

**DELTA COUNTY
FLOOD DAMAGE PREVENTION REGULATIONS**

CERTIFIED BY THE

Delta County Planning Commission
September 26, 2013

ADOPTED BY THE

Board of Delta County Commissioners
December 9, 2013

REVISED BY THE

Board of Delta County Commissioners
Add Sections 4.3.6 and 4.3.7
June 27, 1994
Add Sections 1.5, 2.0, 3.2, 4.3.6 and 5.3.1
August 19, 2010
Major Revisions 2013
December 9, 2013

DELTA COUNTY
FLOOD DAMAGE PREVENTION ORDINANCE
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Public Notice

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PUBLIC NOTICE

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO.

NOTICE IS HEREBY GIVEN, that the Board of County Commissioners of the County of Delta, State of Colorado, shall pursuant to statutes, having read and introduced at a regular Board of County Commissioners' Meeting on November 4, 2013, the ordinance to adopt and enforce floodplain management regulations within the unincorporated area of Delta County, consider for adoption this Ordinance amending the existing Delta County Flood Damage Prevention Regulations adopted by Resolution 91-R-042 on September 23, 1991, and further amended by Resolutions 94-R-015 on June 27, 1994, and Resolution No. 2010-R-039 on July 19, 2010, as published below, on a second reading at a regular Board of County Commissioners' Meeting on December 9, 2013, and if adopted shall take effect on January 23, 2014. The Delta County Planning Commission certified the amended regulations contained within this Ordinance at their meeting on September 26, 2013.

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

ORDINANCE NO. 2013-02

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO;

WHEREAS, pursuant to § 30-15-401, C.R.S., the Board of County Commissioners of Delta County, Colorado (hereinafter the "Board"), has the general enabling power to adopt ordinances for the control or licensing of those matters of purely local concern, and to do all acts and make all regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the present and future residents of Delta County; and

WHEREAS, pursuant to Sections 29-20-102 and 29-20-104, C.R.S., the Board is authorized to adopt ordinances applicable to the unincorporated areas of the County to plan for and regulate the use of land within Colorado and a balancing of basic human needs of a changing population with legitimate environmental concerns.

WHEREAS, the flood hazard areas of Delta County are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, these flood losses are caused by the cumulative effect of obstructions in areas of special flood hazard which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately floodproofed, elevated or otherwise protected from flood damage also contribute to the flood loss; and

WHEREAS, the Board of County Commissioners of Delta County has authority pursuant to Section 30-28-116 , C.R.S., to amend the existing Delta County Flood Damage Prevention Regulations previously adopted by Resolution 91-R-042 on September 23, 1991, and further amended by Resolutions 94-R-015 on June 27, 1994 and Resolution No. 2010-R-039 on July 19, 2010.

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

This Ordinance shall be known as the Delta County Flood Damage Prevention Ordinance.

Section 1. **APPLICABILITY:**

- 1.1 This Ordinance shall apply throughout the unincorporated area of Delta County, including public and state lands.
- 1.2 If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of County Commissioners hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases are declared unconstitutional or invalid.

Section 2. **STATUTORY AUTHORIZATION:**

- 2.1 The Legislature of the State of Colorado has, in Title 29, Article 20 and 30-28-11, et.seq. of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of County Commissioners of Delta County, Colorado, does hereby adopt the following floodplain management ordinance:

Section 3. STATEMENT OF PURPOSE

- 3.1 It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions to specific areas by provisions designed:
- (a) To protect human life and health;
 - (b) To minimize expenditure of public money for costly flood control projects;
 - (c) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
 - (d) To minimize prolonged business interruptions;
 - (e) To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
 - (f) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
 - (g) To ensure that potential buyers are notified that property is in an area of special flood hazard; and,
 - (h) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Section 4. METHODS OF REDUCING FLOOD LOSSES

- 4.1 In order to accomplish its purposes, this ordinance includes methods and provisions for:
- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
 - (b) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;

- (d) Controlling filling, grading, dredging, and other development which may increase flood damage; and,
- (e) Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas.

Section 5. DEFINITIONS

- 5.1 Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

100-YEAR FLOOD - A flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood" and "one percent chance flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

100-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-YEAR FLOOD - A flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

500-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

ADDITION - Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

ALLUVIAL FAN FLOODING - A fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

AREA OF SHALLOW FLOODING - A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and

where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

APPEAL - means a request for a review of the Floodplain Administrator's interpretation of any provisions of this ordinance or a request for a variance.

AREA OF SPECIAL FLOOD HAZARD - means the land in the floodplain subject to a one percent or greater chance of flooding in any given year.

BASE FLOOD- means the flood having a one percent chance of being equaled or exceeded in any given year.

BASE FLOOD ELEVATION (BFE) - The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

CHANNEL - The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

CHANNELIZATION - The artificial creation, enlargement or realignment of a stream channel.

CODE OF FEDERAL REGULATIONS (CFR) - The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

COMMUNITY - Any political subdivision in the state of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

CONDITIONAL LETTER OF MAP REVISION (CLOMR) - FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

CRITICAL FACILITY - A structure or related infrastructure, but not the land on which it is situated, as specified in Section 8.7, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Section 8.7.

DEVELOPMENT - means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

DFIRM DATABASE - Database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM) - FEMA digital floodplain map. These digital maps serve as “regulatory floodplain maps” for insurance and floodplain management purposes.

ELEVATED BUILDING - A non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, “elevated building” also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) are completed before the effective date of this ordinance.

EXPANSION TO EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEDERAL REGISTER - the official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA - Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

FLOOD OR FLOODING- means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.
- (3) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

FLOOD INSURANCE RATE MAP (FIRM) - means the official map on which the Federal Emergency Management Agency has delineated both the areas of special food hazards and the risk premium zones.

FLOOD INSURANCE STUDY (FIS) - means the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Boundary–Floodway Map, and the water surface elevation of the base flood.

FLOODPLAIN OR FLOOD-PRONE AREA - Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODPLAIN ADMINISTRATOR - means the designated agent or agency of the Board of County Commissioners responsible for administration of these regulations.

FLOODPLAIN DEVELOPMENT PERMIT - A permit required before construction or development begins within any Special Flood Hazard Area (SFHA).

FLOODPLAIN MANAGEMENT - the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

FLOOD CONTROL STRUCTURE - A physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

FLOODWAY - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOOD ZONES - The areas delineated on the Flood Insurance Rate Map that show the probability of flood inundation:

- (1) Zone A - No base flood elevations determined;
- (2) Zone AE - Base flood elevations determined;
- (3) Zone AH - Flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations determined;
- (4) Zone AO - Flood depths 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding velocities also determined;
- (5) Zone AR - Special flood hazard areas formerly protected from the 1% annual chance of flood by a flood control system that was subsequently decertified. Zone AR indicates that the former flood control system is being restored to provide protection from the 1% annual chance or greater flood;
- (6) Zone A99 - Area to be protected from 1% annual chance of a flood by a Federal flood protection system under construction, no base flood elevations determined;
- (7) Zone D - Areas in which flood hazards are undetermined but possible;
- (8) Zone X - Areas of greater than or equal to 0.2% annual chance of a flood, areas of 1% annual chance of a flood with average depths of less than 1 foot or with drainage areas less than 1 mile squared, and areas protected by levees from a 1% annual chance of a flood

FREEBOARD - The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

HIGHEST ADJACENT GRADE - The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (a) By an approved state program as determined by the Secretary of the Interior or;
 - (b) Directly by the Secretary of the Interior in states without approved programs.

LETTER OF MAP REVISION (LOMR) - FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

LETTER OF MAP REVISION BASED ON FILL (LOMR-F) - FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

LEVEE - A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

LEVEE SYSTEM - A flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

MANUFACTURED HOME - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on Delta County's Flood Insurance Rate Map are referenced,

MATERIAL SAFETY DATA SHEET (MSDS) - A form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

NATIONAL FLOOD INSURANCE PROGRAM (NFIP) - FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

NEW CONSTRUCTION - means structures for which the “start of construction” commenced on or after the effective date of the original ordinance, and includes any subsequent improvements to such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of these floodplain management regulations.

NO-RISE CERTIFICATION - A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

PHYSICAL MAP REVISION (PMR) - FEMA’s action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

RECREATIONAL VEHICLE - means a vehicle which is:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self–propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

REGISTERED PROFESSIONAL ENGINEER - An engineer licensed in the State of Colorado in accordance with 12-25-111 C.R.S., as amended

“START OF CONSTRUCTION” INCLUDES SUBSTANTIAL IMPROVEMENT - and means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of pilings, the construction of

columns, or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does It Include excavation for a basement, footings, piers, or foundations or the erection of temporary accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - means a walled and roofed building or manufactured home that is principally above ground.

SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage,” regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a “historic structure,” provided that the alteration will not preclude the structure’s continued designation as a “historic structure.”

THRESHOLD PLANNING QUANTITY (TPQ) - A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

VARIANCE - means a grant of relief from the requirements of this ordinance which permits construction in a manner that would otherwise be prohibited by this ordinance.

VIOLATION - means the failure of a structure or other development to be fully compliant with these regulations. A structure or other development without

the elevation certificate, other certifications, or other evidence of compliance required by these regulations is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - means the height, in relation to the National American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of ravine area.

Section 6. GENERAL PROVISIONS:

6.1 LANDS TO WHICH THIS ORDINANCE APPLIES:

This ordinance shall apply to all areas of special flood hazard within the unincorporated areas of the County of Delta.

6.2 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD:

The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Delta County, Colorado and Incorporated Areas (FIS) with the accompanying Flood Insurance Rate Map (FIRM) dated August 19, 2010, is hereby adopted by reference and declared to be a part of this ordinance. The Flood Insurance Study and FIRM are on file at the Delta County Health Department, 255 W. 6th Street, Delta, CO 81416.

6.3 COMPLIANCE:

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this ordinance and other applicable regulations. Nothing herein shall prevent Delta County from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

6.4 ABROGATION AND GREATER RESTRICTIONS:

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

6.5 INTERPRETATION:

In the interpretation and application of this ordinance, all provisions shall be:

- (1) Considered as minimum requirements
- (2) Liberally construed in favor of the governing body; and,
- (3) Deemed neither to limit nor repeal any other powers granted under State statutes.

6.6 WARNING AND DISCLAIMER OF LIABILITY:

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This ordinance does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the County of Delta, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

Section 7. ADMINISTRATION:

7.1 ESTABLISHMENT OF DEVELOPMENT PERMIT

A development permit shall be obtained before construction or development begins within any area of special flood hazard established in Section 6.2.

7.1.1 Application for a development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
- (2) Elevation in relation to mean sea level to which any structure has been floodproofed;
- (3) Certification by a registered professional engineer or architect that the floodproofing methods for any non residential structure meet the floodproofing criteria in Section 8.2.2; and,

- (4) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (5) Maintain a record of all such information in accordance with Section 7.3.1.

7.1.2 Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

7.2 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Floodplain Administrator is hereby appointed to administer and implement this ordinance by granting or denying development permit applications in accordance with its provisions.

7.3 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

7.3.1 Duties of the Floodplain Administrator shall include, but not be limited to:

1. Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this ordinance.
2. Review all development permits to determine that the permit requirements of this ordinance have been satisfied;
3. Review all development permits to determine that all necessary permits have been obtained from Federal, State, or local governmental agencies from which prior approval is required.
4. Review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of Section 5 are met.
5. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
6. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.
7. For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.

8. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.

7.3.2 Use of Other Base Flood Data

When base flood elevation data has not been provided in accordance with Section 6.2, BASES FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any Federal, State, or other source as criteria for requiring that new construction, substantial improvements, or other development in Zone A are administered in accordance with Section 8.2, SPECIFIC STANDARDS.

7.3.3 Information to be Obtained and Maintained

- (1) Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- (2) For all new or substantially improved floodproofed structures:
 - (i) Verify and record the actual elevation (in relation to mean sea level) to which the structure has been floodproofed.
 - (ii) Maintain the floodproofing certifications required in Section 7.1.1(3).
- (3) Maintain for public inspection all records pertaining to the provisions of this ordinance.

7.3.4 Interpretation of FIRM Boundaries

Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary

shall be given a reasonable opportunity to appeal the interpretation as provided in Section 7.4.1.

7.3.5 Violations and Penalties

Any person or agent thereof, who makes or intends to make any person-made change to improved or unimproved real estate within the area of special flood hazard without complying with the provisions of these regulations, shall be guilty of a misdemeanor and subject to the penalty as set forth in Section 30-28-124, C.R.S. In addition to such penalties, any person, firm or corporation violating these regulations may be subject to the imposition, by order of the county court, of a civil penalty in an amount of not less than \$500.00 and no more than \$1,000.00 pursuant to Section 30-28-124.5, C.R.S.

7.3.6 Fees

To help defray the expense of flood damage prevention review and approval, a schedule of fees shall be established by the Board of Health. A copy of this schedule will be available in the Delta County Health Department.

7.4 VARIANCE PROCEDURE

7.4.1 Appeal Board

- (1) The Board of County Commissioners, as established by the County of Delta, shall hear and decide appeals and request for variances from the requirements of this ordinance.
- (2) The Board of County Commissioners shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- (3) Those aggrieved by the decision of the Board of County Commissioners or any taxpayer, may appeal such decisions to the District Court as provided in 29-20-101 et seq, CR.S., as amended and 30-28-111 C.R.S, as amended.
- (4) In passing upon such applications, the Board of County Commissioners shall consider all technical evaluations, all relevant factors, standards specified in other sections of this ordinance, and:

- (i) The danger that materials may be swept onto other lands to the injury of others;
 - (ii) The danger to life and property due to flooding or erosion damage;
 - (iii) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
 - (iv) The importance of the services provided by the proposed facility to the community;
 - (v) The necessity to the facility of a waterfront location, where applicable;
 - (vi) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (vii) The compatibility of the proposed use with the existing and anticipated development;
 - (viii) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (ix) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (x) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and,
 - (xi) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.
- (5) Upon consideration of the factors of Section 8 and the purposes of this ordinance, the Board of County Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes of this ordinance.
- (6) The Floodplain Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.

7.4.2 Conditions for Variances

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (i–xi) in Section 7.4.1 (4) have been fully considered. As the lot size increases beyond one-half acre, the technical justifications required for issuing the variance increases.
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.
- (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result,
- (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (5) Variances shall only be issued upon:
 - (i) A showing of good and sufficient cause;
 - (ii) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (iii) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expenses, create nuisances, cause fraud on or victimization of the public as identified in Section 7.4 or conflict with existing local laws or ordinances
- (6) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk from the reduced lowest floor elevation.

Section 8. PROVISIONS FOR FLOOD HAZARD REDUCTION

8.1 GENERAL STANDARDS

In all areas of special flood hazard, the following standards are required:

8.1.1 Anchoring

- (1) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.
- (2) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces. Specific requirements may be:
 - (i) Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;
 - (ii) Frame ties are provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;
 - (iii) All components of the anchoring system be capable of carrying a force of 4,800 pounds; and,
 - (iv) Any additions to the manufactured home be similarly anchored.

8.1.2 Construction Materials and Methods

- (1) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

- (2) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- (3) All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

8.1.3 Utilities

- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- (3) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

8.1.4 Standards for Subdivision Proposals

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of this ordinance.
3. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which are greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to this ordinance.

4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

8.2 SPECIFIC STANDARDS

In all areas of special flood hazard where base flood elevation data has been provided as set forth in Section 6.2, BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or SECTION 7.3.2, Use of Other Base Flood Data, the following provisions are required:

8.2.1 Residential Construction

- (1) New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a Colorado Registered Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

8.2.2 Nonresidential Construction

New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to ONE FOOT ABOVE the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

- (1) Be flood proofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- (3) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions

of this paragraph. Such certifications shall be provided to the official as set forth in Section 7.3.3(2).

8.2.3 Openings in Enclosures below the Lowest Floor

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

- (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- (2) The bottom of all openings shall be no higher than one foot above grade; and,
- (3) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

8.2.4 Manufactured Homes

- (1) Manufactured homes shall be anchored in accordance with Section 8.1.1(2).
- (2) All manufactured homes or those to be substantially improved shall conform to the following requirements:
 - (i) Require that manufactured homes that are placed or substantially improved on site:
 - (a) Outside of a manufactured home park or subdivision,
 - (b) In a new manufactured Home Park or subdivision,
 - (c) In an expansion of an existing manufactured home park or subdivision, or
 - (d) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated ONE FOOT above the base flood

elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

- (ii) Require that manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions that are not subject to the provisions in (i) above be elevated so that either;
 - (a) The lowest floor of the manufactured home is ONE FOOT above the base flood elevation, or
 - (b) The manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

8.2.5 Recreational Vehicles

- (1) Require that recreational vehicles either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements and elevation and anchoring requirements for resisting wind forces.

8.3 STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES):

Located within the Special Flood Hazard Area established in Section 6.2 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply;

8.3.1 Residential Construction

All new construction and substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered

Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

8.3.2 Nonresidential Construction

With the exception of critical facilities, outlined in Section 8.7, all new construction and substantial improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Section 7.1.1 are satisfied. Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

8.4 FLOODWAYS

Located within areas of special flood hazard established in Section 6.2 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, the following provisions apply:

8.4.1 Regulatory Floodway

1. Where a regulatory floodway is designated, no new construction, substantial improvements, or other development (including fill) shall be permitted. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.

2. If Section 8.4.1 above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Section 8.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, encroachments may be permitted within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

8.5 ALTERATION OF A WATERCOURSE;

For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
4. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
5. All activities within the regulatory floodplain shall meet all applicable Federal, State and Delta County floodplain requirements and regulations.
6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not

more than a 0.00-foot rise in the proposed conditions compared to existing conditions in a floodway resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with Section 8.3.1.

7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

8.6 PROPERTIES REMOVED FROM THE FLOODPLAIN BY FILL

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

8.6.1 Residential Construction

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.

8.6.2 Nonresidential Construction

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

8.7 STANDARDS FOR CRITICAL FACILITIES

A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

8.7.1 Classification of Critical Facilities

It is the responsibility of the Delta County Floodplain Administrator to identify and confirm that specific structures in their community meet the following criteria: Critical Facilities are classified under the following categories:

- (a) Essential Services;
 - (b) Hazardous Materials;
 - (c) At-risk Populations; and
 - (d) Vital to Restoring Normal Services.
- (a) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines. These facilities consist of:
1. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
 2. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
 3. Designated emergency shelters;
 4. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
 5. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
 6. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control

towers, air traffic control centers, and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Delta County Floodplain Administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Delta County Floodplain Administrator on an as-needed basis upon request.

- (b) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These Facilities May Include:
1. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
 2. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
 3. Refineries;
 4. Hazardous waste storage and disposal sites; and
 5. Above ground gasoline or propane storage or sales centers.

Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity

(TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation “Designation, Reportable Quantities, and Notification,” 40 C.F.R. § 302 (2010) and OSHA regulation “Occupational Safety and Health Standards,” 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation of this ordinance, but exclude later amendments to or editions of the regulations. Specific exemptions to this category include:

1. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
2. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
3. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.

- (c) At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
1. Elder care (nursing homes);
 2. Congregate care serving 12 or more individuals (day care and assisted living);

3. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);
- (d) Facilities vital to restoring normal services including government operations. These facilities consist of:
 1. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
 2. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Delta County Floodplain Administrator that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Delta County Floodplain Administrator on an as-needed basis upon request.

8.7.2 Protection for Critical Facilities

All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:

- (1) Location outside the Special Flood Hazard Area; or
- (2) Elevation of the lowest floor or flood proofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

8.7.3 Ingress and Egress for New Critical Facilities

New Critical Facilities shall, when practicable as determined by the Delta County Floodplain Administrator, have continuous non-inundated access

(ingress and egress for evacuation and emergency services) during a 100-year flood event.

Section 9. ADOPTION:

- 9.1 Amendments: The Delta County Board of County Commissioners may make minor and administrative changes in these regulations without a formal advertised public hearing. No major revision of these regulations may be made without a formal advertised public hearing. Notice of the hearing giving time and place must be placed in a newspaper of general circulation in the county at least one time twenty (20) days prior to the date of the hearing.
- 9.2 All rules adopted by the Board of County Commissioners must be adopted by resolution and must comply with the rules adopted by the Colorado Department of Natural Resources, Water Conservation Board pursuant to 29-20-101 et. seq. C.R.S. as amended.
- 9.3 All rules adopted by the Board of County Commissioners must be transmitted to the Water Conservation Board no later than five days after final adoption. The rules shall become effective forty-five days after final adoption by the Board of County Commissioners unless the Water Conservation Board notifies the Delta County Board of Commissioners before the forty-fifth day that the rules or amendments are not in compliance with the Colorado Flood Damage Prevention Ordinance.
- 9.4 Certification

It is hereby found and declared by the Delta County Board of Commissioners that flooding has occurred in the past within Delta County and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within Delta County; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective as stated in this Section.

Section 10. ADDITIONAL REMEDIES:

The remedies provided in this Ordinance shall be cumulative and in addition to any other remedies which may be available to the County and its Board, including, but not limited to, injunctive actions. Nothing contained herein shall be construed to preclude the Board from seeking such other remedies in addition to, or in lieu of, the legal remedies herein granted.

Section 11. SEVERABILITY

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

Section 12. SAFETY CLAUSE:

The Board hereby finds, determines and declares that this Ordinance is necessary for the health, safety and welfare of the citizens of Delta County, Colorado.

Section 13. PUBLICATION AND EFFECTIVE DATE:

The foregoing text is the authentic text of Delta County Ordinance No. 2013-02. The first reading of said Ordinance took place on November 4, 2013. It was published in full in the *Delta County Independent* on November 13, 2013. The Ordinance was adopted on second reading on December 9, 2013, and shall take effect January 23, 2014.

ADOPTED this 9th day of December, 2013, at Delta, Colorado.

BOARD OF COUNTY COMMISSIONERS OF
DELTA COUNTY, COLORADO

By: _____
C. Douglas Atchley, Chair

ATTEST:

C. Bruce Hovde, Vice Chair

Ann B. Eddins
Delta County Clerk and Recorder

J. Mark Roeber, Commissioner

[SEAL]

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO.

Reso-1984

RESOLUTION
OF
THE BOARD OF DELTA COUNTY COMMISSIONERS
84-R-014
FLOOD DAMAGE PREVENTION REGULATIONS

WHEREAS, Delta County has participated in the Federal Emergency Management Agency's National Flood Insurance Program; and

WHEREAS, Delta County has received approval by Resolution designating floodplain areas subject to an intermediate regional flood (100-year flood or one percent chance flood) from the Colorado Water Conservation Board; and

WHEREAS, Delta County has received final approval from the Federal Emergency Management Agency, including mapping delineating the floodplain and floodway; and

WHEREAS, Delta County desires to promote the public health, safety, and general welfare of its citizens, and to minimize public and private losses due to flood conditions.

NOW, THEREFORE, BE IT RESOLVED BY ORDER of the Board of Delta County Commissioners that the Flood Damage Prevention Regulations be adopted this 5th day of March, 1984.

BOARD OF DELTA COUNTY COMMISSIONERS

(SEAL)

Ben O. Sheldon
BEN O. SHELDON, CHAIRPERSON

Fred Calhoun
FRED CALHOUN, VICE-CHAIRPERSON

John W. Hawkins
JOHN W. HAWKINS, COMMISSIONER

ATTEST:

Roy L. Faries by Betty J. McClelland
ROY L. FARIES,
COUNTY CLERK AND RECORDER *deputy*

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO.

RESOLUTION

NO 87-R-011

WHEREAS, the Federal Emergency Management Agency published a final rule in the Federal Register revising the National Floodplain Insurance Program (NFIP) floodplain management criteria, and

WHEREAS, said revised criteria became effective October 1, 1986; and

WHEREAS, to maintain compliance with the NFIP minimum standards certain amendments to Delta County's Flood Damage Prevention Regulations are necessary; and

WHEREAS, the Delta County Planning Commission certified to the Board its recommendations for amendments to said regulations on February 18, 1987; and

WHEREAS, after due published notice the Board held a public hearing on the proposed amendments to said regulations on March 30, 1987; and

WHEREAS, no public opposition to the proposed amendments was heard at said hearing; and

WHEREAS, Section 30-28-116 C.R.S. authorizes Delta County to amend existing regulations.

NOW THEREFORE BE IT RESOLVED by order of the Board of County Commissioners, Delta County, State of Colorado that:

The amended Delta County Flood Damage Prevention Regulations be adopted as attached (exhibit A) this 6th day of April 1987.

BOARD OF DELTA COUNTY COMMISSIONER

ABSENT FROM MEETING

Charles V. Hallenbeck, Chairman

Norman F. Kehmeier
Norman F. Kehmeier, Commissioner

J. V. Coan
J.V. "Jim" Coan, Commissioner

TEST:

Josephine M. Gore
Josephine M. Gore

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO.

BOARD OF DELTA COUNTY COMMISSIONERS

RESOLUTION NO. 91 - R - 042

A RESOLUTION REPEALING RESOLUTION NO. 87-R-011 AND ADOPTING THE AMENDED DELTA COUNTY FLOOD DAMAGE PREVENTION REGULATIONS.

WHEREAS, the Federal Emergency Management Agency (FEMA) has advised the Board of Delta County Commissioners (the Board) that the modified base (100 year) flood elevations affecting the Flood Insurance Rate Map (FIRM), Flood Boundary and Floodway Map (FBFM), and the Flood Insurance Study (FIS) for the unincorporated areas of Delta County, Colorado were finalized as the result of a Flood Insurance Study of the unincorporated areas of Delta County and became effective August, 19, 1991; and

WHEREAS, FEMA has reviewed Delta County's current floodplain management regulations as contained in Resolution No. 87-R-011 and finds that certain amendments are necessary in order to maintain compliance with the National Floodplain Insurance Program's (NIFP) minimum standards; and

WHEREAS, the Delta County Planning Commission certified to the Board its recommendations for amendments to said regulations on September 18, 1991; and

WHEREAS, after due published notice the Board held a public hearing on the proposed amendments to said regulations on September 23, 1991; and

WHEREAS, no public opposition to the proposed amendments was heard at said hearing; and

WHEREAS, Section 30-28-116 C.R.S. authorizes Delta County to amend existing regulations.

NOW, THEREFORE, BE IT RESOLVED by order of the Board of County Commissioners, Delta County, State of Colorado, that:

The amended Delta County Floodplain Damage Prevention Regulations be adopted as attached (Exhibit A) this 23rd day of September, 1991.

ATTEST:

BOARD OF DELTA COUNTY COMMISSIONERS

Josephine M. Gore
Josephine M. Gore
County Clerk & Recorder

Ted H. Hayden
Ted H. Hayden, Chairman
Robert "Bob" Watson
Robert "Bob" Watson, Vice-Chairman
Jim Ventullo
Jim Ventullo, Member

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO.

DELTA COUNTY, CO 4/83/3 06/28/94 01:50P
BK0723 PG724 JOSEPHINE M. GORE, RECORDER 1 OF 1

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

478373

NO: 94 - R - 015

A RESOLUTION TO AMEND RESOLUTION NO. 91-R-042 PERTAINING TO DELTA COUNTY FLOOD DAMAGE PREVENTION REGULATIONS.

WHEREAS, the Board of County Commissioners has authority pursuant to Section 30-28-116 C.R.S. to amend existing regulations; and

WHEREAS, the Delta County Planning Commission certified to the Board its recommendations for amendments to said regulations on September 23, 1991; and

WHEREAS, certain portions of Resolution No. 87-R-011, superseded by Resolution No. 91-R-042, were to be included in Resolution 91-R-042 but were inadvertently deleted. Those portions are as follows:

4.3.6 Violations and Penalties

Any person or agent thereof, who makes or intends to make any person-made change to improved or unimproved real estate within the area of special flood hazard without complying with the provisions of these regulations shall be guilty of a misdemeanor and subject to the penalty as set forth in Section 30-28-209, et seq., C.R.S. 1973, as amended.

4.3.7 Fees

To help defray the expense of flood damage prevention review and approval, a schedule of fees shall be established by the Board of County Commissioners. A copy of this schedule will be available in the Delta County Administrative Offices.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Delta County that Resolution No. 91-R-042 is hereby amended to include the aforescribed sections, 4.3.6 - Violations and Penalties and 4.3.7 - Fees.

ADOPTED AND MADE EFFECTIVE this 27th day of June, 1994.

BOARD OF COUNTY COMMISSIONERS
COUNTY OF DELTA
STATE OF COLORADO

ATTEST



Ted H. Hayden
Ted H. Hayden, Chairman

Donna R. Ferganchick
Donna R. Ferganchick, Vice-Chairman

Josephine M. Gore
Josephine M. Gore, Delta County
Clerk & Recorder

Jim D. Ventrello
Jim D. Ventrello, Member

ORDINANCE TO ADOPT AND ENFORCE FLOODPLAIN MANAGEMENT REGULATIONS THAT ADHERE TO THE MINIMUM STANDARDS OF BOTH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP) AND THE STATE OF COLORADO.

RECEPTION#: 644176, 07/20/2010 at 09:22:56 AM, 1 OF 3, ANN EDDINS, DELTA COUNTY, CO CLERK AND RECORDER

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

RESOLUTION NO. 2010-R- 039

**RESOLUTION ADOPTING AMENDMENTS TO THE DELTA COUNTY FLOOD
DAMAGE PREVENTION REGULATIONS (RESOLUTION 91-R-042)**

WHEREAS, the Board of County Commissioners of Delta County has authority pursuant to Section 30-28-116, C.R.S., to amend the existing Delta County Flood Damage Prevention Regulations adopted by Resolution 91-R-042 on September 23, 1991, and further amended by Resolution 94-R-015 on June 27, 1994; and

WHEREAS, by Resolution 2010-R- 039, this Board referred a set of proposed amendments to the Delta County Planning Commission for its approval, disapproval or suggestions, as well as to the Colorado Water Conservation Board, and the Board has received statements back from both entity with respect to the proposed amendments; and

WHEREAS, this Board conducted a public hearing with respect to these proposed amendments on July 19, 2010, with at least 14 days' notice of the time and place of said hearing published in the Delta County Independent; and

WHEREAS, the proposed amendments are now found to be in the best interests of the County and its citizens and are required by or consistent with federal and/or state law.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Delta County that the amendments to the Delta County Flood Damage Prevention Regulations, as adopted by Resolution 91-R-042, as set forth in Exhibit A, attached hereto and by reference made a part hereof, shall be and are hereby approved and adopted.

ADOPTED this 19th day of July, 2010.



ATTEST:

Ann B. Eddins
Ann B. Eddins
Delta County Clerk and Recorder

[SEAL]

BOARD OF COUNTY COMMISSIONERS
OF DELTA COUNTY, COLORADO

By: Leta J. McCracken
Leta J. McCracken, Chair

C. Bruce Hovde

C. Bruce Hovde, Vice Chair

R. Olen Lund

R. Olen Lund, Commissioner

s:\Co\Resolutions\2010\Resolution Adopted Amended Floodplain Regulations