

PUBLIC NOTICE

ORDINANCE TO REQUIRE A DEVELOPMENT APPLICATION FOR NEW RESIDENTIAL OR COMMERCIAL CONSTRUCTION WITHIN THE UNINCORPORATED AREA OF DELTA COUNTY TO INCLUDE AN ONSITE WASTEWATER TREATMENT SYSTEM (OWTS) PERMIT, f.k.a. ISDS, WHICH, BY AMENDMENT OF ORDINANCE NO. 2012-02, SHALL BE INITIATED THROUGH THE DELTA COUNTY HEALTH DEPARTMENT:

NOTICE IS HEREBY GIVEN, that the Board of County Commissioners of the County of Delta, State of Colorado, shall pursuant to statutes, having read and introduced at a regular Board of County Commissioners' Meeting on September 6, 2016, the ordinance authorizing a development application for new residential or commercial construction within the unincorporated area of Delta County to include an OWTS Permit, f.k.a. ISDS, the application for which must be initiated through the Delta County Health Department, and acted upon, as prescribed by the Delta County Onsite Wastewater Treatment System Regulations, adopted by the Delta County Board of Health pursuant to 25-10-101, et seq., C.R.S. and Published in the Delta County Independent on September 14, 2016, consider for adoption this Ordinance amending Ordinance 2012-02 as published below, on a second reading at a regular Board of County Commissioners' Meeting on October 3, 2016. If adopted shall take effect on October 17, 2016.

**ORDINANCE
OF THE
BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF DELTA, STATE OF COLORADO**

ORDINANCE NO. 2016-01

**ORDINANCE TO AMEND ORDINANCE 2012-02
AND ADOPT**

ORDINANCE TO REQUIRE A DEVELOPMENT APPLICATION FOR NEW RESIDENTIAL OR COMMERCIAL CONSTRUCTION WITHIN THE UNINCORPORATED AREA OF DELTA COUNTY TO INCLUDE AN OWTS PERMIT WHICH MUST BE INITIATED THROUGH THE DELTA COUNTY HEALTH DEPARTMENT NOT THE DELTA COUNTY PLANNING DEPARTMENT AS ORIGINALLY MANDATED BY ORDINANCE NO. 2012-02.

WHEREAS, the Board of County Commissioners of Delta County (Board) adopted Ordinance No. 2012-02 on December 17, 2012; and

WHEREAS, the Board deems it in the best interests of the citizens of Delta County to amend Ordinance No. 2012-02 and revise the application procedure and requirements for permits by adding, as part of the permitting process, a requirement for an Onsite Wastewater Treatment System (OWTS) Permit, f.k.a. ISDS, wherein the application process shall be initiated through the Delta County Health Department; and

WHEREAS, pursuant to § 30-15-401, C.R.S., the Board of County Commissioners of Delta County, Colorado (hereinafter the "Board"), has the general enabling power to adopt ordinances for the control or licensing of those matters of purely local concern, and to do all acts and make all

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regulations which may be necessary or expedient for the promotion of the health, safety and welfare of the present and future residents of Delta County; and

WHEREAS, the Board finds it to be in the best interest of the health, safety and general welfare of the citizens of Delta County to amend Ordinance No. 2012-02 ,enacted by the Board on December 17, 2012, and revise it by adding a provision in Section 3.5 of the Ordinance requiring that the application for the OWTS Permit shall now be initiated through the Delta County Health Department and acted upon, as prescribed by the Delta County Onsite Wastewater Treatment System Regulations, adopted by the Delta County Board of Health pursuant to C.R.S. Section 25-10-101, et. Seq., a revision of the former procedure wherein the Permit was acquired through the Delta County Planning Department; and

WHEREAS, pursuant to Sections 29-20-102 and 29-20-104, C.R.S., the Board is authorized to adopt ordinances applicable to the unincorporated areas of the County to plan for and regulate the use of land; and

WHEREAS, the Board deems that it is in the best interests of the County and its citizens to create a Development Application process to provide for the proper sequence of County development permits, both residential and commercial upon the completion of a site plan review; and

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Delta County as follows:

This Ordinance shall be known as the Delta County Development Application Ordinance.

Section 1. APPLICABILITY:

- 1.1 This Ordinance shall apply throughout the unincorporated area of Delta County, including public and state lands.
- 1.2 If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of County Commissioners hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases are declared unconstitutional or invalid.

Section 2. REQUIREMENT OF PERMITS:

- 2.1 Any new residential or commercial construction occurring on a parcel of land in the unincorporated area of Delta County will require the completion of a Development Application which outlines the order in which individual County permits (including, but not limited to, access, address, and an Onsite Wastewater Treatment System (OWTS),f.k.a. ISDS, permits) must be obtained to include, as a part of the permitting

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process, the completion of a site plan review to be completed by the Delta County Planning Department as discussed herein. Additional regulations and approvals apply to commercial construction, and commercial applicants must consult with the Delta County Planning Department for those specific regulations and approvals. In addition to County regulations discussed above, the unincorporated area of Delta County is under both a Colorado State Electrical Board Inspection and a Colorado State Examining Board of Plumbers inspection requirement for either residential or commercial construction.

Section 3. APPLICATION PROCEDURE AND REQUIREMENTS FOR PERMITS:

3.1 The Development Application procedure consists of the following which shall be completed in succession as described herein:

1. Site Plan Review;
2. County Access Permit;
3. County Address Permit; and
4. County Onsite Wastewater Treatment System (OWTS) Permit.

Upon the completion of an initial site plan review, as discussed hereunder, County Permits must be approved in the order above, each before the next permit will be issued. An applicant may apply for any or all of the above County permits depending on the applicant's needs; however, proof of approved County permits must be provided in order to obtain the next permit.

3.2 **SITE PLAN REVIEW:** The purpose of the site plan review process is to ensure compliance with the permitting process, as set forth in this Ordinance, and to encourage quality development reflective of the goals, policies, and objectives of the Delta County development process. For land uses requiring a site plan review, development permits may be issued only after a Site Plan showing the proposed development has been approved in accordance with the procedures and requirements of this Ordinance and at a minimum shall illustrate the following: (a) perimeter boundary with dimensions; (b) total acreage; (c) north arrow; (d) the location and number of all structures and proposed structures; (e) the distance to the property boundary of all structures and proposed structures; (f) the location and dimensions of all easements; (g) the location of any springs, wells, streams, ditches, rivers or any waterways; (h) the name and location of all roads adjoining the property with the location of all access or proposed accesses; (i) the distance between any existing or proposed access(es) including those on neighboring properties and the distance to the nearest intersection; (j) the location of all existing and proposed septic systems; and (k) any existing or proposed building envelopes.

3.3. **COUNTY ACCESS PERMIT:** A County Access Permit is required for any entrance onto a County road. (Access onto a state highway requires an application too, and state highway access permits are issued by the Colorado Department of Transportation

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(CDOT.) The packet for a County Access Permit contains information on the County's construction standards for an approved access. There are two inspections required for an approved access from a County road. The first is to determine if the location of the proposed access complies with County requirements and safety standards and the second is to determine if the access has been constructed to county standards. The access application must be completed and approved before an address is assigned.

- 3.4. **COUNTY ADDRESS PERMIT:** An address is required for every residential or commercial building in Delta County for 911 services. Utility companies may also require an address prior to providing service to a parcel. Addresses are assigned by the location of an access to a parcel, which is why the access must be constructed and approved first. County Address and County Access Permits must be completed and approved prior to the issuance of a County OWTS Permit in order for the Health Department to locate and enter property for purposes of inspection.
- 3.5. **COUNTY ONSITE WASTEWATER TREATMENT SYSTEM (OWTS) PERMIT, f.k.a. ISDS:** An Onsite Wastewater Treatment System (OWTS) Permit is required for every structure on a parcel with a restroom or sewer drain. A minimum of two inspections are required for approval of a County permit. The first is a site inspection to determine the suitability of a parcel to accommodate an OWTS. The second inspection will be a final inspection of the system to ensure the system was installed as specified in the County OWTS permit. Final approval of the County OWTS permit is required prior to occupancy of the structure and for the issuance of a County Development Permit in accordance with this Ordinance. The application process for the attainment of the Permit shall be initiated through the Delta County Health Department, unlike other permits discussed herein, which are attained through the Delta County Planning Department and is a departure from the procedure mandated by Ordinance No. 2012-02 wherein the OWTS Permit, fka ISDS, was attained through the Delta County Planning Department.

Section 4. FEES FOR PERMITS:

- 4.1. **County Access Permit:** The County Access Permit Fee is per the current fee schedule that is in addition to a Deposit which is refundable upon final approval. A copy of the deed to present owner(s) is required when making application for an access permit.
- 4.2. **County Address Permit:** The County Address Permit fee is per the current fee schedule.
- 4.3. **County Onsite Wastewater Treatment System (OWTS) Permit:** The County OWTS Permit is per the current fee schedule.

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Section 5. EXPIRATION OF APPLICATION:

- 5.1. The Development Application and the individual permits are valid for a period of one (1) year from the date of the submission of the Development Application. If any of the individual permits applied for under the Development Application have not been completed within the one-year period, the Development Application is deemed to be null and void unless an extension has been granted. Development Applications that have expired will be required to be resubmitted with the appropriate fees to be reconsidered for approval.

Section 6. UNLAWFUL ACTS:

- 6.1 Any of the following shall be a violation of this Development Application Process and shall be subject to the remedies and penalties provided for in this Ordinance:
 - (a) Failure to complete a Development Application which outlines the order in which individual County permits (including, but not limited to, access, address, and Onsite Wastewater Treatment System, (OWTS), f.k.a. ISDS, permits) must be obtained on any new residential or commercial construction occurring on a parcel of land in the unincorporated area of Delta County.
 - (b) Engaging in any residential or commercial construction, subdivision, or other activity of any nature upon land that is subject to this Development Application Process, without all of the approvals required by this Development Application Ordinance.

Section 7. NOTICE OF VIOLATION:

- 7.1 Any person may report that a property in Delta County is in violation of this Ordinance. Such Notice of Violation must be in writing on a form provided by the Delta County Planning Department. The Notice shall be filed in the Delta County Planning Office, Delta County Courthouse, 501 Palmer Street, Room 115, Delta, Colorado 81416, for processing.
- 7.2 The Notice of Violation shall be forwarded to the appropriate permitting office which will conduct an investigation of the site to determine if a violation of the permitting process has occurred.
- 7.3 Whereupon a finding that a violation of the permitting process has occurred such violation shall be forwarded to the Delta County Attorney's Office.

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Section 8. NOTICE AND ORDER FOR DEVELOPMENT APPLICATION COMPLIANCE:

- 8.1 Upon receipt of Notice that a Violation of the permitting process has occurred, the County Attorney's Office may issue a Notice and Order of such violation to the property owner requiring the owner to:
 - (a) Correct the violation by conforming to Section 3, above, within twenty (20) days from the date of said Notice and Order, and/or,
 - (b) Request to appear before the Board of County Commissioners within twenty (20) days to show cause why such Order should not be enforced.
- 8.2 Said Notice and Order shall be deemed issued by placing the same in the U.S. mail, certified, return receipt requested, to the owner's last known address as indicated on the County's assessment roll. Service shall be complete upon mailing or personal service in the same manner provided in Rule 4 of the Colorado Rules of Civil Procedure.
- 8.3 If the County Attorney's Office is unable to locate the owner for certified mail or personal service after diligent efforts, the Notice and Order may be published in such a manner as is in accord with Rule 4 of the Colorado Rules of Civil Procedure concerning publication, "except that said publication shall for a period of ten (10) days and shall include the Notice and Order that must be posted in a conspicuous place at or on the subject property.

Section 9. ENFORCEMENT:

- 9.1 The provisions of this Ordinance shall be administered and enforced by Delta County.
- 9.2 The Board hereby designates the Delta County Attorney, or his/her designee, as the County's legal representative in the enforcement of the provisions of this Ordinance in a court of applicable jurisdiction. In the event the Delta County Attorney or his/her designee cannot represent Delta County or the Board deems it otherwise appropriate, the Board may appoint the District Attorney of the Seventh Judicial District to perform such legal enforcement duties in lieu of the County Attorney.
- 9.3 Penalties: The County may seek such criminal or civil penalties as are provided by Colorado law and provided for herein.

Section 10. CIVIL REMEDIES AND ENFORCEMENT POWERS:

- 10.1 The County shall have the following remedies and enforcement powers for violations of any acts outlined in section 6 above.
 - (a) Withhold Permits: The County may deny or withhold all County permits, certificates or other forms of authorization on any land or structure or

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improvements thereon upon which there is an uncorrected violation of a provision of this Development Application Process, or of a condition or qualification of a County permit, certificate, approval or other authorization previously granted by the County, until the violation is corrected.

(b) County Permits Approved with Conditions: Instead of withholding or denying a County permit or other authorization (as described in Section 7.3), the County may grant such authorization subject to the condition that the violation be corrected.

10.2 Revoke Permits: Any County development permit or other form of authorization required under this Development Application Process may be revoked when the Planning Department determines: (1) that there is departure from the plans, specifications, or conditions as required under terms of the County permit, (2) that the County Development Permit was procured by false representation or was issued by mistake, or (3) that any of the provisions of this Development Application Process are being violated. Written notice of such revocation shall be served upon the owner, the owner's agent or contractor, or upon any person employed on the building or structure for which such County permit was issued, or shall be posted in a prominent location; and, thereafter, no such development shall proceed.

10.3 Stop Work: With or without revoking permits, the County may stop work on any building or structure on any land on which there is an uncorrected violation of a provision of this Development Application Process.

10.4 Injunctive Relief: The County may seek an injunction or other equitable relief in court to stop any violation of this Development Application Process, or of a County permit, certificate or other form of authorization granted hereunder and may recover costs of any such action.

10.5 Abatement: The County may seek a court order in the nature of mandamus, abatement, injunction, or other action or proceeding, to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

Section 11. CRIMINAL PROSECUTION:

11.1 If so directed by the Board, a criminal prosecution may be brought against the owner in accordance with §§ 30-15-402 and 410, C.R.S.

11.2 Violation of the provisions of this Ordinance shall be punishable by a fine of not more than six hundred dollars (\$600.00) for each violation. In addition to this penalty, persons convicted of a violation of this Ordinance are subject, pursuant to § 30-15-402, C.R.S., to a surcharge of \$10.00, to be paid to the Clerk of the Court for credit to the

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Victims and Witnesses Assistance and Law Enforcement Fund established in the judicial district.

11.3 All fines and forfeitures for the violation of this Ordinance shall be paid to the Treasurer of Delta County within thirty (30) days of receipt and shall be deposited into the General Fund of the County.

Section 12 ADDITIONAL REMEDIES:

The remedies provided in this Ordinance shall be cumulative and in addition to any other remedies which may be available to the County and its Board, including, but not limited to, injunctive actions. Nothing contained herein shall be construed to preclude the Board from seeking such other remedies in addition to, or in lieu of, the legal remedies herein granted.

Section 13. SAFETY CLAUSE:

The Board hereby finds, determines and declares that this Ordinance is necessary for the health, safety and welfare of the citizens of Delta County, Colorado.

Section 14. PUBLICATION AND EFFECTIVE DATE:

The foregoing text is the authentic text of Delta County Ordinance No. 2016-01. The first reading and Introduction of said Ordinance took place on September 6, 2016 at a regularly scheduled Board of County Commissioners' Meeting. It was published in full in the *Delta County Independent* on September 14, 2016. The Ordinance will be considered for adoption on second reading at a regularly scheduled Board of County Commissioners' Meeting on October 3, 2016, and if adopted shall take effect October 17, 2016.

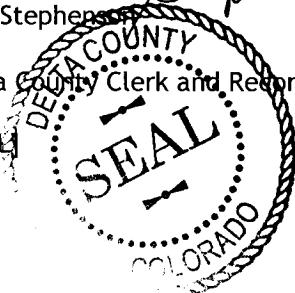
ADOPTED this 17 ~~16~~ day of October, 2016, at Delta, Colorado.

ATTEST:

Teri Stephenson

Delta County Clerk and Recorder

[SEAL]



BOARD OF COUNTY COMMISSIONERS
OF
DELTA COUNTY, COLORADO

By:

C. Bruce Hovde, Chair

C. Douglas Atchley
C. Douglas Atchley, Vice Chair

J. Mark Roeber
J. Mark Roeber, Commissioner

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TERI A. STEPHENSON, DELTA COUNTY, CO CLERK AND RECORDER