

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

ORDINANCE NO. 2006-09

ORDINANCE ADOPTING THE 2003 EDITION OF THE INTERNATIONAL RESIDENTIAL  
CODE FOR ONE- AND TWO-FAMILY DWELLINGS AND THE 2003 EDITION OF THE  
INTERNATIONAL BUILDING CODE FOR THE HIGHWAY 92 OVERLAY DISTRICT AND  
SETTING FORTH EXEMPTIONS TO THE APPLICATION OF THE INTERNATIONAL  
BUILDING CODE AND THE INTERNATIONAL RESIDENTIAL CODE AS AMENDED FOR  
DELTA COUNTY

WHEREAS, the board of County Commissioners of Delta County established by Resolution No. 2006-R-016 the Highway 92 Overlay District of Delta County. A map of which is attached hereto as Exhibit A and by reference made a part hereof;

WHEREAS, the Board of County Commissioners of Delta County finds that it is in the best interests of present and future residents of Delta County to adopt building codes for new construction within the Highway 92 Overlay District of Delta County for the following reasons:

- A. To ensure safety in new construction;
- B. To ensure the general public entering commercial, retail, light industrial, multi-family dwellings, and single-family dwellings on less than one acre of land that structures have been built to minimum standards for safety;
- C. To inform contractors, builders and property owners with respect to minimum standards to be applied in the construction of homes and other buildings in the Highway 92 Overlay District in order to ensure safety, durability and comfort;

WHEREAS, pursuant to Section 30-28-201, C.R.S., the Board of County Commissioners is authorized to adopt ordinances and building codes applicable to the unincorporated areas of the County; and

WHEREAS, this Board finds that the International Residential Code (IRC) for One-and Two-family Dwellings, including townhouses with a vertical common wall, is appropriate for adoption in the Highway 92 Overlay District in Delta County, with certain exemptions as described below such that primary emphasis is placed upon the safety aspects of new construction and that other mandatory codes, e.g. electrical, plumbing, and other inspections required by State and Federal agencies are not duplicated.

WHEREAS, this Board finds that the International Building Code (IBC), applicable to all other structures, is appropriate for adoption in the Highway 92 Overlay District in Delta

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County, with certain exemptions as described below, such that primary emphasis is placed upon the safety aspects of new construction and that other mandatory codes, e.g. electrical and plumbing, are not duplicated.

WHEREAS, this Board finds that adoption of a building code for the Highway 92 Overlay District in Delta County is in the best interests of the public health, safety, and general welfare of the citizens and residents of Delta County; and further that adoption of the proposed Overlay District Building Code and Overlay District Residential Building Code would be in accord with the safety, protection and sanitation of present and future dwellings, buildings and structures in the Overlay District of Delta County.

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

Section 1. That certain document, three (3) copies of which are on file in the office of the Board of County Commissioners of Delta County, Colorado, being marked and designated as the *International Residential Code*, 2003 edition, including Appendix Chapters E and H, but excluding all other Appendix Chapters, and subject to the exemptions described in the Highway 92 Overlay District Residential Building Code Supplement, attached hereto, as published by the International Code Council (ICC), be and hereby is adopted as the Highway 92 Overlay District Residential Building Code for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one and two family dwellings on less than one acre of land and multiple single family dwellings (townhouses) not more than three stories in height with separate means of egress; and each and all of the regulations, provisions, conditions and terms of said Residential Code on file in the office of the County of Delta, State of Colorado, are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in the Highway 92 Overlay District Residential Building Code Supplement attached hereto and by reference made a part hereof.

Section 1.1 All inspections required by regulations, provisions, conditions and terms of said Highway 92 Overlay District Residential Building Code and the Highway 92 Overlay District Residential Building Code Supplement attached hereto shall be performed by an ICC certified building inspector registered with Delta County. Copies of all inspection reports shall be submitted to the Delta County Planning Department and shall become part of the record for the development pertaining to the inspection. Upon completion and approval of the Final Inspection, the Delta County Planning Department shall issue a Certificate of Inspection Completion to signify that said structure has met this adopted building code.

Section 2. That certain document, three (3) copies of which are on file in the office of the Board of County Commissioners of Delta County, Colorado, being marked and designated as the *International Building Code*, 2003 edition, including Appendix Chapters H and I, but excluding all other Appendix Chapters, and subject to the exemptions described in the Highway 92 Overlay District Building Code Supplement attached hereto, as published by the International Code Council, shall be and hereby is adopted as the Building Code of the

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Highway 92 Overlay District in County of Delta, State of Colorado, for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of buildings or structures or any appurtenances connected or attached to such buildings or structures not addressed in the Highway 92 Overlay District Residential Building Code, described in Section 1, above; and each and all of the regulations, provisions, conditions and terms of said Building Code on file in the office of the County of Delta, State of Colorado, are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, insertions, deletions and changes, if any, prescribed in the Highway 92 Overlay District Building Supplement to this ordinance.

Section 2.1 All inspections required by regulations, provisions, conditions and terms of said Highway 92 Overlay District International Building Code and the Highway 92 Overlay District International Building Code Supplement attached hereto shall be performed by an ICC certified building inspector registered with Delta County. Copies of all inspection reports shall be submitted to the Delta County Planning Department and shall become part of the record for the development pertaining to the inspection. Upon completion and approval of the Final Inspection, the Delta County Planning Department shall issue a Certificate of Inspection Completion to signify that said structure has met this adopted building code.

Section 3. If any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of County Commissioners hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 4. Nothing in this ordinance or in either the International Residential Building Code or International Building Code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any existing act or ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 5. Applicability.

Section 5.1 This ordinance shall apply only to the Highway 92 Overlay District area of Delta County as defined by the map attached to this document.

Section 5.2 This ordinance, and the building codes adopted hereby, apply to buildings and structures, including structures which have been started and are at the point of construction where inspections would be required as of the effective date of this ordinance. Only those inspections applicable to the construction which have occurred after the effective date of this ordinance shall apply, and the Certificate of Inspection Completion, when issued, shall include a notation as to which inspections occurred under the applicable building code.

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Section 5.3 This ordinance and the incorporated building codes also apply to buildings and structures constructed with "alternative" building materials, such as logs or adobe mud or bricks; however, when such alternative building materials are to be used, the building inspector is given discretion to consider standards established by other entities or an engineer's or manufacturer's certification that the plans and specification of the building, the material used in the building, and the actual construction thereof, have met standards which accomplish the intent of this ordinance. When such standards cannot be established, the building inspector will make a notation on the Certificate of Inspection Completion issued that the inspection of the building official was made but could not be based upon specific standards because of the nature of the construction.

Section 6. Enforcement.

Section 6.1 The provisions of this ordinance shall be administered and enforced by Delta County.

Section 6.2 The Board hereby designates the Delta County Attorney, or his/her designee, as the County's legal representative in the enforcement of the provisions of this ordinance in a court of applicable jurisdiction. In the event the Delta County Attorney or his/her designee cannot represent Delta County or the Board deems it otherwise appropriate, the Board may appoint the District Attorney of the Seventh Judicial District to perform such legal enforcement duties in lieu of the County Attorney.

Section 7. Violations.

Section 7.1 Criminal Prosecution. As set forth in Section 30-28-209, C.R.S., it is unlawful to erect, construct, reconstruct or alter any building or structure, or use any building or structure in violation of or in a manner that results in a violation of any regulation in, or of any of the provisions of, the building codes adopted hereby, or any amendment thereof, enacted or adopted by the Board of County Commissioners. Any person, firm or corporation violating any such regulation, provision or amendment, or any statutory provisions applicable hereto, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$100.00, or by imprisonment in the County Jail for not more than ten (10) days, or by both such fine and imprisonment. Each day during which such illegal use, erection, construction, reconstruction or alternation continues shall be deemed as a separate offense.

Section 7.2 Civil Penalties. In addition to the penalties imposed pursuant to Section 30-28-209, C.R.S., any person, firm or corporation violating the regulations, provisions or amendments adopted hereby may be subject to the imposition, by order of the County Court and pursuant to Section 30-28-210, C.R.S., of a civil penalty in an amount not less than \$250.00, nor more than \$500.00. 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 be the subject of the continuing penalty in an amount not to exceed \$50.00 for each such day.

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Section 7.3 In addition to the enforcement described herein, the Delta County Attorney may institute an injunction, mandamus, abatement or other appropriate action or proceedings to prevent, enjoin, abate or remove the unlawful erection, construction, reconstruction, alteration or use of buildings or structures in violation of the regulations adopted hereby.

Section 7.4. All fines, civil penalties and forfeitures resulting from a violation of this ordinance shall be paid to the Treasurer of Delta County and shall be deposited into the General Fund of the County.

Section 8. Fees. There shall be no County building permit fees. Fees imposed by independent contractors and inspectors are not under County jurisdiction.

Section 9. Amendment. In accordance with Section 30-28-204, C.R.S., this ordinance, and the building codes adopted for the Highway 92 Overlay District by reference, may be amended by the Board of County Commissioners by resolution after public hearing, notice of which hearing shall be given by at least one publication in a newspaper of general circulation in the County at least fourteen (14) days prior to said hearing.

Section 10. Publication and Effective Date. The foregoing text is the authentic text of Delta County Ordinance No. 2006-09. The first reading of said ordinance took place on October 30, 2006. It was published in full in the *Delta County Independent* on September 20, 2006. A public hearing was conducted by the Board of County Commissioners of Delta County on October 16, 2006, notice of that hearing having been published in the *Delta County Independent* on September 20, 2006, September 27, 2006, October 4, 2006, and October 11, 2006. The ordinance shall take effect January 1, 2007.

ADOPTED AND SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2006, at Delta, Colorado.

ATTEST:

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Ann B. Eddins  
Delta County Clerk and Recorder

[SEAL]

BOARD OF COUNTY COMMISSIONERS OF  
DELTA COUNTY, COLORADO

By: \_\_\_\_\_  
R. Olen Lund, Chairman

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Lela J. McCracken, Vice Chair

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Wayne E. Wolf, Commissioner