

## ARTICLE 1 ADMINISTRATIVE PROVISIONS

### 101 Short Title

For the purpose of brevity, the Douglas County Subdivision Resolution shall also be referred to as the "Subdivision Resolution" or "Resolution".

### 102 Purpose

In order to achieve quality development, this Resolution is designed and enacted for the following purposes:

- 102.01 To promote the general health, safety, and welfare of the present and future inhabitants of Douglas County.

Land proposed for subdivision shall be such that it can be used safely for the intended purpose without danger to health or peril from fire, flood, geologic hazards, or other natural hazards.

- 102.02 To guide future growth and development within Douglas County that provides adequate and efficient transportation, water, waste disposal, schools, fire and police protection, recreation and open space opportunities, and other services and facilities. To encourage a diversity of housing types and densities in order to assure adequate housing for all persons.

Subdivision of land is controlled by Douglas County pursuant to Section 30-28-101, et seq., C.R.S. and this Resolution. All subdivision approvals shall be in conformance with the Master Plan, Zoning Resolution and approved and recorded Planned Development Plans where property is zoned Planned Development.

- 102.03 To provide for the preservation and conservation of unique or distinctive natural areas, natural landmarks, critical wildlife habitats, wetlands, historic features and archaeologically sensitive sites recognizing the irreplaceable character of such resources and their importance to the quality of life in Douglas County.

Subdivisions shall provide for the preservation and conservation of significant stands of vegetation; unique or distinctive topographic features including buttes and rock outcroppings; drainage, riparian and wetland areas; significant wildlife habitats including breeding grounds, nesting areas, migration routes, and wintering areas; scenic views; identified aquifer recharge areas; and important historical or archaeological sites.

- 102.04 To protect both urban and nonurban development by minimizing the conflicts between the land uses and structures.

102.05 Subdivisions shall be designed to provide for lots that are of an appropriate size and configuration for the site characteristics and intended uses; connections between neighborhoods, shopping and recreational areas that are safe and convenient; adequate buffering from the adverse impacts of adjoining uses through lot orientation, setbacks, landscaping or other appropriate methods; the conservation of water, land and energy resources; minimization of grading, road cuts and fills; and a road system designed to preserve the integrity and function of the arterial and local roadway network.

102.06 To ensure that the necessary services and facilities are available and have sufficient capacity to serve the proposed subdivision.

Land proposed for subdivision shall not be approved until the necessary provisions have been made for subdivision design, access, parks, trails, recreation and open spaces, schools, drainage, water, wastewater disposal, traffic controls, road improvements, police and fire protection or other reasonably necessary improvements and services. The cost and installation of such improvements, which primarily benefit the land being subdivided, shall be borne by the owners or developers of such land.

102.07 To provide for an adequate and accurate system to record land subdivisions, ensuring proper legal descriptions and survey monumentation, in order to inform the public and especially future residents of the facts about the subdivision thereby safeguarding the interests of the public, the homeowner, the subdivider, and the County.

### 103 Control Over Platting

103.01 The Board shall withhold all public street improvements and public maintenance from all rights-of-way that have not been accepted for maintenance purposes by the Board.

103.02 Prior to the issuance of a building permit or construction of any building or structure within a subdivision, the plat thereof shall be approved by the Board and recorded with the County Clerk and Recorder, and access shall be provided in accordance with the subdivision improvements agreement and the Douglas County Roadway Design and Construction Standards Manual.

103.03 The Board may suspend or withdraw any approval of a plan or plat or may require certain corrective measures be taken following a determination that the information provided by the subdivider upon which such approval was based is substantially false or inaccurate or that new significant information has been brought to their attention. Suspension of approval may occur at any step in the platting process at a public meeting.

103.03.1 A written notice from the Planning Office shall be served upon the subdivider, setting out a clear and concise statement of alleged facts

and directing the subdivider to appear before the Board no less than 10 days nor more than 30 days after the date of notification.

103.03.2 The Board shall determine at the public meeting the nature and extent of alleged false or inaccurate information, shall consider any new significant information that has been brought to their attention, and shall have the power, upon good cause being shown, to suspend or withdraw any approval resulting in a voided plat.

103.04 No changes, erasures, modification, or revisions shall be made on the final plat after the approval by the Board, except as required by the approval of the Board or upon the approval of the Director.

103.05 No plat for subdivided land shall be approved by the Board of County Commissioners unless all ad valorem taxes applicable to such subdivided land, for years prior to that year in which approval is granted, have been paid. [§ 30-28-110(4)(a), C.R.S.]

103.06 It is unlawful to file for recording any such plan or plat as identified above in any public office unless it has been reviewed by the Planning Commission and bears, by endorsement or otherwise, the approval of the Board. [§ 30-28-110(3)(a), C.R.S.]

#### 104 Authority

This Resolution is adopted pursuant to Part I of Article 28 of Title 30 County Planning and other applicable sections of the Colorado Revised Statutes and is intended to be in accordance with the provisions of those statutes.

#### 105 Jurisdiction

This Resolution shall apply to the subdivision of land in the unincorporated area of Douglas County, Colorado. [§ 30-28-133 C.R.S.]

#### 106 Interpretation

The following shall be used as methods of interpreting this Resolution:

106.01 In their interpretation and application, the provisions of these regulations shall be regarded as minimum requirements.

106.02 Whenever a provision of this Resolution or any provision in any law, ordinance, resolution, rule, or regulation contain restrictions covering the same subject matter, that which is most restrictive or imposes higher standards, except as may be otherwise provided in an approved Planned Development Plan, shall govern.

- 106.03 Unless otherwise specified, references within this Resolution to Douglas County agreements, plans, codes, and manuals shall refer to the version most recently approved or amended by the County.
- 106.04 This Resolution is not intended to abrogate any easement or any other private agreement or restriction provided that where the provisions of this Resolution are more restrictive or impose higher standards or requirements than such easement, covenant, or other private agreement or restriction, the provisions of this Resolution shall govern.
- 106.05 The approval standards for several subdivision requests defined in this Resolution require “compliance with”, “consistency with”, or “general conformance with” the Master Plan or the goals, objectives, and policies of the Master Plan. However, the individual goals, objectives, and policies of the Master Plan are not, themselves, approval standards. The Board will consider the diversity of community values, applicable laws and regulations, private property rights, and unique characteristics of each application when balancing the goals, objectives, and policies set forth in the Master Plan. A property’s designation on the Master Plan’s Land Use Map is the primary basis for establishing future use and density.

#### 107 Effective Date

This Resolution and any future amendments thereof shall take effect immediately upon adoption by the Board.

#### 108 Repeals

This Resolution shall repeal the Subdivision Resolution of Douglas County, Colorado, adopted October 6, 1980 and amendments made prior to the effective date of this Resolution. Repeal of the October 6, 1980 Resolution does not reinstate any other Resolution or portion thereof. Such repeal shall not affect or prevent the prosecution or punishment of any person for the violation of any Resolution repealed hereby, for any offense committed prior to the repeal.

#### 109 Severability

The provisions of this Resolution shall be severable in accordance with the following provisions:

- 109.01 If any provision of this Resolution is declared to be invalid by a decision of any court of competent jurisdiction, the effect of such decision shall be limited to that specific provision held to be invalid as expressly stated in such judgment. Such decision shall not affect, impair, or nullify this Resolution as a whole or any other part thereof, but the rest of this Resolution shall continue in full force and effect.

109.02 If the application of any provision of this Resolution to any tract of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of such decision shall be limited to that specific tract of land immediately involved in the controversy, action, or proceeding in which judgment or decree of invalidity was rendered. Such decision shall not affect, impair, or nullify this resolution as a whole or the application of any provision thereof, to any other tract of land.

## 110 Enforcement

This Resolution shall be enforced by the Director, as defined herein, on all matters involving this Resolution.

110.01 The Director or an authorized representative is hereby empowered to enter and inspect any building, structure, or tract of land under development in the unincorporated areas of the County.

110.02 When the Director has knowledge of any violation hereof, a written notice shall be given to the landowner to correct such violation.

110.03 The Director is empowered to request in writing from the landowner the remedy of any condition found to exist therein or thereon which is determined by the Director to be in violation of any provision of this Resolution.

110.04 After appropriate notice has been served and if the alleged violation has not been corrected within thirty days, a copy of the file shall be forwarded to the County Attorney for further legal action. The Director shall be advised of any actions taken.

110.05 The Director shall enforce this Resolution by means of withholding building permits pursuant to Section 30-28-110(4)(a), C.R.S.

110.06 Any subdivider or agent of a subdivider who transfers legal or equitable title or sells any subdivided parcel before a final plat for such subdivided land has been approved by the Board and recorded or filed in the Office of the County Clerk and Recorder, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars nor less than five hundred dollars for each parcel of, or interest in subdivided land which is sold. [*§ 30-28-110(4)(a), C.R.S.*]

110.06.1 The description of such lot or parcel by metes and bounds in the transfer document used in the sale or transfer shall not exempt the transactions from such penalties or from the remedies provided in this Resolution.

110.06.2 The Board may enjoin such transfer or sale or agreement by action for injunction brought in any court of equity jurisdiction.

- 110.07 Any County official or employee, charged with the enforcement of this Resolution, acting in good faith and without malice on behalf of Douglas County in the discharge of this person's official duties, shall not thereby be rendered personally liable for any damages which may accrue to persons or property resulting from any such act or omission committed in the discharge of such duties.
- 110.08 This Resolution shall not be construed to hold Douglas County in any manner responsible for any injury to persons or property resulting from any inspection as herein authorized or resulting from any failure to so inspect, or resulting from the issuance or denial of a building permit as herein provided, or resulting from the institution of court action as herein set forth or the forbearance by Douglas County to proceed.

111 Amendments

These regulations may be amended in the following manner:

- 111.01 Amendment proposals may be initiated by the Board, the Planning Commission or the Planning Office. Any resident may submit a written request to amend this Resolution.
- 111.02 The Planning Office shall review all amendment proposals, make recommendations and schedule public hearings before the Planning Commission and Board. Public notice is required as follows:

111.02.1 PUBLISHED NOTICE

At least 14 days prior to the public hearing before the Planning Commission and 14 days prior to the public hearing before the Board, a notice shall be published in at least one publication of a daily or a weekly legal newspaper of general circulation, printed or published, in whole or in part, in Douglas County. Such notice shall read as follows:

<p style="text-align: center;"><b>NOTICE OF PUBLIC HEARINGS BEFORE THE PLANNING COMMISSION AND BOARD OF COUNTY COMMISSIONERS</b></p> <p>A public hearing will be held before the Planning Commission on <i>(date)</i>, at <i>(time)</i>, and before the Board of County Commissioners on <i>(date)</i>, at <i>(time)</i> in the Commissioners' Hearing Room, 100 Third St., Castle Rock, CO, for a proposed amendment to the Douglas County Subdivision Resolution. Generally, <i>(brief description of proposed change(s) to text or maps)</i>. For more information call Douglas County Planning, 303-660-7460.</p>
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The degree of accuracy required for the information contained in this public notice shall be that of substantial compliance with the provisions of this section. Substantial compliance for this public notice shall be determined by the Planning

Commission or the Board of County Commissioners for their respective public hearings.

111.03 At a public hearing, the Planning Commission shall consider the proposed amendment and make a recommendation to the Board.

111.04 Upon consideration of all written and oral testimony, the Board may revise or alter the proposal before adopting any amendment to this Resolution.

111.04.1 A copy of the adopted amendments shall be certified by the Clerk to the Board of County Commissioners and filed for recording with the Office of the Clerk and Recorder.

111.04.2 This Resolution and all amendments thereto shall be transmitted to the Colorado Land Use Commission. [§ 30-28-133(1), C.R.S.]

111.04.3 Unless stated otherwise in the adopting resolution, amendments shall take effect immediately upon adoption by the Board.

## 112 Review Fees

The Board shall establish and adopt a schedule of fees, by separate resolution, to be paid by all applicants with the exception of Douglas County departments or agencies to cover anticipated expenses incurred by the County in the review and hearing of the proposed subdivision, amendment, replat, exemption or extension.

112.01 All fees are nonrefundable with the exception of those applications that are withdrawn by the applicant in writing prior to staff mailing copies of the application to referral agencies.

112.02 The Board may consider a waiver of the fees on a case-by-case basis, upon written request of the applicant, submitted to the Planning Office.

## 113 Waivers

The Board, at a public hearing on a specific application, may hear the request for a waiver from the standards and decide to accept or reject the request, or make modifications to the waiver request.

113.01 Such waiver shall be approved only upon the finding, based upon the evidence presented in each specific case, that:

113.01.1 the waiver does not have the effect of nullifying the intent and purpose of this Resolution;

113.01.2 the granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property;

- 113.01.3 the conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable to other property;
  - 113.01.4 a particular non-economical hardship to the owner would result from a strict application of this Resolution;
  - 113.01.5 the waiver will not in any manner vary the provisions of the Zoning Resolution or County Building Code; and
  - 113.01.6 the proposed development will be in conformance with the Master Plan.
- 113.02 The Board may impose conditions of approval that in their judgment substantially secure the objectives of this Resolution. The conditions shall be stated in the Board minutes with the justification set forth.
- 113.03 A written waiver request shall be submitted no later than at the time of the final plat, replat, or minor development application. If the waiver request substantially alters the design, location, anticipated construction, phasing, impacts on adjacent properties or roads, impacts on designated protected areas, or other special circumstances as were reviewed during the preliminary plan review, the applicant must submit a revised preliminary plan including the waiver. The Planning Commission shall review the revised preliminary plan and provide a recommendation to the Board.
- 113.04 The written request for a waiver shall state in detail the extent of the waiver, the grounds for the requested waiver and all of the facts relied upon by the applicant.
- 113.05 The Planning Commission, as part of the hearing on a specific application, will hear the request for a waiver from the standards and make recommendations to the Board.

#### 114 Powers of the Planning Commission

The Planning Commission shall have the following powers in addition to other specific or implied powers granted in this Resolution, State law or otherwise granted:

- 114.01 Review applications and proposals for compliance with this Resolution and conformance with the Master Plan and make recommendations to the Board.
- 114.02 Review requests for waivers from this Resolution.
- 114.03 Initiate, review, or recommend amendments to this Resolution to the Board.

## 115 Powers of the Board of County Commissioners

The Board shall have the following powers for the administration of this Resolution in addition to other specific or implied powers granted in this Resolution, State law or otherwise granted:

- 115.01 Review applications and proposals for compliance with this Resolution and conformance with the Master Plan and approve, conditionally approve or deny them.
- 115.02 Void plats, subdivision agreements or other official documents or agreements if it is found that there has been a misrepresentation of fact which impacts the design, or legal or physical status of the subdivision.
- 115.03 Grant requests for waivers from this Resolution.
- 115.04 Modify and amend this Resolution following established procedure.

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