

RESOLUTION NO. 2013-10

**A RESOLUTION OF THE BOARD OF COUNTY
COMMISSIONERS OF LA PLATA COUNTY, COLORADO,
AMENDING CHAPTERS 70, 82, AND 102 OF THE LA
PLATA COUNTY LAND USE CODE TO DELETE
REFERENCES TO THE SCORING SYSTEM**

WHEREAS, pursuant to the Colorado Planning Code, C.R.S. §§ 30-28-101, et seq., the Board of County Commissioners of La Plata County, Colorado (the "Board") is empowered to plan and provide for the physical development of the unincorporated territory of La Plata County (the "County");

WHEREAS, the Local Government Land Use Control Enabling Act, C.R.S. §§ 29-20-101, et. seq., empowers the Board to plan for and regulate the use of land within the unincorporated territory of the County, including but not limited to: regulating the use of land on the basis of the impact thereof on the community or surrounding areas; regulating the location of activities and developments which may result in significant changes in population density; providing for phased development of services and facilities; and otherwise planning for and regulating use of land so as to provide for the planned and orderly use of land;

WHEREAS, Colorado counties possess those powers enumerated by the Colorado Constitution and Colorado Revised Statutes and such further incidental implied powers as are reasonably necessary to carry out the express powers;

WHEREAS, the Colorado Planning Code and Local Government Land Use Control Enabling Act constitute a broad delegation of authority to the County generally encompassing the subject of land use;

WHEREAS, pursuant to these authorities, the Board adopted land use regulations and subdivision regulations set forth in Subpart B of the La Plata County Code (the "Code");

WHEREAS, the Planning Commission for the County held a duly noticed public hearing on December 13, 2012, and after receiving competent evidence at the hearing, made a recommendation to the Board to approve Project No. 2012-0143;

WHEREAS, the Board held a duly noticed public hearing on February 5, 2013 and heard testimony and received competent evidence that Chapters 70, 82 and 102 of the Code should be amended to delete references to the scoring system as set forth in the attached Exhibit A; and

WHEREAS, the Board received competent evidence that it would be in the best interest of the general health, safety and welfare of La Plata County citizens to amend Chapters 70, 82 and 102 of the Code to delete references to the scoring system as set forth in the attached Exhibit A.

Resolution 2013-10
Page 2 of 10

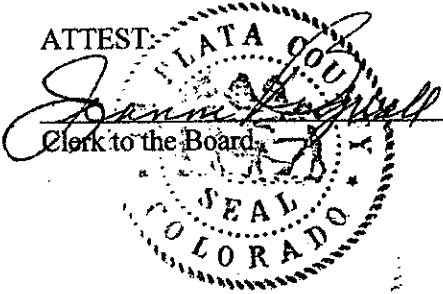
**NOW THEREFORE, BASED UPON THE EVIDENCE AND TESTIMONY PRESENTED
AT THE PUBLIC HEARINGS, BE IT RESOLVED BY THE LA PLATA COUNTY
BOARD OF COUNTY COMMISSIONERS:**

1. That Chapters 70, 82 and 102 of the La Plata County Code shall be and is hereby amended to delete references to the scoring system as set forth in the attached Exhibit A.
2. The enactment of this Resolution is necessary for the immediate preservation of public health, safety and welfare and, therefore, this Resolution shall take effect on date of its adoption.

**DONE AND ADOPTED IN DURANGO, LA PLATA COUNTY, COLORADO, this 5th day
of February, 2013.**

BOARD OF COUNTY COMMISSIONERS OF
LA PLATA COUNTY, COLORADO

ATTEST:



Clerk to the Board

A cursive signature in black ink, appearing to read "Robert A. Lieb, Jr.", is written over a horizontal line.

Robert A. Lieb, Jr., Chair

A cursive signature in black ink, appearing to read "Julie Westendorff", is written over a horizontal line.

Julie Westendorff, Vice Chair

A cursive signature in black ink, appearing to read "Gwen Lachelt", is written over a horizontal line.

Gwen Lachelt, Commissioner

Resolution 2013-10
Page 3 of 10

EXHIBIT A

Subcategory II.

Point System

~~Sec. 82-126. Adopted standards.~~

~~The county has adopted required and encouraged standards as uniform guides for the review of development as outlined in this division.
(LPLUS, § 1.6.1)~~

~~Sec. 82-127. Types of standards; importance factors; scores.~~

~~There are two types of standards described in this division: "required" and "encouraged."~~

~~(1) *Required standards.* Failure to comply with any required standard shall result in a continuance or denial of a permit application. The director shall indicate whether the application meets required development standards.~~

~~(2) *Encouraged standards.* Encouraged standards encourage or discourage certain characteristics of a development. Each development is assigned points by the reviewing entity. Points assigned are a reflection of the compliance of the development with the standard. The assigned points for each standard is referred to as a "score." The director shall present a score sheet to the planning commission and board of county commissioners for consideration. Ratings for each standard are a product of this score, multiplied by an importance factor, as explained in subsection (3) of this section.~~

~~(3) *Importance factors and scores.*~~

~~a. *Assignment of importance factors.* Importance factors indicate the relative importance of encouraged standards. These factors are assigned to each encouraged standard.~~

~~b. *The meaning of each importance factor is:*~~

~~1—The least important encouraged standards;~~

~~2—Encouraged standards of minor importance;~~

~~3—Encouraged standards of average importance;~~

~~4—Important encouraged standards; and~~

~~5—The most important encouraged standards.~~

Resolution 2013-10
Page 4 of 10

~~(4) *Assignment of scores.* A developer's performance on encouraged standards is awarded positive or negative scores. The director shall be responsible for scoring each proposal. The scores assigned by the director are advisory recommendations and shall not be considered binding upon any reviewing entity.~~

~~+2 is awarded for an excellent job of implementation of the standard, and/or for creating a significant public benefit with no substantial public detriment.~~

~~+1 is awarded for doing a good job of implementing the standard, and/or creating some public benefit or mitigating a public detriment.~~

~~0 is awarded for an average job of implementing the standard, if the standard is not applicable to the development, or if there is no public benefit or detriment.~~

~~-1 is awarded for an inadequate job of implementation or when some public detriment is created.~~

~~-2 is awarded for a poor job of implementation or when significant public detriment is created.~~

~~(5) *Range.* The score assigned to a particular project is limited by the range available on a particular standard. Some standards are written so that only positive points are available. In such a case the range would be written 0/2, and the reviewing entity may choose between 0, 1 and 2 in assigning a score to a particular project, depending on its performance in terms of the standard. Conversely, some standards have a range limited so that only negative points are available. This is written as -2/0. The score to choose between in this case would be -2, -1 and 0.~~

~~(LPLUS, § 1.6.2)~~

Subcategory III.

Critical Land Standards

Sec. 82-141. Agricultural lands; right to farm.

(a) *Development that limits existing agricultural use discouraged.* Development which has the potential for limiting the operation of existing agricultural uses is discouraged. Limits to the operations of existing agricultural uses could include potential nuisance or liability issues, predation of stock by domestic dogs, traffic conflicts, interference with irrigation, proliferation of undesirable plants and rodents, erosion and wildlife intrusion.

(b) *Right to farm.* Colorado is a right to farm state, pursuant to C.R.S. § 35-3.5-101 et seq. In appropriate projects, as determined by the board of county commissioners, a plat note providing notice of same shall be included on residential subdivision or minor exempt

Resolution 2013-10
Page 5 of 10

subdivision plats.

(c) *Fence law.* Colorado is a fence law state. An owner of real property shall be required to fence livestock out prior to recovery of damages for trespassing livestock, pursuant to C.R.S. § 35-46-101 et seq. In appropriate projects, as determined by the board of county commissioners, a plat note providing notice of the same may be included in residential subdivision or minor exempt subdivision plats.
(LPLUS, § 1.7.1)

Sec. 82-142. Geologic hazard.

(a) *Hazardous sites.* Development within hazardous areas of properties is allowed only where a registered, professional engineer has investigated the hazard and has certified that the design of the development will minimize the risk of structural failure and/or potential risk to roads, lots and other development. The engineer shall present adequate and objective data on which his opinion is based for review.

(b) *Avoidance of hazardous areas encouraged.* All new developments are encouraged to avoid areas prone to hazards, and to seek alternative safe areas within the property.

Sec. 82-162. Access to public lands.

(a) *Existing easements to public lands.* Development upon land on which there are existing easements to public land or streams is required to maintain those easements or substitute comparable easements acceptable to the county and other affected entities.

(b) *Potential access to public lands.* If potential public access points exist on land to be developed, a public access needs analysis shall be conducted by the appropriate governmental agencies. If the needs analysis indicates that public access is desired, the agencies and the landowner shall work together to provide a mutually acceptable access arrangement which shall provide for the maintenance of the easement.

Sec. 82-167. Density.

(a) *Density requirements for class I development.* The density requirements for class I development are set forth in the chart in subsection 82-3(c).

(b) *Density requirements and lot size criteria for other developments.* The density requirements for all developments except those specified in subsection (a) of this section shall be as follows:

- (1) *Lot size review.* The applicant shall propose the sizes of lots intended for the development. The planning commission/board of county commissioners shall review the adequacy of the proposed lot size using the required and encouraged standards outlined in this subsection. If the board of county commissioners finds that the proposed lot sizes and/or number of lots are inadequate in terms of the

Resolution 2013-10
Page 6 of 10

criteria, they shall request alternative lot sizes/numbers. The permit application shall be denied or tabled until appropriate lot sizes/numbers are proposed by the applicant.

- (2) *Development shall function on one lot.* The development shall function efficiently and safely without overcrowding on one lot, given the lot's topography, location, hazards and the development's utilities; vehicular, pedestrian, and emergency access; parking; individual sewage disposal systems; storage of trash, snow and other items; structures; open space; and room for expansion.
- (3) *Mitigate external nuisances.* The developed lot shall contain and/or mitigate external nuisances. External nuisances include, but are not limited to: odor, noise, vibration, glare, dust, smoke, water vapor and radiation.
- (4) *Compatibility of density.* The development is strongly encouraged to be compatible with adjoining and/or surrounding densities and uses in terms of the preservation of view, the design, bulk and height of the proposed structures, and preserve the privacy of neighbors. Development which disrupts views and is incompatible with neighboring development in terms of bulk, height and use is discouraged.
- (5) *Class II multifamily.* Class II multifamily developments may go below the 10,000 square feet per dwelling unit standard when central water and sewer is provided and the project meets all other applicable required and encouraged standards.
(LPLUS, §§ 1.8.7--1.8.9; Res. No. 1999-34, Exh. A, 11-22-99; Res. No. 2001-11, 3-5-2001)

Sec. 82-168. District compliance.

(a) *Required.* All development shall be reviewed in accordance with the development district standards for the district in which it is located. See district standards as they are enumerated throughout subpart B of this Code.

Sec. 82-173. Location of development.

(a) *Locate near infrastructure.* Development, except for three-acre residential lots served by septic and well systems is encouraged to locate near existing utilities, including common water and sewer.

(b) *Concentrate high intensity uses.* Development of an intensive nature is strongly encouraged to locate in and adjacent to existing areas of similar high intensity uses. Commercial and industrial development of an intensive nature is encouraged to locate in and adjacent to existing service centers, and high density residential uses are encouraged to locate in and adjacent to areas containing other residential uses of high density.

(LPLUS, § 1.8.15)

Resolution 2013-10
Page 7 of 10

Sec. 82-176. Preservation of vegetation and topography; encouraged.

Development which preserves the natural vegetation and topography of the site is encouraged.

(LPLUS, § 1.8.18)

Sec. 82-177. Project amenities.

The following considerations for a project is encouraged:

- (1) *Archaeological.* The preservation of archaeological resources within the project.
- (2) *Affordable housing.* The provision of affordable housing to residents and employees is an encouraged standard. For purposes of this section, the following definitions shall apply:
 - a. *Affordable rental housing.* Residential dwelling units for which the annual rental or annual rental expense does not exceed 30 percent of the gross annual income for "very low income" families in the county, as published in the latest edition of the U.S. Department of Housing and Urban Development, Community Development Block Grant guidelines.
 - b. *Affordable home ownership housing.* Residential dwelling units to be sold to eligible "low income" families, as published in the latest edition of the U.S. Department of Housing and Urban Development, Community Development Block Grant guidelines.
 - c. *Low income.* Those individuals or families whose annual income does not exceed 80 percent of the county median income, adjusted for family size, as published in the latest edition of the U.S. Department of Housing and Urban Development, Community Development Block Grant guidelines.
 - d. *Very low income.* Those individuals or families whose annual income does not exceed 50 percent of the county median income, adjusted for family size, as published in the latest edition of the U.S. Department of Housing and Urban Development, Community Development Block Grant guidelines.
 - e. *Qualified developer.* Any person who is constructing new residential housing within the county and who is contractually bound, through financing arrangements or otherwise, by a governmental or nonprofit agency other than the county to provide all or a portion of the residences as affordable housing for a period of at least 20 years.
 - f. *Qualified development.* Any project for which 20 percent or more of the

Resolution 2013-10
Page 8 of 10

completed units meet the definitions of affordable rental or home ownership housing.

- (3) *Signs.* The adoption of restrictions or specified sign amenities within a project which establish an internal sign code appropriate to the character and scale of the development.
- (4) *Solar access.* The design of a project shall provide the project and adjacent lots or building lots or buildings with access to solar radiation.

(LPLUS, § 1.8.19)

Sec. 82-184. Wetlands.

(a) *Army Corps of Engineers.* Compliance with review procedures and requirements of the Army Corps of Engineers is required for identified wetland areas under their jurisdiction.

(b) *Preservation encouraged.* The preservation (as opposed to replacement) of wetland areas to provide habitat, enhance water quality, and provide flood mitigation is encouraged. Avoidance of these areas of development parcels, and use of other portions of the property, is encouraged.

(LPLUS, § 1.8.26)

Sec. 102-30. Amendments to approved plats.

(a) *Survey and drafting errors.* Survey or drafting errors in a recorded plat shall be corrected in the form of an affidavit or, where deemed necessary by the county surveyor, a revised plat. The revised plat shall be certified by a land surveyor registered with the state. All affidavits and revised plats shall be submitted to the board of county commissioners for review and action accompanied by staff review, but without the necessity of public hearing. Approved affidavits and corrected plats shall be filed with the county clerk and recorder.

(b) *Minor amendments.* Minor amendments to an approved, but not yet recorded final plat, may, in the discretion of the director of the planning department, be processed as a revised final plat pursuant to the procedures set forth in sections 82-78--82-98. Minor amendments may include, but shall not be limited to, minor lot line adjustments, roadway alignments, a decrease in density or increased compliance with encouraged standards. Minor amendments shall not include easement relocations or adjustments, plat note revisions, any increase in density, open space reduction or any revision that would result in a violation of any required standard.

Sec. 70-21. - Federal District, East District, West District and Durango Service Area; visual.

Resolution 2013-10
Page 9 of 10

(a) Development is encouraged to be placed on the site in such a way as to preserve important visual resources of the site, and/or to retain large portions of the property in uninterrupted open space, which may include:

- (1) The concentration of buildings in one portion of the property for a property which is entirely untreed;
- (2) The placement of buildings in the trees or at the treeline for a property containing both trees and an open area;
- (3) The use of natural topography to place buildings out of sight of traveled ways and other uses;
- (4) The avoidance of placement of buildings on visible hillsides or ridgetops;
- (5) The placement of buildings in front of and below a hillside; or
- (6) Using the hillside as a backdrop to minimize the visual impact of buildings.

(b) Designation of building areas within residential subdivisions to achieve this policy may be accompanied by proposals to create open space owned in common by the homeowners, unusual lot configurations, or the dedication of conservation easements.

Sec. 70-41. Open Space

Conservation easements are encouraged. The dedication of conservation easements is encouraged to preserve open space within the county.

(LPLUS, § 1.9.1.a)

Sec. 70-42. - Preservation of visual resources.

(a) Development is encouraged to be placed on the site in such a way as to preserve important visual resources of the site, and/or to retain large portions of the property in uninterrupted open space, and may include:

- (1) The concentration of buildings in one portion of the property for a property which is entirely untreed;
- (2) The placement of buildings in the trees or at the treeline for a property containing both trees and an open area;
- (3) The use of natural topography to place buildings out of sight of traveled ways and other uses;
- (4) The avoidance of placement of buildings on visible hillsides or ridgetops, or the placement of buildings in front of and below a hillside;

Resolution 2013-10
Page 10 of 10

- (5) Using the hillside as a backdrop to minimize the visual impact of buildings;
 - (6) Minimizing visual impacts through extensive coniferous landscaping or other buffering techniques; or
 - (7) Minimization of visual impacts through requirement of earth tone colors for the exterior of all structures and other improvements.
- (b) Designation of building areas within residential subdivisions to achieve this policy may be accompanied by proposals to create open space owned in common by the homeowners, unusual lot configurations or the dedication of conservation easements.

(LPLUS, § 1.9.1.b)

Sec. 70-43. - Wildlife.

In properties containing high impact areas as identified on the Division of Wildlife Cumulative Impact Maps, provision of appropriate impact mitigation measures including, but not limited to, placing development in other areas of the property, limitations on use during critical use periods and/or critical use hours, and minimization of impacts on streams is encouraged.

(LPLUS, § 1.9.1.c)

Sec. 70-44. - Junction Creek Plan.

Reference to and consideration of the Junction Creek Plan is required. Conformance with that plan is encouraged.

(LPLUS, § 1.9.1.d)