

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

RESOLUTION NO. 2019-R - 025

**RESOLUTION AMENDING DELTA COUNTY REGULATION FOR SPECIFIC
DEVELOPMENTS REPEALING APPENDIX 1, REMOVING REFERENCES TO
OIL AND GAS THROUGHOUT THE REGULATION, AND IDENTIFYING OIL
AND GAS AS EXEMPT FROM SPECIFIC DEVELOPMENT**

WHEREAS, on April 16, 2019 the Governor of the State of Colorado signed Senate Bill 181 into law thereby changing how oil and gas is regulated by the State, and granting local governments broader regulatory control over oil and gas activities, and

WHEREAS, the Delta County Board of County Commissioners began updating the County's land use regulations in 2018, with the intent of updating the oil and gas regulations as part of this process. Senate Bill 181 changed the conversation and trajectory of where the County was headed.

WHEREAS, the State is undertaking rule making to revamp state regulations for oil and gas. The State will set a new regulatory floor. The County can choose to regulate higher than the new State regulations based on the local government regulatory control granted in Senate Bill 181.

WHEREAS, More time is needed for the County to participate in the State rule making process, and for the state to finalize their new regulations. Delta County is prepared to then develop new oil and gas regulations that take advantage of the local regulatory authority granted to local governments by Senate Bill 181.

WHEREAS, Delta County believes its current specific development regulations no longer meet the needs of Delta County residents and businesses, and will be replacing the specific development regulations with new land use regulations in the fall of 2019, but believes repealing the oil and gas component of the current regulations is immediately necessary. Delta County citizens have made it clear they want stronger protections of air, water, and land. Delta County's current regulations do not provide a regulatory framework for addressing the concerns of Delta County residents. Delta County's regulations already defer to the State of Colorado on these areas of concern. New regulations are necessary for the County to exercise stronger regulation of air, water, and land.

WHEREAS, Delta County believes leaving its current specific development regulations in place opens the county to potential litigation not because the current regulations violate state statutes, but because the specific development regulations are

confusing, difficult to follow, and frequently misinterpreted by applicants and the public. The County has recently been sued for approving an oil and gas application. This lawsuit was dropped after a temporary restraining order was denied by the court. The County believes future lawsuits are likely given the activities of certain NGO's, and does not believe defending a set of regulations that will be changed in the near future is a good use of taxpayer dollars.

WHEREAS, the County began receiving requests from members of Citizens for Healthy Community to implement a moratorium on oil and gas applications. The Commissioners do not believe a moratorium is appropriate or necessary. No new applications for oil and gas are anticipated in the next 12-18 months. The County's energy is better spent working to develop new regulations.

WHEREAS, the current regulations in place with the State of Colorado are better suited to address the concerns of Delta County citizens than Delta County's current regulations. Additionally, the State regulations provide for robust local government input and participation in the State review process. Delta County will actively engage in the State's process to address Delta County needs and mitigate the impacts of oil and gas development on Delta County.

WHEREAS, repealing of the current oil and gas component of the specific development regulations will not impact any existing development agreements for previously approved oil and gas projects. These agreements remain in full force and effect, based on the specific development regulations in place at the time of such previous approval.

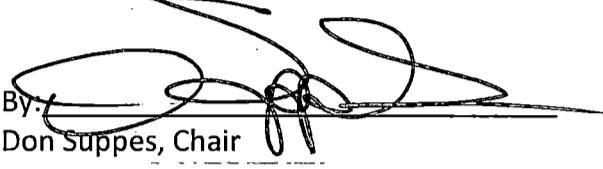
NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Delta County that the Delta County Regulation for Specific Developments shall be and hereby are amended repealing Appendix 1 and all references to oil and gas in the specific development regulations and making oil and gas activities exempt from specific development, effective September 17th, 2019 as follows:

Specific Development Regulations:

See Attachment A

ADOPTED this 17th day of September, 2019.

BOARD OF COUNTY COMMISSIONERS
OF DELTA COUNTY, COLORADO

By: 
Don Suppes, Chair

ATTEST:

Teri Stephenson
Teri Stephenson
Delta County Clerk and Recorder



DELTA COUNTY REGULATION FOR SPECIFIC DEVELOPMENTS

AS AMENDED

Effective Date: September 17, 2019

Article I General Provisions

Section 1. Title

A regulation setting forth a public review process and performance standards for the administration of specific development activities within the unincorporated area of Delta County; providing for the requirements and issuance of a Development Agreement for specific developments; and setting forth the penalties for the violation thereof.

Section 2. Short Title

This regulation shall be cited as the "Delta County Regulation for Specific Developments."

Section 3. Authority

The Board of County Commissioners of Delta County is enabled by Article 28 of Title 30, C.R.S. and Article 20 of Title 29, C.R.S. to adopt and enforce the Delta County Regulation for Specific Developments within the unincorporated area of Delta County.

Section 4. Purpose

It is the intent of the Board of County Commissioners of Delta County to plan for specific developments within the unincorporated area of Delta County to:

- A. Promote the health, safety, and general welfare of the present and future residents of Delta County.
- B. Manage changes to specific developments that may have an adverse effect on neighboring landowners and other residents of Delta County.
- C. Work towards achieving the long range vision and goals of the Delta County Master Plan, which provides a policy foundation for Delta County's Specific Development Regulation. The Delta County Master Plan is advisory and does not affect legally protected interests of property owners. The Delta County Master Plan does not create individual regulatory requirements that applicants must affirmatively prove. Review of Specific Development Applications will consider whether such applications will:
 - 1. Preserve and protect property rights.
 - 2. Preserve and protect the natural and cultural resources of Delta County including but not limited to wildlife, riparian areas, wetlands, sensitive lands, scenic byways and areas of significant scenic value.
 - 3. Preserve the character of the existing rural and urban communities and neighborhoods in Delta County.
 - 4. Create a local planning area review and develop standards for specific new

developments.

5. Protect the agricultural land, lifestyle and economy of Delta County.

Section 5. Activities Exempt from the Regulation for Specific Developments

Certain development or land use activities shall be exempt from this regulation as stated below. Exemption from this regulation does not exempt such activities from all applicable federal, state and county statutory or regulatory requirements.

A. All developments or land use activities that are in place as of the date of the adoption of this regulation may continue by right without need for review or a Development Agreement. The expansion of any such activity may require review if it meets the criteria of Article II, Section 4.B. of this regulation.

B. Agricultural uses of the land that produce agricultural and livestock products that originate from the land's productivity for the primary purpose of obtaining a monetary profit, except for new confined animal operations and commercial animal slaughter and rendering facilities.

C. Residential development or land use, except for multi-unit residential buildings of more than three units. (New subdivisions must comply with the Delta County Subdivision Regulations.)

D. Home occupations/businesses and cottage industries that meet the following criteria:

Home Occupation: Any activity carried out for gain by a resident and conducted as a customary, incidental, and accessory use in the resident's dwelling unit and must comply with the following conditions:

1. The use shall operate in its entirety within the dwelling unit and only by persons residing in the dwelling.
2. The use shall not have a separate entrance from outside the building, unless otherwise required by State law or regulation.
3. The operator of the home occupation shall not display or create outside the building any external evidence of the operation of the home occupation except one unanimated, non-illuminated flat wall or window sign having an area of not more than one square foot.
4. The use shall not exclusively utilize more than twenty percent (20%) of the gross floor area of the dwelling, or three hundred (300) square feet, whichever is less. A garage shall not be utilized for, or in conjunction with, a home occupation.
5. The home occupation shall not employ, for a fee or otherwise, any person in the conduct of the home occupation who does not reside in the dwelling unit.
6. The home occupation shall clearly be incidental and secondary to the use of the dwelling for dwelling purposes and shall not change the character of the dwelling or of the neighborhood by excessive noise, lights, traffic, or other disturbances.

Cottage Industry: A home business that requires the use of an accessory structure and a limited number of employees. All cottage industries must comply with the following conditions:

1. Only one accessory structure may be used for the occupation and may not exceed 2000 square feet in size.

2. The number of employees is limited to five (5) people including the owner/operator.
3. The occupation shall not be the primary use of the property and the owner must reside in a dwelling located on the property.
4. Outside storage of materials shall be limited to an area no larger than 100 square feet and 6 feet in height. All material stored outside shall be screened from the public view.
5. Deliveries to and from the property of materials and/or product shall be conducted upon the property to the greatest extent possible and cause the least possible interference with the normal flow of traffic for surrounding residents.
6. Normal operations of the occupation shall not create excessive noise, dust, odors, light, or any other nuisance to adjacent property owners.
7. Signage is limited to one unanimated, non-illuminated flat wall or window sign having an area of not more than two square foot.
8. Cottage industries that have significant impacts to adjacent properties such as fumes, odors, noxious smells, excessive noise, dust, and/or traffic, shall require review and approval from the Board.

E. Oil and Gas Activities.

Section 6. Scope

This regulation shall apply to the unincorporated area of Delta County.

Section 7. Severability

If any part of this regulation or the application thereof to any person or circumstance is held invalid, the remainder of the regulation shall not be affected.

Section 8. Burden of Proof

The burden of demonstrating compliance with these regulations, including the responsibility to submit complete and accurate application materials, rests with the applicant.

Section 9. Intent to Not Duplicate Other Permit Processes or Requirements

Delta County intends to avoid duplicative regulatory submittals or processes. Processing of applications for permits generally proceeds concurrently with other required state or federal agency permitting processes.

Section 10. False or Inaccurate Information

The Board may revoke approval of a development agreement if it is determined at a public meeting that the applicant provided information and/or documentation upon which approval was based, which the applicant, its agents, servants, or employees, knew or reasonably should have known was false, misleading, deceptive, or inaccurate; or if such false, misleading, deceptive, or inaccurate information and/or documentation was material to the decision of the Board (i.e., that the decision would have been different had the correct information been provided originally). The applicant and Planning Staff shall be provided with an opportunity to be heard at the public meeting prior to the Board rendering a decision whether or not to revoke a development agreement.

Section 11. Amendments

The Board of County Commissioners, the Planning Commission, Planning Staff, or any individual may propose amendments to this regulation, including the performance standards. Proposed amendments may be adopted by the Board of County Commissioners following public meetings of the Planning Commission and thirty (30) days' notice by publication.

Article II Applicability

Section 1. General

From the date of adoption of this regulation, except as set forth below, no person or entity, including governmental entities, shall engage, cause, or permit any new or expanded specific development of the uses specified in Section 4 of this Article upon public or private land owned, controlled, occupied or used by such person or entity unless such proposal has been reviewed in accordance with the review procedures and performance standards outlined in this regulation and a Development Agreement has been issued by Board of County Commissioners. The Board may designate, by amendment to this regulation, certain developments which will be required to comply with separate specific performance standards, as set forth in appendices added to this regulation.

Section 2. Developments Upon State and/or Federal Lands

An agency of the state or federal government developing on state or federal land shall be exempt from these regulations. With respect to all other developments on state or federal land which would constitute an activity requiring a development agreement, the developer shall comply with the requirements hereof for the purpose of identifying off-

site impacts upon non-state or federal property within the unincorporated areas of Delta County. If, after review by the Planning Department, it is determined that such development would have no significant off-site impacts upon non-state or federal lands or resources, further review may be waived by the Board. If off-site impacts are identified, those off-site impacts must be mitigated to the extent possible within the County process, and the developer may be required to file an application for a specific development. The state or federal agency reviewing the proposed land use shall be notified with respect to those impacts as part of the National Environmental Protection Act (NEPA) process. This provision is not intended to grant the Board of County Commissioners the authority to deny a development agreement on state or federal land, nor to regulate activities or impacts for which no performance standards have been adopted or over which the County's authority is preempted by federal or state law.

Section 3. Developments within Established Overlay Districts and Growth Management Areas

A. Developments within the Highway 92 and Highway 50 Overlay Districts

Any proposed development other than single-family residential on lots greater than one (1) acre or more within the Overlay Districts as delineated by the Overlay District Maps attached to Appendix 2 shall comply with the corridor development standards specified in Appendix 2. Single-family residential developments with densities greater than one (1) dwelling unit per acre are to comply with "Section C. Utilities" and "Section E. Access and Parking" of the corridor development standards only. All structures within the Overlay Districts subject to compliance with the corridor development standards are required to be constructed to the 2003 International Building Code or the 2003 International Residential Code, whichever is applicable, as required by Delta County Resolution 2006-09. Proposed developments that engage in the commercial processing, fabrication, alteration, or manufacture of raw or semi-processed materials, manufactured goods or any component thereof or that are likely to create smoke, fumes, noise, odors, vibrations, or dust that have potential for negative impacts on any land use and are likely to be detrimental to the health, safety and welfare of the community are prohibited in the overlay district. Developments within the Overlay District will be processed as Minor Developments as delineated in Article IV Section 2 of this Regulation.

B. Developments within Growth Management Areas

Any application for proposed development within an established Growth Management Area shall be administrated as outlined in the Inter-governmental Agreement with the municipality that the application's jurisdiction is located.

Section 4. Activities Requiring a Development Agreement

A. Specific Development Activities

1. Mineral resource extraction including, but not limited to, gravel pits, coal mines,. Coal mine methane venting from a coal mine already permitted by the Colorado Division of Mined Land Reclamation shall be considered a minor development and processed under Article IV.

2. Mineral processing including, but not limited to, reducing mills and oil refineries;
3. Airports and airstrips, both public and private;
4. Solid waste disposal sites;
5. Hazardous waste sites;
6. Salvage junk yards;
7. Utility facilities and major utility lines including, but not limited to, suppliers of electricity, water, sewer, natural gas, telephone and television. Facilities which shall be reviewed include, but are not limited to, substations, microwave towers, cell phone/PCS towers, wind generator towers, ham radio towers and wireless antennas (all towers under 40 feet tall are excluded from review); above ground storage tanks in excess of 40,000 gallons, underground storage tanks in excess of 50,000 gallons and electrical transmission lines of 46 kV and over. Service connections to residential homes including, but not limited to, underground telephone, water, sewer and electrical lines shall not be reviewed.
8. Commercial and/or industrial uses excluding home occupations/businesses and cottage industries as defined herein. A new commercial and/or industrial use located in a structure and/or land area where a commercial and/or industrial use has been operating shall require review if the impacts from the new use are substantially different than the impacts from the previous use;
9. Multi-unit buildings of more than three units;
10. Entertainment & recreational facilities including, but not limited to, movie theaters, public rodeo arenas, golf courses, public rifle ranges, outdoor music concerts, trap ranges and private big game hunting preserves excluding private guide and outfitting services;
11. Confined Animal Operations including but not limited to commercial feedlots, dairies, kennels, poultry and fur farms (Note – The rearing of livestock, where offspring are raised on the ranch or farm and are fed out is exempt from review.);
12. Commercial slaughter and rendering facilities;
13. Correctional facilities including, but not limited to, detention centers, halfway houses and alcohol-drug rehabilitation centers;

B. Expansion of Listed Specific Development

Any proposed expansion of specific developments listed in Section 4.A. of this Article shall be reviewed if any of the following criteria apply:

1. Expansion of the existing gross floor area of the building and/or structure by 25% or expansion of the land area of the actual business by 25% in any one year period or a total expansion of the existing gross floor area of the building and/or structure by 40% or expansion of the land area of the actual business by 40% in any continuous five year period.
2. Subsurface or downhole expansions of coal mines which are already permitted by the Colorado Division of Mined Land Reclamation, a result of which the rate of production of said coal mine is anticipated to increase beyond the production rates which are presently permitted by the State; provided however, that such expansions shall be considered minor developments and subject to the administrative review provisions set forth in Article IV, below, so long as no additional surface area is disturbed.

C. Abandonment of a Specific Development

Any existing specific developments as listed in Section 4.A. of this Article that are not occupied or operated for a continuous period of two (2) years shall be considered

to be abandoned. Any further use of the property shall be in compliance with all applicable provisions of this regulation.

D. Temporary Use Activities

Any activity listed in Section 4.A. of this Article that is temporary in nature and will not last more than one year may request a temporary use development agreement from the Board of County Commissioners. Application and submittal requirements shall be as outlined in Article III and Review and Notice shall be as outlined in Article IV of this regulation. All temporary use applications shall be processed administratively as outlined in Article IV Section 2.

Article III Application and Submittal Requirements

Section 1. Pre-Application Conference

- A. Any person who proposes a specific development in the unincorporated area of Delta County that includes any of the uses listed in Article II, Section 4 shall first request and attend a pre-application meeting with the Delta County Planning Department; this request can be fulfilled either in person or by phone. The Planning Staff shall explain the application, site plan requirements, performance standards and review procedures and estimate the time required to complete the process.
- B. Any proposed specific development that is determined to require State and/or Federal multi-agency approvals and permits (CDPHE Air Quality, Stormwater Discharge, Water Quality, Solid Waste, , DRMS, State Engineer; etc.) shall address the impact on the County's specific development review process and if additional involvement is confirmed, then Article V Section B shall apply.

Section 2. Minor Specific Development

With regard to activities that would otherwise be considered to be major specific development activities required for full Board consideration, the Delta County Planner may recommend to the Board that any proposed development should be considered as a minor development subject to the review and notice provisions set forth in Article IV, below, but such recommendation must be approved by the Board. With respect to any development that has been approved by the Board to be processed as a minor development, the Delta County Planner shall have the discretion to require additional information in the application consistent with the nature of the proposed development.

Section 3. Application

The applicant shall submit an application which shall include, at a minimum, the following information. An applicant may substitute a copy of an application submitted to another federal, state or local agency for one or more of the following submittal requirements if it contains all of the information in those requirements and said information is highlighted.

Note: With respect to those submittal requirements that specifically relate to performance standards which will not be enforced by the County because of preemption or which do not have parallel performance standards, the applicant will be required to submit necessary documentation only as it becomes available to the applicant.

- A. A completed application cover sheet furnished by Delta County including the

signatures of the applicant and property owner if different than that of the applicant.

- B. A description/operating plan of the specific development, including the general description of planned or future expansions, and a list of potential adverse and positive impacts on surrounding property owners and the community, along with a plan for how the adverse impacts will be mitigated. The applicant shall include a narrative which addresses each of the performance standards included in Article VI, Section 2, as well as performance standards included in any applicable appendix, specifically describing how each performance standard will be met, or why said standard is not applicable.
- C. A brief description of the existing land use and the general character of the use of land within ½ mile of the outside boundaries of the subject property.
- D. Description of land of the proposed specific development by legal description, street address and assessor parcel number that will readily identify and definitely locate the proposed site.
- E. Applicant's name, address and telephone number; if different than the applicant, the name of the owner of the property together with evidence that the owner is aware of, and consents to, the filing of the application. If applicable, the name, address and telephone number of the applicant's legally authorized representative, mortgagee and beneficiaries under deeds of trust shall also be given.
- F. The name and current address of the owner of the mineral rights upon which the proposed specific development is located.
- G. A brief description of any existing natural hazards on the land or within ½ mile thereof.
- H. Copies of all local, state, and federal applications authorizing or required for the development, as well as any permits or approvals, when issued.
- I. An analysis of existing wildlife and sensitive wildlife habitat, and evaluation of the impacts of the development on wildlife and sensitive wildlife habitat and proposed mitigation. If applicable, applicant will consult with the Colorado Division of Wildlife and the U.S. Fish and Wildlife Service.
- J. A written description of the type, character, and density of existing and proposed vegetation on the development, and a summary of the impacts of the development on vegetation and proposed mitigation.
- K. An assessment of wildfire hazards within one-half (1/2) mile of the development, and a plan for mitigating wildfire hazards.
- L. An assessment of the geologic hazards within one-half (1/2) mile of the development, and a plan for mitigating geologic hazards.
- M. An estimate of the construction costs and proposed method of financing of roads and related facilities, water and water distribution system, sewage and other waste handling facilities, storm drainage facilities and any other utilities as may be required of the developer for the proposed specific development.
- N. An analysis of the impacts of the operation to public roadways within the County.
- O. A map that identifies the ingress and egress route to, and within the parcel, and a narrative estimating the number and types of vehicles anticipated per day, including weights, that will travel over the route. The applicant shall furnish evidence of legal access for each development site.
- P. If the development is one which could affect the quality or quantity of water in the general area of the development, the following information:
 - 1. An inventory and location of all water wells, springs and streams within one (1) mile

of the proposed development.

2. A description of existing water quality of all surface water, water wells and groundwater, if known, within one (1) mile of the development.
3. A description of potential impacts of the development to surface water, water wells and groundwater quality within one (1) mile of the development.
4. To the extent available, the following information:
 - (a) Results of any quality or quantity baseline testing required by another governmental agency or otherwise performed by the applicant;
 - (b) The hydrogeology of the area in which the development is to be located;
 - (c) A description of any wastewater produced or to be removed from the development, and the process by which such wastewater shall be removed.
5. Identification of irrigation ditches and other water structures, ownership of water rights appurtenant thereto, and evaluation of any impacts to the structures, water rights or water quality.

Q. If applicable and not required under subsection G. above, a copy of the applicant's proposed reclamation plan.

R. Visual Mitigation Plan.

1. A visual mitigation plan shall be required for any new development if:
 - (a) The development is located within 350 feet of an existing residential dwelling, unless a waiver is obtained in writing from the homeowner; or
 - (b) Public facilities, including public parks, schools, hospitals or similar facilities are within a 1000 foot radius of the facility; unless a waiver is obtained in writing from the County, school district, hospital association or other public entity; or
 - (c) The development is located within 200 feet of a maintained public road; or
 - (d) The development is visible from a designated scenic byway (West Elk Scenic Byway or Grand Mesa Scenic Byway).
2. The County Planner may waive the requirement for a visual mitigation plan if a plan is deemed unnecessary. Unless waived the plan should incorporate the following design information:
 - (a) Scale drawing.
 - (b) Site boundary dimensions and descriptions.
 - (c) Existing and proposed contours and elevations.
 - (d) Existing conditions and site features that incorporate and surround said site to be developed.
 - (e) Existing and proposed access.
 - (f) Cross-section of existing and proposed contours, if applicable.
 - (g) Orientation and dimensions of proposed structures.
 - (h) Description of existing and proposed vegetation.
 - (i) Location, height and extent of perimeter berms, if applicable.
 - (j) Type, location and amount of mulch materials, if applicable.
 - (k) Type, location and height of fencing, if applicable.
 - (l) Drainage and run-off patterns and mitigation.
 - (m) Direction and type of lighting, if applicable.

S. An emergency response plan that addresses fire protection and hazardous spills, including the name and contact information for the applicant's incident commander, proposed signage, access/evacuation routes, and health care facilities anticipated to be used. The plan shall include a provision to reimburse the appropriate emergency response service providers for costs incurred in connection with the emergency.

T. A plan that identifies existing and proposed drainage patterns and the methods for controlling erosion during the construction and operation of the development.

- U. A written description identifying the type and density of noxious weeds on the development, and a mitigation plan listing control methods.
- V. A written description specifying all utilities and associated utility easements required for the development.
- W. Request for and documentation and support of any technical infeasibility waiver from the performance standards that the applicant may request pursuant to Article III, Section 7, below.
- X. A verified statement of the applicant with respect to its interests in the property, together with one of the following:
 1. A current commitment for title insurance
 2. An Owner's and Encumbrances Report issued by a title company
 3. A copy of the deed, lease or permit under which the applicant proposes to conduct its activities plus documentation with respect to any other person or entity which may claim a legal or equitable interest in said property.
- Y. The applicant shall estimate the approximate time needed to complete the construction and development including the installation of all infrastructure.

Section 4. Site Plan

The applicant shall file with the application a site plan, which shall contain at a minimum the following:

- A. The total acreage and total development area.
- B. The location, number and approximate dimensions of all buildings and other structures, storage yards, waste disposal areas, parking areas, major utility installations and other major features of the proposed specific development.
- C. Roads, street, highways, easements, right-of-ways and utilities that will serve, cross or adjoin the proposed development.
- D. Major physical features including irrigation and wastewater ditches, watercourses, drainages and location of natural hazards and their relationship to the proposed specific development.
- E. Any additional requirements for the site plan that shall be determined during the pre-application conference.

Section 5. Site Visit

Planning Staff shall complete an onsite inspection of the subject property at some time during the review process.

Section 6. Additional Requirements

The applicant shall address any additional items the Planning Department deems necessary to further clarify the proposed specific development or to mitigate a natural hazard or adverse impact.

Section 7. Technical Infeasibility Waiver (Including Preemption)

One or more of the performance standards set forth in Article VI, Section 2, and/or the performance standards included in any applicable appendix, may be waived if the applicant demonstrates to the satisfaction of the Board that it is technically infeasible to comply with the standard(s), or that the application of the standard by the County is preempted pursuant to state or federal law. To be granted a waiver from a standard for technical infeasibility, the burden is on the applicant to demonstrate the following by a preponderance of the evidence:

- A. No Technology Available:** There is no technology generally available to conduct the development in compliance with the County standard, and the applicant will implement the best available technology to conduct the development in compliance with the County standard to the maximum extent feasible; or
- B. Conflict with State or Federal Regulation (Preemption):** Conduct of the development in compliance with the County standard would result in an irreconcilable operational conflict with a state or federal regulation, condition or requirement. For purposes of this regulation, an irreconcilable operational conflict includes any circumstance in which the County is prohibited from imposing its standard because of the existence and applicability of a state or federal law or regulation addressing the same standard.

Article IV Review and Notice Procedures

Minor Developments

Section 1. General

Applications for a Specific Development Agreement for proposed minor developments, as defined herein, shall be processed administratively by the Planning Department (Planning) upon approval of the Board, provided the information in the application establishes that the proposed use complies with the minimum performance standards for such developments as are set forth in these Regulations.

Section 2. Administrative Determination of Compliance

Upon submittal, the Planning Staff shall review the application for completeness, containing all information, fees, and/or documentation required by these Regulations. This review shall be done within ten (10) working days. If the application is found to be complete, Planning shall then review the application for compliance with applicable standards and requirements, and also notify adjacent property owners and relevant review agencies as outlined in Article IV, Section 4 below. Planning shall complete this review within twenty (20) working days after an application has been found to be complete. Developments within the Highway 92 and Highway 50 Overlay Districts, as delineated by the Overlay District maps attached to Appendix 2, shall be reviewed as Minor Developments. Should the information in the application and any accompanying

documentation establish that the proposed minor development will be constructed and operated in compliance with all applicable standards and requirements of these Regulations, then Planning shall request administrative approval of the application from the Board and permission to sign a Development Agreement with the applicant. Within ten (10) days of administrative approval for a minor development, Planning shall provide written notification of the decision to the applicant or its designated agent. Should Planning determine that the proposed minor development will not or cannot be constructed and operated in compliance with all applicable standards and requirements of these Regulations, and then it shall issue a written denial of the application, stating with specificity the grounds for its decision. Planning shall issue such written notifications within ten (10) days of administrative approval or denial and provide a copy of such approval or denial to the Board of County Commissioners, the County Attorney and the applicant. Within ten (10) days after notification of approval, Planning shall issue a Development Agreement for signature to the applicant. If it is determined after review of comments from adjacent property owners or other review agencies that there are substantial impacts from the proposed development, then Planning shall review the application as a major development as outlined in Article V of these regulations.

Section 3. Appeal of Administrative Decision

Any person aggrieved by the administrative decision on a minor development application may appeal the administrative decision to the Board by filing a written appeal with the Board within ten (10) days of the written notification of the Planning Department. For purposes of this regulation, a person aggrieved by an administrative decision shall include the applicant, the owner of the subject property, any person who is entitled notice under the provisions of Article IV, Section 4, below, or any member of the public who is able to demonstrate to the satisfaction of the Board that he, she, or it has been negatively impacted by such administrative decision. Such an appeal shall state with specificity the grounds for appeal. The Board shall consider and decide the appeal within thirty (30) days of its receipt, unless the aggrieved party requests a hearing, in which case it shall issue a decision within 14 days of the hearing.

Upon request of the aggrieved party, the Board shall provide it with an opportunity to be heard on such appeal. Should the aggrieved party request a hearing on its appeal, Planning shall be notified and given an opportunity to present evidence at the hearing. If the applicant has appealed an administrative denial, and during the course of the appeal provides satisfactory evidence that the proposed minor development complies with all applicable requirements of these Regulations, the Board shall approve the application forthwith. If the applicant under such circumstances fails to provide such evidence to the satisfaction of the Board, the Board shall deny the appeal.

Section 4. Public Notice Requirements

Upon receipt of a completed application for a proposed minor development:

- A. The Planning Department shall notify, by regular first class mail, all owners of property adjacent to the property upon which the proposed minor development is located, as well as any owners of property within 1,000 feet of the proposed development. In the case of "linear" developments, including by example gas and electrical transmission lines, only the owners of the properties over or in which the developments are located and property owners adjacent to those properties shall be notified. Substantial compliance is required with respect to this notification provision;

minor oversights, errors or omissions shall not be considered grounds for nullifying the specific development review process.

- B. A public notice with dates of any scheduled meetings shall be published in a newspaper of general circulation in Delta County that describes the proposed minor development and the property affected. The property shall be described by street address, or relationship to a street, other property with an address, or other landmarks, and not solely by a legal description.
- C. Unless determined infeasible by the County Planner, the applicant shall obtain signage prepared by the Planning Department and post it on or near the proposed specific development no later than two (2) weeks prior to any scheduled public meeting. The sign shall be posted as to be visible from public roads adjoining or serving the proposed specific development.

Section 5. Development Agreement

- A. Upon approval or approval subject to conditions of the proposed specific development, the Delta County Planner shall sign a Development Agreement. The Development Agreement shall be recorded in the records of Delta County and shall run with the land. The rights, obligations and limitations arising from or contained within the development agreement shall inure to and be binding upon the applicant and all successive owners of the subject property.
- B. When a development is approved subject to conditions, and some or all of those conditions must be fully complied with prior to the commencement of the actual specific development, the applicant/developer shall not begin construction or operation of the specific development until such time as the Delta County Planner or its designee informs the applicant/developer that they have complied with the requirements of the development agreement and they may proceed.
- C. A Development Agreement may only be vacated by the Board of County Commissioners at the request of the original applicant or the current property owner upon a showing that the approved development will not take place, or that the development has been removed and abandoned.

Article V Review and Notice Procedures

All Other Developments

Section 1. Scheduling of Public Hearings/Meetings

- A. Upon receipt of a completed application, the Planning Department shall schedule the application for public meetings. Applications will be placed on the Planning Commission agenda for consideration and on the Board of County Commissioners agenda with fourteen (14) days of the coincident planning meetings, if possible. If not possible, the application will be scheduled for the next available meeting after the fourteen (14) day time period.

B. If an application for a specific development is received by the Planning Department that requires approval and permits by a State or Federal Agency, the application will be concurrently reviewed with the appropriate State or Federal agency. However, final review by the Board of County Commissioners shall not be scheduled until the State and/or Federal agency has completed its review and has submitted its recommendation to the Board. Once the recommendation has been received by the County, the Planning Department shall schedule the final review of the application by the Board.

Section 2. Public Notice Requirements Upon receipt of a completed application:

- A. The Planning Department shall notify owners within 1,000 feet of the outside boundaries of the subject property and appropriate reviewing agencies by mail at least fourteen (14) days prior to the Planning Commission meeting. In the case of "linear" developments, including by example gas and electrical transmission lines, only the owners of the properties over or in which the developments are located and property owners adjacent to those properties shall be notified. Substantial compliance is required with respect to this notification provision; minor oversights, errors or omissions shall not be considered grounds for nullifying the specific development review process.
- B. Unless determined infeasible by the County Planner, the applicant shall obtain signage prepared by the Planning Department and post it on or near the proposed specific development at least fourteen (14) days prior to the Planning Commission meeting. The sign(s) shall be posted as to be visible from public roads adjoining or serving the proposed specific development.
- C. A public notice shall be published in a newspaper of general circulation in Delta County at least ten (10) days prior to the Planning Commission meeting that describes the specific development and the property affected. The property shall be described by street address, or relationship to a street, other property with an address, or other landmarks, and not solely by a legal description.

Section 3. Review and Approval Procedures

A. Planning Commission Review

1. The Planning Commission shall receive a copy of the application, comments generated by the Planning Department.
2. The applicant or representative shall attend and present the application to the Planning Commission at a public meeting.
3. The Planning Commission shall make a recommendation to the Board of County Commissioners to approve, approve with conditions or deny the application within fourteen (14) days of the public meeting or a time mutually agreed upon with the applicant. The Planning Commission may take the application under advisement for no longer than fourteen (14) days after the date of the public hearing before making a recommendation to the Board.

B. Board of County Commissioner Review

1. Within fourteen (14) days after receipt of the Planning Commission's recommendation the Board of County Commissioners shall review the proposed specific development at a public meeting. The applicant or representative shall be in attendance to present and answer any questions.

2. The Board of County Commissioners shall render a decision to approve, approve with conditions or deny the proposed specific development within fourteen (14) days of the public meeting held by the Board, unless extended by mutual agreement. A written resolution shall be adopted as its final action or decision on the application. This written resolution shall set forth findings based upon competent evidence on the record of proceedings before the Board and any applicable federal, state or County statutes, rules, regulations or policies. For purposes of judicial review, the Board's final action or decision on an application shall be deemed to have been made as of the date upon which the Board executes this written resolution, which shall constitute the Board's final action or decision.

3. Reconsideration. [Reserved]

C. Development Agreement

1. Upon approval or approval subject to conditions of the proposed specific development, the Board of County Commissioners shall sign a Development Agreement. The Development Agreement shall be recorded in the records of Delta County and shall run with the land. The rights, obligations and limitations arising from or contained within the development agreement shall inure to and be binding upon the applicant and all successive owners of the subject property.
2. When a development is approved subject to conditions, and some or all of those conditions must be fully complied with prior to the commencement of the actual specific development, the applicant/developer shall not begin construction or operation of the specific development until such time as the Board or its designee informs the applicant/developer that they have complied with the requirements of the development agreement and they may proceed.
3. A Development Agreement may only be vacated by the Board of County Commissioners at the request of the original applicant or the current property owner upon a showing that the approved development will not take place, or that the development has been removed and abandoned.

Article VI Performance Standards

Section 1. Scope

The applicant and Board of County Commissioners shall use the performance standards contained herein and the Delta County Master Plan in designing, reviewing, evaluating and constructing new and expanding specific developments as listed in Article II, Section 4 in the unincorporated area of Delta County.

Section 2. Performance Standards

A. Compatibility with Adjacent Land Uses – Comments received from surrounding property owners, other interested persons and existing land use shall be among the factors considered to determine compatibility. The specific development must be consistent with the Delta County Master Plan to the Delta County Master Plan. Density shall be computed using Section 2.7 C of the Delta County Subdivision Regulations and be compatible with

surrounding land uses and densities.

- B. Federal, State and Local Regulations** - All developments shall comply with federal, state and local regulations applicable to the proposed development including, but not limited to, water quality (stormwater, point and non-point source, Clean Water Act), wetlands, air quality, noise, municipal solid waste, hazardous waste or any other industrial or commercial waste. The same is true for developments that require a state and/or federal process or permits.
- C. Financial Assurance** - The developer may be required to post a bond, letter of credit or other approved collateral mechanism if the Board of County Commissioners deems that financial assurance is required to complete reclamation or the construction of improvements or infrastructure related to issuing a Development Agreement.
- D. Financial Cost of Services Expected of the County Government** - Growth shall pay its own way, therefore developers shall be required to pay their appropriate share of the impact created on public facilities and infrastructure. The share of the impact and cost shall be determined according to standards and formulas designed to estimate the cost of growth in Delta County.
- E. Floodplains** - Developments within floodplains shall comply with Delta County Floodplain Regulations.
- F. Geology and Soils** - The proposed development shall be properly designed to avoid geologic hazards. Unless waived by the County, a geologic and soils report which identifies all potential geological problems shall be prepared by a Registered Professional Engineer in the State of Colorado or qualified geologist. The report shall address ground subsidence, expansive soils and rock analyses, as well as the following potential issues: avalanche, landslide, rockfall, mudflow, debris fan, unstable and potentially unstable slopes, seismic effect, radon and radioactivity. If required by the county, the suitability of the site shall be assessed for individual sewage disposal systems, impacts and limitations for structures and any unusual drainage characteristics.
- G. Hooded Lighting** - Outdoor lighting shall be designed, installed and maintained to preclude and eliminate "light" pollution. In general only the premises of the development and access points relating thereto shall be illuminated.
- H. Irrigation Water and Ditch Easements** - Where irrigation and waste water ditches, pipelines, waterways or any other means of conveyance cross or adjoin the land proposed to be developed, adequate provisions shall be made to ensure that their use, including the maintenance thereof, will continue uninterrupted. Ditch rights of way shall be recognized and/or granted if not already established. Existing historical easements utilized to gain access to ditches, headgates and fences for maintenance shall be preserved or replaced with alternate easements suitable for a continuation of historic use. No development shall channel storm water or snowmelt runoff into any irrigation system without the written consent of the responsible irrigation entity.
- I. Noxious Weed Control** - It shall be the responsibility of developers to control noxious weeds on their land. The developer shall submit a noxious weed mitigation plan when infestations of noxious weeds are present or a potential for infestation exists.
- J. Nuisances -**
 1. Proposed developments that may create noise, odor, glare or dust shall be required to have an adequate setback and be screened so as not to adversely affect surrounding property owners. Mitigation shall be accomplished through use

of fences, planted berms, landscaped areas, hours of operation, residential mufflers, or a combination of these and/or other nuisance abatement techniques.

2. All industrial developments shall be located, designed, constructed, screened and conducted in such a manner that resultant cinders, dust, fumes, odors, smoke, liquid and solid waste, noise and other nuisances do not unreasonably impact surrounding lands.

K. Off Road Parking and Loading Areas – Developments shall be designed and constructed so that all parking shall be onsite. Off road loading areas shall be designed to be located on the same lot and under the same ownership as the use or building they serve.

L. Open Space – Where appropriate, the use of a cluster development as defined in Article VII, Section 2. shall be encouraged.

M. Protection of Agricultural Operations – Development shall not interfere with the normal operation of existing agricultural operations including, but not limited to, dairies, feed lots, fruit orchards, onion sheds, crop and livestock production and other agricultural activities.

N. Provision of Adequate Water Supply, Sewage Disposal, Fire Protection, Access, Roads and Utilities.

- 1. Access** - An access permit from Delta County to access county roads and from the Colorado Department of Transportation to access state highways shall be required for all new development.
- 2. Water** - Evidence shall be provided that a potable water supply that is adequate in quantity, quality and dependability is available for the proposed development. Applicant shall identify and mitigate all negative impacts resulting from the proposed development with respect to the quality and quantity of water belonging to others.
- 3. Sewer** - Individual sewage disposal systems shall be approved by the Delta County Health Department or be connected to a public wastewater treatment facility.
- 4. Fire Protection** - The proposed development shall not create any undue risk of fire hazard. Fire protection measures shall comply with the recommendations of the local fire protection district and be in compliance with county regulations.
- 5. Roadways and Driveways** - Roadways and driveways in developments subject to review hereunder shall be constructed in compliance with the Delta County Roadway Design & Construction Standards.
- 6. Utilities** - Applicant shall identify and specify all utilities and associated utility easements to the site as specified by the utility providers.

O. Runoff, Stormwater and Erosion Control – A Registered Professional Engineer in the State of Colorado or a qualified hydrogeologist shall prepare a stormwater, drainage and erosion control plan to be implemented by the developer when:

1. A cumulative total of more than one acre of land with a slope of 8% or greater will be disturbed; or
2. More than 20,000 square feet of impervious surfaces will be created.

A Stormwater Discharge Permit issued by the State of Colorado is required for any development that disturbs more than one (1) acre of land, a copy of which

shall be submitted to the Planning Department prior to commencement or construction of any specific development.

P. Scenic Views –

1. Developments within the view shed as defined by the West Elk Scenic Byway Corridor Management Plan for the West Elk Scenic Byway and within the view shed of Grand Mesa Scenic Byway shall be reviewed by the respective scenic byway committee. The comments received from the scenic byway committee shall be advisory only for use by the Planning Commission to incorporate in their findings and/or recommendations.
2. Development (building placement) on ridgelines with a direct effect on the skyline and/or blockage of view sheds from adjoining properties shall be mitigated.

Q. Slopes – No development shall be permitted on slopes of 30% or more, or other slopes identified as unstable, unless a Registered Professional Engineer in the State of Colorado or qualified geologist certifies that such development creates no significant hazard of slope failure or accelerated soil erosion.

R. Streams/Rivers/Creeks – A minimum of a twenty-five (25) foot setback measured from the existing banks shall be required unless extenuating circumstances call for more or less setback. Removal of vegetation along natural stream, river and creek banks within this setback will be discouraged.

S. Wildfire Hazards – Development in wildfire hazard areas shall be reviewed by the State Forester and local fire protection district. The developer shall create and implement a fire mitigation plan based on the recommendations received. All developments shall comply with all state and county regulations.

T. Wildlife Corridors – Development shall minimize the impediment of seasonal migration patterns of wildlife. A wildlife mitigation plan shall be required for an area identified as a critical wildlife corridor.

U. Time Frame – A mutually agreed upon time frame shall be established between the Applicant and Delta County to determine the time line for the completion of the construction and development including the installation of all infrastructures. One or more extensions may be granted by the Board of County Commissioners if extenuating circumstances have occurred which have resulted in substantial delays in completing the required improvements.

Article VII Definitions

Section 1. General

Definitions contained in the Delta County Subdivision Regulations, Article I, Section 9 and in Sections 24-65-102, 103 and 104, C.R.S., as amended, are hereby incorporated into this regulation. The following definitions are to be used in addition to or, where there are duplicates, in lieu of those definitions.

Section 2. Additional Definitions

Abandonment. Presumption of permanent abandonment of a development shall be based upon non-use or operation for two years without notification to the Planning Department or manifestation of the owner/operators intent to resume operations under specified conditions.

Antenna. Equipment designed to transmit or receive electronic signals.

Area of Special Flood Hazard. An area of land in the floodplain that is subject to a 1% or greater chance of flooding in any given year.

CDOT. Colorado Department of Transportation.

CDPHE. Colorado Department of Public Health and Environment.

Certificate of Designation. (CD) A document that outlines and provides conditions and approval for a specific development activity.

Cluster Development. A development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for agriculture, common open space, recreation or preservation of environmentally sensitive areas.

Commercial Feedlot. A facility designed for the finishing of purchased livestock or finishing purchased livestock for others. For the purposes of this regulation, privately owned and operated livestock rearing operations, where offspring raised on the ranch or farm are fed out prior to sale, are considered an agricultural use and not commercial.

Compatible. Able to exist or act together harmoniously, considering noise levels, odors, potential fire hazard, visual impacts, effects to surface water and groundwater quality/quantity, adequacy of the road system, air quality and surrounding land uses.

Compressor Station. An installation consisting of one or more individual compressors located on a gathering or transmission line, or at a well site, or any combination of the three.

Confinement Animal Operation. A confined corral, pen, enclosure, building and/or structure in which animals are concentrated. For purposes of this regulation, rearing of livestock, where offspring raised on the ranch or farm fed out, is not considered a confinement animal operation.

Cottage Industry. See Article I Section 5.D.

County Road. Any road the County has legal title thereof and/or is responsible for the maintenance thereof.

Developer. The legal or beneficial owner(s) of a lot, parcel, or tract of land proposed for inclusion in a new or expanding specific development as listed in Article II, Section 4, including the holder of an option or contract to purchase.

Development. Development includes, but is not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations including, but not limited to, any of the foregoing specified activities, or combination thereof only to the extent as further defined and limited by the list of specific developments contained in Article II, Section 4 of this regulation.

Development Agreement. A written resolution or permit issued by the Board of County Commissioners and recorded in the records of Delta County setting forth in detail the terms and conditions of the Board of County Commissioner's approval of an application for specific new or expanded development.

DOT. The United States Department of Transportation.

Drill Cuttings. Rock and soil that is crushed and/or otherwise chipped and removed during the process of drilling a bore hole into the earth. Drill cuttings may or may not contain additional materials and/or additives.

DRMS. The Division of Reclamation, Mining and Safety.

Engineering Design and Operations Plan. (EDOP) A plan that describes and sets forth approved standards for the construction and operation of a facility or activity that requires a Certificate of Designation.

Facilities. Any equipment, buildings, or combination thereof.

Facility Site. A site large enough to sufficiently contain the equipment, structures, and buildings needed for a specific type of activity.

Fur Farms. The raising of any animal for the purpose of producing pelts to be sold commercially or the raising of breeding stock for such commercial fur pelts.

Gas Facilities. Any collection of equipment that processes or compresses natural gas after production related activities are conducted at or near the well head and prior to a point where the gas is transferred to a carrier for transport.

Geologist, Qualified. A person who is a graduate of an institution of higher education that is accredited by a regional or national accrediting agency, with a Bachelor of Science, Masters and/or Doctorate degree in geology.

Haul Route. A travel route designated to provide ingress and egress to the lot, parcel and/or track of land of the development within Delta County.

Hazardous Waste. Those substances and materials defined or classified as such by the Hazardous Waste Commission pursuant to 25-15-302, C.R.S.

Home Occupation/Business. See Article I Section 5.D.

Junk and rubbish, as used herein, shall include only junk, which for purposes of this regulation shall be defined as:

- (a) Outside storage of used tires (except as otherwise regulated pursuant to the Solid Wastes Disposal Sites and Facilities Act, Part I of Article 20 of Title 30, C.R.S., and any rules and regulations promulgated thereunder).
- (b) Abandoned or junk vehicle, defined as a vehicle that is inoperable or missing parts so that it is not maintained for driving and which by virtue of its condition cannot be or is not restored to an operable condition within ninety (90) days from the date of the rubbish complaint, but not including a vehicle which is stored within a completely enclosed building or screened.
- (c) Abandoned or junk mobile home and/or recreation vehicle that is inoperable or is missing parts so that it is not maintained as habitable living quarters and which by virtue of its condition cannot be or is not restored to habitable living quarters within ninety (90) days.
- (d) Worn out or discarded articles or materials, e.g. bottles, glass, cans, scrap metal, used/worn out vehicle parts, rubber, disposable packages or containers, paper, card board, furniture, carpet, construction debris, appliances and any combination thereof, disposed of on the ground and not stored within a completely enclosed building or screened. This material is not permitted to be stored in an abandoned or junk mobile home, recreation vehicle or vehicle.

Kennels. A facility in which four or more adult animals of the canine and feline species are housed, groomed, bred, boarded, trained or sold in return for compensation.

Land Use. The purpose for which any land, building or structure is designed, maintained, occupied or utilized; the basic character or nature of the occupation or utilization of land or a building.

Mining. The development or extraction of a mineral (including sand and gravel) from a naturally occurring deposit. The term shall include, but is not limited to, underground mining, open pit mining, strip mining, quarrying, dredging, surface operations, transportation of mineral, the disposal of refuse from mining, concentration of ores, milling, evaporation and other processing. Mining does not include the removal of loose surface stone that does not disturb the surface of the land.

Multi-Agency Review. A specific development activity review that requires other State or Federal reviews and/or permits in addition to those required by the County.

Pollution. The contamination or other degradation of the physical, chemical or biological properties of water, soil, or air, including change in temperature, taste, color, turbidity or odor, or such discharge of any liquid, gaseous, solid, radioactive or other substance into water, soil, or air as will, or is likely to, create a nuisance (see Article VI, Section 2.J.2.) or render such water or air harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

Poultry. Domestic fowl, including but not limited to chickens, turkeys, ducks, or geese raised for flesh, feathers or eggs. Professional Engineer. An engineer registered with the State of Colorado.

Public Facilities. Equipment, buildings, structures, and grounds dedicated specifically for public use and/or to provide a collective public benefit; such as parks, recreation, education, and conductance of government.

Public Road. Any road to which the public has legal access to or the right to use; such as state, county, municipal, and federal roads.

Reclamation. Act or process of restoring land to cultivation or other use.

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

- A. The collection, storage, keeping, abandonment or sale of junk, whether of value or valueless.
- B. The collection, storage, keeping, abandonment or sale of metal parts or scrap metals or any other scrap materials whether of the same source or kind; and/or
- C. The collection, storage, or keeping for sale, exchange or abandonment of four or more automobiles and other motorized vehicles or parts thereof, or of any other machinery or parts thereof.
- D. Salvage junk yard does not include the storage of implements of husbandry, farm tractors, farm and ranch equipment or vehicles customarily operated in a farm or ranch operation.

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

Sewer Lines. Any pipe or conduit used to collect and carry away sewage or stormwater runoff from the generating source to treatment plants or receiving streams.

Site. A piece of land used for the placement of equipment and/or designated for a specific purpose.

Solid Waste. Any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, air pollution control facility, or other discarded material; including solid, liquid, semisolid, or contained gaseous material resulting from industrial operations, commercial operations or community activities. Solid waste does not include any solid or dissolved materials in domestic sewage, or agricultural wastes, or solid or dissolved materials in irrigation return flows, or industrial discharges which are point sources subject to permits under the provisions of the "Colorado Water Quality Control Act", Title 25, Article 8, C.R.S., or materials handled at facilities licensed pursuant to the provisions on "Radiation Control Act" in Title 25, Article 11, C.R.S.

Solid Waste Disposal Site and Facility. All land and structures, other appurtenances, and improvements on the land used for disposal and final treatment of solid waste.

Structure. Anything constructed or erected that requires location on the ground or attached to something having location on the ground.

Temporary Use. Any specific Development activity that is not a permanent change of use of a property and will last for one year or less.

Transmission Line. Any electrical transmission line of 46 kilovolts or over and appurtenant facilities which emanate from a power plant or substation and terminate at a substation.

Unincorporated Area. Land within Delta County that is not located within the corporate boundaries of a town or city.

Utility Facilities. Equipment and means of transportation necessary for providing utility services, such as electrical, consumer natural gas, telephone, other electronic transmission equipment, domestic water, septic or sewer. Linear development includes, but is not limited to, transmission pipelines, transmission lines, , flow liens, water collection systems, public sewer lines, public and private domestic distribution water lines and high pressure natural gas distribution pipelines.

Wetland. Those areas that are inundated or saturated by surface or ground water (hydrology) at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation (hydrophytes) typically adapted for life in saturated soil conditions (hydric soils). Wetlands generally include swamps, marshes, bogs and similar areas.

Article VIII Other Provisions

Section 1. Variances

Variances from the listed specific new developments stated in Article II., Section 4, A. shall not be permitted. All other variances shall be administered as per the Delta County Subdivision Regulations, Article VIII.

Section 2. Fees

The fees required to process a specific development application shall be established from time to time by the Board of County Commissioners through a separate resolution.

Section 3. Enforcement and Penalties

- A. It is the responsibility of the county attorney, under the direction of the Board of County Commissioners ("the Board"), to enforce the provisions of this regulation. In the event that there is no county attorney or in the event that the Board deems it appropriate, the Board may appoint a special county attorney or district attorney of the judicial district to perform such enforcement duties in lieu of the county attorney.
- B. In case 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 developed or used, in violation of this regulation, the county attorney, in addition to other remedies provided by law, may institute an injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection, construction, reconstruction, alteration, use, or development.
- C. It is unlawful to erect, construct, reconstruct, alter, or use or develop any building, structure, or land in violation of this regulation. Any person, firm, or corporation violating this regulation may be subject to the imposition, by order of the county or district court, of a civil penalty in an amount of not less than five hundred dollars nor more than one thousand dollars. Each day after the issuance of the order of the county court during which such unlawful activity continues shall be deemed a separate violation and shall, in accordance with the provisions of Section 30-28-124.5, C.R.S., as amended, be the subject of a continuing penalty in an amount not to exceed one hundred dollars for each such day. Until paid, any civil penalty ordered by the county court and assessed under this subsection (C) shall, as of recording, be a lien against the property on which the violation has been found to exist. In case the assessment is not paid within thirty (30) days, it may be certified by the county attorney to the county treasurer, who shall collect the assessment, together with a ten (10) percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of assessments pursuant to this subsection (C). Any lien placed against the property pursuant to this subsection (C) shall be recorded with the clerk and recorder of Delta County.
- D. The Delta County Planner, or his designee, shall, upon personal information and belief that a violation of this regulation has occurred, give written notice to the violator to correct such violation within thirty days after the date of such notice. If the violator fails to correct the violation within such thirty-day period or within any extension period granted by the planner, the planner or his authorized representative may request that the county attorney issue a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of such charge to the violator. One copy of the summons and complaint shall be served upon the 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. The summons and complaint shall be filed with the clerk of the county or district court and thereafter the action shall proceed in accordance with the appropriate Colorado rules of civil procedure and Section 30-28-210, C.R.S., as amended.

Section 4. Expiration of Application

- A. Applications are valid for a period of one (1) year from the date of submittal. If final approval or denial of a proposed development has not occurred within the one (1) year time frame due to the applicant's failure to complete the process, the application is deemed to be null and void unless an extension has been granted. The Planning

Department will notify the applicant thirty (30) days prior to the expiration of the application. Applications that have expired will be required to be resubmitted with the appropriate fees to be reconsidered for approval. Applications that require concurrent review by a state and/or federal agency shall remain valid until the Board has received a recommendation by the state and/or federal agency at which time the one (1) year time period shall begin.

**APPENDIX 1
TO
DELTA COUNTY REGULATION FOR SPECIFIC DEVELOPMENTS**

**PERFORMANCE STANDARDS FOR OIL AND GAS
FACILITIES/OPERATIONS AND RELATED OIL AND
GAS WASTE FACILITIES**

**REPEALED SEPTEMBER 17, 2019 BY
RESOLUTION 2019-R-**

APPENDIX 2
TO
DELTA COUNTY REGULATION FOR SPECIFIC DEVELOPMENTS
AS AMENDED (EFFECTIVE DATE: August 1, 2009)
DELTA COUNTY CORRIDOR DEVELOPMENT STANDARDS

INTRODUCTION

The purpose of these development standards is to ensure the health, safety, and welfare of the citizens of Delta County as development occurs along major highways leading into the City of Delta. The following standards apply to developments within those areas delineated by the Overlay District maps attached to this Appendix 2 and by reference made a part hereof.

Section 1. Standards

a. General Conditions

1. All new structures constructed within the overlay districts shall comply with these standards. Single-family residential homes on lots greater than one acre exclusive of easements, agricultural buildings, and structures less than 200 square feet in size are exempt from these standards.
2. All structures, except those exempt in 1. above, shall be constructed in compliance with the 2003 International Building Code or the 2003 International Residential Code, whichever is applicable, as required by Delta County Resolution 2006-09, as amended.

b. Site Considerations

1. A minimum 40 foot setback is required from all right-of-ways along highways and arterial streets and 25 feet from all other property lines. Greater setback distances are encouraged.
2. Internal drives shall be designed to avoid traffic stacking and promote smooth flow throughout the development.
3. Signs may be located within the landscaped area but shall be located outside of site triangles. No sign may exceed fifteen (15) feet in height and may not exceed 150 square feet in size nor utilize more than 2 sign faces. Signs on buildings are limited to one per building facade.
4. The use of berms and landscaping is preferred over walls and fences for screening purposes. Fencing may be used to screen developments from view of the public right-of-way, but no fence or wall may exceed six (6) feet in height.
5. Outdoor storage areas shall be located so that they are not visible from the public right-of-way or shall be screened from view by utilizing either walls, fencing and/or landscaping.

c. Utilities

1. All utilities are to be installed underground.
2. All developments that have a structure within 400 feet and a property

line with 200 feet of a main sewer line must connect to the City of Delta municipal sewer system at the developer's expense. Single-family residential developments with a density greater than one (1) dwelling unit per acre are required to connect to the municipal sewer system. Developments may utilize a septic system with County approval if no sewer is available but shall be required to connect to the municipal system at such time as services are available.

3. All developments must connect to an existing Domestic Water System.
4. All developments are required to submit a Fire Mitigation Plan to Delta County. Fire hydrants are required if there are adequate water lines to the development. If no water lines are available at the time of development, then the developer will be required to escrow a specified sum of money until such time that the hydrant can be installed.

d. Building Elements

1. All buildings that face public right-of-ways shall have at a minimum 25% of the façade constructed of masonry, stucco, or stone veneer. Sides of the building shall have at a minimum 20% of the façade constructed of the same material. If the rear of the building faces a residential development or public right-of-way, 20% of the façade shall also be constructed of the same material as the front and sides. This standard shall not apply to the rear of the building if the rear of the building does not face a residential development or public right-of-way.
2. Roof breaks must occur on all pitched roofs in the form of gables or dormers and must have a two (2) foot minimum eave.
3. All mechanical equipment must be screened from view from the public right-of-way by either incorporating the equipment into the overall form of the building or by screening material consistent with the rest of the building.
4. Windows shall not utilize more than 60% of any building façade and shall not be reflective in nature.
5. All building colors shall be earth tone. Accent colors will be considered on an individual basis but shall not be the primary focus of the building color scheme. Colors and building styles as part of an overall project design will be permitted after review.
6. All trash containers shall be screened from view by enclosures or screen walls utilizing materials consistent with the primary material of the building.
7. Loading areas and docks shall be located at the rear of buildings and should be screened from view to the greatest extent possible.

8. All outside lighting shall be hooded and directed towards the ground so that there will be no off-site glare. All lighting in parking areas shall be directed towards the ground and shall not exceed 1 candle power of illumination measured at 5 feet above ground level.

e. Access and Parking Areas

1. No new accesses or direct access from State Highways to

developments will be allowed unless no other access is available and an Access Permit is issued by CDOT. All developments must access from frontage, backage or County roads. An access permit from Delta County is required for all new developments.

2. Shared access to adjacent developments is encouraged. Internal traffic designs are required for larger developments and shall be designed so as to allow future development to utilize the road if possible. Connecting accesses between developments is required to allow for movement between projects without utilization of County roads.
3. All access roads shall be paved to Delta County Standards as stipulated by the Delta County Roadway Design and Construction Standards. Approval for all new roads is required from the Delta County Engineering Department.
4. All parking areas are to be paved and striped. The number of parking spaces required shall be appropriate for the proposed use and will be determined during the review process.
5. All parking areas shall be located behind a landscaped area and not immediately adjacent to any street or highway.
6. Handicap parking spaces are required for all commercial/retail developments at a rate of 1 handicap space per every 25 spaces provided or any part thereof.
7. Parking islands may be utilized but are required to be either landscaped or constructed to blend in with the material the main building is constructed of (pavers, bricks, etc.).

f. Landscaping

1. Landscaping shall be installed to a minimum 15 foot depth along all highways, frontage roads, and all other streets excluding driveways and sidewalks. Sidewalks and walkways may be incorporated into the landscape area but may not reduce the width of the required landscaping.
2. Water conservation and Xeriscape landscape techniques are encouraged. Use of native species of trees, shrubs and grasses are strongly encouraged. Non-living ground cover such as rock or gravel may be used on no more than 40% of the required landscape area.
3. All landscape areas are required to be irrigated with an automatic watering system.
4. All planted trees must be at least four (4) feet in height at the time of planting and shall be planted at an average minimum of 1 tree for every 35 feet of linear highway or street frontage. Trees may be clustered but must meet the average minimum requirement. At least three (3) shrubs shall be planted for every 500 sq. ft. of landscaped area in addition to trees.
5. Berms are encouraged to add screening and add dimension to the landscaped area, slopes of berms should be no greater than 4:1.
6. Retaining walls, when required due to site considerations by the developer or as part of the overall design of a project, shall be constructed of materials and colors consistent with the primary

material of the building, other materials will be reviewed on a case by case basis, no retaining wall shall be more than four (4) feet in height.

7. All plants must be maintained in a living condition for the duration of the development. All non-living plants must be replaced within the current or next growing season, whichever is applicable.

**APPENDIX 3
TO
DELTA COUNTY REGULATION FOR SPECIFIC DEVELOPMENTS
AS AMENDED (EFFECTIVE DATE: January 1, 2012)**

Delta County Commercial Mobile Home Park Regulations

INTRODUCTION

This document establishes rules, regulations, and standards governing the development or expansion of commercial mobile home parks within the unincorporated areas of Delta County, setting forth the procedure to be followed by the Board of County Commissioners, the Planning Commission, , and employees of the County in applying and administering these rules, regulations, and standards, and setting forth the penalties for the violation thereof as established by law.

This document incorporates by reference the following documents, as they may be amended or superseded from time to time, which relate to commercial mobile home parks and the improvements therein.

Delta County Subdivision Regulations 2008, as amended.

Delta County Roadway Design & Construction Standards, December 2005, as amended.

Delta County Master Plan, Final Draft, October 1996

The Board of County Commissioners of Delta County, Colorado, is empowered by Sections 29-20-101 et. seq. and 30-28-101 et. seq., including 30-28-133, C.R.S., as amended, to plan for and regulate the development of commercial mobile home parks in the unincorporated area of Delta County, Colorado, except as limited by Section 31-23-212 C.R.S., as amended.

These regulations shall apply to all commercial mobile home parks within the unincorporated area of Delta County, Colorado that are developed after the date which these regulations are adopted by the Board of County Commissioners of Delta County,

Colorado. They are also applicable to the expansion of any existing commercial mobile home park wherein the total number of mobile homes will exceed five.

1. Definitions

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

Commercial: Any activity which is entered into for the purpose of pecuniary benefit.

Delta County Master Plan, Final Draft, 1996: A document or series of documents prepared and adopted according to Colorado Law which sets forth certain policies for the future land use of Delta County as adopted by the Planning Commission.

Developer: Any person, firm, partnership, joint venture, association, corporation or other entity who participates as owner, promoter, developer, or agent in the planning, platting, development, promotion, lease, or rent of a mobile home park.

Easement: A property right granted, conveyed or reserved by a property owner for the use and/or possession of land for one or more specific purposes.

Growth Management Area: 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.

Health Department: The Delta County Health Department and/or the Colorado Department of Public Health and Environment.

Infrastructure: Public facilities, including but not limited to: roads, public utilities, drainage facilities, emergency fire suppression facilities and emergency public safety facilities, that serve the residents of Delta County.

Lot: A parcel of land created by a division of land.

Mobile Home: A single family dwelling unit built on a permanent chassis designed for long-term residential occupancy and containing complete electrical, plumbing, and sanitary facilities and designed to be installed in a permanent or semi-permanent manner with or without a permanent foundation, which is capable of being drawn over public highways as a unit or in sections by special permit.

Mobile Home Lot or Mobile Home Space: A parcel of land within a mobile home park designated by the management to accommodate one mobile home and its accessory buildings and to which the required sewer and utility connections are provided by the mobile home park.

Mobile Home Park: Any parcel of land used or available for the continuous accommodation of five (5) or more occupied mobile homes and operated for pecuniary benefit of the owner of the parcel of land, his agents, lessees, or assignees. Mobile

home park does not include mobile home subdivisions or manufactured home subdivisions.

Off-Street Parking Space: The space required to park one (1) passenger vehicle which shall not be less than one hundred sixty (160) square feet in area, exclusive of access easements.

Pad: That portion of a site of at least 5000 square feet in size, designated for the placement of a mobile home with an adequate foundation to support the mobile home.

Planning Commission: The Delta County Planning Commission.

Recreational Vehicle: A portable structure without a permanent foundation that can be towed, hauled, or driven, whose primary design is as a temporary living accommodations for recreational camping and travel use. Examples include but are not limited to: motor homes, truck campers, and camping trailers.

Site or Space: See Mobile Home Space.

Staff: The employees of the Delta County Planning Department and employees of other County Departments involved in the administration of these regulations.

Travel Trailer: A vehicle which is built on a single chassis, designed to be hauled by a light duty vehicle, and designed primarily for use not as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

2. Mobile Home Park Standard Process

A. Any person who wishes to create or expand a commercial mobile home park on land in Delta County shall:

- Request an application for a commercial mobile home park.
 - The Planning Department will provide an application, free of charge, for a commercial mobile home park. If requested, a copy of the Mobile Home Park Appendix to the Specific Development Regulations will be provided for which a fee will be charged.
- Application submittal
 - The applicant may meet with Planning Staff as needed prior to submitting an application.
 - An application submittal meeting is required. At that meeting, a County Planner will explain the County's requirements for a commercial mobile home park, the procedures that must be followed, the application fees required to process a commercial mobile home park request, and the approximate time frame the process requires.
 - All applications shall be typed or legibly handwritten.

- All applications and attached plans shall be completed in a legible manner.

3. Fees

The fees required to process a Commercial Mobile Home Park application shall be established from time to time by the Board of County Commissioners through a separate resolution. There are also fees charged by some review agencies for their services. Payment of review agency fees are the responsibility of the applicant and shall be paid at time of submission or upon receipt of an invoice from the agency.

4. Application Review Process

All applications for a Commercial Mobile Home Park will be reviewed and processed as delineated in the Delta County Specific Development Regulations Article V.

5. General Standards

- A. All commercial mobile home parks will be required to connect to a domestic sewer system if available. If a domestic sewer system is not available for connection, all pad sites must comply with the Delta County Health Department requirements for use of septic systems.
- B. All commercial mobile home parks will be required to connect to a domestic water system if available. If a domestic water system is not available for connection and a well is proposed, a water company must be formed and comply with the regulations and standards of the Delta County Health Department and State of Colorado for water quality, quantity, and dependability.
- C. All roads within a mobile home park shall comply with the Delta County Roadway Design & Construction Standards in effect at the time the application is submitted.
- D. Pad sites within a commercial mobile home park shall contain a minimum of 4000 square feet for parks within one-half (1/2) mile of a municipality and a minimum of 6000 square feet for parks outside of one-half (1/2) mile of a municipality.

6. Review Procedures

- A. Approval of a Commercial Mobile Home Park in Delta County will have three (3) stages in the approval process. The two (2) stages require a review and recommendation by the Planning Commission and the approval by the Board of County Commissioners. All commercial mobile home parks shall be reviewed as outlined in the Delta County Specific Development Regulations Article V.

- B. Any request for a variance from these regulations shall be reviewed as outlined in the Delta County Subdivision Regulations 2008 Article VIII.
- C. Any request for a waiver from these regulations shall be reviewed as outlined in the Delta County Subdivision Regulations 2008 Article IX.
- D. The Board of County Commissioners may deny an application for a commercial mobile home park even if a recommendation for approval has been passed by an APC or the Planning Commission.

7. Validity

If any section, subsection, paragraph, clause, phrase, or provision of these regulations shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of these regulations as a whole or any part or provision hereof, other than the part adjudged to be invalid or unconstitutional.

8. Violations and Penalties

- A. Any developer, subdivider, or agent thereof, who disposes of or offers to dispose of any Commercial Mobile Home site or pad, or who establishes or expands a Commercial Mobile Home Park before a development agreement for such a facility has been approved by the Board of County Commissioners and recorded or filed in the office of the County Clerk and Recorder, shall be in violation of this regulation and may be subject to the imposition, by order of the county or district court, of a civil penalty in an amount of not less than five hundred dollars nor more than one thousand dollars for each pad site established. Each day after the issuance of the order of the county court during which such unlawful activity continues shall be deemed a separate violation and shall, in accordance with the provisions of Section 30-28-124.5, C.R.S., as amended, be the subject of a continuing penalty in an amount not to exceed one hundred dollars for each such day. Until paid, any civil penalty ordered by the county court and assessed under this subsection (C) shall, as of recording, be a lien against the property on which the violation has been found to exist. In case the assessment is not paid within thirty (30) days, it may be certified by the county attorney to the county treasurer, who shall collect the assessment, together with a ten (10) percent penalty for the cost of collection, in the same manner as other taxes are collected. The laws of this state for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of assessments pursuant to this subsection (C). Any lien placed against the property pursuant to this subsection (C) shall be recorded with the clerk and recorder of Delta County.
- B. For the purpose of these regulations, "to dispose" includes but is not limited to the following: A contract of sale, resulting in the transfer of equitable title to an interest in a commercial mobile home park; an option to purchase an interest in a commercial mobile home park; a lease or an assignment of an interest in a commercial mobile home park which is not made pursuant to one of the foregoing.

C. The Delta County Planner, or his designee, shall, upon personal information and belief that a violation of this regulation has occurred, give written notice to the violator to correct such violation within thirty days after the date of such notice. If the violator fails to correct the violation within such thirty-day period or within any extension period granted by the planner, the planner or his authorized representative may request that the county attorney issue a summons and complaint to the violator, stating the nature of the violation with sufficient particularity to give notice of such charge to the violator. One copy of the summons and complaint shall be served upon the 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. The summons and complaint shall be filed with the clerk of the county or district court and thereafter the action shall proceed in accordance with the appropriate Colorado rules of civil procedure and Section 30-28-210, C.R.S., as amended.

Standards for Placement of Mobile Homes in Delta County

- A. All mobile homes that are placed in Delta County shall comply with Delta County Ordinance 2006-10.
- B. Skirting: Within at least 30 days after placement of a space all mobile homes shall be skirted between the floor and the ground surface with durable, all-weather construction manufactured specifically for the purpose and be of a similar color as the mobile home.
- C. Tie Downs: Tie downs shall be installed and connected to each mobile home unit. Tie downs shall meet the minimum specifications of the mobile home manufacturer and shall ensure 15 psi lateral immobility of the unit.

Each individual Mobile Home placed in Delta County must comply with each of the following requirements, this will be required in the event you wish to subdivide your property in the future.

- D. Water supply: All mobile homes must comply with the provisions of Article II Section 2.7 E of the Delta County Subdivision regulations for connection to a domestic water supply. Each mobile home placed upon a property must have its own source of domestic water and be part of a water system. Cisterns shall not be allowed for domestic water use.
- E. Sanitary Sewer Disposal: All mobile homes must comply with Article II Section 2.7 F for connection to a sewer disposal system. Each mobile home placed upon a property must have its own sewage disposal system approved by the Delta County Health Department or be connected to a municipal sewage system.
Note: Delta County Health Department requires one acre exclusive of easements for each septic system located on a parcel of land.
- F. Utilities: Each mobile home placed on a property shall have its own electric meter, gas meter or propane tank or an approved alternative energy source. All utility lines must be located underground.
- G. Access: Access shall comply with the Delta County Roadway Design and

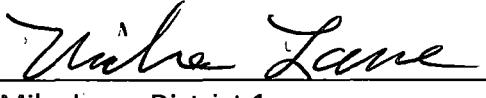
Construction Standards and the Delta County Subdivision regulations Article II
Section 2.7 G for access from County roads.

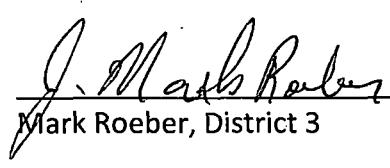
- H. Address: Each mobile home shall have an individual address issued by the Delta County GIS Department.
- I. Roads: At such time that three (3) or more mobile homes are located on a parcel, access to the homes shall be from a single location from a County road unless otherwise approved by the County. The road shall be constructed to County standards as designated in the Delta County Roadway Design and Construction Standards. The road shall have a road name assigned and approved by the Delta County GIS Department and all mobile homes shall be addressed from that road.

ADOPTED this 17th day of September, 2019.

BOARD OF COUNTY COMMISSIONERS
OF DELTA COUNTY, COLORADO

By: 
Don Suppes, Chair


Mike Lane, District 1


Mark Roeber, District 3

ATTEST:


Teri Stephenson
Delta County Clerk and Recorder

