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# **DELTA COUNTY REGULATION FOR SPECIFIC DEVELOPMENTS**

AS AMENDED

Effective Date: January 22, 2019

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## **Article I General Provisions**

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### **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.

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### **Section 2. Short Title**

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

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### **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.

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### **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.
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### **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. With respect to oil and gas operations only, any activity which extends, expands or alters an existing well-bore which does not require the filing of an APD with the Colorado Oil and Gas Conservation Commission.

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**Section 6. Scope**

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

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**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.

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**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.

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**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.

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**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.

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**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.

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**Article II Applicability**

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**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.

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**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.

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### **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.

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### **Section 4. Activities Requiring a Development Agreement**

#### **A. Specific Development Activities**

1. Mineral resource extraction including, but not limited to, gravel pits, coal mines, oil and gas facilities operations. 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. Oil and gas operations and related oil and gas waste facilities (reviewed per the performance standards outlined in Appendix 1).
3. Minor oil and gas operation: A minor oil and gas operation, defined as follows, shall be required to comply with the performance standards set forth in Appendix 1, and will be subject to administrative review as set forth in Article IV, Review and Notice Procedures-Minor Developments. A minor oil and gas operation consists solely of one of the following:
  - (a) The installation or construction by one oil and gas operator of no more than two (2) sites and/or wells, within one mile of each other, during the same calendar year, and there is no other well(s) existing or proposed within one mile of either of the proposed site(s) and/or well(s) or any well drilled from a multi-well site having prior County approval; or
  - (b) The installation or construction by one oil and gas operator of no more than two (2) water collection lines or oil and gas gathering lines within one mile of each other during the same calendar year; or
  - (c) The installation or construction by one operator of storage yards and construction staging areas disturbing one acre or less, during the same calendar year.
  - (d) Any activity which extends, expands or alters the existing well-bore in a manner that requires the filing of an APD with the Colorado Oil and Gas Conservation Commission.
  - (e) Any activity which extends, expands or alters an existing well bore development consistent within the parameters set forth in a Master Plan, Federal Geographical Area Plan or State Area of Development that has been previously reviewed by the County.
4. For all oil and gas related activities any expansion, reduction in existing and approved production well spacing or additions beyond that stated in Section 3 above will require a preliminary review with the County to determine if the proposed expansion requires a full review under these Section 4 requirements or can be reviewed administratively.

For purposes of determining if an oil and gas operation is a minor development, all proposed activities of the operator within unincorporated Delta County shall be taken into consideration.

5. Mineral processing including, but not limited to, reducing mills and oil refineries;
6. Airports and airstrips, both public and private;
7. Solid waste disposal sites;
8. Hazardous waste sites;
9. Salvage junk yards;
10. 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.

11. 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;
12. Multi-unit buildings of more than three units;
13. 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;
14. 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.);
15. Commercial slaughter and rendering facilities;
16. 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.

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**Article III Application and Submittal Requirements**

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### **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, COGCC oil and gas, 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.

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### **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.

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### **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.
  - Z. Applicable to oil and gas gathering systems, transmission pipelines, compressors and other related equipment (service connection for residential homes/business not included): The applicant shall file with the application detailed descriptions of the pipelines, compressors and associated equipment, which include their anticipated size and specifications, together with a map and other drawing showing the location of the pipeline routes and associated equipment. Prior to construction of such facilities, the applicant shall file a copy of engineered plans and specifications with the size of pipelines, compressors and other related equipment. Such plans and specifications shall be consistent with the equivalent class location unit standards pursuant to DOT CFR 49, Part 192.5.
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#### **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.
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#### **Section 5. Site Visit**

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

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### **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.

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### **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.
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## **Article IV Review and Notice Procedures Minor Developments**

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### **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.

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### **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.

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### **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.

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### **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.
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### **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.
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## **Article V Review and Notice Procedures**

### **All Other Developments**

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#### **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.

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**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.
- D.** For Oil and Gas Gathering System and Transmission Pipeline Specific Development applications the following information shall be included in the public notice sent to the owners of the properties over or on which the developments are located, property owners adjacent to those properties, and owners of land within an area extending 220 yards on either side of the center line of the pipelines. Oil and Gas Gathering System Transmission pipeline locations are classified using the following two criteria:
  - (1) A “class location unit” is an area that extends 220 yards on either side of the centerline of any continuous one (1) mile running length of pipeline; and
  - (2) Each separate dwelling unit in a multiple dwelling unit building is counted as a separate building intended for human occupancy.
    - 1.** A Class 1 location is any class location unit that has 10 or fewer buildings intended for human occupancy.
    - 2.** A Class 2 location is any class location unit that has more than 10 but fewer than 46 buildings intended for human occupancy.
    - 3.** A Class 3 location is any class location unit that has 46 or more buildings intended for human occupancy. A Class 3 location is also an area where the pipeline lies within 10 yards of either a building or a small, well-defined

outside area, outdoor theater, or other place of public assembly that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12 month period. (The days and weeks need not be consecutive.)

4. A Class 4 location is any class location unit where buildings with four (4) or more stories above ground are prevalent.

The design requirements of the proposed gathering system/transmission pipeline could impact the nature and extent of any future development within the class location unit.

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### **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.

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## Article VI Performance Standards

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### **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.

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### **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 subsistence, expansive soils and rock analyses, as well 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.

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## **Article VII Definitions**

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### **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.

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### **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.

COGCC. Colorado Oil and Gas Conservation Commission.

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.

Flowlines. Those segments of pipe from the wellhead downstream through the production facilities ending at:

In the case of gas lines, the gas metering equipment or,

In the case of oil lines, the oil loading point or LACT unit; or In the case of water lines, the water loading point, the point of discharge to a pit, or the injection well head.

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.

Gathering System. A system consisting of gas/oil lateral and trunk pipelines (excluding flowlines) transporting oil and gas or other products derived from individual wells or an oil and gas collection system to a central facility or transmission pipeline.

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.

Oil and Gas Collection System. A system consisting of gas/oil pipelines and flowlines for the transport and consolidation of oil, gas, and other hydrocarbon products from individual oil and gas wells and well production facilities to a gathering system or transmission pipeline, as defined herein.

Oil and Gas Lease. A document providing the legal right for exploration and development of oil and gas resources.

Oil and Gas Operations. The exploration for oil and gas, including the conduct of seismic operations and the drilling of test bores, the siting, drilling, deepening, recompletion, reworking, or abandonment of an oil and gas well, underground injection well, or gas storage well, production operations related to any such well including the installation of flowlines and gathering systems, the generation, transportation, storage, treatment, or disposal of exploration and production wastes; and any construction, site preparation, or reclamation activities associated with such operations.

Oil and Gas Operator. Any legal entity or person registered with the COGCC for oil and gas operations through COGCC forms 1 and 1A.

Petroleum Contaminated Soil, (PCS) Soil that contains petroleum constituents.

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.

Production Facilities. All storage, separation, treating, dehydration, artificial lift, power supply, compression, pumping, metering, monitoring, flowline, and other equipment directly associated with oil wells, gas wells, or injection wells.

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.

Transmission Pipeline. A pipeline transporting oil, gas or other products derived from oil and gas production, generally classified under DOT regulations.

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, septage or sewer. Linear development includes, but is not limited to, transmission pipelines, transmission lines, oil and gas gathering systems, flow liens, water collection systems, public sewer lines, public and private domestic distribution water lines and high pressure natural gas distribution pipelines.

Water Collection System. Flowlines from an oil or gas well designed to collect produced or waste water and transport it to central storage tanks (battery) or disposal area (evaporation pit or injection well).

Well Site. A site having areas directly disturbed during the drilling and subsequent operation of or affected by production facilities directly associated with any oil well, gas well, or injection well.

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.

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## **Article VIII Other Provisions**

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### **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.

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### **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.

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### **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.

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#### **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.

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**APPENDIX 1**  
**TO**  
**DELTA COUNTY REGULATION FOR SPECIFIC DEVELOPMENTS**  
AS AMENDED (Effective Date: April 4, 2005)

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

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**INTRODUCTION**

The Board's decision to approve, conditionally approve, or deny an application for an oil or gas facility/operation in Delta County shall be made and determined based upon the compliance of the applicant with the following performance standards, to the extent applicable and relevant, and not waived based upon technical infeasibility. The burden shall be on the applicant to meet these standards to the satisfaction of the Board. These standards have been adopted in lieu of, and not in addition to, the standards of Article VI of the Master Regulation.

Any proposed oil and gas facility/operation, excluding well sites, must be compatible with existing uses and those which can be projected in the area in which the oil and gas facility is proposed. A facility's compatibility with land uses in the surrounding area, which the Board finds will be affected by its operation, shall be determined by the operator's ability to mitigate the impacts which it generates, as set forth in the facility operation plan, and in accordance with applicable county, state and federal rules, regulations and standards. Compatibility does not necessarily mean that a proposed use must be identical with neighboring uses.

The Board understands that based upon state and federal law, there are areas in which it does not have the legal right to establish and enforce performance standards, primarily where those standards are duplicative of state or federal regulations. In those cases, to require compliance with the standards does not presume the right of Delta County to enforce state or federal regulations, or County regulations which duplicate those of the federal or state government.

The Delta County Board of County Commissioners reserves the right to impose inspection fees on all facilities with the approval of a Development Agreement entered into by the applicant with the County, approved by Resolution and recorded in the records of the Delta County Clerk and Records Office.

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## **OIL AND GAS FACILITY/OPERATIONS AND RELATED OIL AND GAS WASTE FACILITIES PERFORMANCE STANDARDS**

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### **A. Oil and Gas Wells and Well Sites:**

The following performance standards apply to the siting, construction and operation of oil and gas wells within Delta County.

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#### **1. Access by Delta County Local Government Designee**

The Delta County Local Government Designee (LGD) shall have access to an oil and gas facility/operation for the purpose of determining compliance with these conditions. The Local Government Designee shall comply with all safety requirements and shall preserve the confidentiality of any proprietary information which becomes known to him. Delta County shall also comply with confidentiality requirements, as defined and to the extent stated in the Colorado Oil and Gas Conservation Commission (COGCC) rules and regulations.

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#### **2. Emergency Response Requirements**

- a. Each operator with oil and gas facilities/operations in Delta County is required to provide an emergency response plan. The plan shall be filed with the County and updated on an annual basis or as conditions change (responsible field personnel change, ownership changes, etc.). The emergency plan shall consist of the following information, as a minimum:
  - (1) Name, address and telephone number, including a 24-hour emergency number of at least two persons responsible for emergency field operations.
  - (2) An as-built facilities map showing the name, location, and description of all oil and gas facilities, including the size and type of all pipelines and isolation valves (note: isolation valves shall not be operated by anyone except the owner of the pipeline). The map shall be prepared either manually on U.S.G.S. 7.5 Minute Series maps (1"=2000'), or digitally on the County Geographic Information System Parcel Maps, if available. The as-built facilities map which includes the information regarding the location of isolation valves shall be held confidentially by the County's Emergency Management Staff and shall only be disclosed in the event of an emergency. The County's Emergency Management Staff shall deny the right of inspection of the as-built facilities map to the public pursuant to Section 24-72-204(3)(a)(IV), C.R.S. An operator who is new to Delta County and has no facility shall supply the information in this paragraph within six (6) months of commencement of operations.

- (3) Provide a written response plan for the potential emergencies that may be associated with the operation of the facilities. This may include any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, transport of undiluted fracking fluids, or hazardous material vehicle accidents or spills.
  - (4) Project specific emergency response plans are required for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas, as determined by the County's Emergency Management Staff. This plan shall be coordinated with and approved by the County's Emergency Management Staff prior to beginning field operations.
- b. Oil and gas facilities shall be located and designed so as to provide access by fire or other emergency response personnel and vehicles.
  - c. All storage tank batteries shall be bermed, subject to requirements placed on oil and gas facilities according to Colorado Oil and Gas Conservation Commission (COGCC) rules and regulations.
  - d. The operator shall obtain an address from the county before beginning any work on the site other than site analysis and surveying. The well site shall be incorporated into the E911 Emergency Reporting System.
  - e. The operator shall provide special training and on-site orientation at the drill site for personnel from the Fire District and/or the Delta County Hazardous Material Team. The operator agrees to furnish equipment (spill kit) to contain spills including drilling, completion and testing fluids on land and in watercourses to the Fire District personnel and/or the Delta County Hazardous Material Team in the event of a truck accident, spill and/or fire.
  - f. The operator shall become a member and pay any necessary fees of the applicable Ambulance Service prior to commencing operations to drill the well.

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### **3. Federal, State and Local Regulations**

- a. All oil and gas operations shall comply with federal, state and local regulations applicable to the proposed operations. An applicant is required to obtain federal or state permit approval(s) before the County can grant final approval. The County will process such an application under the County's normal procedures and timetable, but County approval will not become effective until all requisite state and federal permits are obtained.
- b. An applicant shall inform the County of any notice of non-compliance by the appropriate authority concerning a state or federal permit within a reasonable time, not to exceed thirty (30) days from the applicant's receipt of such notice. The County may not, however, take any action with regard to a pending or existing development agreement different than the state or federal agency as a result of the alleged non-compliance with approvals issued by those agencies. The County may only suspend or revoke a development agreement as a result of a notice of non-compliance if the applicable federal or state agency has suspended or revoked its corresponding permit approval

as a result of the alleged non-compliance. In the event that the County has suspended or revoked a development agreement in this circumstance, it must reinstate the development agreement when the applicable state or federal agency reinstates its corresponding permit for whatever reason.

- c. By requiring such compliance herein, Delta County does not presume any absolute right to enforce state or federal regulations.
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#### **4. Fire Protection**

- a. If the oil and gas facilities are located in a wildfire hazard area, the fire mitigation plan shall include detailed information as to fuel location, hazardous materials and proposed methods of fire suppression, including the use of foam. The operator shall comply with the recommendations (if any) of the Fire District to mitigate any fire hazards at the facilities.
  - b. The operator shall comply with any state and local fire restrictions applicable to the property upon which oil and gas facilities will be located. If there is a County fire ban, no open flames should be allowed without additional approval of the Board of County Commissioners or its designee.
  - c. For oil and gas facilities located outside the boundaries of a Delta County Fire Protection District, the operator shall agree to reimburse each Fire District for all costs of responding to and fighting any fire and/or emergency situation requiring the presence of the Fire District.
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#### **5. Flood Plain**

- a. Oil and gas facilities that are located within, or partially within, a special flood hazard area shall comply with the requirements of the Delta County Flood Plain Regulations.
  - b. No oil and gas operation shall result in the handling or storage of hazardous materials in a special flood hazard area. Any other outdoor storage permitted in a special flood hazard area shall be of materials that will not float, or that are confined by a fence or other means to prevent flotation.
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#### **6. Impact on Agriculture**

- a. 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 operator shall channel storm water, produced water or snowmelt runoff into any irrigation system without the written consent of the responsible irrigation entity.

- b. Oil and gas facilities/operations shall not interfere with the irrigation of neighboring lands or alter any irrigation system without the written consent of the affected entity.
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**7. Insurance and Financial/Performance Security**

- a. Liability Insurance. Each operator shall maintain general liability insurance for property damage and bodily injury to third parties as required by the COGCC, and such policy shall include Delta County as a certificate holder so that the County may receive advance notice of cancellation.
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**8. Notice/Exchange of Information**

The operator shall notify the County with respect to the following events:

- a. Upon the commencement of final reclamation of each well site or upon a request for waiver of final reclamation pursuant to Section 1001.C. of the Rules of the Oil and Gas Conservation Commission.
  - b. With respect to any sale, lease or other reassignment of the operating interest in the oil and gas facility/operation to another party, within thirty (30) days after the transfer.
  - c. Any permits obtained by operator from federal and state agencies pursuant to their regulations, e.g., stormwater discharge permit, including copies of said permits, as well as copies of written notices of any alleged violations of federal or state law received by operator concerning oil and gas operations in Delta County.
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**9. Off-Site Staging Area**

If an off-site staging area is required during the drilling, completion, and production of an oil and gas facility, the area shall be constructed and protected in the same manner as the access to the County road. Provided, however, if such staging area is accessed off a County road in a different location from the access to the oil and gas facility then an additional access permit shall be obtained prior to the use of the area. The staging area will be authorized for a period of one (1) year, but if required beyond that period, the operator shall file an application for its continuation under the Specific Development Regulations at least ninety (90) days before the year expires.

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**10. Roads and Access (Applicable to roads over which Delta County has jurisdiction, such as public roads, but not to private, internal roads.)**

- a. Prior to commencing operations, the operator shall apply for and receive approval of a Delta County Access Permit and Road Use Permit for each oil and gas facility accessed off a County road.
- b. No other haul route than the route approved by the Board of County Commissioners or its designee may be used without written consent of the Board.
- c. Delta County shall determine the current condition of the County roads and if the roads will be able to handle the number and weight of proposed truck traffic. The operator shall agree to bond these designated haul routes in an amount determined necessary by the Board and return the road surfaces in equal or better condition after completion of drilling. The operator shall further comply with any regulations in place in Delta County which require a special use permit or a road use permit to cover the proposed operations of the operator. If Delta County determines the existing haul routes, or a portion thereof, are not able to handle the weight and number of truck traffic, the operator and Delta County will negotiate an agreement to determine the operator's share of any needed improvements.
- d. With respect to roads over which the County may exert jurisdiction, the operator will endeavor to insure that texture and composition of any disturbed areas will be similar to that of the surrounding undisturbed ground. Exhumed rock that cannot be backfilled will be disposed of in a manner that is compatible with the surrounding area. Any areas that may be compacted or rutted by wheeled traffic, and other areas disturbed by construction, will be re-contoured and reseeded in a manner that minimizes the possibility of erosion.
- e. The operator will avoid scheduling heavy truck traffic on County roads between October 1 and May 1 because of muddy conditions and frost heave. Operator will seek approval from the local Road & Bridge Foreman to use the roads during this period of time. If the operator cannot avoid using County roads for heavy truck traffic during this period of time, the Board may impose additional bonding requirements to remediate anticipated road damage.
- f. To the extent that heavy truck traffic resulting from the operations of the operator will impact residential neighborhoods, the applicant will use its best efforts to minimize such heavy truck traffic between the hours of 11:00 p.m. and 6:00 a.m.
- g. Additional fees for the number of trucks, mileage, facilities, ton/miles or other specific related road maintenance issues may be imposed by the County.
- h. Operator shall control fugitive dust emissions from oil and gas operations on all access and County roads used as haul routes as part of oil and gas operations.
- i. A drainage plan relating to the access roads will be prepared and submitted to the County.

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**11. Security**

- a. Security arrangements, including fencing and locked gates for oil and gas facilities shall be as mutually agreed between the operator and the surface owner.
- b. Operator may be required by the County to construct a gate at the point of access to the County Road, so long as emergency vehicle passage is not restricted.
- c. Open-ended discharge valves on all storage tanks, pipelines, and other containers shall be secured where the facility site is unattended and/or accessible to the general public.

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**12. Trash and Waste Removal**

- a. Oil and gas operations shall be conducted in such a manner that liquid and solid wastes and other nuisances are confined to the site or disposed of in compliance with any applicable county regulations so as to avoid any adverse impact on adjoining lands. An adequate container is required at each facility to handle municipal solid waste and construction debris. All other solid waste if intended for disposal at the Delta County Landfill will require approval of the Delta County Solid Waste Coordinator prior to disposal.
- b. Chemical toilets shall be required and shall be pumped and maintained in a sanitary condition by a contractor licensed by Delta County.

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**13. Utilities and Utility Easements**

All utilities and associated utility easements required for oil and gas facilities/ operations shall be provided to the site as specified by the utility providers.

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**14. Visual Impact Mitigation**

The County may require reasonable vegetative screening requirements on well sites and associated infrastructure. In addition, permanent oil and gas facilities shall be located to avoid crossing hills and ridges or silhouetting to the extent reasonably possible.

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**15. Noxious Weed Control**

- a. The operator shall be responsible for noxious weed control on oil and gas facility sites and roadways during construction and operation of the facility, until the COGCC reclamation bond is released or operation of the facility is terminated.

- b. The appropriate noxious weed control methods and species to be controlled shall be determined through review and recommendation by the Delta County Weed Coordinator.
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**16. Time Frame**

A mutually agreed upon time frame shall be established between the applicant and Delta County to determine the timeline for the completion of the construction and development including the installation of all infrastructure. In the absence of a specific agreement otherwise, the applicable time frame shall be deemed to be two (2) years from the date of the approval by the Board of County Commissioners. One or more extensions may be granted by the Board.

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**B. Oil and Gas Gathering Systems and Transmission Pipelines:**

The following performance standards apply to the siting, construction and operation of gathering systems and transmission pipelines within Delta County, as defined in Article 7, Section 2 of the Regulation for Specific Developments.

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**1. Access by Delta County Local Government Designee**

The Delta County Local Government Designee (LGD) shall have access to an oil and gas facility/operation for the purpose of determining compliance with these conditions. The Local Government Designee shall comply with all safety requirements and shall preserve the confidentiality of any proprietary information which becomes known to him. Delta County shall also comply with confidentiality requirements, as defined and to the extent stated in the Colorado Oil and Gas Conservation Commission (COGCC) rules and regulations.

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**2. Emergency Response Requirements**

- a. Each operator with oil and gas facilities/operations in Delta County is required to provide an emergency response plan. The plan shall be filed with the County and updated on an annual basis or as conditions change (responsible field personnel change, ownership changes, etc.). The emergency plan shall consist of the following information, as a minimum:
  - (1) Name, address and telephone number, including a 24-hour emergency number of at least two persons responsible for emergency field operations.
  - (2) An as-built facilities map showing the name, location, and description of all oil and gas facilities, including the size and type of all pipelines and isolation valves (note: isolation valves shall not be operated by anyone except the owner of the pipeline). The map shall be prepared either

manually on U.S.G.S. 7.5 Minute Series maps (1"=2000'), or digitally on the County Geographic Information System Parcel Maps, if available. The as-built facilities map which includes the information regarding the location of isolation valves shall be held confidentially by the County's Emergency Management Staff and shall only be disclosed in the event of an emergency. The County's Emergency Management Staff shall deny the right of inspection of the as-built facilities map to the public pursuant to Section 24-72-204(3)(a)(IV), C.R.S. An operator who is new to Delta County and has no facility shall supply the information in this paragraph within six (6) months of commencement of operations.

- (3) Provide a written response plan for the potential emergencies that may be associated with the operation of the facilities. This may include any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills.
  - (4) Project specific emergency response plans are required for any project that involves the handling or transport of hazardous material, as determined by the County's Emergency Management Staff. This plan shall be coordinated with and approved by the County's Emergency Management Staff prior to beginning field operations.
- b. Oil and gas facilities shall be located and designed so as to provide access by fire or other emergency response personnel and vehicles.
  - c. All storage tank batteries shall be bermed, subject to requirements placed on oil and gas facilities according to Colorado Oil and Gas Conservation Commission (COGCC) rules and regulations.
  - d. The operator shall obtain an address from the county before beginning any work on the site other than site analysis and surveying. The oil and gas facility shall be incorporated into the E911 Emergency Reporting System.
  - e. The operator shall provide special training and on-site orientation at the project site for personnel from the Fire District and/or the Delta County Hazardous Material Team. The operator agrees to furnish equipment (spill kit) to contain spills including the testing of fluids on land and in watercourses to the Fire District personnel and/or the Delta County Hazardous Material Team in the event of a truck accident, spill and/or fire.
  - f. The operator shall become a member and pay any necessary fees of the applicable Ambulance Service prior to commencing operations to construct the facility or pipeline.

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### **3. Erosion Control**

- a. Upon the specific request of the County Planner or Board, in the exercise of its reasonable discretion, a Registered Professional Engineer in the State of Colorado or qualified geologist shall certify that any oil and gas facilities constructed on slopes of 30% or more shall not create any significant hazard or slope failure or accelerated soil erosion and submit a report to Delta County..

- b. The operator will endeavor to insure that texture and composition of any disturbed areas will be similar to that of the surrounding undisturbed ground. Exhumed rock that cannot be backfilled will be disposed of in a manner that is compatible with the surrounding area. Any areas that may be compacted or rutted by wheeled traffic, and other areas disturbed by construction, will be re-contoured and reseeded in a manner that minimizes the possibility of erosion.
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#### **4. Federal, State and Local Regulations**

- a. All oil and gas operations shall comply with federal, state and local regulations applicable to the proposed operations. An applicant is required to obtain federal or state permit approval(s) before the County can grant final approval. The County will process such an application under the County's normal procedures and timetable, but County approval will not become effective until all requisite state and federal permits are obtained.
  - b. An applicant shall inform the County of any notice of non-compliance by the appropriate authority concerning a state or federal permit within a reasonable time, not to exceed thirty (30) days from the applicant's receipt of such notice. The County may not, however, take any action with regard to a pending or existing development agreement different than the state or federal agency as a result of the alleged non-compliance with approvals issued by those agencies. The County may only suspend or revoke a development agreement as a result of a notice of non-compliance if the applicable federal or state agency has suspended or revoked its corresponding permit approval as a result of the alleged non-compliance. In the event that the County has suspended or revoked a development agreement in this circumstance, it must reinstate the development agreement when the applicable state or federal agency reinstates its corresponding permit for whatever reason.
  - c. By requiring such compliance herein, Delta County does not presume any absolute right to enforce state or federal regulations.
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#### **5. Fire Protection**

- a. If the oil and gas facilities are located in a wildfire hazard area, the fire mitigation plan shall include detailed information as to fuel location, hazardous materials and proposed methods of fire suppression, including the use of foam. The operator shall comply with the recommendations (if any) of the Fire District to mitigate any fire hazards at the facilities.
- b. The operator shall comply with any state and local fire restrictions applicable to the property upon which oil and gas facilities will be located. If there is a County fire ban, no open flames should be allowed without additional approval of the Board of County Commissioners or its designee.
- c. For oil and gas facilities located outside the boundaries of a Delta County Fire Protection District, the operator shall agree to reimburse each Fire District for all costs of responding to and fighting any fire and/or emergency situation requiring the presence of the Fire District.

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**6. Flood Plain**

- a. Oil and gas facilities that are located within, or partially within, a special flood hazard area shall comply with the requirements of the Delta County Flood Plain Regulations.
- b. No oil and gas operation shall result in the handling or storage of hazardous materials in a special flood hazard area. Any other outdoor storage permitted in a special flood hazard area shall be of materials that will not float, or that are confined by a fence or other means to prevent flotation.

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**7. Geologic Hazard**

Oil and gas operations shall not cause a significant risk of geologic hazards.

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**8. Impact on Agriculture**

- a. 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 operator shall channel storm water, produced water or snowmelt runoff into any irrigation system without the written consent of the responsible irrigation entity.
- b. Oil and gas facilities/operations shall not interfere with the irrigation of neighboring lands or alter any irrigation system without the written consent of the affected entity.

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**9. Insurance and Financial/Performance Security**

- a. Liability Insurance. Each operator shall maintain general liability insurance for property damage and bodily injury to third parties as required by the COGCC, and such policy shall include Delta County as a certificate holder so that the County may receive advance notice of cancellation.
- b. Performance Security. In addition to the requirements of Section 12.c., concerning road bonds, the operator shall provide one form of the following security to assure compliance with mitigation requirements set forth in these regulations and specific conditions of approval for oil and gas gathering lines and transmission lines. Five thousand dollar (\$5,000.00) performance bond for each oil and gas facility up to a maximum of fifty thousand dollars (\$50,000.00) Countywide blanket bond for all facilities operated by the

applicant within the County; irrevocable letter of credit; or equivalent financial security acceptable to the County.

- c. For purposes of this section a “facility” is defined as: (1) Any collection of equipment that processes or stores produced oil and/or gas after production related activities are conducted at or near the well head, or (2) Each five (5) miles, or a fraction thereof, of a transmission pipeline which is part of the gathering system for oil and/or gas production. A combined oil and gas facility shall be counted as a single facility.

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#### **10. Notice/Exchange of Information**

The operator shall notify the County with respect to the following events:

- a. Upon the commencement of final reclamation of each project or facility installation or upon a request for waiver of final reclamation pursuant to Section 1001.C. of the Rules of the Oil and Gas Conservation Commission.
- b. With respect to any sale, lease or other reassignment of the operating interest in the oil and gas facility/operation to another party, within thirty (30) days after the transfer.
- c. Any permits obtained by operator from federal and state agencies pursuant to their regulations, e.g., stormwater discharge permit, including copies of said permits, as well as copies of written notices of any alleged violations of federal or state law received by operator concerning oil and gas operations in Delta County.

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#### **11. Off-Site Staging Area**

If an off-site staging area is required during the construction and operation of an oil and gas facility, the area shall be constructed and protected in the same manner as the access to the County road. Provided, however, if such staging area is accessed off a County road in a different location from the access to the oil and gas facility then an additional access permit shall be obtained prior to the use of the area. The staging area will be authorized for a period of one (1) year, but if required beyond that period, the operator shall file an application for its continuation under the Specific Development Regulations at least ninety (90) days before the year expires.

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#### **12. Roads and Access**

- a. Prior to commencing operations, the operator shall apply for and receive approval of a Delta County Access Permit and Road Use Permit for each oil and gas facility accessed off a County road.
- b. No other haul route than the route approved by the Board of County Commissioners or its designee may be used without written consent of the Board.
- c. Delta County shall determine the current condition of the County roads and if the roads will be able to handle the number and weight of proposed truck traffic. The operator shall agree to bond these designated haul routes in an amount determined necessary by the Board and return the road surfaces in equal or better condition after completion of drilling. The operator shall further comply with any regulations in place in Delta County which require a special use permit or a road use permit to cover the proposed operations of the operator. If Delta County determines the existing haul routes, or a portion thereof, are not able to handle the weight and number of truck traffic, the operator and Delta County will negotiate an agreement to determine the operator's share of any needed improvements.
- d. The operator will avoid scheduling heavy truck traffic on County roads between October 1 and May 1 because of muddy conditions and frost heave. Operator will seek approval from the local Road & Bridge Foreman to use the roads during this period of time. If the operator cannot avoid using County roads for heavy truck traffic during this period of time, the Board may impose additional bonding requirements to remediate anticipated road damage.
- e. To the extent that heavy truck traffic resulting from the operations of the operator will impact residential neighborhoods, the applicant will use its best efforts to minimize such heavy truck traffic between the hours of 11:00 p.m. and 6:00 a.m.
- f. Additional fees for the number of trucks, mileage, facilities, ton/miles or other specific related road maintenance issues may be imposed by the County.
- g. Operator shall control fugitive dust emissions from oil and gas operations on all access and County roads used as haul routes as part of oil and gas operations.
- h. A drainage plan relating to the access roads will be prepared and submitted to the County.

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**13. Security**

- a. Security arrangements, including fencing and locked gates for oil and gas facilities shall be as mutually agreed between the operator and the surface owner.
- b. Operator may be required by the County to construct a gate at the point of access to the County Road, so long as emergency vehicle passage is not restricted.

Open-ended discharge valves on all storage tanks, pipelines, and other containers shall be secured where the facility site is unattended and/or accessible to the general public.

#### **14. Trash and Waste Removal**

- a. Oil and gas operations shall be conducted in such a manner that liquid and solid wastes and other nuisances are confined to the site or disposed of in compliance with any applicable county regulations so as to avoid any adverse impact on adjoining lands. An adequate container is required at each facility to handle municipal solid waste and construction debris. All other solid waste if intended for disposal at the Delta County Landfill will require approval of the Delta County Solid Waste Coordinator prior to disposal.
  - b. Chemical toilets shall be required and shall be pumped and maintained in a sanitary condition by a contractor licensed by Delta County.
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#### **15. Utilities and Utility Easements**

All utilities and associated utility easements required for oil and gas facilities/ operations shall be provided to the site as specified by the utility providers.

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#### **16. Visual Impact Mitigation**

- a. Gathering systems and transmission pipelines shall be located to avoid crossing hills and ridges or silhouetting, to the extent reasonably possible.
  - b. When clearing trees and vegetation for construction of oil and gas facilities, the operator shall feather and thin edges of vegetation.
  - c. The operator shall align access roads to follow existing grades and minimize cuts and fills.
  - d. The operator shall minimize damage to existing trees and vegetation.
  - e. Utilities
    - (a) For utility corridors: varying the visual line created in the landscape to match the existing terrain and vegetation.
    - (b) New utility distribution lines serving oil and gas facilities shall be underground. EXCEPTION: This requirement may be waived where geologic or hydrologic conditions prohibit underground installation.
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#### **17. Noxious Weed Control**

- a. The operator shall be responsible for noxious weed control on oil and gas facility sites and roadways during construction and operation of the facility, until the COGCC reclamation bond is released or operation of the facility is terminated.
- b. The appropriate noxious weed control methods and species to be controlled shall be determined through review and recommendation by the Delta County Weed Coordinator.

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**18. Wildlife**

When an oil and gas facility is located within a critical wildlife habitat or wildlife migration corridor, the following mitigation measures shall be considered in the site-specific wildlife mitigation plan required under Article III, Section 2.H. :

- (1) Avoid construction activities during critical use periods. (Examples: near eagle nests during nesting, on big game winter ranges during winter, and during big-game hunting seasons.)
- (2) Avoid conducting on-site operation and maintenance activities during critical use hours.
- (3) Confine vehicular access to established roads except under emergency circumstances.
- (4) Install gates that can be locked at first property boundary crossed when accessing facility from closest public road.
- (5) Conduct work in streams in a manner that minimizes siltation and erosion and at a period of little or no flow.
- (6) Place pipe below channel scour depths in streams and rivers to avoid partial diversion or channel discharges.
- (7) Stabilize excess material at stream and river crossings in place or remove offsite.
- (8) Complete fueling and lubrication of construction equipment away from aquatic environments.

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**19. Time Frame**

A mutually agreed upon time frame shall be established between the applicant and Delta County to determine the timeline for the completion of the construction and development including the installation of all infrastructure. In the absence of a specific agreement otherwise, the applicable time frame shall be deemed to be two (2) years from the date of the approval by the Board of County Commissioners. One or more extensions may be granted by the Board.

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**20. Construction Standards/Disclosure**

Upon completion of the project, but prior to placing it in service, the applicant shall provide a certification signed by the individual applicant or, if the applicant is a company, by one of its officers, that the improvements were constructed in accordance with the plans, specifications and drawings submitted with the application (as the same may have been amended), and that any natural gas gathering or transmission pipelines conform to the requirements of the equivalent class location units as defined by DOT CFR 49, Part 192.5.

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**C. Oil and Gas Exploration and Production Waste Facilities:**

The following performance standards apply to the siting, construction and operation of oil and gas exploration and production waste facilities within Delta County.

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**1. Access by Delta County Health Department and Local Government Designees**

The Delta County Health Department and/or Local Government Designee (Designees) shall have access to an oil and gas exploration and production waste facility/operation for the purpose of determining compliance with these and any other site specific conditions. The Designee shall comply with all safety and access requirements.

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**2. Emergency Response Requirements**

- a. Each operator of oil and gas exploration and production (EP) waste facilities/operations in Delta County is required to provide an emergency response plan. The plan shall be filed with the County and updated on an annual basis or as conditions change (responsible field personnel change, ownership changes, etc.). The Design and Operations and Development plan for the facility may include such a plan. The emergency plan, however, shall consist of the following information, as a minimum:
- (1) Name, address and telephone number, including a 24-hour emergency number of at least two persons responsible for emergency field operations.
  - (2) An as-built facilities map showing the name, location, and description of all structures, including the size and type of all pipe(s) and isolation valves. The map shall be prepared either manually on U.S.G.S. 7.5 Minute Series maps (1"=2000'), or digitally on the County Geographic Information System Parcel Maps, if available. The facility shall supply the information in this paragraph within six (6) months of commencement of operations.
  - (3) Provide a written response plan for the potential emergencies that may be associated with the operation of the facility. This may include any or all of the following: explosions, fires, gas or water pipeline leaks or ruptures, hydrogen sulfide or other toxic/hazardous gas emissions, or hazardous material vehicle accidents or spills.
- b. The operator shall obtain an address from the county before beginning any work on the site other than site analysis and surveying. The facility shall be incorporated into the E911 Emergency Reporting System.
- c. The operator shall become a member and pay any necessary fees of the applicable Ambulance Service prior to commencing the operation of the facility.
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**3. Federal, State and Local Regulations**

- a. All EP waste facility operations shall comply with federal, state and local regulations applicable to the proposed operations. An applicant is required to obtain federal or state permit approval(s) before the County can grant final approval or certificate of designation. Any approval by the County may include site and operation specific conditions in addition to those contained in this Section. The County will process such an application under the County's procedures and timetable contained in Article V Section 1B of these Regulations for Specific Development, but County approval will not become effective until all requisite state and federal permits are obtained.
  - b. An applicant shall inform the County of any notice of non-compliance by the appropriate authority concerning a state or federal permit within a reasonable time, not to exceed thirty (30) days from the applicant's receipt of such notice. The County may not, however, take any action with regard to a pending or existing development agreement different than the state or federal agency as a result of the alleged non-compliance with approvals issued by those agencies. The County may only suspend or revoke a development agreement as a result of a notice of non-compliance if the applicable federal or state agency has suspended or revoked its corresponding permit approval as a result of the alleged non-compliance. In the event that the County has suspended or revoked a development agreement in this circumstance, it must reinstate the development agreement when the applicable state or federal agency reinstates its corresponding permit for whatever reason.
  - c. By requiring such compliance herein, Delta County does not presume any absolute right to enforce state or federal regulations.
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#### **4. Fire Protection**

- a. If the EP waste facility is located in a wildfire hazard area, the fire mitigation plan shall include detailed information as to fuel location, hazardous materials and proposed methods of fire suppression, including the use of foam. The operator shall comply with the recommendations (if any) of the Fire District to mitigate any fire hazards at the facilities.
  - b. The operator shall comply with any state and local fire restrictions applicable to the property upon which EP waste facilities will be located. If there is a County fire ban, no open flames should be allowed without additional approval of the Board of County Commissioners or its designee.
  - c. For an EP waste facility located outside the boundaries of a Delta County Fire Protection District, the operator shall agree to reimburse each Fire District for all costs of responding to and fighting any fire and/or emergency situation requiring the presence of the Fire District equipment and/or personnel.
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**5. Flood Plain**

An EP waste facility shall not be located within or partially within an area subject to flooding or in an area designated as an area of special flood hazard as defined in the Delta County Flood Damage Prevention Regulations.

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**6. Impact on Agriculture**

- a. 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 operator shall channel storm water, produced water or snowmelt runoff into any irrigation system without the written consent of the responsible irrigation entity.
  - b. EP waste facilities/operations shall not interfere with the irrigation of neighboring lands or alter any irrigation system without the written consent of the affected entity.
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**7. Insurance and Financial/Performance Security**

- a. Liability Insurance. Each operator shall maintain general liability insurance for property damage and bodily injury to third parties as required by the Colorado Department of Public Health and Environment (CDPHE), Colorado Oil and Gas Conservation Commission (COGCC), or other State agencies and such policy shall include Delta County as a certificate holder so that the County may receive advance notice of cancellation.
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**8. Notice/Exchange of Information**

The operator shall notify the County with respect to the following events:

- a. Any spills or other releases of any kind that exceed permitted limits, immediately.
- b. With respect to any sale, lease or other reassignment of the operating interest in the EP waste facility/operation to another party, within thirty (30) days after the transfer.
- c. Any permits obtained by operator from federal and state agencies pursuant to their regulations, e.g., stormwater discharge permit, including copies of said

permits, as well as copies of written notices of any alleged violations of federal or state law received by operator concerning the EP waste facility operation in Delta County.

- d. Copies of all water and air monitoring and sampling events required by the CDPHE shall be provided to the Delta County Health Department within 30 days of the operator's receipt of analysis.

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**9. Roads and Access (Applicable to roads over which Delta County has jurisdiction, such as public roads, but not to private, internal roads.)**

- a. Prior to commencing operations, the operator shall apply for and receive approval of a Delta County Access Permit and Road Use Permit for the EP waste facility accessed off a County road.
- b. No other haul route than the route approved by the Board of County Commissioners or its designee may be used without written consent of the Board.
- c. Delta County shall determine the current condition of the County roads and if the roads will be able to handle the number and weight of proposed truck traffic. The operator shall agree to bond these designated haul routes in an amount determined necessary by the Board. If Delta County determines the existing haul routes, or a portion thereof, are not able to handle the weight and number of truck traffic, the operator and Delta County will negotiate an agreement to determine the operator's share of any needed improvements.
- d. Additional Fees for number of trucks, mileage, tons or volumes of material received, or other site specific related road maintenance issues may be imposed by the County.
- e. A drainage plan relating to the access roads will be prepared and submitted to the County.
- f. Operator shall control fugitive dust emissions from oil and gas operations on all access and County roads used as haul routes as part of the EP waste facility operations.

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**10. Security**

Security arrangements, including fencing and gates for an EP waste facility shall be in place before operations begin.

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**11. Trash and Waste Removal**

- a. EP waste facility operations shall be conducted in such a manner that liquid and solid wastes and other nuisances are confined to the site or disposed of in compliance with any applicable county, state, or federal regulations. An adequate container is required at each facility to handle municipal solid waste and construction debris. All other solid waste if intended for disposal at the

Delta County Landfill will require approval of the Delta County Solid Waste Coordinator prior to disposal.

- b. Chemical toilets, if used at the facility shall be pumped and maintained in a sanitary condition by a contractor licensed by Delta County.

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**12. Utilities and Utility Easements**

All utilities and associated utility easements required for an EP waste facility/ operation shall be provided to the site as specified by the utility providers.

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**13. Visual Impact Mitigation**

The County may require reasonable vegetative screening requirements on the facility and associated infrastructure.

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**14. Noxious Weed Control**

- a. The operator shall be responsible for noxious weed control on the EP waste facility site and roadway during construction and operation of the facility until the facility has been properly closed and reclaimed.
- b. The appropriate noxious weed control methods and species to be controlled shall be determined through review and recommendation by the Delta County Weed Coordinator.

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**15. Time Frame**

A mutually agreed upon time frame shall be established between the applicant and Delta County to determine the timeline for the completion of the construction and development including the installation of all infrastructure. In the absence of a specific agreement otherwise, the applicable time frame shall be deemed to be two (2) years from the date of the approval by the Board of County Commissioners. One or more extensions may be granted by the Board.

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**16. Air and Water Quality**

The county may require additional locations and/or more frequent site specific air and water quality sampling related to an EP waste facility. Such sampling may exceed the number of similar testing locations and/or frequencies approved by the CDPHE. Any additional sampling shall be set forth in and shall be conducted under the approved development agreement and design and operations plan.

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

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## DELTA COUNTY CORRIDOR DEVELOPMENT STANDARDS

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### **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.

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### **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.
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#### **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.
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#### **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.
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**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.
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**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.).
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**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.

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

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**Delta County Commercial Mobile Home Park Regulations**

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**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.

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## **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.

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## **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.
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### **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.

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### **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.

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### **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.

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### **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 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.

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## **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.

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## **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.

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### **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.