



360 Main St. • Delta, Colorado 81416 • Phone (970) 874-7566 • Fax (970) 874-8776

Council may take formal action on any item appearing on this Agenda. However, formal action WILL NOT be taken at this meeting on any item of business first identified during the course of the meeting as a change to the Agenda, other business, or Citizen, Councilmember and Staff Comments.

A G E N D A

**Delta City Council
Regular Meeting**

**December 17, 2013
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. Public Hearing: Butch's Café of Delta; Sales and Use Tax License**
- F. Selection of Auditor**
- G. Council Bill #11, 2013; First Reading
2013 Supplemental Appropriations**
- H. Resolution #7, 2013; April 1, 2014 Mail Ballot Election**
- I. Intergovernmental Agreement with Delta County Clerk and Recorder**
- J. Villas at the Bluff Lot 2B, Lot Split**
- K. Maverik-Delta Subdivision Preliminary Plat**
- L. Council Bill #9, 2013; Second and Final Reading
Flood Damage Prevention**
- M. Council Bill #10, 2013 Second and Final Reading
Revised Rate Tables**
- N. City Attorney Comments**
- O. City Manager Comments**
- P. Councilmember Comments**

Item A:

Pledge of Allegiance



Item B:

Changes to the Agenda

Mayor Ed Sisson called the meeting to order at 7:00 p.m. Also present were Councilmembers Bill Raley, Robert Jurca, Mary Cooper, and Ray Penick along with City Manager Justin Clifton. A meeting notice was posted in the south window at City Hall at least twenty-four hours prior to the meeting.

Pledge of Allegiance

The Mayor led everyone present in the Pledge of Allegiance.

Changes to the Agenda

There were none.

Minutes

Mayor Sisson stated that under the public hearing the last sentence needs to be changed to read "closing the public hearing and reconvening the regular meeting".

It was moved by Councilmember Penick and seconded by Councilmember Raley to approve the minutes of the November 19, 2013 regular meeting with the changes as stated. All in favor, motion carried.

Citizen Comments

There were none.

Council Bill #9, 2013; First Reading
Flood Damage Prevention

Council Bill #9, 2013

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,
AMENDING TITLE 15 CHAPTER 15.56 OF THE DELTA
MUNICIPAL CODE

was read by the Clerk.

City Manager Justin Clifton reported that this is a FEMA mandate and there is not a lot of flexibility in the changes.

Community Development Director Glen Back stated that the ordinance is from a boiler plate that was forwarded to the City from the Colorado Water Conversation Board in conjunction with FEMA. Staff reformatted the ordinance to be consistent with the municipal code. There are a couple corrections under the table of contents section 15.56.180 and section 15.56.200(F) the word "optional" needs removed.

Councilmember Penick questioned if this helps our citizens obtain flood insurance.

Regular Meeting, Delta City Council, December 3, 2013 (cont.)

Council Bill #9, 2013; First Reading (cont.)
Flood Damage Prevention

Manager Clifton stated that basically they want to avoid building within areas that have the potential of flooding.

Councilmember Cooper questioned if this document is used throughout the United States.

Manager Clifton stated that FEMA implements the regulations and then passes on to the different States to get communities to adopt the regulations.

Director Black also stated that the current Delta Municipal Code Chapter 15.56 was adopted with the same type of program. These are just the updated regulations.

Councilmember Penick questioned what they changes were.

Director Black reported that the main change was the requirement from ½ foot to one foot of free board. There are also more definitions included.

Councilmember Penick stated that this could be confining to private property owners who want to build in the floodplain, but overall, it is safety.

Director Black agreed.

Manager Clifton stated that he believes that the intent is to mitigate risk for everyone.

It was moved by Councilmember Penick and seconded by Councilmember Jurca to adopt Council Bill #9, 2013 on first reading. Roll call vote: Councilmembers Cooper, aye; Raley, aye; Jurca, aye; Penick, aye and Sisson, aye. Motion carried.

Council Bill #10, 2013; First Reading
Rate Tables

Council Bill #10, 2013

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,
PROVIDING REVISED WATER, SEWER, ELECTRIC AND
TRASH RATES, AND AMENDING THE MUNICIPAL CODE
CONCERNING THE SAME

was read by the Clerk.

Manager Clifton stated that when the ordinance to change the utility rates for 2014 was adopted, a new format was implemented to make it easier to incorporate changes in the future. There are a couple of minor mistakes that were made when formatting the rate tables; therefore, this ordinance is being presented to correct those mistakes.

Regular Meeting, Delta City Council, December 3, 2013 (cont.)

Council Bill #10, 2013; First Reading (cont.)
Rate Tables

It was moved by Councilmember Cooper and seconded by Councilmember Penick to adopt Council Bill #10, 2013 on first reading. Roll call vote: Councilmembers Cooper, aye; Raley, aye; Jurca, aye; Penick, aye and Sisson, aye. Motion carried.

3.2% Beer License Renewal; Safeway

The Clerk explained that Safeway has submitted their 3.2% Beer License renewal application. The application is complete and all fees have been paid. The police department is recommending renewal.

It was moved by Councilmember Jurca and seconded by Councilmember Raley to approve the 3.2% Beer License Renewal for Safeway. All in favor, motion carried.

Retail Liquor Store Renewal; Peterson Liquors

The Clerk reported that Peterson Liquors has submitted their renewal application. The application was turned in on November 26th, 2013. The Clerk stated that the current license expired on December 2, 2013; however, according to State Statute the applicant can continue to operate under the current license if a renewal application is under consideration by the local authority. The police department is recommending renewal.

It was moved by Councilmember Raley and seconded by Councilmember Jurca to approve the Retail Liquor Store Renewal for Peterson Liquors. All in favor, motion carried.

Ordinance #8, 2013; Second and Final Reading
2014 Appropriations

Ordinance #8, 2013

AN ORDINANCE APPROPRIATING SUMS OF MONEY TO THE VARIOUS FUNDS AND SPENDING AGENCIES IN THE AMOUNTS AND FOR THE PURPOSES SET FORTH BELOW FOR THE CITY OF DELTA, COLORADO, FOR THE 2014 BUDGET YEAR

was introduced as Council Bill #8, 2013 and read by the Clerk.

Manager Clifton stated that there are no changes since the first reading. He reiterated the good work that has been put into the budget. He believes that the progress is epitomized by the work that has been done to reduce the reliance on the utility funds. Since 2011 the reduction totals \$800,000. He agrees that there is still work that needs to be done.

It was moved by Councilmember Penick and seconded by Councilmember Jurca to adopt Council Bill #8, 2013 on second and final reading. Roll call vote: Councilmembers Cooper, aye; Raley, nay; Jurca, aye; Penick, aye and Sisson, aye. Council Bill #8, 2013 was adopted on second and final reading as Ordinance #8, 2013.

Regular Meeting, Delta City Council, December 3, 2013 (cont.)

City Attorney Comments

There were none.

City Manager Comments

Manager Clifton reminded Council of the City's holiday party scheduled on December 13th.

Councilmember Comments

Councilmember Cooper congratulated Wilma Erven on a very successful job on the expansion of the pool and fitness area at the recreation center.

Councilmember Raley commented on the headlines in the paper regarding the layoff of additional 115 workers at the coal mine. He believes this is going to affect sales tax collection for the City of Delta and asked Manager Clifton to have the finance director keep an eye on the sales tax collection. He wants to be advised when it is dropping.

Councilmember Penick stated that he has received positive comments on the lazy river that was installed at the recreation center.

Mayor Sisson commented on the Advent concerts that are being held on Tuesdays at 12:10pm. He also stated that Delta High School was awarded \$25,000 from State Farm Insurance to help with safe driving.

The meeting was adjourned at 7:16 p.m.

/s/ Jolene E. Nelson
Jolene E. Nelson, City Clerk

Item D:

Citizen Comments



MEMO

To: City Council
From: Tod DeZeeuw, Finance Director
Date: December 13, 2013
Subject: Notice of Hearing – Butch’s Café of Delta



Recommendation: Staff recommends City Council approve the issuance of a distraint warrant , per section 3.04.170 Recovery of taxes, penalties and interest, to seize and thereafter sell in the same manner as is prescribed by law in respect to executions against property, sufficient real and personal property.

Background: The business has failed to file sales & use tax returns, failed to pay sales & use taxes, penalties and interest for the periods of: August 2013, September 2013 and October 2013. The City has sent monthly late notices, sent an assessment notice and the Chief of Police has delivered the attached notice of hearing. There has been no response to the aforementioned items by the business owner.

Cost: Staff Time

Alignment With Strategic Planning: Sales & use taxes collected by businesses are required to be paid to the City of Delta per Title 3 Chapter 3.04.

Actions To Be Taken if Approved: The City Manager will sign a Distraint Warrant and the Chief of Police will issue it to the business owner.

CITY OF DELTA

NOTICE OF HEARING

In the matter of)
the revocation of) **NOTICE OF HEARING**
the Delta Municipal Sales and Use Tax License of)

Butch's Café of Delta
1560 S Main Street
DELTA, COLORADO 81416

SALES & USE TAX LICENSE #3386

To: Hal Ray Sanders,

You are hereby notified that a hearing will be held before the Delta City Council at 360 Main Street, Delta, Colorado on the 17th day of December 2013 at 7:00 PM. The purpose of this hearing is to determine whether your license to engage in the business of selling at retail should be revoked. The hearing has been called, because there is probable cause to believe that you are in violation of provisions of the Delta Municipal Sales and Use Tax Ordinance as found in Chapter 3.04 of the Delta Municipal Code.

Specifically, there is probable cause that:

You have been delinquent in filing returns or paying the sales tax, penalty and interest due, in accordance with the Delta Municipal Sales and Use Tax Ordinance for the period(s) of August, September and October 2013.

You may appear at the hearing to show cause why your license should not be suspended or revoked. You may be represented by counsel at the hearing. You may testify on your own behalf or present other witnesses, and shall have the right to cross-examine any adverse witnesses. Subpoenas will be issued if requested.

Issued this 3rd day of December 2013 in the City of Delta, Colorado.

CITY OF DELTA, COLORADO



Tod DeZeeuw, Finance Director

The undersigned states that a copy of the within NOTICE OF HEARING was served upon

Hal Ray Sanders by handing him and/or her a copy or leaving a copy
hereof with  Anna Martin (Employee) on December 3, 2013

at 1560 S. Main Street Delta, CO 81416

Chief Robert Thomas
Serving Officer

MEMO

To: City Council
From: Tod DeZeeuw, Finance Director
Date: December 13, 2013
Subject: Professional Auditing Services



Recommendation: The City's staff recommends that the City Council select the firm Holscher, Mayberry & Company L.L.C. for the City's Auditing Service.

Background: The City of Delta is required to have an independent audit on its financial statements each year. The standard for local government auditing services is bid out for a three year time frame. The City's last proposal was for the years 2010, 2011 and 2012 which was awarded to Johnson, Holscher & Company, P.C. The City of Delta solicited proposals from three qualified firms of certified public accountants to audit the City of Delta's financial statements for the fiscal year ending December 31, 2013 with the option of auditing the City of Delta's financial statements for the two subsequent fiscal years.

Firms:

- 1) Anton Collins Mitchell L.L.P. – No proposal
- 2) Holscher, Mayberry & Company L.L.C. – Received proposal
- 3) Donald R. Moreland & Associates PC – Phoned to decline at this time

Cost: Year 2013 =\$23,200 Year 2014 =\$23,925 Year 2015 =\$24,650

Alignment With Strategic Planning: The City of Delta is required by law to have an independent audit on its financial statements each year.

Actions To Be Taken if Approved: I will notify the firm that was selected and they will send an engagement letter to be signed by me.

MEMO

To: City Council
From: Tod DeZeeuw, Finance Director
Date: December 13, 2013
Subject: 2013 Supplemental Appropriations



Recommendation: The City's staff recommends approving the supplemental appropriations for the 2013 budget.

Background: The City of Delta is required to adopt a budget for each year per Article 5 of the City's charter. If expenditures are anticipated to exceed such budget the City Council may approve a supplemental appropriation prior to year end. If the City expends amounts in excess of the original amount budgeted for a fund, such over expenditure may be a violation of Colorado State Law and the City's charter. The City's' Dental Fund is experiencing higher claims than budgeted for the year. City Council approved the increase in the Rec Center's Expansion contract on April 16, 2013.

Cost: Dental Claims = \$19,000.00 Rec. Center Expansion = \$265,000.00

Alignment With Strategic Planning: The City of Delta is required by law to follow the approved budget.

Actions To Be Taken if Approved: N/A

Council Bill #11, 2013

AN ORDINANCE APPROPRIATING SUMS OF MONEY TO THE VARIOUS FUNDS AND SPENDING AGENCIES IN THE AMOUNTS AND FOR THE PURPOSES SET FORTH BELOW FOR THE CITY OF DELTA, COLORADO, FOR THE 2013 BUDGET YEAR

WHEREAS, the City Council has adopted the annual budget on November 6, 2012; and

WHEREAS, the City has received additional and unanticipated revenues in the form of grants and other revenue sources and there exists unappropriated surplus in the various funds; and

WHEREAS, it is not only required by law, but also necessary to appropriate the additional revenues and surplus to and for the purposes described below, so as not to impair the operations of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO:

Section 1. That the following supplemental appropriations, in addition to those appropriated by Ordinance #17, Series of 2012, are hereby appropriated from the revenue and surplus of each fund, to each fund, as follows:

Employee Dental Fund	\$ 19,000
Recreation Center Fund	265,000

ADOPTED on first reading and ordered published this _____ day of _____, 2013.

Mayor

ATTEST:

City Clerk

ADOPTED on second and final reading and ordered published
this _____ day of _____, 2014.

Mayor

ATTEST:

City Clerk

MEMO

To: City Council
From: Jolene E. Nelson, City Clerk
Date: December 13, 2013
Subject: Resolution #7, 2013; Authorizing the April 1, 2014
Election to be Conducted by Mail Ballot



Office of the City Clerk

Recommendation:

Staff recommends that Council adopt Resolution #7, 2014, authorizing the April 1, 2014 Regular Municipal Election to be conducted by mail ballot.

Background:

All Delta municipal elections have either been November coordinated elections at which TABOR issues were on the ballot, or April mail ballot elections held with the assistance of the Delta County Clerk and Recorder's Office since 2003. Voter turnout has increased since the City switched to mail ballot elections.

Cost:

The estimated cost for this election will be \$8600.00. This amount does not include the printing and mailing costs for any TABOR notices that may be required. There will also be incidental expenses for public notices for which the City is responsible for.

Alignment With Strategic Planning:

Per the City Charter Article VII "Regular municipal election shall be held annually on the first Tuesday in April."

Actions To Be Taken if Approved:

The City Clerk's office will proceed with planning for a mail ballot election to be conducted with the assistance of the Delta County Clerk and Recorder's Office.

Resolution #7, 2013

A RESOLUTION OF THE CITY OF DELTA, COLORADO,
AUTHORIZING THE April 1, 2014 REGULAR MUNICI-
PAL ELECTION TO BE CONDUCTED BY MAIL BALLOT

WHEREAS, the City of Delta has a Regular Municipal Election on
April 1, 2014; and

WHEREAS, the General Assembly of the State of Colorado has
enacted provisions for the governing board of any political
subdivision to hold an election by mail ballot; and

WHEREAS, the City Council of the City of Delta desires that
the registered electors of the City of Delta have the opportunity
to vote by mail in said Election;

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DELTA,
COLORADO, that the City of Delta shall conduct its election of
April 1, 2014, as a Mail Ballot Election in accordance with Title
1, Article 7.5 of the Colorado Revised Statutes and the Municipal
Election Code, as modified by requirements of the City Charter or
Ordinances.

Dated this 17th day of December, 2013.

Mayor

ATTEST:

City Clerk

MEMO

To: City Council
From: Jolene E. Nelson, City Clerk
Date: December 13, 2013
Subject: Intergovernmental Agreement for April 1, 2014
Mail Ballot Election



Office of the City Clerk

Recommendation:

Staff recommends that City Council authorize the City Clerk to sign the Intergovernmental Agreement with the Delta County Clerk and Recorder for the April 1, 2014 Mail Ballot Election.

Background:

The intergovernmental agreement with the Delta County Clerk and Recorder for the conduct of the election is now being presented for approval. This form of the IGA has been used for the past few elections. There are no changes since the last election.

Cost:

The estimated cost of the election is \$8600.00.

Alignment With Strategic Planning:

Per the City Charter Article VII “Regular municipal election shall be held annually on the first Tuesday in April.”

Actions To Be Taken if Approved:

The City Clerk will sign the IGA with the Delta County Clerk and Recorder.

INTERGOVERNMENTAL AGREEMENT
DELTA COUNTY and CITY OF DELTA

This Intergovernmental Agreement between Delta County, acting through its Clerk and Recorder ("Clerk"), and the City of Delta ("City"), acting through its City Clerk ("City Clerk"), is authorized by 29-1-201, *et seq.*, C.R.S.

1. PURPOSE: Pursuant to the terms of this Agreement, the Clerk and the City agree to the scheduling and conducting of a mail ballot municipal election on April 1, 2014. For all purposes of this Agreement, the Clerk shall be the 'clerk' as defined in 31-10-102, C.R.S. The City hereby designates its City Clerk as an "Election Official" who shall have primary responsibility for election procedures that are the responsibility of the City pursuant to this Agreement. The election shall be held under the provisions of the Municipal Election Code (Title 31, Article 10 of the Colorado Revised Statutes) except as otherwise required by the Mail Ballot Act, 1-7.5-101, *et. seq.*, C.R.S., or the rules promulgated by the Secretary of State.

2. DELEGATION OF AUTHORITY: The City Council has determined that the April 1, 2014 election shall be by mail ballot. Pursuant to 1-7.5-104, C.R.S., the City Clerk, as the designated election official, hereby delegates and transfers to the Clerk all such power, authority and duties which reside in the City Clerk for these purposes. The responsibilities of the Clerk shall be as described on Exhibit "City of Delta Mail Ballot Election, April 1, 2014 Responsibilities."

3. PRECINCTS & POLLING PLACE LOCATIONS: Precincts shall be as established by Chapter 2.68 of the Delta City Code. Voter Service and Polling Location for the deposit of voted ballots not returned through the United States Postal Service will be those designated by the Clerk as follows: Delta County Clerk & Recorder's Office, 501 Palmer, Suite 211, Delta, CO 81416.

4. APPOINTMENT OF ELECTION JUDGES: All election judges and/or deputy clerks shall be appointed and trained by the Clerk, except as otherwise required by the City Charter or the Municipal Election Code.

5. LEGAL NOTICES: Publication of any required legal notices concerning the City's mail ballot election, which are to be published prior to certification of the ballot content to the Clerk, shall be the responsibility of the City. A copy of the published legal notice shall be submitted to the Clerk for her records.

Publication of notices required by the Municipal Election Code and/or the Mail Ballot Election Act, which are to be published after certification of the ballot contents to the Clerk, shall be the responsibility of the City. Additional notices shall be the responsibility of the City. Notice to the Secretary of State, pursuant to 1-7.5-105, C.R.S. shall be made by the Clerk, along with notice of the proposed plan.

6. RECEIVING AND PROCESSING OF PETITIONS: Any necessary petition process for the City shall be the responsibility of the City. The Clerk shall provide voter registration lists as required and requested by the City Clerk.

7. COLORADO POLITICAL FINANCE/FAIR CAMPAIGN PRACTICES ACT: The City Clerk shall administer compliance with the Colorado Political Finance/Fair Campaign Practices Act (CPF/FCPA).
8. BALLOT CONTENTS: Ballot contents must be certified to the Clerk by the City Clerk, in its exact form, as soon as practical. The ballot contents must be delivered to the Clerk at 501 Palmer, Suite 211, Delta, Colorado. It is understood that the Mail Ballot Election Act requires the mailing of ballots between the 22nd and 18th day prior to the election.
9. TABOR NOTICES: The City Clerk shall provide TABOR notice to the Clerk if required by law. In which event, the Clerk shall be responsible for copying and mailing TABOR notices in accordance with the Colorado Constitution Article X Section 20.
10. PREPARATION FOR ELECTION: The Clerk shall be responsible for preparing and printing the ballot packages for the Municipal Election. Print on the ballot pages shall be in 10 point type or larger and shall be in accordance with the Municipal Election Code. The Clerk shall also be responsible for providing, preparing, delivering and collecting sealed ballot boxes for the designated depository location and the mailing of mail ballot packages. The Clerk shall be responsible for implementing a walk-in balloting site in accordance with of the Rules and Regulations of the Secretary of State. The Clerk shall be responsible for testing voting equipment.
11. CONDUCT OF ELECTION: The Clerk shall be responsible for the conduct of the Municipal Election, pursuant to Title 31, Article 10 of the Colorado Revised Statutes, including the appointment of judges and watchers.
12. ABSENTEE VOTING: All requests for absentee ballots shall be transmitted for processing and ballot distribution to the Delta County Clerk & Recorder, 501 Palmer, Suite 211, Delta, CO 81416. The Clerk shall, upon receipt of such request, mail a ballot package to the eligible elector in accordance with 1-7.5-104, C.R.S.
13. TABULATION OF BALLOTS: All processes relating to tabulation of ballots shall be the responsibility of the Clerk. An unofficial abstract of votes will be provided to the City Clerk upon completion of the counting of all ballots.
14. VERIFICATION OF SIGNATURES: In accordance with C.R.S. 1-7.5-107.3 every mail ballot election that is conducted by the county clerk and recorder, an election judge shall compare the signature on the self- affirmation on each return envelope with the signature of the eligible elector stored in the statewide voter registration system. Electors shall have until 8 days after the election to return the signature discrepancy affidavit and have their ballot counted (cure period).
15. CANVASS OF VOTES: The canvass of votes will be the responsibility of the City, pursuant to CRS 31-10-1201 and shall be completed after the cure period for signature discrepancies. The City shall issue its certificate(s) of election results upon receipt of the official results from the Clerk.
16. ALLOCATION OF COST OF ELECTION: The City shall reimburse the Clerk for the election costs incurred by the Clerk pursuant to this Agreement. Such reimbursement shall be

made to the Clerk within thirty days of the City's receipt of billing from the Clerk. The Clerk's determination regarding such costs shall be final and at her sole discretion and shall not be subject to dispute unless clearly unreasonable.

17. INDEMNIFICATION: The City agrees to indemnify, defend and hold harmless the Clerk from any and all loss, costs, demands or actions, arising out of or related to any actions, errors or omissions of the City in completing the City's responsibilities relating to the April 1, 2014 election.

18. AGREEMENT NOT EXCLUSIVE: The Clerk may enter into other substantially similar agreements with other municipalities for conduct of other elections.

19. VENUE: Venue for any dispute hereunder shall be in the District Court of Delta County.

20. CANCELLATION OF ELECTION: The governing body may also provide that, if the only matter before the voters is the election of persons to office and if, at the close of business on the nineteenth day before the election, there are not more candidates than offices to be filled at such election, including candidates filing affidavits of intent, the clerk, if instructed by resolution of the governing body, shall cancel the election and by resolution declare the candidates elected. Notice of such cancellation shall be published, if possible, in order to inform the electors. Any expenditure already incurred shall be the responsibility of the City in the event the election is cancelled.

THIS AGREEMENT has been executed by the parties hereto as of the dates and year written below.

DELTA COUNTY CLERK AND RECORDER

CITY OF DELTA, COLORADO

Ann B. Eddins

Jolene E. Nelson, City Clerk

Date: _____

Date: _____

MEMO

To: City Council
From: Glen L. Black *GLB*
Date: December 13, 2013
Subject: Villas at the Bluff Lot 2B, Lot Split



Community Development

Recommendation: The Planning Commission is recommending approval of the Villas at the Bluff Lot 2B, Lot Split with the deviation from the minimum design standards that all lots shall have direct access to a dedicated street.

Background: The Planning Commission reviewed the proposed Lot Split at the December 2, 2013 regular meeting. Lot splits are traditionally handled administratively; however this lot split request requires a deviation from the normal minimum design standards as set forth in Delta Municipal Code 16.04.070. The split is needed to separate Phase II of the Villas at the Bluff from Phase I for financing requirements.

Delta Municipal Code Section 16.04.070(C)(10) states, "All lots shall have direct access to a dedicated street, except that reciprocal access easements may be approved to accommodate subdivisions with multiple commercial units with contiguous parking areas in commercial zoning districts." Oak Way is not a public street, but is proposed to have an easement for public access. The property is not in a commercial zoning district; however the project is a commercial apartment unit complex as allowed in the R-3 zoning district.

This plat cannot be recorded until February 3, 2014, because the Villas at the Bluff Resubdivision of Lot 2B was recorded on February 3, 2011 to meet the three year requirement between abbreviated subdivision processes.

Cost: Appropriate application fees have been paid.

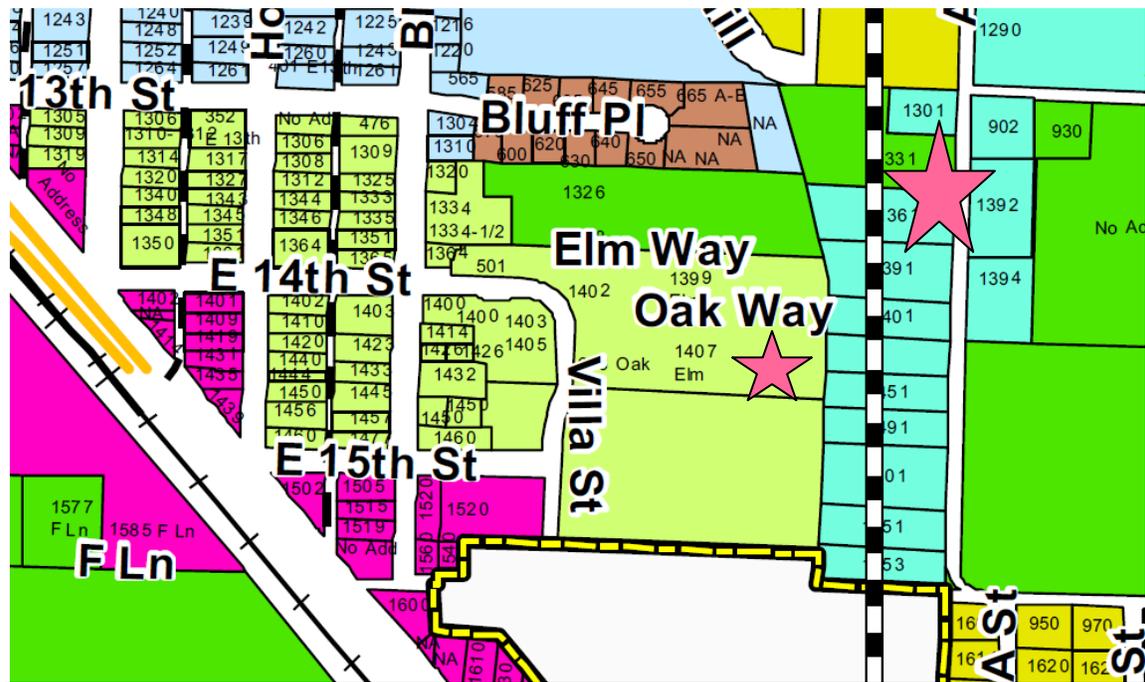
Alignment With Strategic Planning: The City of Delta Comprehensive Plan states: "There has been relatively little new multi-family construction in Delta County over the last decade, resulting in few options for households earning less than 60% of the Area Median Income." Page 4-3

Actions To Be Taken if Approved: Receive and review two mylar copies of the plat and Record plat after February 3, 2014.

Arial Map



Zoning Map



VILLAS AT THE BLUFF, A RESUBDIVISION OF LOT 2B LOT SPLIT

WITHIN GOVERNMENT LOT 4 (SW1/4 OF THE SW1/4) OF SECTION 19, T. 15 S., R. 95 W., 6TH P.M.

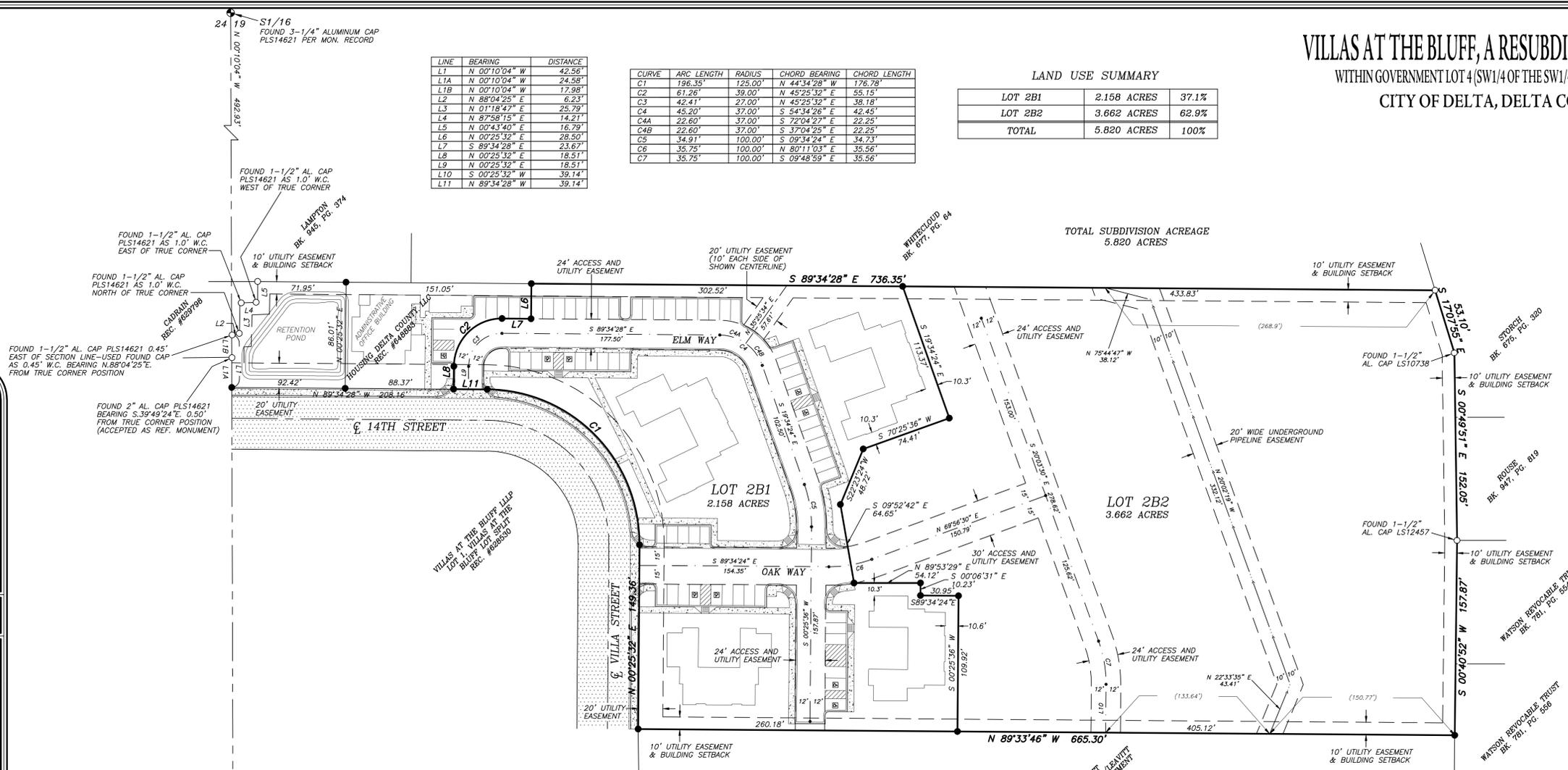
CITY OF DELTA, DELTA COUNTY, COLORADO

LAND USE SUMMARY

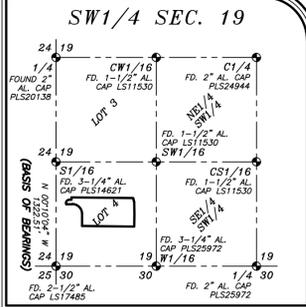
LOT 2B1	2.158 ACRES	37.1%
LOT 2B2	3.662 ACRES	62.9%
TOTAL	5.820 ACRES	100%

CURVE	ARC LENGTH	RADIUS	CHORD BEARING	CHORD LENGTH
C1	136.35'	125.00'	N 44°34'28" W	176.78'
C2	61.26'	39.00'	N 45°25'32" E	55.15'
C3	42.41'	27.00'	N 45°25'32" E	38.18'
C4	45.20'	37.00'	S 54°34'26" E	42.45'
C4A	22.60'	37.00'	S 72°04'27" E	22.25'
C4B	22.60'	37.00'	S 37°04'25" E	22.25'
C5	34.91'	100.00'	S 09°34'24" E	34.73'
C6	35.75'	100.00'	N 80°11'03" E	35.56'
C7	35.75'	100.00'	S 09°48'59" E	35.56'

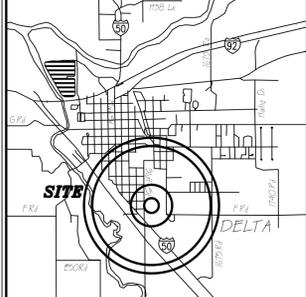
LINE	BEARING	DISTANCE
L1	N 00°10'04" W	42.56'
L1A	N 00°10'04" W	24.58'
L1B	N 00°10'04" W	17.98'
L2	N 88°04'25" E	6.23'
L3	N 01°18'47" E	25.79'
L4	N 87°58'15" E	14.21'
L5	N 00°43'40" E	16.79'
L6	N 00°25'32" E	28.50'
L7	S 89°34'28" E	23.67'
L8	N 00°25'32" E	18.51'
L9	N 00°25'32" E	18.51'
L10	S 00°25'32" W	39.14'
L11	N 89°34'28" W	39.14'



TOTAL SUBDIVISION ACREAGE
5.820 ACRES



CONTROL MAP



AREA LOCATOR

TYPICAL LEGEND

- Set mag nail in asphalt
- 5/8" rebar with 2" aluminum cap PLS25972
- Set 5/8" rebar with 2" aluminum cap as witness corner PLS25972
- Section corner, 1/4 corner or 1/16 corner as noted
- Found intersection monument in monument box, 1-1/2" aluminum cap LS10738
- ◆ GLO/BLM/BuRec/USFS
- Found 1-1/2" or 2" aluminum cap PLS14621 as noted
- Fencelines
- E— Electric (overhead)
- UE— Electric (underground)
- Easement
- Section Line
- Q UG Irrigation Pipe
- Q Access & Utility Easement
- Irrigation ditch
- ▨ Previous Dedication to City of Delta

BASIS OF BEARINGS:
N.00°10'04"W. FROM SEC. COR. COMMON TO SECTIONS 19, 24, 25 & 30 TO S1/16 COR. COMMON TO SECTIONS 19 & 24 ASTRONOMICAL NORTH GPS OBSERVATION
SCALE 1"=50 U.S. SURVEY FEET

CERTIFICATE OF DEDICATION AND OWNERSHIP

KNOW ALL MEN BY THESE PRESENTS that the undersigned, being the owners of certain lands in the City of Delta, Colorado, to wit:

Villas at the Bluff Lot Split a Resubdivision of Lot 2B, according to the plat recorded under Reception Number 648633 of the Delta County, Colorado Records.

Total subdivision acreage containing 5.820 acres, more or less. Has by these presents laid out, platted and subdivided the same into lots, as shown on this plat, under the name of VILLAS AT THE BLUFF, A RESUBDIVISION OF LOT 2B LOT SPLIT. The following easements are dedicated, granted and conveyed to the City of Delta, Colorado as shown:

Said owner does hereby dedicate and set apart Oak Way as shown on this plat as a permanent, non-exclusive public vehicular and pedestrian access easement over and across Lot 2B1 and 2B2 shall be jointly and severally responsible for the operation and maintenance of the roadway, including snow removal.

—Utility easements for City utilities (including storm drainage) and public utilities;
—Storm drainage easements for City storm drainage features and facilities.

Private easements are reserved or conveyed for purposes as indicated on the plat.

Executed this ____ day of _____, A.D. 20__.

Jo Rosenquist,
Executive Director of the Housing Authority of the City of Delta,
general partner of Villas at the Bluff LLLP

STATE OF COLORADO)
COUNTY OF DELTA) ss.

The foregoing Certificate of Ownership was acknowledged before me this ____ day of _____, A.D. 20__, by Jo Rosenquist, Executive Director of the Housing Authority of the City of Delta, general partner of Villas at the Bluff LLLP.

Witness my hand and official seal.
My Commission expires: _____

Notary Public

LIENHOLDER'S CERTIFICATE

The undersigned holder of a lien pursuant to an instrument recorded in the Delta County Records at _____ hereby joins in this subdivision and the dedication of easements as shown hereon.

Signed: _____

By: Robert M. Munroe, Manager, Multifamily Loan Production, CHFA

STATE OF COLORADO)
COUNTY OF) ss.

The foregoing Certificate was acknowledged before me this ____ day of _____, A.D. 20__, by Robert M. Munroe, Manager, Multifamily Loan Production, CHFA

Witness my hand and official seal.
My Commission expires: _____

Notary Public

ATTORNEY'S CERTIFICATE

I, _____, an attorney at law duly licensed to practice before the courts of record of Colorado, do hereby certify that I have examined the title of all lands herein platted and that said title is vested in the owner, free and clear of all liens and encumbrances except as follows:

Dated this ____ day of _____, A.D. 20__.

(Printed Name)
Attorney at Law

PLANNING COMMISSION

APPROVED by the Delta City Planning Commission this ____ day of _____, A.D. 20__, by _____, Chairman

CITY COUNCIL

APPROVED by the Delta City Council this ____ day of _____, A.D. 20__, by _____, Mayor.

CITY ATTORNEY'S CERTIFICATE

APPROVED for recording this ____ day of _____, A.D. 20__.

City Attorney

RECORDER'S CERTIFICATE

I hereby certify that this plat was filed for record in the office of the Clerk and Recorder of Delta County, Colorado.

Delta County Clerk & Recorder

PLAT NOTES:

- The owners of Lots 2B1 and 2B2 within this subdivision shall be jointly and severally liable for the operation and maintenance of the storm water system and retention pond shown as Outlet A. In the event that said maintenance is not properly performed, the City of Delta may cause the work to be done, assess the cost to the said owners, may certify such charges as delinquent charges to the County Treasurer to be collected similarly to taxes, may record a lien on said lots which may be foreclosed in any lawful manner, or may pursue any other remedy available in order to collect such charges.
- Interior access easements are to be privately maintained by the lot owner(s).
- The owners of lot 2B1 and Lot 2B2 within this subdivision shall be jointly and severally liable for the maintenance of the 20' wide underground pipeline easement.

SURVEYOR'S CERTIFICATION

I, Randy A. Wilmore, do hereby certify that this plat accurately represents a survey, performed either by me or under my supervision and based on my knowledge, information and belief, and that it conforms with the current "standards for land surveys" of the Colorado AES Board of Registration, as well as with related survey requirements of current versions of the Colorado revised statutes and City of Delta regulations. This certificate is not intended to be an express or implied warranty or guarantee of any matters except those stated in the preceding sentence.

Date: _____ Signed: _____
COLORADO PROFESSIONAL LAND SURVEYOR LICENSE NO. 25972

DEVELOPER:
DELTA HOUSING AUTHORITY
501 14TH STREET
DELTA, CO 81416
(970)-874-7266

NOTE: According to Colorado law any legal action based upon a defect in this survey must be commenced within three years after such defect is discovered. In no event may any action based upon any defect in this survey be commenced more than ten years from the date shown on the certification hereon.

WILMORE & COMPANY
PROFESSIONAL LAND SURVEYING, INC.
406 Grand Avenue P.O. Box 1652
Paonia, Colorado 81428
7970.527-4200 PHONE
7970.527-4202 FAX
www.wilmorelandsurveying.com
EMAIL: wilmoreandcompany@tds.net

FIELD CREW:
RAW
DRAFTER:
RAW
CHECKED BY:
KC

VILLAS AT THE BLUFF, A RESUBDIVISION OF LOT 2B LOT SPLIT
WITHIN GOVERNMENT LOT 4 (SW1/4 OF THE SW1/4) OF SECTION 19, T. 15 S., R. 95 W., 6TH P.M.
CITY OF DELTA, DELTA COUNTY, COLORADO
J13195FINAL GPS 6 DEC. 2013

MEMO

To: City Council
From: Glen L. Black *GLB*
Date: December 13, 2013
Subject: Maverik-Delta Subdivision Preliminary Plat



Community Development

Recommendation: The Planning Commission is recommending approval of the Maverik-Delta Subdivision Preliminary Plat with all staff and Planning Commission recommendations.

Background: The Planning Commission reviewed the Maverik-Delta Preliminary plat at the regular meeting on December 2, 2013.

- Applicant and owner is Maverik Inc.
- Location: Northeast corner of intersection of Hwy 92 and Hwy 50
- Zone: B-2
- Size: approximately 6.371 acres to be divided into 3 parcels

The following are conditions of approval:

1. Corrections need to be made to the construction drawings and preliminary plat prior to a preconstruction meeting. The City requires 3 wet-stamped sets of approved engineered plans.
2. The development must comply with all City of Delta requirements and other regulatory/permitting agency requirements.
3. Preliminary Plat approval expires 2 years from the date of such approval.

The following will need to be completed prior to final plat submittal:

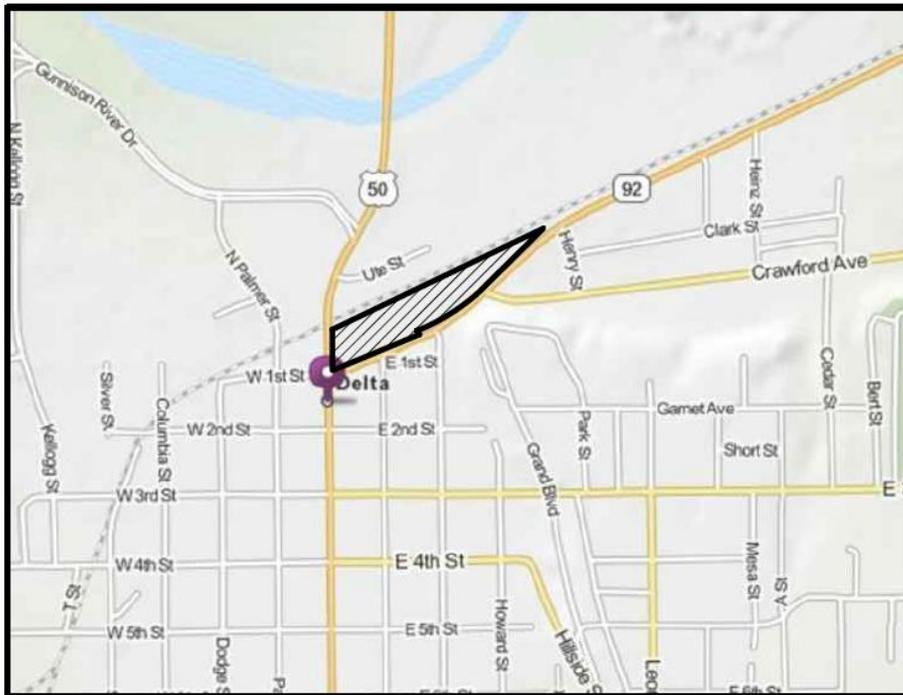
1. All improvements must be constructed, including electrical, water, sewer, storm sewer and Highway 92.
2. Cross access/maintenance agreements must be signed.
3. Traffic light SIA completed.

Cost: Appropriate application fees have been paid.

Alignment With Strategic Planning: The City of Delta Comprehensive Plan states: "The City of Delta should encourage commercial growth along the highway corridor to the east." Policy 7, page 3-13

Actions To Be Taken if Approved: Notify applicant of approval. Applicant may then begin work to meet all requirements for Final Plat submittal.

Aerial Photo



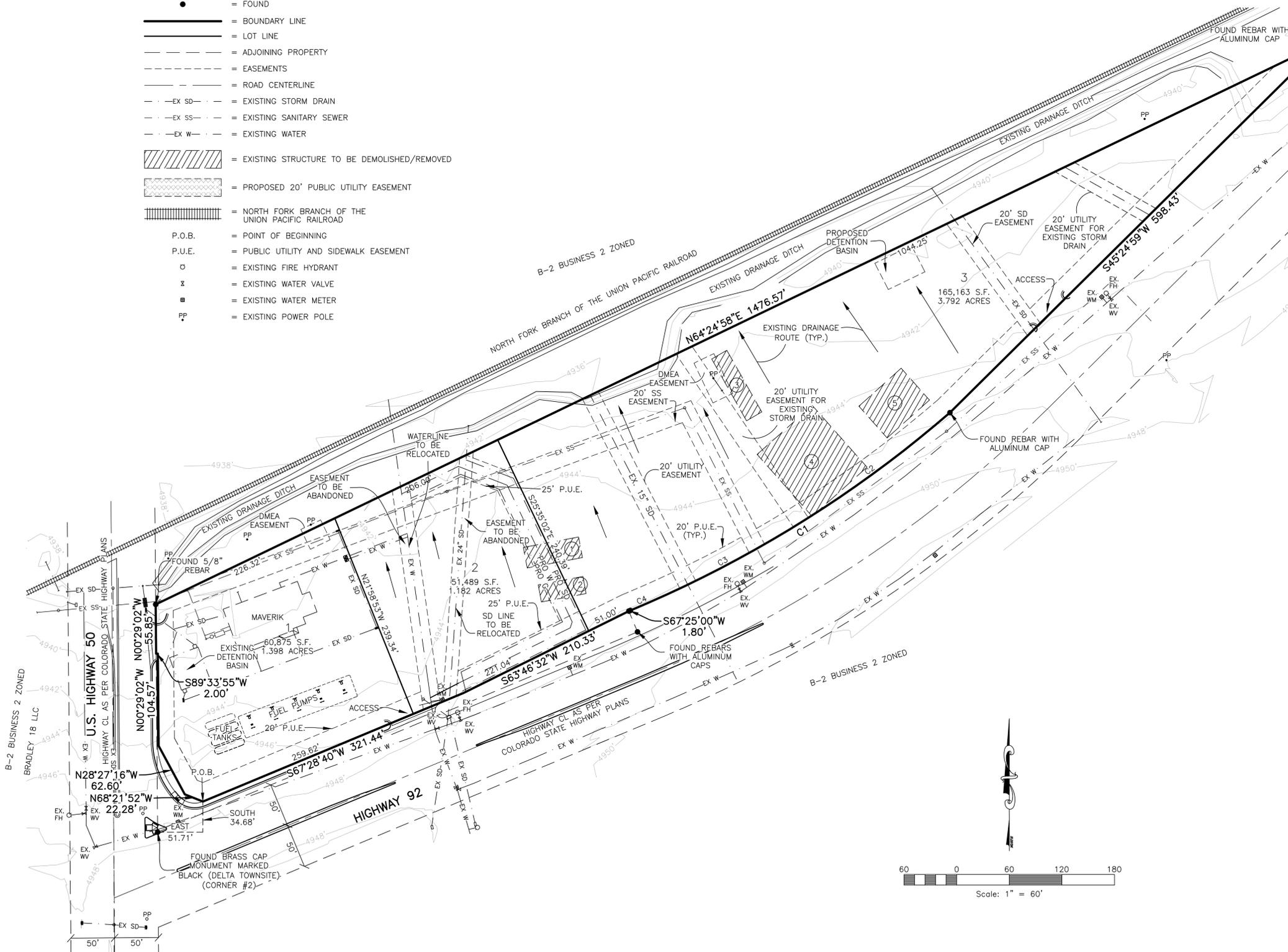
VICINITY MAP
NO SCALE

PRELIMINARY PLAT MAVERIK-DELTA SUBDIVISION

PART OF SECTION 13, TOWNSHIP 15 SOUTH, RANGE 96 WEST, 6TH P.M.
CITY OF DELTA, COUNTY OF DELTA, COLORADO
NOVEMBER, 2013 SHEET 2 of 2

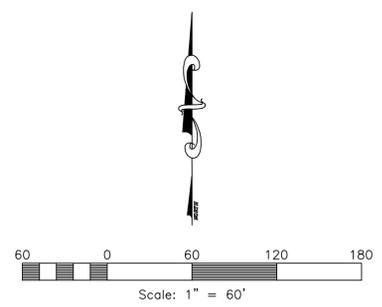
LEGEND

- = FOUND
- = BOUNDARY LINE
- = LOT LINE
- - - = ADJOINING PROPERTY
- - - = EASEMENTS
- - - = ROAD CENTERLINE
- - - EX SD = EXISTING STORM DRAIN
- - - EX SS = EXISTING SANITARY SEWER
- - - EX W = EXISTING WATER
-  = EXISTING STRUCTURE TO BE DEMOLISHED/REMOVED
-  = PROPOSED 20' PUBLIC UTILITY EASEMENT
-  = NORTH FORK BRANCH OF THE UNION PACIFIC RAILROAD
- P.O.B. = POINT OF BEGINNING
- P.U.E. = PUBLIC UTILITY AND SIDEWALK EASEMENT
- = EXISTING FIRE HYDRANT
- x = EXISTING WATER VALVE
- = EXISTING WATER METER
- PP = EXISTING POWER POLE



CURVE TABLE

#	RADIUS	ARC LENGTH	CHD LENGTH	TANGENT	CHD BEARING	DELTA
C1	1357.50'	429.80'	428.00'	216.71'	S58°22'10"W	18°08'25"
C2	1357.50'	224.57'	224.32'	112.54'	S54°02'19"W	9°28'43"
C3	1357.50'	171.66'	171.55'	85.95'	S62°24'02"W	7°14'43"
C4	1357.50'	33.56'	33.56'	16.78'	S66°43'53"W	1°24'59"



**PRELIMINARY PLAT
MAVERIK-DELTA SUBDIVISION**
CITY OF DELTA, COUNTY OF DELTA, COLORADO
FOR: MAVERIK, INC.
880 WEST CENTER STREET, NORTH SALT LAKE, UT 84054
SHEET 2 OF 2



Project Info.

Surveyor: M. BYRD

Designer: N. ANDERSON

Begin Date: 08-06-13

Name: MAVERIK-DELTA PRELIM SUBD. PLAT

Number: 5799-24

Revision: 11-19-13 NA

Scale: 1"=60'

Checked: _____

Council Bill #9, 2013

AMENDED

AN ORDINANCE OF THE CITY OF DELTA, COLORADO,
AMENDING TITLE 15 CHAPTER 15.56 OF THE DELTA
MUNICIPAL CODE.

WHEREAS, the Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses; and

WHEREAS, the City had previously adopted flood damage prevention regulations in Chapter 15.56 of the Municipal Code; and

WHEREAS, the flood hazard areas of the City are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public; and

WHEREAS, these flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

WHEREAS, the City Staff, in consultation with the Department of Natural Resources, has reviewed the City's flood prevention regulations and have proposed some alteration to the regulations to address best practices and to capture recent changes to the law in order to ensure that the flood damage prevention section of the code can provide for the mitigation of flood losses and damages;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO, as follows:

Section 1. The foregoing recitals are incorporated herein as findings of the City Council.

Section 2. Chapter 15.56 of the Delta Municipal Code is repealed and replaced with the following:

Chapter 15.56

FLOOD DAMAGE PREVENTION

Sections:

ARTICLE I. TITLE AND PURPOSE

- 15.56.010 Statutory authority.
- 15.56.020 Findings of fact.
- 15.56.030 Statement of purpose.
- 15.56.040 Methods of reducing flood losses.

ARTICLE II. DEFINITIONS

- 15.56.050 Definitions.

ARTICLE III. GENERAL PROVISIONS

- 15.56.060 Lands to which this chapter applies.
- 15.56.070 Basis for establishing the special flood hazard area.
- 15.56.080 Establishment of floodplain development permit.
- 15.56.090 Compliance.
- 15.56.100 Abrogation and greater restrictions.
- 15.56.110 Interpretation.
- 15.56.120 Warning and disclaimer of liability.
- 15.56.130 Severability.

ARTICLE IV. ADMINISTRATION

- 15.56.140 Designation of the floodplain administrator.
- 15.56.150 Duties & responsibilities of the floodplain administrator.
- 15.56.160 Permit procedures.
- 15.56.170 Variance procedures.
- 15.56.180 Penalties for noncompliance.

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

- 15.56.190 General standards.
- 15.56.200 Specific standards.
- 15.56.210 Standards for areas of shallow flooding (AO/AH)

- Zones).
- 15.56.220 Floodways.
 - 15.56.230 Alteration of a watercourse.
 - 15.56.240 Properties removed from the floodplain by fill.
 - 15.56.250 Standards for subdivision proposals.
 - 15.56.260 Standards for critical facilities.

ARTICLE I. TITLE AND PURPOSE

15.56.010 Statutory authority. The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of the City of Delta, Colorado, does hereby adopt the following floodplain management regulations:

15.56.020 Findings of fact.

A. The flood hazard areas of the City are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public.

B. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage. (Ord. 1, §1(part), 1984)

15.56.030 Statement of Purpose. It is the purpose of this Chapter to promote public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;

E. Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;

F. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

G. Insure that potential buyers are notified that property is located in a flood hazard area

15.56.040 Methods of reducing flood losses. In order to accomplish its purposes, this Chapter uses the following methods:

A. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;

B. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

C. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

D. Control filling, grading, dredging and other development which may increase flood damage;

E. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

ARTICLE II. DEFINITIONS

15.56.050 Definitions. Unless specifically defined in this Section, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application:

A. "100-YEAR FLOOD" means a flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood" and "one percent chance

flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

B. "100-YEAR FLOODPLAIN" means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

C. "500-YEAR FLOOD" means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

D. "500-YEAR FLOODPLAIN" means the area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

E. "ADDITION" means any activity that expands the enclosed footprint or increases the square footage of an existing structure.

F. "ALLUVIAL FAN FLOODING" means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

G. "AREA OF SHALLOW FLOODING" means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

H. "BASE FLOOD ELEVATION (BFE)" means the elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

I. "BASEMENT" means any area of a building having its

floor sub-grade (below ground level) on all sides.

J. "CHANNEL" means the physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

K. "CHANNELIZATION" means the artificial creation, enlargement or realignment of a stream channel.

L. "CODE OF FEDERAL REGULATIONS (CFR)" means the codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

M. "COMMUNITY" means any political subdivision in the state of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

N. "CONDITIONAL LETTER OF MAP REVISION (CLOMR)" means FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

O. "CRITICAL FACILITY" means a structure or related infrastructure, but not the land on which it is situated, as specified in Article 5, Section 15.56.260, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Article 5, Section 15.56.260.

P. "DEVELOPMENT" means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Q. "DFIRM DATABASE" means a database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

R. "DIGITAL FLOOD INSURANCE RATE MAP (DFIRM)" means FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

S. "ELEVATED BUILDING" means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

T. "EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

U. "EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

V. "FEDERAL REGISTER" means the official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

W. "FEMA" means Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

X. "Flood or Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of water from channels and reservoir spillways;

2. The unusual and rapid accumulation or runoff of surface waters from any source; or

3. Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Y. "FLOOD INSURANCE RATE MAP (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

Z. "FLOOD INSURANCE STUDY (FIS)" means the official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

AA. "FLOODPLAIN OR FLOOD-PRONE AREA" means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

BB. "FLOODPLAIN ADMINISTRATOR" means the community official designated by title to administer and enforce the floodplain management regulations.

CC. "FLOODPLAIN DEVELOPMENT PERMIT" means a permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.

DD. "FLOODPLAIN MANAGEMENT" means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

EE. "FLOODPLAIN MANAGEMENT REGULATIONS" means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FF. "FLOOD CONTROL STRUCTURE" means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

GG. "FLOODPROOFING" means any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

HH. "FLOODWAY (REGULATORY FLOODWAY)" means the channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

II. "FREEBOARD" means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

JJ. "FUNCTIONALLY DEPENDENT USE" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

KK. "HIGHEST ADJACENT GRADE" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

LL. "HISTORIC STRUCTURE" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a) By an approved state program as determined by the Secretary of the Interior or;

b) Directly by the Secretary of the Interior in states without approved programs.

MM. "LETTER OF MAP REVISION (LOMR)" means FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

NN. "LETTER OF MAP REVISION BASED ON FILL (LOMR-F)" means FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

OO. "LEVEE" means a man-made embankment, usually earthen, designed and constructed in accordance with sound engineering

practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMS as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

PP. "LEVEE SYSTEM" means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

QQ. "LOWEST FLOOR" means the lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

RR. "MANUFACTURED HOME" means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

SS. "MANUFACTURED HOME PARK OR SUBDIVISION" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

TT. "MEAN SEA LEVEL" means for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

UU. "MATERIAL SAFETY DATA SHEET (MSDS)" means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe

manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

VV. "NATIONAL FLOOD INSURANCE PROGRAM (NFIP)" means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

WW. "NEW MANUFACTURED HOME PARK OR SUBDIVISION" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

XX. "NO-RISE CERTIFICATION" means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

YY. "PHYSICAL MAP REVISION (PMR)" means FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

ZZ. "RECREATIONAL VEHICLE" means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

AAA. "SPECIAL FLOOD HAZARD AREA" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

BBB. "START OF CONSTRUCTION" means the date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

CCC. "STRUCTURE" means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

DDD. "SUBSTANTIAL DAMAGE" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

EEE. "SUBSTANTIAL IMPROVEMENT" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "Start of Construction" of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred "Substantial Damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or

2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

FFF. "THRESHOLD PLANNING QUANTITY (TPQ)" means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

GGG. "VARIANCE" means a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations).

HHH. "VIOLATION" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b) (5), (c) (4), (c) (10), (d) (3), (e) (2), (e) (4), or (e) (5) is presumed to be in violation until such time as that documentation is provided.

III. "WATER SURFACE ELEVATION" means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE III. GENERAL PROVISIONS

15.56.060 Lands to which this chapter applies. This Chapter shall apply to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of the City of Delta, Colorado.

15.56.070 Basis for establishing the special flood hazard

area. The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for," dated October 7, 2009, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this ordinance and may be supplemented by studies designated and approved by the City Council. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

15.56.080 Establishment of floodplain development permit.

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this Chapter.

15.56.090 Compliance. No structure or land shall hereafter be located, altered, or have its use changed within the Special Flood Hazard Area without full compliance with the terms of this Chapter and other applicable regulations. Nothing herein shall prevent the City Council from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

15.56.100 Abrogation and greater restrictions. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter and another ordinance, easement, covenant, nor deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

15.56.110 Interpretation. In the interpretation and application of this Chapter, all provisions shall be:

- A. Considered as minimum requirements;
 - B. Liberally construed in favor of the governing body;
- and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

15.56.120 Warning and disclaimer of liability. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods

can and will occur and flood heights may be increased by man-made or natural causes.

This Chapter does not imply that land outside the Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the Community or any official or employee thereof for any flood damages that result from reliance on this Chapter or any administrative decision lawfully made thereunder.

15.56.130 Severability. This Chapter and the various parts thereof are hereby declared to be severable. Should any section of this Chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Chapter as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

ARTICLE IV. ADMINISTRATION

15.56.140 Designation of the floodplain administrator. The Community Development Director is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this Chapter and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management

15.56.150 Duties & responsibilities of the floodplain administrator. Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

A. Maintain and hold open for public inspection all records pertaining to the provisions of this Chapter, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Article 4, Section 15.56.160.

B. Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this Chapter.

C. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

D. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.

E. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this Chapter, including proper elevation of the structure.

F. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

G. When Base Flood Elevation data has not been provided in accordance with Article 3, Section 15.56.070, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 5.

H. For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.

I. Under the provisions of 44 CFR Chapter 1, Section 65.12 of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.

J. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.

K. Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

15.56.160 Permit procedures.

A. Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to Special Flood Hazard Area. Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

2. Elevation in relation to mean sea level to which any nonresidential structure shall be Floodproofed;

3. A certificate from a registered Colorado Professional Engineer or architect that the nonresidential Floodproofed structure shall meet the Floodproofing criteria of Article 5, Section 15.56.200(B);

4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

5. Maintain a record of all such information in accordance with Article 4, Section 15.56.150.

B. Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this Chapter and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;

2. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

3. The danger that materials may be swept onto other lands to the injury of others;

4. The compatibility of the proposed use with existing and anticipated development;

5. The safety of access to the property in times of Flood for ordinary and emergency vehicles;

6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;

7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

8. The necessity to the facility of a waterfront location, where applicable;

9. The availability of alternative locations, not subject to Flooding or erosion damage, for the proposed use;

10. The relationship of the proposed use to the comprehensive plan for that area

15.56.170 Variance procedures.

A. The Appeal Board, as established by the City Council, shall hear and render judgment on requests for variances from the requirements of this chapter.

B. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this Chapter.

C. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

D. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

E. Variances may be issued for the reconstruction,

rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this Chapter.

F. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 15.56.160 of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

G. Upon consideration of the factors noted above and the intent of this Chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter as stated in Article 1, Section 15.56.030.

H. Variances shall not be issued within any designated Floodway if any increase in flood levels during the base flood discharge would result.

I. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

J. Prerequisites for granting variances:

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

2. Variances shall only be issued upon:

a) Showing a good and sufficient cause;

b) A determination that failure to grant the variance would result in exceptional hardship to the applicant, and

c) A determination that the granting of a variance

will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

3. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the Base Flood Elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

K. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:

1. The criteria outlined in Article 4, Section 15.56.170(A)-(J) are met, and

2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

15.56.180 Penalties for noncompliance. No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of the City. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation

ARTICLE V. PROVISIONS FOR FLOOD HAZARD REDUCTION

15.56.190 General standards.

In all Special Flood Hazard Areas the following provisions are required for all new construction and substantial improvements:

A. All new construction or substantial improvements shall be

designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

B. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

C. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

D. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

E. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

F. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

G. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,

H. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

15.56.200 Specific standards. In all Special Flood Hazard Areas where Base Flood Elevation data has been provided as set forth in (i) Article 3, Section 15.56.070, (ii) Article 4, Section 15.56.150(G), or (iii) Article 5, Section 15.56.250, the following provisions are required:

A. RESIDENTIAL CONSTRUCTION - New construction and

Substantial Improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the Base Flood Elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

B. NONRESIDENTIAL CONSTRUCTION - With the exception of Critical Facilities, outlined in Article 5, Section 15.56.260, new construction and Substantial Improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one foot above the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Subsection. Such certification shall be maintained by the Floodplain Administrator, as proposed in Article 4, Section 15.56.160.

C. ENCLOSURES - New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters.

Designs for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:

1. A minimum of two openings having a total net area of

not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

2. The bottom of all openings shall be no higher than one foot above grade.

3. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

D. MANUFACTURED HOMES - All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the Base Flood Elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:

1. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one foot above the base flood elevation, or

2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

E. RECREATIONAL VEHICLES - All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

1. Be on the site for fewer than 180 consecutive days,
2. Be fully licensed and ready for highway use, or

3. Meet the permit requirements of Article 4, Section 15.56.160, and the elevation and anchoring requirements for "manufactured homes" in paragraph (D) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

F. PRIOR APPROVED ACTIVITIES - Any activity for which a Floodplain Development Permit was issued by the City of Delta or a CLOMR was issued by FEMA prior to the effective date of this revised chapter may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this ordinance if it meets such standards.

15.56.210 Standards for areas of shallow flooding (AO/AH Zones). Located within the Special Flood Hazard Area established in Article 3, Section 15.56.070, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

A. RESIDENTIAL CONSTRUCTION - All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

B. NONRESIDENTIAL CONSTRUCTION - With the exception of Critical Facilities, outlined in Article 5, Section 15.56.260, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including

ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified), or together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section 15.56.160, are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

15.56.220 Floodways. Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard (see definition of Floodway in Article 2). Located within Special Flood Hazard Area established in Article 3, Section 15.56.070, are areas designated as Floodways. Since the Floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

A. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory Floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.

B. If Article 5, Section 15.56.220(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.

C. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway

revision through FEMA.

15.56.230 Alteration of a watercourse. For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

A. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.

B. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

C. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.

D. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.

E. All activities within the regulatory floodplain shall meet all applicable Federal, State and {community name} floodplain requirements and regulations.

F. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with Section D of this Article.

G. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

15.56.240 Properties removed from the floodplain by fill. A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

A. RESIDENTIAL CONSTRUCTION - the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.

B. NONRESIDENTIAL CONSTRUCTION - the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

15.56.250 Standards for subdivision proposals.

A. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.

B. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article 3, Section 15.56.080; Article 4, Section 15.56.160; and the provisions of Article 5 of this Chapter.

C. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section 15.56.070 or Article 4, Section 15.56.150 of this Chapter.

D. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

E. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and

water systems located and constructed to minimize or eliminate flood damage.

15.56.260 Standards for critical facilities. A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a Flood.

A. CLASSIFICATION OF CRITICAL FACILITIES

1. It is the responsibility of the City to identify and confirm that specific structures in their community meet the following criteria:

2. Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

a) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

b) These facilities consist of:

- i. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
- ii. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
- iii. Designated emergency shelters;
- iv. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);

- v. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
- vi. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars)).

c) Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

d) Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the City that the facility is an element of a redundant system for which service will not be interrupted during a Flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provisions of this Article, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a Flood. Evidence of ongoing redundancy shall be provided to the city on an as-needed basis upon request.

3. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

- a) These facilities may include:
 - b) Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
 - c) Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
 - d) Refineries;
 - e) Hazardous waste storage and disposal sites;
- and

- f) Above ground gasoline or propane storage or sales centers.

4. Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this chapter, but exclude later amendments to or editions of the regulations

a) Specific exemptions to this category include:

- i. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
- ii. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.

- iii. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

b) These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.

5. At-risk population facilities include medical care, congregate care, and schools.

- a) These facilities consist of:
 - i. Elder care (nursing homes);
 - ii. Congregate care serving 12 or more individuals (day care and assisted living);
 - iii. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

6. Facilities vital to restoring normal services including government operations.

- a) These facilities consist of:
 - i. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers);
 - ii. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

b) These facilities may be exempted if it is demonstrated to the City that the facility is an element of a redundant system for which service will not be interrupted during a Flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Chapter, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a Flood. Evidence of ongoing redundancy shall be provided to the city on an as-needed basis upon request.

B. PROTECTION FOR CRITICAL FACILITIES

1. All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this Chapter, protection shall include one of the following:

- a) Location outside the Special Flood Hazard Area; or
- b) Elevation of the lowest floor or Floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

C. INGRESS AND EGRESS FOR NEW CRITICAL FACILITIES

1. New Critical Facilities shall, when practicable as determined by the city, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

Section 3. Severability. Each section of this Ordinance is an independent section and a holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

Section 4. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated pursuant to the City's home rule authority and under the general police power of the City of Delta and that it is promulgated for the protection of health, safety, and welfare of the citizens of the City of Delta. The City Council further determines that this Ordinance bears a rational relationship to the legislation proposed herein.

Section 5. Effective Date. This Ordinance shall become effective thirty (30) days after final publication as provided in City Charter and C.R.S. section 31-16-105.

ADOPTED on first reading and ordered published this ____
day of _____, 2013.

Mayor

ATTEST:

City Clerk

ADOPTED on second and final reading and ordered published
this ____ day of _____, 2013.

Mayor

ATTEST:

City Clerk

Council Bill #10, 2013

AN ORDINANCE OF THE CITY OF DELTA, COLORADO, PROVIDING REVISED WATER, SEWER, ELECTRIC AND TRASH RATES, AND AMENDING THE MUNICIPAL CODE CONCERNING THE SAME.

WHEREAS, pursuant to Article IV of the Home Rule Charter and Title 31 the City is responsible for setting the fees and costs associated with the operation of municipal utilities within the City; and

WHEREAS, the City Council adopted Ordinance #7, 2013 revising rates within the municipal code; and

WHEREAS, there were errors within said Ordinance, and

WHEREAS, the City Council is desirous of amending the municipal code to correct the trash collection fees/rates table, the water fees/rates table, the sewer fees/rates table and the electric fees/rates table.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO, as follows:

Section 1. The foregoing recitals are incorporated herein as findings of the City Council.

Section 2. Amending section 8.12.160 of the Delta Municipal Code as follows:

8.12.160 Trash Collection Fees/Rates Table.

Refuse			
	Container Size (gallons)	Monthly Base Charge	Extra Pickup
	90	\$12.00	\$17.75
	300	\$27.00	\$40.25
	Over 300	\$38.00	\$57.00/gal
	Shared containers	\$12.00/unit	\$17.75/unit

Section 3. Amending sections 13.04.240, 13.04.250 and 13.04.260 of the Delta Municipal Code as follows:

13.04.240 Water Fees/Rates Table.

Water	Service Size/Type	Basic System Improvement Fee*	Basic System Imp. Fee - Unit Charge	Tapping Fee	Monthly Base Charge	Monthly Included Consumption (Gal)	Consumption Charge
	3/4" or smaller	\$3,000.00	Multiple unit residences/facilities shall be charged \$1,500 per unit for each unit after the first unit which is served by City water out of a single tap. Hotels, motels and travel home parks shall be charged \$600 per unit for each unit after the first unit which is served by City water out of a single tap.	\$1,400.00	\$26.00	4,000	\$2.65/1000 gallons
	1"	\$5,800.00		\$1,500.00	\$42.00	10,000	\$2.45/1000 gallons
	1-1/4"	N/A		N/A	\$58.00	15,000	\$2.45/1000 gallons
	1-1/2"	\$12,200.00		\$1,700.00	\$85.00	25,000	\$2.45/1000 gallons
	2"	\$21,400.00		\$1,900.00	\$135.00	40,000	\$2.45/1000 gallons
	3"	\$48,700.00		\$2,100.00	\$265.00	80,000	\$2.45/1000 gallons
	4"	\$86,100.00		\$2,500.00	\$380.00	100,000	\$2.45/1000 gallons
	6"	N/A		N/A	\$700.00	150,000	\$2.45/1000 gallons
	Irrigation service				\$16.00	N/A	\$2.65/1000 gallons
	City buildings service				N/A	N/A	\$1.70/1000 gallons
	Construction meter**				\$20.00	N/A	\$2.65/1000 gallons
	Outside City limit 3/4"				\$31.00	4,000	\$3.25/1000 gallons
	City water dispenser						\$4.00/1000 gallons

* Outside City limit BSIF's shall be double
 ** Set up fee of \$50.00

13.04.250 Sewer Fees/Rates Table.

Sewer	Service Size/Type	Basic System Improvement Fee*	Basic System Imp. Fee - Unit Charge	Monthly Base Charge	Consumption Charge
	3/4" or smaller	\$5,450.00	Multiple unit residences/facilities shall be charged \$2,600 per unit for each unit after the first unit which is served by City water out of a single tap. Hotels, motels and travel home parks shall be charged \$1,100 per unit for each unit after the first unit which is served by City water out of a single tap.	Permenant residential customers, including single family homes, parsonages, duplexes, apartments, condominiums, moble home parks, trailer courts, and other individually owned units of multiple dwelling facilities and nonmetered commerical units.	N/A
	1"	\$9,850.00			
	1-1/2"	\$21,700.00			
	2"	\$38,650.00			
	3"	\$86,700.00			
	4"	\$154,000.00			
	6"	\$346,700.00			
	8"	\$617,400.00			
	* Outside City limit BSIF's shall be double				
			All other users (commercial, etc.)	\$25.00	\$1.65/1,000 gallons
			BOD Surcharge** $((Volume) \times (BOD-1.669) \times (\$0.44)) + ((Volume) \times (SS-BOD-2.087) \times (K))$		
			K=0 if SS is less than or equal to (BOD+2.087)		
			K=\$0.44 if SS is greater than (BOD+2.087)		
			** BOD surcharge shall be added if discharge has greater than average residential BOD*** or SS****		
			*** Avg. res. BOD = 1.669 pounds/1,000 gal.		
			**** Avg. res. SS = 2.087 pounds/1000 gal.		

13.04.260 Electric Fees/Rates Table.

Electric	Service Size/Type	Monthly Base Charge	Consumption Charge	Monthly Demand Charge
	Residential	\$17.00	\$0.0941/KWH	N/A
	Security/Yard Lights	\$10.00	N/A	N/A
	Street Lights	N/A	\$0.0895/KWH	N/A
	Single Phase Commercial	\$25.00	\$0.0925/KWH	N/A
	Three Phase Commercial	\$41.00	\$0.0925/KWH	N/A
	Industrial	\$140.00	\$0.0571/KWH	\$11.00 X cust. monthly kW demand
	City buildings service	N/A	\$0.0895/KWH	N/A

Section 4. Severability. Each section of this Ordinance is an independent section and a holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

Section 5. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated pursuant to the City's home rule authority and under the general police power of the City of Delta and that it is promulgated for the protection of health, safety, and welfare of the citizens of the City of Delta. The City Council further determines that this Ordinance bears a rational relationship to the legislation proposed herein.

Section 6. Effective Date. This Ordinance shall become effective thirty (30) days after final publication as provided in City Charter and C.R.S. section 31-16-105.

ADOPTED on first reading and ordered published this 3rd day of December, 2013.

/s/ Edward C. Sisson
Mayor

ATTEST:

/s/ Jolene E. Nelson
City Clerk

Attorney Comments



City Manager Comments



Councilmember Comments

