

**By-Laws
Of
The Delta County Planning Commission
Effective Date: May 24, 2023**

Section 1: Authority

1.1 The Delta County Planning Commission is authorized to adopt rules and regulations governing its procedure as it may consider necessary or advisable pursuant to § 30-28-104 (1), C.R.S., as amended. These Policies and Procedures shall constitute compliance with this provision.

Section 2: Planning Commission Purpose

2.1 The purpose of the Planning Commission shall be to adopt, implement and maintain the County's Master Plan, review and make recommendations on the substance of County regulations, including the adopted Delta County Land Use Code and any other regulations related to land use that the County may consider. The Planning Commission is a critical part of the land use application process, and is charged with review of applications for subdivisions and other land use entitlements as may be directed, to determine compliance with County regulations and to make recommendations concerning such applications and proposals to the Board of County Commissioners. All actions made by Planning Commission members shall be made in accordance with the Colorado Constitution Article XXIX.

Section 3: Definitions/Acronyms

3.1 As used herein, "the Board" shall mean the Delta County Board of County Commissioners.

3.2 As used herein, "the Commission" shall mean the Planning Commission.

3.3 As used herein, "Staff" shall mean the Delta County Planning Department Staff, both individually and collectively.

Section 4: Jurisdictional Area

4.1 The jurisdictional area of the Commission shall be limited to the unincorporated areas of Delta County.

Section 5: Member Duties

5.1 Associate Members

Associate Commission members shall attend all Commission meetings, subject to the attendance requirements in Section 5.2. Associate members may participate in discussions and may ask questions, but will not be part of any motion or vote, except as allowed in these bylaws.

Associate members may be temporarily appointed to a voting seat in the event a regular Commission member is unable to act pursuant to § 30-28-103 (3) C.R.S. In the event of such an absence, the Associate member from the same Board district as the absentee shall be seated as the voting Commission member for the meeting.

5.2 Attendance

Each Commission member shall have the responsibility of attending all regular and special meetings, including work sessions, of the Commission so that the business of the Commission can be conducted in an effective, efficient and responsible manner. Each member of the Commission who is unable to attend a scheduled meeting shall notify the Planning Staff or the Commission Chair of the absence no later than 12:00 noon of the day of the meeting. Planning Staff shall notify the Commission Chair of any absences. The Commission Chair shall authorize an excuse of such notified absences, unless such absences accrue to a degree that jeopardizes a Commission members effective exercise of duties and responsibilities as may be determined by the Commission.

5.3 Remote Attendance

If alternative methods of attendance are made available for the meeting, members may attend remotely and are not considered absent (See Section 6.3).

5.4 Removal from the Commission

The Planning Commission may recommend removal of a member to the Board of County Commissioners at any regular meeting with a vote of not less than eight (8) members, including Associate members, for reasons set forth in the Land Use Code and/or Section 13 of these bylaws.

Section 6 Meetings

6.1 Regular Meetings

Regular meeting(s) of the Commission shall be scheduled by the Commission and Staff each February for the following calendar year (See Section 6.4). Staff may cancel a regular meeting for lack of official business for the Commission to review or due to holiday demands.

6.2 Open Meetings

Meetings of the Planning Commission, including site visits and work sessions shall be open to the public pursuant to § 24-6-401 et seq. C.R.S. The purpose of this statute is to allow the public to observe, not necessarily participate. Public participation at Planning Commission meetings shall be as follows:

- A. Public Comment. Ability for the public to comment on Public Meeting Items or items not on the agenda is optional, not required. Written comments can be submitted prior to the meeting or in person at the meeting.
- B. Public Meeting Items (e.g., meeting minutes, work sessions, etc.); public may attend and listen, but will not be afforded the opportunity to speak on these matters unless the Chair opens an item up for comment.
- C. Public Hearing Items; are notices and open for public comment.

As a general practice, Planning Commission meetings will be broadcasted online using a video conferencing platform where public can listen to meetings. On Public Hearing items, public can speak, but using online video conferencing is at their risk if there is a problem with the power or technology.

The Chair shall have discretion to afford public comment where not otherwise required, except for an Executive Session. Any Commissioner may request to open an item for comment, which requires a second and majority of the voting members present to open the item. Commissioners only with selected staff may participate in an Executive Session. There shall be no remote access for an Executive Session.

6.3 Meeting Location

As a general practice, Commission meetings will be held on the second and fourth Wednesday of each month. Meetings of the Planning Commission may be scheduled and held at locations in Delta County to meet the convenience of the Commission, the Board, the Staff and the public.

6.4 Special Meetings

Special meetings may be called by the Chair in their discretion. Commission members may propose a special meeting as a matter of new business at a regular Commission meeting and such special meeting shall be scheduled upon the support of three (3) Commission members. The Staff shall send notice of a special meeting to all members at least three (3) days in advance. Staff notice to Commission members of a special meeting is not required if the time and place of a special meeting has been

established in a regular meeting at which all Commission members are present.

6.5 Minutes

Proceedings of all meetings shall be recorded as an audio record and shall be available to any interested party upon reasonable request. Written minutes of regular meetings shall be made only as detailed motion minutes reflecting specific disposition(s) on applications and other matters requiring Commission action.

There shall be no minutes or record of an Executive Session item, except as required by Statute.

6.6 Annual Meeting

The first regular meeting held in February of each year shall be considered the Commission's annual meeting and shall provide for:

- A. Election of officers for the following year;
- B. Consideration of any special projects the Commission desires to address for that year; and
- C. Consideration of the Regular meeting schedule.

6.7 Master Plan

At the discretion of the Commission, a meeting may be scheduled for consideration of revisions to the Commission's adopted Master Plan. The Master Plan may be amended at any meeting of the Commission by an official action, following a public hearing. Proposed amendments shall be given to each member in writing at least two (2) weeks prior to the public hearing.

6.8 Quorum

A quorum of the Commission shall be a minimum of five (5) members present at the beginning of a meeting. No public hearing shall be held unless a quorum is present. In the absence of a quorum, the Commission shall terminate any scheduled public hearing or meeting within a reasonable time after gathering. If a public hearing or meeting has not been convened due to lack of quorum, applications that require public notice shall be placed on the next agenda and will not be required to republish notice.

6.9 Continuance of Agenda Item

When the Commission decides to continue or table a matter or application before it, it may do so by motion without any requirement for further notice to the affected parties or the public by providing a date and time certain. If a date and time certain is not specified, the matter is required to be noticed, pursuant to the applicable regulation(s), once a date and time is set.

6.10 Official Action

No action of the Commission is official unless authorized by a majority of the voting members of the Commission present at a regular or special meeting. In the event a quorum is not present, all items on the agenda will be tabled until the next regular meeting of the Commission or until a special meeting is called.

6.11 Order of Business

The order of business shall be set forth in an agenda prepared by the Staff as follows, unless otherwise ordered by the Chair:

- A. Approval of minutes from previous meeting(s).
- B. Public Meeting Items. See Section 6.2.
- C. Public Hearing Items. See Section 6.2.
- D. Department Report. Director may report on items affecting the Department.
- E. Commissioner Comments, Request, Referrals.
Commissioners may comment on matters not on the agenda, request or refer a matter for consideration on a future agenda.
- F. Adjournment.

6.12 Administrative and Public Hearings

After the Chair has brought the meeting to order, the Chair shall establish the rules of the meeting, after consultation with the Staff and subject to the approval of the Commission. The order of presentation with respect to each application generally will be as follows:

- A. Summary presentation by Planning Staff.
- B. Questions of the Commission directed to Staff.
- C. Presentation by the Applicant.
- D. Questions of the Commission to the Applicant.
- E. Public Hearing/Public Testimony
- F. Final comments (rebuttal) from the applicant.
- G. Final questions of the Commission to either Staff, applicant, or others present.
- H. Close the public hearing.
- I. Deliberation of the Commission.
- J. Motion and official action by the Commission.

6.13 Establishment of Meeting Agendas

Staff, in consultation with the Commission Chair, shall establish the agenda for regular and special meetings. A Commission member may request that a specific matter, directly related to Commission business, be included on a future meeting agenda by making such request as a new business item in a regular meeting. Such matters will be scheduled for

discussion in the next available meeting, subject to public notice requirements.

6.14 Meeting Procedures

Meeting procedures shall be determined by the Chair. All participants, Commissioners and public, must be recognized by the Chair prior to speaking. When appropriate, the Commission may request an opinion regarding a legal matter, including but not limited to interpretation of a State Statute, to the County Attorney's office.

In addition, Commission members shall not engage or enter into conversation with or towards the public during Commission meetings. Individuals may be called up to the table for further discussion through the Chair or majority approval.

6.15 Motion Making

Any voting member of the Commission may make a motion. After the motion and second, the Chair shall restate the motion, including any approved amendments (See Section 6.16), and request discussion from members of the Commission (See Section 6.17).

Motions on applications that require action by the Board shall be made only as a recommendation for approval, approval with conditions or denial by the Board. Motions regarding land use applications and Master Plan shall make reference to the applicable sections of County regulations that may control the recommended action.

6.16 Amending a Motion

Once a motion is made, a voting member may offer an amendment to the motion. Any amendment accepted by both members making and seconding the motion shall become part of the motion as a "friendly amendment".

6.17 Discussion

Once a motion is made, and seconded, the Commission shall discuss the motion on the floor. Commission members may ask questions of staff, the applicant or individuals of the public if they need further clarification during discussion.

After all interested Commission members have had an opportunity to speak, the Chair shall call for a vote. Voting members shall respond in a manner determined by the Chair (consensus, raising hands, roll call, etc.). Motions receiving a majority approval shall pass, those not receiving a majority shall fail.

If a Commission member wants a vote on a pending motion, said Commissioner can, after being recognized by the Chair, “Call the question”. If there is a second, then the Chair shall call for a vote to end discussion. If the motion receives a majority vote, the Chair shall immediately call for a vote of the motion on the floor.

Section 7 Voting Privileges

7.1 Voting Right

Each member, including the Chair and Vice-Chair, shall have one (1) vote and shall exercise that voting right at the appropriate time during the proceedings. Proxies are not allowed.

If a Commission member misses a meeting, they shall abstain from voting on the meeting minutes for any meeting missed.

A member may vote on a continued project provided that they sufficiently reviewed any prior information (e.g.; staff report, recorded testimony, etc.).

7.2 Conflict of Interest

- A. Any member of the Commission who has a conflict of interest on any matter that comes before the Commission shall disclose the conflict on the record before the Agenda Item is heard and then shall voluntarily recuse him/herself, vacate his/her seat, and refrain from discussing or voting on the matter (except as noted in Subsection C below). On any issue in which the Commission has real evidence that any member or members have a conflict of interest, a majority vote of the other members present may disqualify the member from participation.

A conflict of interest does not include countywide actions, such as:

- I. Land Use Code (text) Amendments;
- II. Zoning Map Amendments; or
- III. Master Plan amendments.

Project specific action affecting property owned by a Commission member may constitute a conflict of interest. A conflict of interest also includes any situation where a Commission member:

- I. Has a direct financial interest in the matter;
- II. Will be directly affected by the decision in the matter;
- III. Believes he or she has a conflict of interest as defined by an applicable law; or

- IV. Will gain an advantage to relations, groups, or associations to whom he or she is affiliated.
- B. A member who has an application before the Commission shall recuse his or her position on the Commission as to such application and participate in the matter as the applicant before the Commission without any voting rights in the matter.
- C. Any Commission member that has recused their position on an item due to a conflict of interest may step down for the item and participate as a member of the public (resident). The Commissioner may resume their role following conclusion of that item.

Section 8 Officers

8.1 Elective Office

The elected officers of the Commission shall be the Chair and Vice-Chair who shall be elected by a majority of Commission members present at the annual meeting.

8.2 Eligibility

Any regular member of the Commission may hold an elected Commission office after completing at least one (1) full year of service on the Planning Commission. Associate Members cannot be nominated to hold any office.

8.3 Duties of the Chair

The Chair shall supervise and manage the Commission and at a minimum shall:

- A. Preside over all meetings of the Commission.
- B. Sign documents of the Commission.
- C. See that all actions of the Commission are properly taken.
- D. Advise the Planning office on any matters pertaining to the commission business.
- E. Be the public representative of the Commission.

8.4 Duties of the Vice-Chair

During the absence or disqualification of the Chair, the Vice-Chair shall exercise and perform the duties and responsibilities of the Chair.

8.5 Terms of Office

The term of all elected officers shall be for one (1) year effective on the date of the annual meeting.

8.6 Vacancies

The Vice-Chair shall succeed the Chair if the Chair vacates his/her office prior to the expiration of the term. The Vice-Chair shall serve as Chair for the remainder of the unexpired term and the Commission shall elect a new Vice-Chair. In cases where the Vice-Chair serves the remaining term, that shall not count as a Term of Office under Section 8.5. In the event the Chair and Vice-Chair are unavailable, then an interim Chair can be designated by the majority of the Commission members attending that meeting.

8.7 Nominations

At the annual meeting, any voting member of the Commission, including Associate Members, can nominate a member of the Commission for the position of any office provided they meet the requirements of this Section.

8.8 Elections

If more than one (1) nominee is presented for any office, voting may be done by secret ballot and a plurality of the votes cast shall be necessary for election. If only one (1) nominee is presented for each office, voting shall be done in a manner specified by the Chair. Associate Members may participate in the vote for officers.

Section 9 Committees

9.1 The Commission Chair may appoint members of the Commission to various committees as is necessary to conduct Commission business.

Section 10 Amendments

10.1 Amendments to the By-Laws

These by-laws may be amended at any meeting of the Commission by an official action, provided that notice of proposed amendments is given to each member in writing at least two (2) weeks prior to said meeting. Amendment of these By-laws shall require an affirmative majority of the Commission members (including Associate members) with at least nine (9) members of the Commission present.

Section 11 Planning Staff

11.1 Functions of the Planning Staff

The Staff will carry out the day-to-day operations of the Planning Department. For the Commission, the Planning Staff shall at a minimum:

- A. Review and approve all financial documents and vouchers for the Commission and its members.
- B. Give, serve, post and advertise all public notices as required by the County's regulations.

- C. Prepare, post and distribute the agenda for meetings of the Commission.
- D. Inform the Commission of any changes to the agenda, absences of any Commission member and any matter related to Planning in which the Commission should be informed.
- E. Prepare Staff reports for all applications in accordance with County regulations for review by the Commission.
- F. A member of the Planning Staff or if necessary, another employee of Delta County shall record the minutes of all meetings of the Commission.
- G. Keep the minutes of all meetings in an appropriate manner.
- H. Arrange and coordinate all field tours and travel for the Commission.
- I. Provide timely meeting notices and policies and documents as may be necessary and required for the effective conduct of Commission meetings.

Section 12 Professional Performance

12.1 Bias

Members of the Commission shall not engage in public communication on matters that are, or will come, before them including, but not limited to, social media, email and news outlets.

Members shall avoid speaking publicly in favor, or in opposition to, any application or other quasi-judicial matter pending before the Commission. Such statements of opinion could create the appearance of pre-determination.

Members shall not participate in social media, texting, or email during a Commission meeting. Such action could create the appearance of Ex Parte communication (See Section 12.3).

Members shall avoid speaking publicly in favor, or in opposition to, an application that was previously before the Commission at any subsequent Commission or Board meeting or other public venue. In the event that the Board refers a matter back to the Commission for further consideration or recommendations, a Commission member's statement of opinion or position on the matter could create the appearance of predetermination.

12.2 Gifts

A Commission member shall not directly or indirectly solicit or accept any compensation, gift, or service from person(s) with a matter coming before the Commission for consideration.

12.3 Ex Parte

Commission members shall not engage in an Ex Parte communication regarding any active application that will be heard by the Commission in any quasi-judicial proceeding. An Ex Parte communication is a communication between a Commission member and a member of the public or an applicant that takes place outside a noticed public hearing or meeting on an application that will be heard by the Commission. Ex Parte communication includes communication between a Commission member and a member of the Board on matters that will be heard by the Board.

A Commission member who engages in Ex Parte communication shall disclose the source and context to the Commission prior to the item being heard. The Commission may consider the member to abstain from voting if such Ex Parte communication creates an appearance of impropriety, creates a conflict of interest, or otherwise affects due process in the decision-making proceedings.

Communication with the public when the Commission is working in their legislative capacity, such as updating the Master Plan or Land Use Code, is encouraged and not considered Ex Parte.

12.4 Communications Between Commission Members Outside of Meetings

Commission members should avoid written and oral communications (including email and social media communications) with other members outside of scheduled meetings concerning any application or other quasi-judicial matter pending before the Commission or that has been considered by the Commission in the past. Such communications can meet the definition of a public meeting and must be avoided to prevent potential violations of the Open Meetings Law.

Any Commission member who wishes to share general information related to Commission business, may email Commission members or staff directly. Any Commissioner may request to have an item added to a future agenda. If a Commission member wishes to have an item on the agenda, they must request it be placed on the next agenda at a Planning Commission meeting.