

## ARTICLE 13 DEFINITIONS

1301 Intent

As used in this Resolution, the following words shall be interpreted and defined in accordance with the provisions set forth in herein.

1302 Rules of Construction of Language

- 1302.01 The particular controls the general.
- 1302.02 In case of any difference of meaning or implication between the text of this Resolution and the captions for each section, the text shall control.
- 1302.03 The word 'shall' is always mandatory and the word 'may' is permissive.
- 1302.04 Words used in the present tense include the future, unless the context clearly indicates the contrary.
- 1302.05 Words used in the singular include the plural and words used in the plural include the singular, unless the context clearly indicates the contrary.

1303 Definitions

Adjacent - separated from the lot or parcel by one of the following: lot line, street, alley or easement.

Applicant - The landowner or authorized representative who formally requests action on a land use application submitted in accordance with this Resolution.

Board of County Commissioners - The Board of Commissioners of Douglas County. Also referred to as the Board.

Common Open Space - A parcel of land, an area of water, or a combination of land and water within the site designated for a planned development designed and intended primarily for the use of residents, occupants, and owners of the planned development.

County - Douglas County, Colorado

Dedicated Land - Land transferred to the County by platting, title, deed or other legal method approved by the Board. This land shall be used for public purposes, such as, school sites, fire stations, parks, open space, or such other uses or facilities as approved by the Board.

Development - The construction on land of improvements for residential, institutional, commercial, industrial, transportation, public flood control and recreational and similar uses, in contrast to use of the land for growing crops, grazing of farm animals and other agricultural pursuits. The term also applies to vacant land which has been or is being

prepared for development by such steps as installation of water and sewer lines, construction of access streets and construction of a railroad spur or branch tracks.

Director - The Director shall be as designated by the County Manager as the County staff person with administrative oversight of the land use review processes and other planning functions identified in this Resolution.

Disposition - A contract of sale resulting in the transfer of equitable title to an interest in subdivided land; an option to purchase an interest in subdivided land; a lease or an assignment of an interest in subdivided land; or, any other conveyance of an interest in subdivided land.

Engineer - A professional engineer, currently registered by the State of Colorado.

Evidence - Any map, table, chart, contract or any other document or testimony prepared or certified by a qualified person to attest to a specific claim or condition. Evidence shall be relevant and competent and shall support the position maintained by the claimer.

Exemption - Exclusion from the subdivision process by action taken by the Board of County Commissioners who, in making the exemption, decide that the purpose of the subdivision process will not be met if the subdivision process is required.

Final Plat - A map and supporting materials of certain described land prepared in accordance with this Resolution as an instrument for recording of real estate interests with the County Clerk and Recorder.

Landowner - All persons having legal title to or sufficient proprietary interest in the land sought to be subdivided.

Legal Description - A written metes and bounds description of the boundary of a parcel of real property by a PLS, for the purpose of perpetuating location and title. The description must recite all ties and monuments, recorded or physical, which will determine the correct position of the boundary, all references to adjoining lands by name and record, and a full dimensional recital of the boundary courses in succession which shall be mathematically correct. The description must be accompanied by an exhibit or map showing all pertinent information as described in the narrative.

Lot - The unit into which land is divided on a subdivision plat or deed with the intention of separate ownership or use. Lot shall include: parcel, plot, site or any similar term.

Master Plan - The Douglas County Comprehensive Master Plan as adopted by Planning Commission resolution. The Douglas County Comprehensive Master Plan is the long-range plan intended to guide the growth and development of the County, and is inclusive of supplemental plans which may be adopted and incorporated by Planning Commission resolution.

Open Space - An unoccupied, unobstructed space open to the sky except for trees, shrubbery, vegetation or improvements relating to recreation exclusive of buildings or

structures. Open space does not include driveways, parking lots, or other surfaces designed or intended for vehicular travel.

Park - An area set aside excluding residential or commercial development and intended for use as open areas, fields, play fields, trails, national areas, historic areas, wildlife areas or other areas.

Plan - The map(s) for development which includes but is not limited to, lots, blocks, easements, rights-of-way, pedestrian ways, park and school sites, open space areas, conservation areas in accordance with the requirements of this Resolution.

Planned Development - An area of land, controlled by one or more landowners, to be developed under unified control or unified plan of development for a number of dwelling units, commercial, educational, recreational or industrial uses or any combination of the foregoing.

Planned Development Plan - The provisions for development of a planned development, which may include, and need not be limited to, easements, covenants and restrictions relating to use; location and bulk of buildings and other structures; intensity of use or density of development; utilities, private and public streets, ways, roads, pedestrians, areas, and parking facilities; common open space, and other public facilities. "Guide" means the written and graphic materials referred to in this definition.

Planning Commission - the Douglas County Planning Commission.

Plat - The final map(s) and supporting materials of a proposed subdivision, prepared in accordance with the requirements of this Resolution and utilized as an instrument for recording real estate interests with the County Clerk and Recorder.

Preliminary Plan - A map of a proposed subdivision and specified supporting materials drawn and submitted in accordance with the requirements of this Resolution to evaluate feasibility and design characteristics of the proposal prior to final engineering and design.

Professional Geologist - A person who is a graduate of an institution of higher education which is accredited by regional or national accrediting agency, with a minimum of 30 semester (*45 quarter*) hours of undergraduate or graduate work in a field of geology and whose postbaccalaureate training has been in the field of geology with a specific record of an additional 5 years of geological experience to include no more than 2 years of graduate work.

Referral Agency, Advisory - A public or private organization which is interested in providing advisory comments to Douglas County on a land use proposal or proposed legislative action.

Referral Agency, Regulatory - An entity which is responsible for providing referral comments to Douglas County on a land use proposal or proposed legislative action, and which: (1) provides facilities and/or services for the proposed land use; and/or (2) provides regulatory control over some aspect of the subject property or proposed land use; and/or

(3) is a referral agency under state or federal law.

Replat - Any change in a recorded plat; an amended plat.

Right-of-Way - A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main or for another special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions of such lots or parcels. Rights-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains or any other use involving maintenance by a public agency shall be dedicated to public use on the plat on which such right-of-way is established.

Site Specific Development Plan - The final plat which when designated by the Board of County Commissioners pursuant to Article 12 of this Resolution establishes a vested property right.

Sketch Plan – An approved map of a proposed subdivision and specified supporting materials drawn and submitted in accordance with the requirements of this Resolution to evaluate feasibility and design characteristics at a conceptual state in the planning. The sketch plan process has been removed from this Resolution with the preliminary plan being designated as the first required step in most subdivision processes.

Staff – Douglas County employees with a role in reviewing or administering the provisions contained herein.

Street - A way for vehicular traffic, including but not limited to, streets, highways, thoroughfares, parkways, roads, avenues, boulevards and lanes designed and planned in accordance with the Douglas County Roadway Design and Construction Standards.

Subdivider - Any person, firm, partnership, joint venture, association, or corporation participating as owner, applicant, promoter, developer, or sales agent in the planning, platting, development, promotion, sales or lease of a subdivision.

Subdivision Improvements Agreement (SIA) - An executed agreement between the County and subdivider which identifies the public improvements required to be constructed with a subdivision plat, along with the terms under which the subdivider is committed to completing such improvements. The SIA is administered by the Department of Public Works Engineering.

Subdivision or Subdivided Land - Any parcel of land which is to be used for condominiums, apartments, or any other multifamily dwelling units, unless such land when previously subdivided was accompanied by a filing which complied with the provisions of this definition with substantially the same density, or which is divided into two or more parcels, separate interests, or interests in common, unless exempted under paragraphs 1, 2, or 3 of this definition. "Interests" include any and all interests in the surface of land but excludes any and all subsurface interests.

- (1) The terms "subdivision" and "subdivided land" shall not apply to any division of land which creates parcels of land each of which comprises 35 or more acres of land and none of which is intended for use by multiple owners.
- (2) Unless the method of disposition is adopted for the purpose of evading the terms "subdivision" and "subdivided land" as defined shall not apply to any division of land:
  - a) Which creates parcels of land such that the land area of each of the parcels, when divided by the number of interests in any such parcel, results in 35 or more acres per interest;
  - b) Which could be created by any court in this State pursuant to the law of eminent domain, or by operation of law, or by order of any court in this State if the Douglas County Board of Commissioners is given timely notice of any such pending action by the court and given opportunity to join as a part in interest in such proceeding for the purpose of raising the issue of evasion of this definition prior to entry of the court order and if the Board does not file an appropriate pleading within 20 days after receipt of such notice by the court, then such action may proceed before the court;
  - c) Which is created by a lien, mortgage, deed of trust, or any other security instrument;
  - d) Which is created by a security or unit of interest in any investment trust regulated under the laws of this State or any other interest in an investment entity;
  - e) Which creates cemetery lots;
  - f) Which creates an interest in oil, gas, minerals, or water which is severed from the surface ownership of real property;
  - g) Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common, and any such interest shall be deemed for purpose of this definition as only one interest;
  - h) Which is created by the combination of contiguous parcels of land into 1 larger parcel. If the resulting parcel is less than 35 acres in land area, only 1 interest in said land shall be allowed. If the resulting parcel is greater than 35 acres in land area, such land area divided by the number of interests in the resulting parcel must result in 35 or more acres per interest. Easements and rights-of-way shall not be considered interests for purposes of this subparagraph (h); or
  - i) Which is created by a contract concerning the sale of land which is contingent upon the purchaser's obtaining approval to subdivide, pursuant to these Regulations and any applicable county regulations, the land which is to be acquired pursuant to the contract.
  - j) Which created a parcel of less than 35 acres in land area conveyed by deed or other legally acceptable instrument recorded on or before January 10, 1994 in the Office of the Douglas County Clerk and Recorder.
  - k) Which adjusts the boundaries between legal, unplatted parcels of less than 35 acres in size where no additional parcels are created.
- (3) The Board of County Commissioners may, pursuant to rules and regulations or resolution, exempt from the definition of the terms "subdivision" and "subdivided land" any division of land if the Board of County Commissioners determines that such division is not within the purposes of this definition.

When a parcel of land is separated by a federal or state highway, the resultant parcels may be considered as two parcels eligible for building permits, when all other regulatory requirements are met.

Super Block - the subdivision of land into large blocks that are to be replatted, at a later date, into additional lots.

Surveyor - A professional land surveyor currently registered by the State of Colorado.

Tract - An area of land designated as such on a subdivision plat, e.g. Tract A. Tract shall be used exclusively to identify areas to be dedicated for parks, schools, utilities, or landscape, and not for residential or nonresidential buildings other than park facilities or schools.

Unincorporated - Situated outside of cities and towns, so that, when used in connection with territory, areas or the like it covers, includes and relates to territory or areas which are not within boundaries of any city or town. [§ 30-28-101(12) C.R.S]

Vested Property Right - The right to undertake and complete the development and use of property under the terms and conditions of a site specific development plan.

Zoning Resolution - The Douglas County Zoning Resolution.