

RESOLUTION NO. R-015- 077

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

A RESOLUTION APPROVING AMENDMENTS TO SECTION 1,
ADMINISTRATIVE PROVISIONS AND PROCEDURES, TO THE DOUGLAS COUNTY
ZONING RESOLUTION

WHEREAS, the Planning Services Division has prepared amendments to Section 1, Administrative Provisions and Procedures ("Amendments") of the *Douglas County Zoning Resolution*, which is attached hereto and incorporated herein as Exhibit A (Project No. DR2015-001); and

WHEREAS, said Amendments were reviewed and recommended for approval by the Planning Commission on May 18, 2015; and

WHEREAS, the Board of County Commissioners considered said Amendments at a public hearing held on July 14, 2015; and

WHEREAS, the Board desires to reflect its approval of said Amendments by the adoption of this Resolution.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of the County of Douglas, State of Colorado, that amendments to Section 1, Administrative Provisions and Procedures are hereby made to the *Douglas County Zoning Resolution*, to read as provided on said Exhibit A; and

FURTHER RESOLVED, that said Amendments shall be effective as of July 14, 2015.

PASSED AND ADOPTED this 14 day of July, 2015, in Douglas County, Colorado.

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

BY: _____

Jill E. Repella, Chair



ATTEST: _____

Codie Brenner

Deputy Clerk to the Board

SECTION 1 ADMINISTRATIVE PROVISIONS AND PROCEDURES

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101 Intent

A resolution of the Board of County Commissioners of Douglas County, Colorado which establishes land use classifications, divides the County into districts, imposes regulations, prohibitions, procedures and restrictions for the promotion of the health, safety, convenience, aesthetics, and welfare of the present and future residents of Douglas County. This resolution shall govern the use of land for residential and nonresidential purposes, regulate and limit the height and bulk of buildings and other structures, limit lot occupancy, determine the setbacks and provide for open spaces, by establishing standards of performance and design, adopting an official zone district map, creating boards/commissions and defining their powers and duties, prescribing procedures for changes and modifications of districts, uses by special review, variances, and other permits, allowing for nonconforming uses and buildings, providing regulations for accessory uses and buildings, providing for the amendment and enforcement thereof, defining certain terms, providing a means of appeal, and prescribing penalties for violation of its provisions, and repealing existing County Zoning Resolutions, as amended.

102 Authority

The Douglas County Zoning Resolution is authorized by Article 28, Title 30 of the Colorado Revised Statutes, 1973, as amended, and is hereby declared to be in accordance with all provisions of these statutes.

103 Short Title

For the purpose of brevity, the Douglas County Zoning Resolution shall hereafter be referred to as "this Resolution".

104 Overlapping Regulations (Amended 2/24/09)

Except with respect to approved and recorded development guides within Planned Development (PD) districts, whenever both a provision of this Resolution, and any other law, ordinance, resolution, rule, or regulation of any kind, contain any restrictions covering any of the same subject matter, whichever restrictions are more restrictive or impose higher standards or requirements shall govern.

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.

105 Existing Permits, Easements, Development Guides, or Other Approvals

This Resolution is not intended to abrogate, annul, govern, or prevail over any permits, easements, or Development Guides issued prior to the effective date of this Resolution.

106 Jurisdiction

This Resolution shall apply to all land within the unincorporated area of Douglas County, Colorado, except as provided below.

106.01 This Resolution shall not apply to buildings, facilities or uses owned or operated by Douglas County provided that:

106.01.1 such building, facility or use provides or fulfills an authorized governmental function;

106.01.2 a state/federal law, or regulation does not require such building, facility or use to comply with local zoning regulations;

106.01.3 such building, facility or use has been reviewed pursuant to the provisions of Section 32 Location and Extent, of this Resolution; and

106.01.4 if such building, facility or use is located in the Open Space Conservation district, it is allowed as a principal or accessory use. *(Land acquired through the open space sales and use tax is restricted to passive recreational purposes, parks, trails and open space, by the enabling resolution.)*

106.02 DEFINITION: "facility/use" - shall not include:

- mining, quarry, sand/gravel operation or similar extractive use;
- airport; or
- landfill.

Such uses shall be processed in accordance with the Use By Special Review section of this Resolution.

107 Fees

The Board of County Commissioners shall establish and adopt a schedule of fees to be paid by the applicant/developer to defray the expenses of the County in the review and hearing of the proposed rezoning, development, amendment or adjustment to recorded plans.

108 Calculation of Time Period for Public Notice

When calculating the time period for publishing or posting a public notice or notifying abutting landowners of a public hearing, the day of publishing, posting, or mailing will be counted in the total number of days required. The day of the hearing shall not be counted toward the total number of days required for the notification period.

109 Amendment of The Zoning Resolution - Procedure

Amendment requests may be initiated in writing by the Board, Planning Commission or Planning Services. In addition, Planning Services shall review this Resolution once a year to determine necessary amendments. *(Amended 3/15/11)*

- 109.01 Planning Services shall review the amendment requests, prepare a staff report with the amended regulatory language, and notify referral agencies, business community contacts, and the general public regarding the proposed changes. *(Amended 1/10/12)*
- 109.02 The staff planner shall schedule public hearings before the Planning Commission and thereafter before the Board and shall publish a notice in the newspaper in compliance with Section 111 Public Notice Requirements. *(Amended 3/28/01)*
- 109.03 The staff planner will review all comments and suggestions and prepare a staff report for the Planning Commission.
- 109.04 The Planning Commission shall evaluate the proposed amendment, referral comments, staff report, and public testimony, and make a recommendation to the Board to approve, approve with modifications, table for further study, or deny the proposed amendment.
- 109.05 The Board shall evaluate the amendment proposal, referral agency comments, staff report, the Planning Commission recommendation, and public testimony, and shall approve, approve with modifications, table for further study, remand to the Planning Commission or deny the amendment proposal.
- 109.06 If approved, a copy of the amendment shall be filed for recording with the Office of the Clerk and Recorder.

110 Effective Date of Zoning Resolution Amendments

Amendments approved by the Board shall become effective immediately, unless otherwise stated in the resolution of approval.

111 Public Notice Requirements for Zoning Resolution Amendments

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

NOTICE OF PUBLIC HEARING

A public hearing will be held on (date), at (time), before the Douglas County Planning Commission and on (date), at (time), before the Board of County Commissioners in the Commissioner's Hearing Room, 100 Third Street, Castle Rock, CO, for a proposed amendment to the Douglas County Zoning Resolution. Generally, (brief description of proposed change(s), to text or maps). For more information call Douglas County Planning, 303-660-7460.

File No. _____.

(Amended 3/28/01)

- 111.02 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. (Amended 3/28/01)

112 Zoning Map Changes - Procedure

The procedure specified below shall be utilized for the following:

- Zoning of land disconnected from an incorporated area.
- Rezoning of land purchased with open space funds or dedicated to the County for open space.
- Correction of zoning map errors.
- Rezoning of land to Open Space Conservation district. (Amended 3/28/01)
- Rezoning of land, when requested by the landowner, to bring it into compliance with the Master Plan. (Amended 3/28/01)

- 112.01 Planning Services or the landowner shall prepare the amendment request. Planning Services shall meet with referral agencies regarding the proposed zoning map changes. (Amended 3/15/11)

- 112.02 The staff planner shall schedule a public hearing before the Planning Commission and publish a notice in the newspaper in accordance with Section 111 Public Notice Requirements. (Amended 3/28/01)

- 112.03 The staff planner will review all comments and suggestions and prepare a staff report for the Planning Commission.

- 112.04 The Planning Commission shall evaluate the proposed map amendment, staff report, referral agency comments, and public testimony, and make a recommendation to the Board of County Commissioners to approve, approve with modifications, table for further study, or deny the proposed map amendment. (Amended 7/14/15)

- 112.05 Following the recommendation by the Planning Commission, the staff planner shall schedule a public hearing with the Board, and publish a

notice in the newspaper in accordance with Section 111 Public Notice Requirements. (Amended 3/28/01)

112.06 The Board shall evaluate the proposed amendment, staff report, referral agency comments, public testimony, and the Planning Commission recommendation, and shall approve, approve with modifications, table for further study, remand to the Planning Commission or deny the map amendment.

112.07 If approved, a copy of the map amendment shall be recorded in the Office of the Clerk and Recorder.

113 Violations (Amended 3/15/11)

No land in Douglas County shall be used, nor any building or structure erected, constructed, enlarged, altered, maintained, moved or used in violation of this Resolution, as amended.

114 Penalties (Amended 7/14/15)

Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, who violates any of the provisions of this Resolution or any landowner who allows the use of his land by another in violation of this Resolution and who does not remedy the violation upon notice that such violation exists, shall be subject to the following penalties:

114.01 A Class 2 Petty Offense Penalty Assessment in the amount of \$100.00 for the first violation pursuant to Section 30-11-101(2), C.R.S. and Section 16-2-201, C.R.S.

114.02 A Class 2 Petty Offense Penalty Assessment in the amount of \$200.00 for subsequent same violations or for repeated violations pursuant to Section 30-11-101(2), C.R.S. and Section 16-2-201, C.R.S.

When the nature of the violation is such that it is appropriate to do so the following may be pursued:

114.03 A fine of not more than \$100, or by imprisonment in the County Jail for not more than 10 days, or by both such fine and imprisonment pursuant to Section 30-28-124(1), C.R.S.

114.04 A civil penalty in an amount not less than \$500 nor more than \$1,000 and a continuing penalty not to exceed \$100 per day pursuant to Section 30-28-124.5, C.R.S.

114.05 An injunction, mandamus, abatement, or other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful erection,

construction, reconstruction, alteration, or use pursuant to Section 30-28-124(2), C.R.S.

Each day during which such illegal erection, construction, reconstruction, alteration, maintenance, or use continues shall be deemed a separate offense.

115 Enforcement of the Zoning Resolution (Amended 3/15/11)

This Resolution shall be enforced by the Director or any representative authorized by the Director on all matters involving this Resolution, pursuant to Section 30-28-114, C.R.S., as amended. The Director may consult with the County Attorney and Chief Building Official and other affected County offices, concerned with, but not limited to the lawful erection, construction, alteration, occupation or use of any building or structure, or land in the unincorporated area of Douglas County. The Director may also consult with the Tri-County Health Department on matters involving Public and Environmental Health.

115.01 The Board authorizes the Director or any representative authorized by the Director to perform the following duties:

- 115.01.1** To enter and inspect, when authorized by law or with permission of the property owner, tenant, or both, any building, structure, or tract of land in the unincorporated area of Douglas County to determine compliance with this Resolution.
- 115.01.2** To contact property owners, tenants, or both, either verbally or in writing, to attempt to gain voluntary compliance to remedy violations of this Resolution and avoid the need to resort to more formal notice or formal legal proceedings.
- 115.01.3** To issue written notices to alleged zoning violators that they are alleged to be in violation of this Resolution and that the alleged violators have no less than ten (10) days or such other period of time required by statute, in which to correct the alleged violation, after which time the alleged violators may be subject to the penalties listed herein.
- 115.01.4** To perform other such duties as may be necessary and appropriate to permit such agents to detect zoning violations, to give alleged violators statutory notice, and to enforce compliance with this Resolution.

115.02 The Director or any representative authorized by the Director shall respond to zoning complaints and make regular inspections of properties in the County. The zoning compliance procedure shall be developed by Planning Services and reviewed by the County Attorney.

- 115.03 Enforcement related to violations of the Grading, Erosion and Sediment Control (GESC) and Drainage, Erosion and Sediment Control (DESC) Permit Programs will follow the procedures outlined in this Resolution, the GESC Manual, or in accordance with any ordinance adopted pursuant to Colorado Revised Statutes. *(Amended 11/12/13)*

116 Nonliability of Officials

Any County official or employee, charged with the enforcement of this Resolution, acting in good faith and without malice on behalf of the County in the discharge of 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.

117 Nonliability for Injury

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 hereinabove set forth or the forbearance by Douglas County to so proceed.

118 Any Provision Declared Invalid

If any provision of this Resolution 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 lot, or provisions which are expressly stated in the decision to be invalid; and
- 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.

119 Application of Any Provision Declared Invalid

If the application of any provision of this Resolution to any lot, building, other structure, or 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 lot, building, other structure, or tract of land immediately involved in the controversy, action, or proceeding in which the judgment or decree of invalidity was rendered; and
- such decision shall not affect, impair, or nullify this Resolution as a whole or the application of any provision thereof, to any other lot, building, other structure, or tract of land.

120 Repeals

This Resolution shall repeal the Zoning Resolution of Douglas County, Colorado adopted February 1, 1994, and amendments made prior to March 1999. Repeal of the above mentioned Resolution does not revive 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.

121 Effective Date

This Resolution was adopted March 10, 1999 by the Board of County Commissioners of Douglas County, Colorado. This Resolution and any future amendment thereof shall take effect immediately upon adoption by the Board, unless otherwise set forth in the Board's motion to approve.

122 Waivers (Amended 3/28/01)

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.

122.01 The applicant shall provide a written waiver request that explains in detail the extent of the waiver, and the grounds for the requested waiver.

122.02 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.

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

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

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

122.03.3 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;

122.03.4 a particular non-economical hardship to the owner would result from a strict application of this Resolution;

122.03.5 the waiver will not in any manner vary the provisions of the Zoning Resolution or County Building Code; and

122.03.6 the proposed development will be in conformance with the Douglas County Master Plan.

122.04 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.

123 Disaster Emergency Waiver (Amended 3/15/11)

The Board of County Commissioners may temporarily waive certain provisions of this Resolution in areas of Douglas County impacted by wildfire, a major flood event, chemical spill, or other disaster. The waivers are intended to reduce the hardship faced by impacted landowners, particularly those that lost dwellings, as follows:

123.01 Waivers shall only be considered following adoption of a Resolution by the Board, formally declaring a specific area as a disaster area.

123.01.1 Time limits for which the waivers are to be in effect may be specified in the Resolution.

123.01.2 Only those landowners with property located within the boundaries of the designated disaster area may request waivers in accordance with the provisions contained in this Section.

123.02 Waivers are limited to those provisions affecting the ability of a landowner to reconstruct destroyed property in an efficient and timely manner.

123.03 Waivers may be permitted provided no substantial detriment to the public good is created and the intent and purpose of this Resolution is not impaired.

123.04 Waivers to the following Zoning Resolution provisions may be considered:

123.04.1 Development standards for reconstruction of destroyed dwellings.

123.04.2 Access standards.

123.04.3 Time limitations and bonding requirements for temporary residence permits.

123.04.4 Reconstruction of accessory structures prior to the principal use, provided a time frame is specified for reconstructing the principal use.

123.04.5 Other provisions may be waived at the discretion of the Board.

123.05 Procedure for Waiver

123.05.1 The applicant shall discuss the waiver request informally with staff.

123.05.2 The applicant shall provide a written waiver request that explains the extent of, and grounds for, the requested waiver. The request may be referred to entities such as the Building Division, Engineering Division, and Fire District, for comment.

123.05.3 The waiver request shall be reviewed by the Director for compliance with the provisions contained herein. The Director may approve the request only upon the finding that:

- the waiver does not have the effect of nullifying the intent and purpose of this Resolution;
- the granting of the waiver will not be detrimental to the public health, safety or welfare, or injurious to other property; and
- the conditions upon which the request for a waiver are based are unique to the property for which the waiver is sought, and/or to other properties located within the designated disaster area.

123.05.4 The Director may impose conditions of approval that substantially secure the objectives of this Resolution.

123.06 An appeal of the Director's decision regarding a waiver request may be submitted to the Board of Adjustment pursuant to Section 26A of this Resolution. *(Amended 4/10/12)*

124 Interpretation *(Amended 5/26/15)*

The following shall be used to interpret this Resolution:

While the approval criteria for many land use applications defined herein require "compliance with", "consistency with", or "general conformance with" the Comprehensive Master Plan (CMP) or the goals, objectives, and policies of the CMP, the individual goals, objectives, and policies are not, themselves, approval criteria. 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 CMP. A property's designation on the CMP Land Use Map is the primary basis for establishing future use and density.

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