applicable</u>
<u>NFPA</u>	<u>National Fire Protection Association</u>
<u>NOV</u>	<u>Notice of Violation</u>
<u>NPDES</u>	<u>National Pollutant Discharge Elimination System</u>
<u>OGC Act</u>	<u>Colorado Oil and Gas Conservation Act, C.R.S. § 34-60-101, et seq.</u>
<u>PC</u>	<u>Planning Commission</u>
<u>ROW</u>	<u>Right-of-Way</u>
<u>RV</u>	<u>Recreational Vehicle</u>
<u>Sec.</u>	<u>Section</u>
<u>sf.</u>	<u>Square Feet</u>
<u>sp.</u>	<u>Parking Space (or Parking Spaces)</u>
<u>U.S.</u>	<u>When preceded and followed by numbers, United States Reports (a Supreme Court Reporter); otherwise United States</u>
<u>U.S.C.</u>	<u>United States Code</u>
<u>U.S. DOJ</u>	<u>United States Department of Justice</u>
<u>WWTP</u>	<u>Wastewater Treatment Plant</u>

In-line notes and commentary are set out in *green italics*.

18.01.060. Definitions

A

Accessory Business Use of the Home means the use of a residence (including the land associated with the residence, and including a residence associated with an agricultural use) for a commercial operation, where:

- (1) The commercial operation is subordinate to the residential use;
- (2) The character of the residential use is not materially altered; and
- (3) The commercial operation is conducted by the owner or occupant of the residential use.

Accessory Use means a use of land that:

- (4) Is clearly subordinate in area, extent, and purpose to the principal use;
- (5) Contributes to the comfort, convenience, or necessity of the principal use;
- (6) Is operated by the owner of the principal use; and
- (7) Is located on the same lot or parcel as the principal use.

Adult Entertainment means an exhibition, display, activity, or dance that involves the appearance or exposure to view of specified sexual activities or specified anatomical areas to an audience for consideration.

Agricultural and Agribusiness Uses, Operations, and Activities means a group of land uses that are related to grazing or raising livestock or land uses which produce products that originate from the land's productivity, such as farming, ranching, forestry, viticulture, floriculture, beekeeping, tree farming, hemp cultivation, animal husbandry, and horticulture. The phrase "Agricultural and Agribusiness Uses, Operations, and Activities" does not include the phrase "Intensive Agriculture"¹ or any specific land uses within that group, nor does it include the phrase "Marijuana Uses" or any specific land uses within that group.

Agricultural Support and Rural Industries means a group of land uses that either provide support for agricultural operations, process agricultural outputs or other natural resources, or that are often located in rural areas due to the need for separation from population centers.

Agricultural Workforce Housing means dwelling units that are located on the site of an agricultural or agribusiness use, operation, or activity or an intensive agriculture use, which provide housing for employees or contractors who work on the site.

Airport or Airstrip means any area of land or water that is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas that are used, or intended for use, for supporting buildings (e.g., hangars, fueling areas, terminals, or control towers), or other facilities or rights-of-way, together with all buildings and facilities located thereon. The term "Airport" refers to a publicly owned and managed facility that is open for public use without operational restrictions on its use. The term "airstrip" refers to a runway for take-off and landing of fixed-wing aircraft that is not open for public use (e.g., use is limited to a single property owner, a property owners'

Comment [EC29]: Make clear includes offshoot like hunting cabins

¹ Words and phrases that are highlighted with red type are defined elsewhere in this document.

association, or a public safety entity or governmental unit), or offers limited facilities for general aviation purposes.

Animal Units means a unit of measurement for determining the intensity of use of land for the keeping of livestock, by comparing the impacts of various animals to the impacts of a 1,000 lb. cow. Animal units are measured as provided in the table below.

ANIMAL UNITS (1 AU = 1,000 LB. COW)	
Animal	Animal Unit ("AU") Calculation
Cattle-Beef	1.0
Cattle-Dairy	1.4
Chicken	0.02
Elk	0.5
Geese, Ducks, Turkey	0.03
Goat	0.2
Horse	1.0
Sheep	0.2
Swine	0.4
Bison	1.0

Automobile Fueling or Service Station means a commercial facility that is used for the retail dispensing or sales of motor fuels; propane; Level 3 DC fast-charging of electric vehicles; washing of motor vehicles; towing of automobiles and light trucks (but not storage, wrecking, or salvage of inoperable automobiles or light trucks); and / or the sale and installation of lubricants, tires, batteries, brakes, mufflers, and similar vehicle repairs. The phrase "fueling / service station" does not include collision centers or facilities that provide transmission repair, engine overhauls, or repair of commercial vehicles. The phrase "Fueling or Service Station" includes associated retail stores that sell ready-to-eat food products (not intended for on-premises consumption), groceries, consumable motor vehicle supplies, or sundries.

B

Bed and Breakfast means a single-family dwelling unit in which a maximum of four guest rooms for overnight lodging (for terms of less than 30 days) is provided, which may include meals, and which is operated by the permanent resident of the dwelling unit.

C

Campground means an area or tract of land on which accommodations for temporary occupancy (not to exceed six months in any one calendar year by any particular guest) are located, including for the parking or placement of recreational vehicles, such as motor homes, truck campers, mobile tiny homes, cabins, yurts, or tents used for human occupancy.

Cemetery means a place that is dedicated to, used, and intended to be used for the permanent interment of human remains, and may include a burial plot for earth interments, a mausoleum for

vault or crypt interments, a columbarium for cinerary interments, or any combination of one or more of the above. The term “cemetery” does not include areas of private property that are used for burials of members of the property owner’s family.

Commercial, with reference to categories of land uses, means a group of land uses that involve general commercial activity.

Commercial Facility means land, structures, and / or buildings that are used for commercial purposes, but not including home businesses, cottage industries, and incidental commercial activities.

Communal Living means more than one family (see definition of “Family”) living on a property in more than one single-family detached dwelling unit, manufactured home, recreational vehicle, or tiny home built or installed for permanent living. Communal living may include shared community buildings such as a community meeting space.

Community Land Uses means a group of land uses that provide community gathering places or services, such as places of assembly, education, or interment of human remains.

Community Water System means a public water system that supplies at least 15 service connections used by year-round residents or that regularly supplies at least 25 year-round residents.

Corner Lot means a lot that has two street frontages that form a corner or sharp curve, generally due to a location at the intersection of two streets.

D

Delta County Roadway Design and Construction Standards means the Delta County Roadway Design and Construction Standards, dated December 12, 2005, including appendices, as such documents may be amended or superseded from time to time.

Developer. See “Subdivider or Developer”

Disposition means a contract of sale resulting in the transfer of equitable title to an interest in subdivided land; an option to purchase an interest in subdivided land; a lease or an assignment of an interest in subdivided land; or any other conveyance of an interest in subdivided land which is not made pursuant to one of the foregoing.

(C.R.S. § 30-28-101(1))

Ditch Company means a person or organization (public or private) that owns, controls, or operates a ditch, reservoir, canal, or pipeline in which water is stored or through which water is transported for beneficial use, including but not limited to a mutual ditch company or an irrigation district. The phrase “ditch company” does not include the phrases “public water system.”

Dwelling Unit means a building or portion of a building that provides complete independent living facilities, including permanent provisions for living, sleeping, eating, cooking and sanitation, for one family.

E

Equestrian Facilities means a boarding stable, riding school or academy, riding arena, or exhibition facility for horses, donkeys, or mules, but not facilities that are associated with

residential or agricultural uses and solely for the private use of the residential or agricultural landowner or lessee. Equestrian facilities typically include barns, stables, corrals, riding arenas, and / or paddocks.

Evidence means any map, table, chart, contract, or other document or testimony, prepared or certified by a qualified person to attest to a specific claim or condition, which evidence shall be relevant and competent and shall support the position maintained by the subdivider.

(C.R.S. § 30-28-101(2))

Exempt Well means a well that does not exceed 15 gallons per minute of production and used for ordinary household purposes, fire protection, the watering of poultry, domestic animals and livestock on farms and ranches and for the irrigation of not over one acre of home gardens and lawns but not used for more than three single-family dwellings.

(C.R.S. § 37-92-602(1))

F

Family means one or more persons related by blood, marriage, adoption, guardianship, or similar relationship (including domestic partners), occupying a dwelling unit and living as a single housekeeping unit.

Farm, Orchard, or Ranch means land that is used for commercial crop production, horticulture, floriculture, viticulture, or forestry, or to produce food or fiber products that originate from the land's productivity, and may include value-added agricultural processing (*e.g.*, a vineyard with an on-site winery, or a produce stand on a farm site are both within the definition of the phrase "Farm, Orchard, or Ranch"). The phrase "Farm, Orchard, or Ranch" does not include land that is used to produce food or fiber products for the personal use of the landowner, or for incidental commercial activities. The phrase "Farm, Orchard, or Ranch" does not include any of the specific land uses within the group "Intensive Agriculture," nor does it include any of the other specific land uses within the group "Agricultural and Agribusiness Uses, Operations, and Activities."

Farm Supply / Feed and Seed means a commercial facility that sells, rents, or repairs agricultural machinery, equipment, and supplies for use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming, beekeeping, or livestock operations.

G

Growth Management Area means an unincorporated area surrounding a municipality within which both the County and the municipality agree to jointly participate in planning and the review of proposed developments in accordance with an Intergovernmental Agreement between the participating entities.

Guest Ranch means a working farm or ranch that also includes rooms for lodging that are rented to guests for terms of less than 30 days. Guest ranches may include areas for outdoor recreation and provide organized outdoor activities such as horseback riding, rock climbing, rafting, hiking, hunting, and fishing. Guest ranches may also provide meals for guests, and may be used for private special events (*e.g.*, private parties, corporate retreats, and weddings).

Comment [t30]: Should this definition encompass all "exempt wells" under CRS 37-92-602

H

Hazardous Waste Landfill means all contiguous land, including publicly-owned land, under common ownership that is used for hazardous waste disposal as such phrase is defined in C.R.S. § 35-15-200.3(4), except that such term shall not include any site that is in compliance with an approved reclamation plan contained in a permit issued pursuant to Article 32 of Title 34, C.R.S., or Article 33 of Title 34, C.R.S.

Hemp Cultivation means a commercial facility that is used for cultivation of industrial hemp, which may include the processing of the industrial hemp on the land where it is produced (*e.g.*, a CBD oil extraction facility on the site of the hemp cultivation operation is within the definition of “Hemp Cultivation”).

Hunting, Fishing, or Watersports Club means a commercial facility that provides access to land or water to its members (and not to the general public) for the purposes of hunting, fishing, or watersports (*e.g.*, swimming, boating, or waterskiing), and which may include buildings that provide facilities for assembly, dining, camping, and / or temporary or seasonal lodging. Hunting, fishing, or watersports clubs may also be used for special events (*e.g.*, private parties, corporate retreats, and weddings).

I

Improvements Agreement means a legally binding contract made by and between the developer / subdivider and the County whereby the developer guarantees the installation of all improvements (whether proposed by the developer / subdivider or required by the Board of County Commissioners or both) that are designed to serve the occupants of a development or subdivision or the general public, and provides for a financial security arrangement to ensure such installation.

Incidental Commercial Activities means the commercial use of residential property that is obviously subordinate to the residential use.

Individual Sewage Disposal System (“ISDS”) means an absorption system of any size or flow, or a facility for collecting, treating, neutralizing, stabilizing or disposal of sewage, which is not a part of or connected to a sewage treatment works. More commonly known as a septic system.

Industrial Hemp means a plant of the genus *cannabis* and any part of the plant, whether growing or not, containing a *delta-9 tetrahydrocannabinol* concentration of no more than three-tenths of one percent on a dry weight basis.

Inn or Lodge means a building or group of buildings in which not less than five and not more than 10 guest rooms for overnight lodging (for terms of less than 30 days) is provided, which may include meals. Inns or lodges may also be used for private special events (*e.g.*, private parties, corporate retreats, and weddings).

Intensive Agriculture means a group of land uses that involve the raising, care, or feeding livestock, where the number of animals is equivalent to or greater than 50 animal units, and, the animals are stabled, confined, fed and/or maintained a total of 45 days or more in any 12-month period, and, where crops, vegetation, forage growth, or post-harvest residues are not growing, irrigated and sustained in the normal growing season over any portion of the lot or facility. The phrase “intensive agriculture” also includes concentrated aquatic animal production (“CAAP”). The phrase “intensive agriculture” does not encompass (without more) cattle and sheep that are moved

between winter and summer pastures, and replacement heifers on property where other cattle are grazing. The phrase "Intensive Agriculture" includes:

- (8) *Minor Animal Feeding Operation ("MAFO")*, which means any building or outdoor corral, pen, or other enclosure used to confine animals, where the number of animals is between 50 and 150 animal units, for the purpose of feeding or care, where no forage is harvested.
- (9) *Intense Animal Feeding Operation ("IAFO")*, which means any building, outdoor corral, pen, or other enclosure used to confine animals, where the number of animals is between 150 and 999 animal units, for the purpose of feeding or care, where no forage is harvested.
- (10) *Concentrated Animal Feeding Operations ("Large CAFO")*, which means any building, outdoor corral, pen, or other enclosure used to confine animals, where the number of animals is 1,000 or more animal units, for the purpose of feeding or care, where no forage is harvested.
- (11) *Concentrated Aquatic Animal Production ("CAAP")*, which means a hatchery, fish farm, or other facility that is designated by the U.S. EPA (see 40 CFR 122.25), or which satisfies the following criteria:
 - a. The facilities raise cold water fish species or other cold water aquatic animals in ponds, raceways, or other similar structures which discharge at least 30 days per year, except:
 - i. Facilities that produce less than 20,000 pounds of aquatic animals per year; and
 - ii. Facilities that feed less than 5,000 pounds of food during the calendar month of maximum feeding.
 - b. If the facilities raise warm water fish species or other warm water aquatic animals in ponds, raceways, or other similar structures that discharge at least 30 days per year, except:
 - i. Closed ponds which discharge only during periods of excess runoff; or
 - ii. Facilities that produce less than 100,000 pounds of aquatic animals per year.
- (12) *Fish Hatchery* (not "CAAP"), which means any facility, structure, lake, pond, tank, or tanker truck used for the purpose of propagating, selling, brokering, trading, or transporting live fish or viable gametes, except a concentrated aquatic animal production facility ("CAAP").

Interior Lot means a lot with one street frontage.

J

junk means wrecked, scrapped, ruined, partially dismantled, dismantled, or inoperable and unlicensed motor vehicles (e.g., recreational vehicles, commercial vehicles, passenger vehicles,

In-line notes and commentary are set out in *green italics*.

construction equipment, trucks, boats, and trailers); inoperable major appliances and equipment (e.g., water heaters, ranges, ovens, refrigerators, mowers); manufactured or mobile homes that are in a dilapidated, uninhabitable condition; construction debris or used construction materials; and household waste. The term “junk” does not include inoperable farm equipment.

Junk Storage means an area of land (outside of an enclosed building) that is used for the storage of junk, except where such junk is input for a rural medium industry or rural heavy industry (in which case the junk storage is considered part of the industrial use); materials that are stored in a salvage yard (see definition of phrase “Salvage Yard”); materials that are stored in a waste transfer station; or materials that are permanently disposed of in a landfill.

K

Kenel means a commercial facility for breeding, boarding, training, and / or selling of household pets. The term “kenel” does not include incidental commercial activities.

L

Landfill means an area of land that is used for the disposal of non-hazardous solid wastes.

Lot Frontage means the lot line that is coterminous with a road right-of-way.

Lot Line means a legal boundary of a lot.

M

Maintenance Agreement means an agreement signed by the developer to insure facilities or work to insure correction of failures of improvements required by these regulations, and / or to maintain the same.

Manufactured Home means:

(13) A building that:

- a. Is transportable in one or more sections;
- b. In the traveling mode is eight body feet or more in width or 40 body feet or more in length; or, when erected on site, is 320 sf. or more in floor area;
- c. Is built on a permanent chassis;
- d. Is designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities;
- e. Includes the plumbing, heating, air-conditioning and electrical systems contained therein; and
- f. Complies with the standards established under 42 U.S.C. § 5401 *et seq.*, *Manufactured Home Construction and Safety Standards*; or

(14) Any structure that meets all the criteria of the above-stated definition except the size requirements ((1)b.), and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development that the structure complies with the standards established under 42 U.S.C. § 5401, *et seq.*

Manufactured Home Park means a parcel of land that includes streets and utilities, and that is divided into spaces that are individually leased for the purpose of installing a manufactured home for residential purposes.

Marijuana Uses means the following uses:

- (15) A medical marijuana center;
- (16) A medical marijuana-infused product manufacturer;
- (17) An optional premises cultivation operation;
- (18) A medical marijuana testing facility;
- (19) A retail marijuana cultivation facility;
- (20) A retail marijuana products manufacturing facility;
- (21) A retail marijuana store; or
- (22) A retail marijuana testing facility;

as such phrases are defined by the Colorado Revised Statutes, as amended from time to time.

Minerals Extraction / Quarry means a commercial facility involving the extraction of salable minerals (including, but is not limited to, building stone, clay, coal, diatomaceous earth, gravel, precious or semi-precious stones or metals, or sand) from the earth. The phrase “Minerals Extraction / Quarry” does not include the phrase “Oil and Gas Extraction;” cut and fill operations within a single property or between properties under single ownership; or the construction, cleaning, or reshaping of irrigation ditches or reservoirs (even if the spoil is sold for use as fill).

N

Non-Community Water System means a public water system that is not a community water system. A non-community water system is either a “transient, non-community water system” or a “non-transient, non-community water system.”

Non-Transient, Non-Community Water System means a public water system that is not a community water system and that regularly serves at least 25 of the same individuals, corporations, companies, associations, partnerships, municipalities, or State, Federal, or tribal agencies over six months per year.

O

Offices means a building or buildings from which professional, administrative, financial, clerical, brokering, real estate, medical, and limited technical services are provided by a group of three or more unrelated principals, contractors, or employees. The term “Office” includes, but is not limited to, the following businesses or services:

- (23) Accounting, auditing, and bookkeeping;
- (24) Advertising and graphic design;
- (25) Architectural, engineering, and surveying services;

Comment [TM31]: Note that this is a very preliminary definition, and that the subjects of pre-HUD-code mobile homes, recreational vehicles, and “tiny homes” (either on chassis or foundations) will be considered in the final definition.

- (26) Attorneys and court reporters;
- (27) Brokering of motor vehicles, commodities, and other items where the thing brokered is not stored on-site;
- (28) Business incubators (unless the businesses being incubated are classified as another type of use);
- (29) Computer programming and data recovery services;
- (30) Corporate headquarters;
- (31) Data mining, data processing, data storage, and word processing services;
- (32) Detective agencies;
- (33) Government administration or services;
- (34) Insurance;
- (35) Interior design;
- (36) Medical offices and clinics;
- (37) Real estate sales and off-site rental services;
- (38) Research and development (not including on-site manufacturing or fabrication, and not including marijuana uses);
- (39) Retail catalog, internet, and telephone order processing, but not warehousing; and
- (40) Shared office and virtual office services.

Official Hazard Area Maps means maps that are on file with the County that identify the general location of natural hazards.

Oil and Gas Extraction means exploration for and production of oil and / or natural gas.²

Oil and Gas Support Services means commercial facilities that provide direct support to oil and gas extraction, including:

- (41) Parking and maintenance of exploration, production, or workover equipment, or for tank and water service companies;
- (42) Equipment and storage yards for road and pipeline construction contractors, and production unit set-up and maintenance contractors;
- (43) Storage and rental yards for pipe and production equipment;
- (44) Field offices that are used by production-related records and maintenance personnel;

² Note that this definition may be modified or expanded as the result of the work of the committee that is reviewing the County's oil and gas regulations.

(45) Disposal and recycling sites for production waste (except production water disposed through either secondary recovery or deep well disposal methods where the mode of transport to such injection wells is exclusively via pipeline from the source, and no on-site storage occurs)

(46) Oil and gas processing facilities and related equipment, including, but not limited to, compressors that are associated with gas processing or which compress gas to enter a pipeline for transport to market.

(47) Midstream activities, including the processing, storing, transporting, and marketing of oil, natural gas, and natural gas liquids.

The phrase “oil and gas support services” does not include businesses whose activities are primarily manufacturing and fabricating, or whose function is primarily general corporate offices.

Other Active Outdoor Recreation means active outdoor recreation activities not otherwise specifically defined by this Code, such as zip line parks, batting cages, and mini golf courses, or other similar activities. The phrase “other active outdoor recreation” does not include outdoor shooting ranges or other uses that are specifically defined in this Code.

Outdoor Theater means an outdoor area surrounded by rows of seats or benches (which may be tiered) or lawn seating areas, designed for the viewing of sporting events, rodeos, equestrian events, livestock exhibitions, concerts, or other organized entertainment; or an area of land that includes one or more large outdoor screens or other structures for the display of motion pictures, as well as and an area for parking automobiles from which the motion pictures are viewed. The phrase “Outdoor Theaters” may include concession sales.

Overnight Accommodations means a commercial facility that provides more than 10 rooms for overnight accommodations for terms of less than 30 days, which also provides not more than two of the following amenities: (1) food service for guests; (2) conference rooms, ballrooms, and comparable special event space; (3) recreational activities or programming (e.g., swimming, golf, tennis, horseback riding, etc.); (4) personal services (e.g., spa services, fitness training, sports instruction, etc.); or (5) entertainment programming (not including in-room televisions or internet access).

P

Paintball Course means an outdoor area of land used for mock war games using paintball guns or laser equipment. Paintball courses may include structures, bunkers, obstacles, vending, and pro shops.

Parks, Passive Recreation, Open Space, or Golf Course means areas of land that provide recreation opportunities outdoors for the public (open to the community) or residents of a subdivision or development, which are generally not commercial in nature (except golf courses, which may be commercial facilities). The phrase “Parks, Passive Recreation, Open Space, Golf Course” includes areas for recreational activities including, but not limited to:

(48) Jogging, cycling, tot-lots, fitness trails, and playgrounds;

(49) Sports fields (e.g., soccer fields, baseball diamonds, or football fields) or outdoor sports courts (e.g., tennis, racquetball, or basketball);

In-line notes and commentary are set out in *green italics*.

(50) Golf courses and golf driving ranges;

(51) Arboretums, wildlife sanctuaries, forests, and other natural areas which may be used for walking, snowshoeing, mountain biking, or hiking; or

(52) Passive recreation-oriented parks, including picnic areas.

Place of Assembly means an indoor place where people gather for civic, cultural, or religious purposes, that is not more specifically defined elsewhere. The phrase “place of assembly” includes, but is not limited to, adult day care facility, church, community center, fraternal organization, grange hall, lecture hall, meeting hall, mosque, place of worship, private club, synagogue, or temple.

Plat means a map and supporting materials of certain described land prepared in accordance with subdivision regulations as an instrument for recording of real estate interests with the county clerk and recorder.

(C.R.S. § 30-28-101(5))

Preliminary Plan means the map of a proposed subdivision and specified supporting materials, drawn and submitted in accordance with the requirements of adopted regulations, to permit the evaluation of the proposal prior to detailed engineering and design.

(C.R.S. § 30-28-101(6))

Prohibited Uses means a group of land uses that are not allowed anywhere in the unincorporated County.

Public Water System (“PWS”) means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days out of the year. The phrase includes:

(53) Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system.

(54) Any collection or pretreatment storage facilities not under such control, which are used primarily in connection with such system.

A Public Water System is either a “Community Water System” or a “Non-Community Water System.” The phrase “Public Water System” does not include the phrase “Ditch Company.”

R

Racetrack means a commercial facility consisting of a track, either paved or unpaved, which is used primarily for the sport of racing motor vehicles (e.g., cars, go-carts, motorcycles, or all-terrain vehicles). A racetrack may include seating, concession areas, restaurants, sky boxes, parking facilities, maintenance facilities, accessory offices, and accessory retail facilities. The phrase “race track” includes any facility used for driving automobiles under simulated racing or driving conditions (test tracks, “shakedown” tracks, or other similar facilities), regardless of whether they include seating, concession areas, or retail facilities for the general public.

Rebuttable Presumption means a fact that is presumed to exist unless it is disproved by a preponderance of the evidence.

Recreational Vehicle means:

(55) For the purposes of the Floodplain Regulations, a vehicle that is:

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

(56) For all other purposes of this Code, a vehicular-type unit that is primarily designed
as temporary quarters for recreational, camping, or travel use, that either has its own
motive power or is mounted on or drawn by another vehicle.

Renewable Energy Facility means a commercial facility for the production of more than 100 kW of renewable energy (e.g., solar, wind, or geothermal). The phrase “renewable energy facility” does not include the generation of renewable energy to cover the energy demands of the principal land use, even if the demands exceed 100 kW.

Resort or Conference Center Hotel means a commercial facility that provides more than 10 rooms for overnight accommodations for terms of less than 30 days, which also provides at least three of the following amenities: (1) food service for guests; (2) conference rooms, ballrooms, and comparable special event space; (3) recreational activities or programming (e.g., swimming, golf, tennis, horseback riding, etc.); (4) personal services (e.g., spa services, fitness training, sports instruction, etc.); or (5) entertainment programming (not including in-room televisions or internet access).

Restaurant means any commercial facility in which the principal business is the sale of food and beverages to customers in a ready-to-consume state, for consumption either within the restaurant building, outside but on the premises, or off the premises, and which may include a drive-in or drive-through facility. Fermented malt beverages, and/or malt, special malt, or vinous and spirituous liquors may be served pursuant to applicable alcohol beverage licenses.

Retail Sales and Services means a commercial facility characterized by the selling of tangible goods/merchandise or services/intangibles directly to the consumer, generally without an appointment. The phrase “Retail Sales and Services” does not include terms and phrases that are more specifically defined (e.g., “Marijuana Uses,” “Automobile Fueling or Service Station,” or “Truck Stop / Truck Wash”).

Rural Heavy Industry means industrial uses that are not described specifically elsewhere, and which may be described in one of the following four ways:

(57) Primary processing or manufacturing or repair operations that involve:

- a. A material risk of significant environmental contamination, explosion, or
fire;
- b. Perceptible ground vibration at the property line;

c. Excessive noise or dust emissions at the property line and downwind;

d. Large-scale outdoor storage of inputs or products;

e. Significant outdoor installations of processing equipment;

f. Outside emission of objectionable odors;

g. More than 30 trips by semi trailer trucks per day; or

(58) Processing of minerals (except precious and semi-precious stone cutting for jewelry or precision instruments such as lasers or watches), ores, or fossil fuels; or

(59) Activities that are required to undergo New Source Review under the Federal Clean Air Act, or are subject to construction or operation permits pursuant to the Colorado Stationary Sources Program or Title V of the Federal Clean Air Act; or

(60) Slaughterhouses or rendering plants.

Rural Light Industry means an industrial operation that does not emit unusual or excessive dust, smoke, fumes, gas, noxious odors, or noise, and which has operations that are generally confined within buildings or structures. Such uses may include, but are not limited to, grain elevators, grain storage and mixing, gun manufacturing, warehouses, packing plants, and food or beverage processing and packaging facilities (including wineries, breweries, and distilleries) that are conducted entirely within enclosed buildings.

Rural Medium Industry means an industrial operation that may include outdoor storage or operations, or which emits dust, smoke, fumes, gas, noxious odors, or noise, but which does not involve material hazards or require an individual permit under the Clean Air Act or Clean Water Act. Such uses may include, but are not limited to, farm machinery manufacturing, assembly, or repair; motor vehicle body shops or repair shops; machine shops; hemp processing that involves outdoor storage or flammable chemicals; and food or beverage processing and packaging facilities (including wineries, breweries, and distilleries) that are not conducted entirely within enclosed buildings; and sawmills or pulp mills that do not qualify as "Rural Heavy Industry" due to their scale.

Rural Recreation and Hospitality means a group of land uses that involve outdoor recreation, overnight accommodations, and entertainment in the rural environment.

Rural Residential means a group of residential land uses that are permissible in the County.

S

Salvage Yard means a commercial facility that is maintained, used, or operated for storing, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts (such salvage yards are also referred to by Colorado statutes as "automobile graveyards").

(C.R.S. § 43-1-502)

Sawmill or Pulp Mill means a commercial facility where logs are sawn, split, shaved, stripped, chipped, or otherwise processed, or other plant materials are processed, to produce wood or fiber products. The phrase "sawmill or pulp mill" does not include the processing of timber for use on the same lot by the owner or resident of that lot.

Schools and Child Care Centers means facilities that are operated for the care and education of children, or that provide secondary or vocational education to children or adults. The phrase “Schools and Child Care Centers” does not include the phrase “Schools and Child Care Centers” does not include any facility that is licensed as a family child care home, a foster care home, or a specialized group facility that is licensed to provide care for three or more children pursuant to C.R.S. § 26-6-102(10), but that is actually providing care for three or fewer children who are determined to have a developmental disability by a community centered board, or who are diagnosed with a serious emotional disturbance.

Sensitive Lands means land that because of its elevation, topography, vegetation, unique or exceptional agricultural value, habitat or wildlife corridor value, water resource value, historic or cultural value has been determined by the Board of County Commissioners (as specified in this Code) or other agencies with jurisdiction to require special consideration or specific regulation.

Sexually-Oriented Business means any, or any combination, of the following:

- (61) Adult Arcade: any commercial facility or private club where, for any form of consideration, one or more still or motion picture projectors, slide projectors, video displays, or similar machines, or other image producing machines, for viewing by five or fewer persons per machine at any one time, are used to regularly show films, motion pictures, digital images or video, video cassettes, slides, or other photographic reproductions or mechanically, electronically, chemically, or digitally reproduced visual materials characterized by an emphasis upon the depiction, display or exhibition of specified sexual activities or specified anatomical areas.
- (62) Adult Cabaret: a nightclub, bar, restaurant, concert hall, auditorium, or other commercial establishment or private club which regularly features or presents live adult entertainment.
- (63) Adult Motel: a hotel, motel or similar commercial establishment which:
 - a. Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, digital images or video, slides, or other photographic reproductions or mechanically, electronically, chemically, or digitally reproduced visual materials which are characterized by an emphasis upon the depiction, display or exhibition of specified sexual activities or specified anatomical areas; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproduction; or
 - b. Offers a sleeping room for rent for a period of time that is less than 10 hours; or
 - c. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.
- (64) Adult Motion Picture Theater: a commercial facility or private club, where for any form of consideration, films, digital images or video, motion pictures, video cassettes, slides or similar photographic reproductions or mechanically, electronically, chemically,

In-line notes and commentary are set out in *green italics*.

or digitally reproduced visual materials are regularly shown characterized by an emphasis upon the depiction, display or exhibition of specified sexual activities or specified anatomical areas. An establishment meeting the definition of an adult arcade, above, is not an adult motion picture theater.

(65) Adult Theater: a theater, concert hall, auditorium, or similar commercial facility which, for any form of consideration, regularly features persons who appear nude or live performances which are characterized by exposure of specified anatomical areas or by specified sexual activities.

(66) Sexual Encounter Center: a business or commercial facility or private club that offers, for the purpose of sexual arousal, pleasure, gratification, or abuse, for any form of consideration, a place where two or more persons may congregate, associate, or consort and observe, view, participate, or engage in specified sexual activities or expose specified anatomical areas.

(67) Sexually-Oriented Retail Establishment: a commercial facility that devotes a significant or substantial portion of its business to any one or more of the following:

- a. The sale, rental or viewing, for any form of consideration, of books, magazines, periodicals or other printed matter or photographs, films, motion pictures, digital video, video cassettes, slides or other photographic reproductions or mechanically, electronically, chemically, or digitally reproduced visual materials which are characterized by an emphasis upon the depiction, display or exhibition of specified sexual activities or specified anatomical areas;
- b. The sale or rental of instruments, devices, or paraphernalia which are designed for use or marketed primarily for engaging in specified sexual activities; or
- c. Is characterized by a one or more of the following:
 - i. A significant or substantial portion of its stock in trade consists of the items listed in items (7)a. and / or (7)b., above; or
 - ii. A significant or substantial portion of its revenues is derived from the rental or sale of items listed in items (7)a. and / or (7)b., above; or
 - iii. A significant or substantial portion of its floor space, shelf space or storage space is devoted to the items listed in items (7)a. and / or (7)b., above; or
 - iv. A significant or substantial portion of its advertising is devoted to the items listed in items (7)a. and / or (7)b., above.

Shooting Range means a commercial facility with an outdoor area designed and operated for shooting firearms at targets (*e.g., skeet, trap, target, or comparable sport shooting*). The phrase "shooting range" does not include the phrase "hunting, fishing, or watersports club," nor does it include hunting on public or private land.

In-line notes and commentary are set out in *green italics*.

Silviculture means the commercial cultivation of forest trees for wood or pulp. It does not include the phrases “hemp cultivation” or “marijuana uses,” or the incidental sales of firewood or mulch that is created from trees that are removed, cut, or pruned in the normal course of landscape maintenance, land development, or disaster response.

Single-Family Detached Cluster Option means a group of single-family detached residences that are constructed on lots that are smaller than the applicable zoning district would otherwise allow, such that a portion of the original property may be put to use as open space, farmland, and / or an area for natural resource preservation.

Single-Family Detached Residence means a dwelling unit that occupies an individual building, and is separated from other buildings and dwelling units by outside walls. Tiny homes, recreational vehicles, yurts, tepees, or other structures that are not generally intended for permanent living may be considered single-family detached residences when connected to permanent, reliable infrastructure, including power, water, and either sewer or a permitted individual sewage disposal system.

Sketch Plan means a map of a proposed subdivision, drawn and submitted in accordance with the requirements of adopted regulations, to evaluate feasibility and design characteristics at an early state in the planning.

(C.R.S. § 30-28-101(8))

Slaughterhouse means a commercial facility where livestock is slaughtered and / or prepared (e.g., butchering, processing, packing, or treating) for distribution (e.g., to food distributors, retailers, restaurants, or directly to consumers). The facilities may be designed to accommodate the confinement of live animals prior to slaughter and the storage of meat products prior to distribution or sale.

Specified Anatomical Areas means and includes any of the following:

- (68) Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae; or
- (69) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified Sexual Activities means and includes any of the following:

- (70) The fondling or other intentional touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (71) Sex acts, actual or simulated, including intercourse, oral copulation, masturbation, or sodomy;
- (72) Flagellation, mutilation or torture for purposes of sexual arousal, gratification, pleasure, or abuse;
- (73) Human genitals in a state of sexual stimulation, arousal, or tumescence; or
- (74) Excretory functions as part of or in connection with any of the activities set forth in list items (1) through (4) of this definition.

In-line notes and commentary are set out in *green italics*.

Subdivided Land. *See "Subdivision or Subdivided Land"*

Subdivider or Developer means any person, firm, partnership, joint venture, association, or corporation participating as owner, promoter, developer, or sales agent in the planning, platting, development, promotion, sale, or lease of a subdivision.

(C.R.S. § 30-28-101(9))

Subdivision or Subdivided Land means any parcel of land in the unincorporated County that is to be used for condominiums, apartments, or any other multiple-dwelling units, unless such land when previously subdivided was accompanied by a filing that complied with the provisions of this Code with substantially the same density, or which is divided into two or more parcels, separate interests, or interests in common, unless exempted as provided in this definition. As used in this definition, "interests" includes any and all interests in the surface of land but excludes any and all subsurface interests. The following are not included within the definition of "subdivision or subdivided land":

- (75) Any division of land which creates parcels of land each of which comprises 35 or more acres of land and none of which is intended for use by multiple owners.*
- (76) Unless the method of disposition is adopted for the purpose of evading this Code, the terms "subdivision" and "subdivided land," shall not apply to any division of land:*

 - a. Which creates parcels of land, such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in thirty-five or more acres per interest;*
 - b. Which could be created by any court in this state pursuant to the law of eminent domain, or by operation of law, or by order of any court in this state if the Board of County is given timely notice of any such pending action by the court and given opportunity to join as a party in interest in such proceeding for the purpose of raising the issue of evasion of this Code prior to entry of the court order; and, if the Board does not file an appropriate pleading within 20 days after receipt of such notice by the court, then such action may proceed before the court;*
 - c. Which is created by a lien, mortgage, deed of trust, or any other security instrument;*
 - d. Which is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity;*
 - e. Which creates cemetery lots;*
 - f. Which creates an interest in oil, gas, minerals, or water which is severed from the surface ownership of real property;*
 - g. Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed for purposes of this definition as only one interest;*

In-line notes and commentary are set out in *green italics*.

- h. Which is created by the combination of contiguous parcels of land into one larger parcel. If the resulting parcel is less than 35 acres in land area, only one interest in said land is allowed. If the resulting parcel is greater than 35 acres in land area, such land area, divided by the number of interests in the resulting parcel, must result in 35 or more acres per interest. Easements and rights-of-way shall not be considered interests for purposes of this clause.
- i. Which is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to this Code, the land which the purchaser is to acquire pursuant to the contract; and
- j. Which creates a cluster development pursuant to the rural land use process.

(C.R.S. § 30-28-101(10))

Subdivision Improvements Agreement means one or more security arrangements that the County accepts in order to secure the actual cost of construction of such public improvements as are required by subdivision regulations within the subdivision. (C.R.S. § 30-28-101(11), abridged)

Subdivision Regulations means those provisions of this Code that control the subdivision of land, including Part 4, Site Design and Environmental Stewardship; Part 5, Public Facilities, Infrastructure, and Services; Part 6, Land Dedication and Fees-in-Lieu; those Sections of Part 7, Nonconformities, Development Review Bodies, and Procedures and Part 8, Enforcement and Remedies that specifically address subdivision (minor plats, preliminary plats, and final plats); and related definitions. Standards that are included within the subdivision regulations are applied as provided in this Code (e.g., to conditional uses), and are not necessarily limited to subdivision approvals.

T

Tepee means a type of conical tent typically associated with Western Native American cultures, traditionally made from animal skins laid on a frame of long poles, with an opening at the top for ventilation and a flap door. For the purposes of this Code, a tepee is any structure of comparable form, scale, appearance, and function, regardless of whether traditional or modern materials are used.

Theater means a building that is used for dramatic, operatic, or other live performances, or for the display of motion pictures, which is open to the public, and where audience members pay for admission. The term "Theater" does not include the phrase "Sexually-Oriented Business."

Through Lot means a lot with a street frontage at the front and rear lot lines.

Tiny Home means a portable structure that is capable of being transported on state highways in compliance with C.R.S. § 42-4-501, that meets the following criteria:

- (1) It is primarily designed to provide temporary living quarters for recreational, camping, travel, or seasonal use;
- (2) It is built on a single chassis mounted on wheels, or on skids; and
- (3) It has a gross trailer area not exceeding 400 square feet in the set-up mode.

Comment [TM32]: Added

In-line notes and commentary are set out in *green italics*.

The phrase “tiny home” does not include dwelling units that do not exceed 400 square feet in floor area if they are constructed on a permanent foundation and not thereafter designed to be transported. Such dwelling units are “single-family detached dwelling units.”

Transient, Non-Community Water System means a non-community water system that does not regularly serve at least 25 of the same individuals, corporations, companies, associations, partnerships, municipalities, or State, Federal, or tribal agencies over six months per year.

Truck Stop / Truck Wash means a commercial facility engaged primarily in the fueling, servicing, repair, washing, or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. The phrase “Truck Stop / Truck Wash” may also include overnight accommodations, showers, or restaurant facilities that are primarily for the use of truck crews.

U

Unincorporated means situated outside of cities and towns, so that, when used in connection with “territory,” “areas,” or the like, it covers, includes, and relates to territory or areas that are not within the boundaries of any city or town.

(C.R.S. § 30-28-101(12))

Utilities, Communications, Mining, Energy, Transportation, and Disposal Land Uses means a group of land uses that involve utilities, communications, mining, energy, transportation, and disposal.

V

Value-Added Agricultural Processing means the processing and/or packaging of agricultural products, for which the primary ingredient is raised or grown on the site of the processing or packaging. The phrase “Value-Added Agricultural Processing” may include the sales of such products. The phrase “Value-Added Agricultural Processing” does not include processing agricultural products into fuels, lubricants, paints, varnishes, or the like.

Veterinary Hospital or Clinic means a commercial facility where animals are brought for medical or surgical treatment, and where such animals may be held during the time of treatment and recuperation.

W

Water or Wastewater Treatment Plant means the facility or facilities within a public water system, that is (are) used to alter the physical, chemical, or bacteriological quality of the water (*e.g.*, to make it potable) before it reaches the consumer; or a “Domestic Wastewater Treatment Facility,” which is any facility or group of units used for the treatment of domestic wastewater or for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units is discharging into state waters; or an “Industrial Wastewater Treatment Facility,” which is any facility or group of units used for the pretreatment, treatment, or handling of industrial waters, wastewater, reuse water, and wastes that are discharged into state waters. The phrase “Water or Wastewater Treatment Plant” does not include the phrase “on-site wastewater treatment system.”

Wetland means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wildfire means a fire occurring in a wildland, rural setting.

Wildfire Hazard Area means an area designated by the Colorado State Forest Service as having a high or severe wildfire hazard rating.

Wildfire Hazard Rating means a rating provided by the Colorado State Forest Service regarding an area's potential wildfire hazard.

Wildlife Habitat means that natural or man-made environment which contains the elements of food, shelter, water and space in a combination and quantity necessary for the survival of one or more wildlife species.

Wireless Communications Facility means a facility and all elements thereof, including but not limited to support towers, antennas, and accessory equipment buildings, that together facilitate communication by the electronic transmission of telephone, radio, television, internet, wireless, or microwave impulses of an FCC licensed carrier, but excluding those used exclusively for private radio and television reception, private citizen's band, or amateur radio communications.

Y

Yurt means a semi-permanent building (typically round in shape) that is constructed using a pole or lattice framework that is covered by fabric or other flexible material.

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