

**By-Laws
Of
The Delta County Planning Commission
Effective Date: February 1, 2019**

Section 1: Authority

1.1 The Delta County Planning Commission is authorized to adopt rules and regulations governing its procedure pursuant to § 30-28-104 (1), C.R.S., as amended. These Policies and Procedures shall constitute compliance with this provision.

Section 2: Planning Commission Purpose

2.1 The purpose of the Planning Commission shall be to adopt, implement and maintain the County's Master Plan, review and make recommendations on the substance of County regulations, including subdivision and specific development regulations and any other regulations related to land use that the County may consider. The Planning Commission is a critical part of the land use application process, and is charged with review of applications for subdivisions, specific developments and other land use proposals as may be directed, to determine compliance with County regulations and to make recommendations concerning such applications and proposals to the Board of County Commissioners in compliance with Sec. 30-28-103.3 (CRS).

Section 3: Definitions/Acronyms

3.1 As used herein, "the Board" shall mean the Delta County Board of County Commissioners.

3.2 As used herein, "the Commission" shall mean the Planning Commission.

3.3 As used herein, "the Staff" shall mean the Delta County Planning Department Staff, both individually and collectively.

Section 4: Jurisdictional Area

4.1 The jurisdictional area of the Commission shall be limited to the unincorporated areas of Delta County.

Section 5: Regular & Associate Member Duties

5.1 Planning Commission Composition

In accordance with C.R.S. 30-28-103(1), the Board have established that the Commission will be comprised of 9 regular members who reside in unincorporated areas of Delta County, 3 from each Board District, as appointed by the Board to serve terms established by the Board.

5.2 Associate Members

The Board may appoint up to three (3) Associate Members, who reside in unincorporated areas of Delta County, one from each Board district, in accordance with C.R.S 30-28-103(3). Associate Commission members shall attend all Commission meetings, subject to the attendance requirements in Section 5.1. Associate members may participate in discussions and may ask questions, but will not vote on any matter unless appointed to a voting seat for a specific meeting. Associate members may be appointed to a voting seat in the event of an absence by a regular Commission member. In the event of such an absence, the associate member from the same Board district as the absentee shall be seated as the voting Commission member for the meeting. If more than one regular Commission member is absent from a district and quorum will otherwise not be met, the Planning Commission Chair will have the discretion to select additional associate member(s) to be seated as voting Commission member(s) as required to establish a quorum for the meeting.

5.3 Attendance

Each Commission member shall have the responsibility of attending all regular and special meetings, including work sessions, of the Commission so that the business of the Commission can be conducted in an effective, efficient and responsible manner. Each member of the Commission who is unable to attend a scheduled meeting shall notify the Staff or the Commission chairman of the absence no later than 12:00 noon of the day of the meeting. Planning Staff shall notify the Commission chairman of any absences. The Commission chairman shall authorize an excuse of such notified absences, unless such absences accrue to a degree that jeopardizes a Commission members effective exercise of duties and responsibilities as may be determined by the Commission. If a Commission member misses a meeting, he or she shall abstain from voting on the meeting minutes for any meeting missed.

5.4 Removal from the Commission

a. Unexcused absences from more than three (3) consecutive regular meetings by a member shall constitute grounds for removal from the Commission by the Board.

b. Any member of the Commission may be removed at any time by action of the Board, in its sole discretion, for non-performance of duty or misconduct.

5.5 Compensation

Members of the Commission, including Associate members, shall receive compensation for serving on the Commission as established by the Board.

5.6 Reimbursement

Commission members shall be reimbursed for travel expenses to attend scheduled meetings at a rate established by the Board of County Commissioners. All other expenses incurred while conducting business of the Commission will require Board approval for reimbursement prior to incurring the expense. Such reimbursements that require prior Board approval include, but are not limited to, conferences and/or meetings in other jurisdictions and travel expenses to such conferences/meetings.

Section 6 Meetings

6.1 Regular Meetings

One regular meeting of the Commission shall be scheduled every month at a time agreed to by the Commission and Staff each November for the following calendar year. A second regular monthly meeting shall be scheduled as required for Commission business as necessary during the course of the year. The Staff may cancel a regular meeting for lack of official business for the Commission to review. All meetings of the Commission shall be open to the general public.

6.2 Regular Meeting Location; Minutes

As a general practice, the first meeting of each month will be held on the fourth Wednesday of each month at the Delta County Courthouse. The second meeting of the month, if necessary, will be held on the second Wednesday of each month in Hotchkiss at the Townhall. Regular meetings may be cancelled at the discretion of the Staff during the months of November and December to allow for holiday demands.

Notwithstanding the foregoing, regular meetings may be scheduled and held at other locations in Delta County to meet the convenience of the Commission, the Board, the Staff and the public. Proceedings of regular meetings shall be recorded as an audio record and shall be available to any interested party upon reasonable request. Written minutes of regular meetings shall be made only as detailed motion minutes reflecting specific disposition(s) on applications and other matters requiring Commission action.

6.3 Special Meetings; Minutes

Special meetings may be called by the Staff or the Board in their discretion. Commission members may propose a special meeting as a matter of new business at a regular Commission meeting and such special meeting shall be scheduled upon the support of three (3) Commission members. The Staff shall send notice of a special meeting to all members at least three (3) days in advance. Staff notice to Commission members of a special meeting is not required if the time and place of a special meeting has been established in a regular meeting at which all Commission members are present. Audio recording and written minutes for special meetings shall be kept only upon request of the Commission chairman or Staff or as may be required by law.

6.4 Annual Meeting Meeting for Revision of Master Plan

The first regular meeting held in February of each year shall be considered the Commission's annual meeting and shall provide for the election of officers for the following year and the consideration of any special projects the Commission desires to address for that year.

6.5 Meeting for Revision of Master Plan

A special meeting shall be scheduled in May of each year for consideration of revisions to the Commission's adopted Master Plan.

6.6 Quorum

A quorum of the Commission shall be a minimum of 5 members present at the beginning of a meeting. No public hearing or meeting shall be held unless a quorum is present. In the absence of a quorum, the Commission shall terminate any scheduled public hearing or meeting within a reasonable time after gathering. If a public hearing or meeting has not been convened due to lack of quorum; applications that require public notice will not be required to republish notice.

6.7 Official Action

No action of the Commission is official unless authorized by a majority of the members of the Commission present at a regular or special meeting. In the event a quorum is not present, all items on the agenda will be tabled until the next regular meeting of the Commission or until a special meeting is called.

6.8 Order of Business

The order of business shall be set forth in an agenda prepared by the Staff as follows, unless otherwise ordered by the Chairman:

- A. Approval of minutes from previous meeting(s).
- B. Consideration of and action on applications tabled from a prior meeting.
- C. New applications.
- D. Other Agenda Business.

- E. New Business
- F. Adjournment.

6.9 Order of Presentation of Agenda Application Matters

After the Chairman has brought the meeting to order, the Chairman shall establish the rules of the meeting, after consultation with the Staff and subject to the approval of the Commission. The order of presentation with respect to each application generally will be as follows:

- A. Presentation of the application by Planning Staff.
- B. Questions of the Commission directed to Staff.
- C. Presentation by the Applicant.
- D. Questions of the Commission to the applicant.
- E. Public Participation:
 - 1. Comments and questions from proponents.
 - 2. Comments and questions from opponents.
- F. Final comments from the applicant.
- G. Final questions of the Commission to either Staff, applicant, or others present.
- H. Closing of public comments.
- I. Deliberation of the Commission.
- J. Motion and official action by the Commission.

6.10 Informational Hearings

If authorized or requested by the Board, the Commission may call an informational hearing. After the Chairman has brought the meeting to order, the Chairman shall set the rules of the meeting after consultation with the Planning Staff and subject to the approval of the Commission. The order of the hearing shall be:

- a. Summary presentation by Staff.
- b. Questions and/or comments by the Commission.
- c. Public Testimony
 - (I) Proponents
 - (II) Opponents
 - (III) Rebuttal – Proponents
 - (IV) Rebuttal – Opponents
- d. Questions and/or comments by the Commission.
- e. Commission discussion and action as needed.

6.11 Establishment of Meeting Agendas

The Staff, in consultation with the Commission chairman, shall establish the agenda for regular and special meetings. A Commission member may request that a specific matter, directly related to Commission business, be included on a future meeting agenda by making such request as a new business item in a regular meeting. Such matters will be scheduled for discussion in the next available meeting, subject to public notice requirements.

6.12 Rules of Order

Roberts Rules of Order shall govern the Commission in all parliamentary procedures unless otherwise specified in these By-Laws.

6.13 Motion Making

Any member of the Commission may make a motion. Once a motion is made a member may offer an amendment to the motion. Any amendment shall be seconded and voted on by the Commission. Amendments not receiving a second or majority approval shall fail. A motion, subject to approved amendments, if any, must then be seconded by another member of the Commission. After the motion and second, the Chairperson shall restate the motion, including any approved amendments, and request discussion from members of the Commission. After all interested Commission members have had an opportunity to speak, the Chairperson shall call for a vote. Each Commission member shall say aye or nay motions receiving a majority approval shall pass, those receiving a negative majority shall fail.

6.14 Form for Motions on Applications

Motions on Subdivision, Specific Development and other applications that require action by the Board shall be made only as a recommendation for approval, approval with conditions or denial by the Board. Application motions shall be made in general compliance with the forms set forth in Exhibit 1 hereto and shall make reference to the applicable sections of County regulations that may control the recommended action.

6.15 Continuance of Agenda Item

When the Commission decides to continue or table a matter or application before it, it may do so by motion without any requirement for further notice to the affected parties or the public. The matter postponed shall be scheduled to the nearest future regular or special meeting, providing a date and time certain.

Section 7 Voting Privileges

7.1 Voting Right

Each member, including the Chair and Vice-Chair, shall have one (1) vote and shall exercise that voting right at the appropriate time during the proceedings. Associate members shall vote in accordance with Section 5.6, hereof. Proxies are not to be allowed.

7.2 Conflict of Interest

- a. Any member of the Commission who has a conflict of interest on any matter that comes before the Commission shall

disclose the conflict on the record and then shall voluntarily excuse him/herself, vacate his/her seat, leave the room where necessary to avoid any appearance of influence on the matter under consideration, and refrain from discussing or voting on the matter. On any issue in which the Commission has real evidence that any member or members have a conflict of interest, a majority vote of the other members present may disqualify the member from participation.

A conflict of interest includes any situation where a Commission member:

- I. Has a direct financial interest in the matter
- II. Will be directly affected by the decision in the matter
- III. Believes he or she has a conflict of interest as defined by an applicable law
- IV. Will gain an advantage to relations, groups, or associations to whom he or she is affiliated

b. A member who has an application before the Commission shall recuse his or her position on the Commission as to such application and participate in the matter as the applicant before the Commission without any voting rights in the matter.

Section 8 Officers

8.1 Elective Office

The elected officers of the Commission shall be the Chairman and Vice-chairman who shall be elected by a majority of Commission members present at the annual meeting.

8.2 Eligibility

Any regular member of the Commission may hold an elected Commission office.

8.3 Duties of the Chairman

The Chairman shall supervise and manage the Commission and at a minimum shall:

- A. Preside over all meetings of the Commission.
- B. Sign documents of the Commission.
- C. See that all actions of the commission are properly taken.
- D. Advise the Planning office on any matters pertaining to the commission business.
- E. Be the public representative of the Commission.

8.4 Duties of the Vice-Chair

During the absence or disqualification of the Chairman, the Vice-chairman shall exercise and perform the duties and responsibilities of the Chairman.

8.5 Terms of Office

The term of all elected officers shall be for one (1) year effective on the date of the annual meeting. No elected officer shall serve in that position for more than two (2) consecutive years but may be elected to serve again after a one (1) year hiatus.

8.6 Vacancies

The Vice-chairman shall succeed the Chairman if the Chairman vacates his/her office prior to the expiration of the term. The Vice-chairman shall serve as Chairman for the remainder of the unexpired term and the Commission shall elect a new Vice-chairman.

8.7 Nominations

At the annual meeting any member of the commission can nominate a member of the commission for the position of any office.

8.8 Elections

If more than one (1) nominee is presented for any office, voting shall be done by secret ballot and a plurality of the votes cast shall be necessary for election. If only one (1) nominee is presented for each office, voting shall be done in a manner specified by the chairman.

Section 9 Committees

9.1 The Commission chairman may appoint members of the Commission to various committees as is necessary to conduct Commission business.

Section 10 Financial Administration

10.1 Authority to Expend Money

The Commission shall have the authority to expend, under regular County procedures or as provided by law, all funds appropriated to it for purposes and activities authorized by C.R.S. 30-28-104, as amended, and authorized by the Board.

10.2 Approval of Governing Body

All applications for and the acceptance of any grants shall require the prior approval of the Board.

Section 11 Amendments

11.1 Amendments to the By-Laws

These by-laws may be amended at any meeting of the Commission by an official action, provided that notice of proposed amendments is given to each member in writing at least two (2) weeks prior to said meeting. Amendment of these By-laws shall require an affirmative majority of the regular members (5 total votes needed) of the Commission.

Section 12 Planning Staff

12.1 Functions of the Planning Staff

The Staff will carry out the day to day operations of the Planning Department. For the Commission, the Planning Staff shall at a minimum:

- A. Review and approve all financial documents and vouchers for the Commission and its members.
- B. Give, serve, post and advertise all public notices as required by the County's regulations.
- C. Prepare, post and distribute the agenda for meetings of the Commission.
- D. Inform the Commission of any changes to the agenda, absences of any Commission member and any matter related to Planning in which the Commission should be informed.
- E. Prepare Staff reports for all applications in accordance with County regulations for review by the Commission.
- F. A member of the Planning Staff or if necessary, another employee of Delta County shall record the minutes of all meetings of the Commission.
- G. Keep the minutes of all meetings in an appropriate manner.
- H. Arrange and coordinate all field tours and travel for the Commission.
- I. Provide timely meeting notices and policies and documents as may be necessary and required for the effective conduct of Commission meetings.

Section 13 Professional Performance

13.1 Bias

It is the position of the Delta County Attorney and the Colorado County Attorney's Association that members of the Commission must hear land use matters that come before them without bias, and without any appearance of bias. This is necessary to instill and maintain public confidence and trust in governing bodies.

Commission members provide input to the Board through various on-the-record recommendations. Commission members who publicly voice opinions or state positions on these matters create an appearance of impropriety to the public.

It is therefore inappropriate for a member of the Commission to speak in favor of, or in opposition to, an application that was previously before the Commission at any subsequent Commission or Board meeting or other public venue including social media or the news outlets involving the referenced land use matter. In the event that the Board were to refer a matter back to the Commission for further consideration or recommendations, a Commission member's statement of opinion or position to the Board on the matter would create the appearance of predetermination, which seriously undermines the public trust.

13.2 Gifts

A Commission member shall not accept any compensation, gift, or service which would violate the provisions of Article XXIX of the Colorado Constitution, as amended.

13.3 Ex Parte

A Commission member shall not engage in an ex parte communication regarding any active application that will be heard by the Commission in any quasi-judicial proceeding. An ex parte communication is a communication between a Commission member and a member of the public or an applicant that takes place outside a noticed public hearing or meeting on an application that will be heard by the Commission. A Commission member who engages in ex parte communication shall disclose it to the Commission and consider abstaining from voting if such ex parte communication creates an appearance of impropriety, creates a conflict of interest, or otherwise affects due process in the decision making proceedings.

Communication with the public when the Commission is working in their legislative capacity, such as updating the Master Plan, is encouraged and not considered ex parte.

13.4 Colorado Open Meetings

Meetings of the Planning Commission, including site visits and work sessions shall be open to the public pursuant to C.R.S. 24-6-401 et seq. Any meeting of two or more Commission members, requires a minimum 24 hour posted notice.

13.5 Communications Between Commission Members Outside of Meetings

Commission members should avoid written and oral communications (including email and social media communications) with other members outside of scheduled meetings concerning any application or other quasi-judicial matter pending before the Commission or that has been considered by the Commission in the past as well as individuals and groups that may appear before the Commission with respect to such applications. Such communications can meet the definition of a public meeting and must be avoided to prevent potential violations of the Open Meetings statute. Any Commission member who has general information related to Commission business, that is not related to an application and which he or she wishes to share with other Commission members, can either be emailed directly to Commission members or to Staff, who can then send the information out to all Commission members. Commission members should refrain from replying to any such email communications sent by fellow members or Staff.
