

RESOLUTION NO. 2016-9

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY, COLORADO AMENDING SECTION 82-178 OF THE LA PLATA COUNTY LAND USE CODE TO CLARIFY THE APPLICABILITY OF SETBACKS

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

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

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

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

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

WHEREAS, the La Plata County Planning Commission held a duly noticed public meeting beginning on January 14, 2016 and ending on January 28, 2016, and after receiving competent evidence at the hearing, made a recommendation to the Board to approve Project No. 2015-0359; and

WHEREAS, the Board held a duly noticed public meeting on March 1, 2016, and received competent evidence that Section 82-178 of the Code should be amended, as set forth in the attached Exhibit A, to clarify the applicability of setbacks; and

WHEREAS, the Board received competent evidence that it would be in the best interest of the general health, safety and welfare of La Plata County citizens to amend Section 82-178 of the Code, as set forth in the attached Exhibit A, to clarify the applicability of setbacks.

NOW, THEREFORE, BE IT RESOLVED BY THE LA PLATA COUNTY BOARD OF COUNTY COMMISSIONERS:

B.C.C

1. Section 82-178 of the La Plata County Land Use Code shall be and hereby is amended as set forth in the attached Exhibit A.
2. The enactment of this Resolution is necessary for the immediate preservation of public health, safety and welfare and, therefore, this Resolution shall take effect immediately.

DONE AND ADOPTED IN DURANGO, LA PLATA COUNTY, COLORADO, this 1st day of March, 2016.

ATTEST:



Jeanne Bynall
Clerk to the Board

BOARD OF COUNTY COMMISSIONERS OF
LA PLATA COUNTY, COLORADO

Brad Blake
Brad Blake, Chair

Julie Westendorff
Julie Westendorff, Vice-Chair

Gwen Lachelt
Gwen Lachelt, Commissioner

EXHIBIT A

Section 82-178 shall be amended as follows:

LPLUC Sec. 82-178 Setbacks.

(a) *Development prohibited within right-of-way.* Development within a county right-of-way or road easement is prohibited and shall be removed by the property owner immediately upon discovery; failure to remove development within the right-of-way or road easement shall constitute a violation of this division and a public nuisance.

(b) *Setbacks.* The following minimum setbacks, unless otherwise specified in Subpart B, shall apply to structures which require a building permit:

- (1) Front setbacks for all lots: Twenty (20) feet from the lot line.
- (2) Side and rear setbacks for lots over 10,000 square feet: Ten (10) feet from the lot line.
- (3) Side and rear setbacks for lots 10,000 square feet and less: Five (5) feet from the lot line.

(c) *Setback criteria; Class II developments.* The applicant shall propose setbacks which meet the criteria of this subsection. The planning commission, joint planning commission and/or board of county commissioners shall review the adequacy of the proposed setbacks using the setback criteria. If the joint planning commission or board of county commissioners finds that the proposed setbacks are inadequate in terms of the criteria, it shall require alternative setbacks. The permit application shall be denied or continued until setbacks that comply with this subsection are provided. A minimum setback of 20 feet from public roads shall be required. Structures shall be set back far enough from the property line to allow for:

- (1) Sunlight and air to enter the structure.
- (2) Preventing the spread of fire.
- (3) Maintaining existing vegetation whenever possible. Existing vegetation may require alternative setbacks.
- (4) Protecting the privacy of neighbors. Development which causes noise, odor, dust, smoke, glare, vibration or other external effects which can reasonably disturb neighbors may require alternative setback.
- (5) Compatibility with similar existing setbacks in the general area.
- (6) Providing room for snow removal and for preventing the shedding of snow onto adjacent properties or facilities and roadway.
- (7) Adequate visibility of traffic from driveways and intersections;
- (8) Meet building code requirements.
- (9) Adequate ingress, egress and general traffic safety.

(d) *Setbacks from streams, rivers and wetlands.* Structures shall have a minimum setback of 50 horizontal feet from delineated wetlands and bank high-water line of streams and rivers.

(e) *General setback application.*

- (1) The front lot line shall be that from which primary access is obtained.
- (2) On corner lots, each right-of-way frontage shall meet front setback regulations.
- (3) Above-grade architectural features such as cornices, attached canopies (excluding carports), eaves, bay windows, or similar features may encroach up to four (4) feet into a required setback.
- (4) Above-grade surface equipment for the service of propane and other utility gasoline or oil shall be a minimum of ten (10) feet from any right-of-way.
- (5) When dedicated open space exists between a lot line and a public right-of-way, the open space may be used for the appropriate portion of the required setback.

- (6) Fences and screening, buffering, privacy, and retaining walls are exempt from these setback requirements.
- (7) Decks may encroach up to four (4) feet into a required side or rear setback.