

RESOLUTION NO. 2014-24

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY, COLORADO REGARDING MARIJUANA LAND USE DEVELOPMENTS AND SPECIFICALLY AMENDING SECTIONS 62-1, 82-2, 82-3, 82-4, 82-5, 82-7, 82-78, 82-81, 82-89, 82-91, 94-45, 106-111, 106-112, 106-115, 106-353, 106-373, AND 106-393 OF THE LA PLATA COUNTY LAND USE CODE; ADDING SECTIONS 82-209, 82-210, AND 82-211 IN A NEW DIVISION 6 WITHIN CHAPTER 82; AND DELETING CHAPTER 91 IN ITS ENTIRETY.

WHEREAS, pursuant to the Colorado 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");

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;

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;

WHEREAS, the Colorado 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;

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

WHEREAS, pursuant to Article XVIII, § 14 of the Colorado Constitution ("Amendment 20"), the use of medical marijuana by persons suffering from debilitating medical conditions is permitted;

WHEREAS, as authorized by Amendment 20, the State Legislature adopted the Colorado Medical Marijuana Code, C.R.S. §§ 12-43.3-101, *et seq.*, which authorizes local governments to regulate the cultivation, manufacture, distribution and sale of medical marijuana;

WHEREAS, on June 22, 2010, December 7, 2010, January 4, 2011, and June 14, 2011, the Board adopted Resolutions 2010-33, 2010-59, 2011-06, 2011-19, and 2011-20, respectively,

which approved and amended temporary medical marijuana land use regulations for optional premises cultivation operations, medical marijuana-infused products manufacturing facilities, and primary caregiver facilities, and banned the operation of medical marijuana centers within unincorporated portions of the County;

WHEREAS, on June 26, 2012, the Board adopted Resolution 2012-19 which approved permanent medical marijuana land use regulations for optional premises cultivation operations, medical marijuana-infused products manufacturing facilities, and primary caregiver facilities in a new Chapter 91 set forth in Subpart B of the Code;

WHEREAS, at the November 6, 2012, general election, the voters of the State of Colorado adopted Amendment 64 to the Colorado Constitution (“Amendment 64”), which is codified as Article XVIII, § 16 of the Colorado Constitution;

WHEREAS, Amendment 64 permits persons twenty-one years of age and older to possess, use, display, purchase or transport one ounce or less of marijuana, or marijuana accessories, to grow limited amounts of marijuana and manufacture and sell marijuana accessories;

WHEREAS, on August 27, 2013, the Board of County Commissioners adopted Ordinance No. O-2013-03 enacting a temporary ban on the submission, acceptance, or processing of applications and the licensing, permitting or operation of retail marijuana establishments described under Amendment 64 until December 31, 2014, or until such time as the Board duly adopts regulations by resolution or ordinance;

WHEREAS, on February 11, 2014, the Board adopted Resolution 2014-15 repealing Ordinance No. O-2013-03 in regard to the full or partial conversion of optional premises cultivation operations approved prior to December 31, 2013, to retail marijuana cultivation facilities, and Resolution 2014-12 which amended Chapter 91 to address existing medical marijuana facilities that received La Plata County land use approval that desire to convert their facilities to retail marijuana establishments in the future;

WHEREAS, the Planning Commission for the County held a duly noticed public hearing on May 8, 2014, and after receiving competent evidence at the hearing, made a recommendation to the Board to delete Chapter 91 in its entirety, to amend Sections 62-1, 82-2, 82-3, 82-4, 82-5, 82-7, 82-78, 82-81, 82-89, 82-91, 94-45, 106-111, 106-112, 106-115, 106-353, 106-373, and 106-393 of Subpart B of the Code, and to add Sections 82-209, 82-210, and 82-211 in a new Division 6 within Chapter 82 of Subpart B;

WHEREAS, the Board held a duly noticed public hearing on June 10, 2014, and heard testimony and received competent evidence that Chapter 91 should be delete in its entirety, Sections 62-1, 82-2, 82-3, 82-4, 82-5, 82-7, 82-78, 82-81, 82-89, 82-91, 94-45, 106-111, 106-112, 106-115, 106-353, 106-373, and 106-393 of Subpart B of the Code should be amended, and Sections 82-209, 82-210, and 82-211 should be added in a new Division 6 within Chapter 82 of Subpart B;

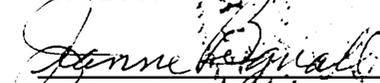
WHEREAS, the Board received competent evidence that it would be in the best interest of the general health, safety and welfare of La Plata County citizens to delete Chapter 91 in its entirety, to amend Sections 62-1, 82-2, 82-3, 82-4, 82-5, 82-7, 82-78, 82-81, 82-89, 82-91, 94-45, 106-111, 106-112, 106-115, 106-353, 106-373, and 106-393 of Subpart B of the Code, and to add Sections 82-209, 82-210, and 82-211 in a new Division 6 within Chapter 82 of Subpart B.

NOW THEREFORE, BASED UPON THE EVIDENCE AND TESTIMONY PRESENTED AT THE PUBLIC HEARINGS, BE IT RESOLVED BY THE LA PLATA COUNTY BOARD OF COUNTY COMMISSIONERS:

1. That the La Plata County Code shall be and is hereby amended as follows:
 - a. Chapter 91 is deleted in its entirety;
 - b. Sections 62-1, 82-2, 82-3, 82-4, 82-5, 82-7, 82-78, 82-81, 82-89, 82-91, 94-45, 106-111, 106-112, 106-115, 106-353, 106-373, and 106-393 are amended as set forth in the attached Exhibit A;
 - c. Sections 82-209, 82-210, and 82-211 are added in a new Division 6 within Chapter 82 as set forth in the attached Exhibit A.
2. All provisions of Resolutions Nos. 2010-33, 2010-59, 2011-06, 2011-19, 2011-20, 2012-19, 2014-12, and 2014-15 that conflict with this Resolution are hereby repealed.
3. 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 10th day of June, 2014.

ATTEST:


Clerk to the Board



BOARD OF COUNTY COMMISSIONERS OF
LA PLATA COUNTY, COLORADO


Julie Westendorff, Chair


Gwen Lachelt, Vice-Chair


Robert A. Lieb, Jr., Commissioner

EXHIBIT A

A. The following definitions shall be added to Sec. 62-1:

Accessory use means any vocational or non-vocational land use that is secondary to the use of the lot for residential purposes, except those uses for which a land use permit is not required pursuant to section 82-7.

Administrative development or *administrative use* means a development or use that requires an administrative land use permit.

Administrative application means an application for an administrative land use permit.

Class I development or *class I use* means a development or use that requires a class I land use permit.

Class I application means an application for a class I land use permit.

Class II development or *class II use* means a development or use that requires a class II land use permit.

Class II application means an application for a class II land use permit.

Marijuana means “marijuana” or “marihuana” as those terms are defined in Section 16(2)(f) of Article XVIII of the Colorado Constitution.

Marijuana facility means (a) a medical marijuana-infused products manufacturer or optional premises cultivation operation as those terms are defined in C.R.S. § 12-43.3-104; (b) a marijuana cultivation facility, marijuana product manufacturing facility, medical marijuana center, retail marijuana store, or marijuana testing facility as those terms are defined in Section 16(2) of Article XVIII of the Colorado Constitution; or (c) an off-premises storage facility pursuant to 1 CCR 212-1, Rule M 802 and 1 CCR 212-2, Rule R 802.

Medical marijuana means “medical marijuana” as the term is defined in C.R.S. 12-43.3-104(7).

Personal marijuana cultivation means (a) the growing, processing, or transporting medical marijuana for one’s own personal use or as a primary caregiver in the manner authorized by Section 14 of Article XVIII of the Colorado Constitution; or (b) the growing, processing, or transporting marijuana for one’s own personal use in the manner authorized by Section 16(3)(b) of Article XVIII of the Colorado Constitution.

B. The following definitions in Sec. 62-1 and Sec. 106-111 shall be amended as shown:

Sec. 62-1:

Home business. Amended into and replaced by *accessory use*.

Sec. 106-111:

Home occupation (class I). Amended into and replaced by *accessory use* in section 62-1.

Home occupation (class II). Amended into and replaced by *accessory use* in section 62-1.

C. The following division shall be added to Chapter 82:

DIVISION 6. MARIJUANA.

Sec. 82-209. Personal marijuana cultivation.

Personal marijuana cultivation shall only be permitted as either accessory uses subject to the standards and permitting requirements established in section 82-5 or as class II land uses subject to all applicable standards in subpart b of the La Plata County Code including the general standards imposed by section 82-210.

Sec. 82-210. Marijuana facilities general standards.

In addition to all applicable standards in subpart b of the La Plata County Code, all marijuana facilities shall meet the following general standards. If the general standards imposed by this section conflict with any other standards and cannot be read harmoniously with such standards, the general standards in this section shall control and apply.

- (1) *Odor*. No marijuana facility shall produce adverse or noxious odors detectable beyond the marijuana facility's property boundary.
- (2) *Visual*. Marijuana plants, products, and associated equipment identifying the use as a marijuana facility including, but not limited to all processing, packaging, and business transactions shall be kept from public view and shall not occur on any sidewalk, public street or right-of-way, or any other public place.
- (3) *Lighting*. All grow lights shall be screened to prevent nighttime leakage. Exterior lighting, when required, shall be placed in a manner to minimize offsite glare and visual impacts. Marijuana facilities do not have to comply with any exterior lighting standard that contradicts with industry standards required by the Marijuana Enforcement Division of the Colorado Department of Revenue or the Colorado Code of Regulations.
- (4) *Dwelling units*. No marijuana facility may be located within a dwelling unit or within a building that has any portion of it classified as residential under the La Plata County building code.
- (5) *Compliance with other laws and regulations*. A marijuana facility shall not be in violation of any applicable state or local laws or regulations.
- (6) *Proximity to other uses*. No marijuana facility shall be located within 1,000 feet from any of the following uses whether such uses are inside or outside the unincorporated boundaries of the county: (i) any public or private preschool or elementary, middle, junior high, or high school; (ii) the campus of any college, university, or seminary, or a residential child care facility; or (iii) a drug or alcohol treatment center. For purposes of this provision, the distance between the marijuana facility and neighboring land use shall be measured in a direct line between the closest point of the project boundary and the closest point on

the lot or parcel of neighboring land upon which any of the above referenced uses are located.

- (7) *Relationship to certain municipalities.* The proposed location of a marijuana facility shall not be within three (3) miles of the nearest incorporated portions of the towns of Bayfield or Ignacio. For purposes of this provision, the distance between the marijuana facility and towns of Bayfield or Ignacio shall be measured in a direct line between the closest point of the project boundary and the closest point on the closest lot or parcel incorporated in the towns of Ignacio or Bayfield.

Sec. 82-211. Marijuana facilities additional standards.

In addition to all applicable standards in subpart b of the La Plata County Code and the general standards established in section 82-210, marijuana facilities shall meet the following additional standards. If the additional standards imposed by this section conflict with any other standards and cannot be read harmoniously with such standards, the additional standards in this section shall control and apply.

- (1) *Medical marijuana-infused products manufacturer or marijuana product manufacturing facility.* A medical marijuana-infused products manufacturer as defined in C.R.S. § 12-43.3-104(10) or a marijuana product manufacturing facility as defined in Section 16(2)(j) of Article XVIII of the Colorado Constitution shall receive the appropriate retail food establishment license from San Juan Basin Health Department, if required by applicable law or regulation.
- (2) *Medical marijuana center or retail marijuana store.* A medical marijuana center as defined in Section 16(2)(m) of Article XVIII of the Colorado Constitution or a retail marijuana store as defined in Section 16(2)(n) of Article XVIII of the Colorado Constitution shall meet the following additional standards:
 - (a) *Hours of operation.*
 - (1) A medical marijuana center shall only be open to the public between the hours of 8:00 am and 7:00 pm.
 - (2) A retail marijuana store shall only be open to the public between the hours of 8:00 am to 8:00 pm.
- (3) *Optional premises cultivation operation or marijuana cultivation facility.*
 - (a) Reserved.
- (4) *Marijuana testing facility.*
 - (a) Reserved.
- (5) *Off-premises storage facility.*
 - (a) Reserved.

D. The following sections in Chapter 82 shall be amended as shown:

Sec. 82-2. Administrative land use permit.

Administrative land use permit required. An administrative land use permit shall be required for any one or more of the following developments:

- (1) Projects in the Business/Industrial Park Overlay District pursuant to section 106-534;
- (2) Second or third dwelling units on a lot pursuant to section 82-37(b);
- (3) Changes in land use from one previously permitted class I use to a different class I use, when the different use will not generate more or different impacts from the existing use, or increase the intensity of the class I use;
- (4) Changes in land use from one previously permitted class II use to a different class II use, when the different use will not generate more or different impacts from the existing use, or increase the intensity of the class II use;
- (5) A wildland fire remediation administrative permit pursuant to section 82-36 (No fee shall be charged for the permit);
- (6) Accessory uses pursuant to section 82-5(c); and
- (7) Telecommunications facilities pursuant to section 82-207(a)(1).

Sec. 82-3. Class I land use permit.

(a) *Class I land use permits required.* A class I land use permit shall be required for any one or more of the following developments:

- (1) Second or third dwelling units on a lot pursuant to section 82-37(c);
- (2) Duplexes;
- (3) Temporary uses;
- (4) Changes in land use from one class I use to a different class I use if the different use is likely to generate more or different impacts from the existing use, or increase the intensity of a class I use;
- (5) Family child care homes serving nine or more children, specialized group homes, and small child care centers as defined and regulated by the state department of human services;
- (6) Accessory uses pursuant to section 82-5(d); and
- (7) Telecommunications facilities pursuant to section 82-207(a)(2).

(b) *Requirements.* Requirements for a class I land use permit are as follows:

- (1) Procedure: Class I land use permit procedure pursuant to section 82-78(b);
- (2) Data requirements: General data requirements; and
- (3) Standards: Required and encouraged standards.

Sec. 82-4. Class II land use permit.

(a) *Class II land use permit required.* A class II land use permit shall be required for any one or more of the following developments:

- (1) Commercial development or redevelopment;
- (2) Industrial development or redevelopment;
- (3) Multifamily residential development;
- (4) Second, third, or additional dwelling units on a lot pursuant to section 82-37(d);
- (5) Mobile home parks;
- (6) Mixed use development;
- (7) Commercial storage or parking of equipment, machines, tools, products, raw materials, cars and/or trucks, including salvage/junk yards;
- (8) Large child care centers as defined and regulated by the state department of human services;
- (9) Gravel mining or mineral extraction operations;
- (10) Public facilities, including new road construction;
- (11) Airstrips;
- (12) Man camps;
- (13) Boardinghouses;
- (14) Group care facilities;
- (15) Recreational vehicle parks;
- (16) Commercial campgrounds;
- (17) Agriculture-related commercial and industrial operations for the processing or manufacturing of crops, forage or livestock including, but not limited to, dairies, poultry processing, meat packing plants, breweries and wineries;
- (18) Domestic utility extensions shall not require a class II permit unless a permit is required pursuant to section 82-8, the oil and gas regulations or article III of chapter 74 of this subpart B;
- (19) Similar uses;
- (20) A portion of a phased development;
- (21) Expansion of a nonconforming use;
- (22) Changes in land use from one previously permitted class II use to a different class II use, if the different use is likely to generate more or different impacts from the existing use, or increase in the intensity of a class II use;
- (23) Accessory uses pursuant to section 82-5(e);
- (24) Telecommunications facilities pursuant to section 82-207(a)(3); and

(25) Marijuana facilities.

(b) *Requirements.* Requirements for a class II land use permit are as follows:

- (1) Procedure: Class II land use permit procedure pursuant to section 82-78(c);
- (2) Data requirements: General data requirements; and
- (3) Standards: Required and encouraged standards.

Sec. 82-5. Accessory uses.

(a) *Accessory use general standards.* All accessory uses shall meet the following general standards:

- (1) Accessory uses shall be located on the same lot as a dwelling unit;
- (2) Accessory uses shall maintain the residential character of the dwelling unit, the lot, and the neighborhood;
- (3) Accessory use shall not store, transport on site, dispense, use, or handle hazardous materials in a manner requiring an operational permit pursuant to section 105.6.21 and table 105.6.21 of the International Fire Code, 2003 edition;
- (4) Accessory uses' light sources shall be shielded, directed downward, and directed away from the property boundaries;
- (5) Accessory uses shall not produce noise that causes more than a five (5) decibel increase from the ambient noise level as measured at the accessory use's property boundary;
- (6) Accessory uses shall not produce adverse or noxious odors detectable at the accessory use's property boundary;
- (7) Accessory uses shall not be in violation of any applicable state or local laws or regulations; and
- (8) The owner and/or operator of an accessory use shall be a resident of the dwelling unit.

(b) *Land use permit not required.* An accessory use shall not require review by the planning department or a land use permit if meeting the general standards in section 82-5(a) and the following additional standards:

- (1) The accessory use shall be limited to no more than four hundred (400) square feet, and shall only be located within the dwelling unit or an attached garage;
- (2) The accessory use shall not include any outside storage;
- (3) The accessory use shall not include employees, agents, assistants, or other individuals related to the normal operations of the accessory use that are not residents of the dwelling unit;
- (4) The accessory use shall not include any onsite sales to customers, classes, demonstrations, or any other visits by members of the public;
- (5) The accessory use shall not include any exterior signs, or interior signs visible from the exterior, which identify the accessory use;

- (6) The accessory use shall not increase traffic more than four (4) average daily trips above the levels normally attributable to the use of the lot for residential purposes; and
- (7) The accessory use shall not include storage of heavy equipment, and shall be limited to no more than one (1) two-axle business vehicle regularly parked on the lot.

(c) *Administrative land use permit.* An accessory use shall be permitted pursuant to an administrative land use permit if meeting the general standards in section 82-5(a) and the following additional standards:

- (1) The accessory use shall be limited to no more than eight hundred (800) square feet, and shall be located within the dwelling unit, an attached garage, a detached garage, and/or a single out-building;
- (2) The accessory use shall be limited to no more than five hundred (500) square feet of additional exterior storage, and such storage shall be screened;
- (3) The accessory use shall be limited to no more than one (1) employee, agent, assistant, or other individual related to the normal operations of the accessory use that is not a resident of the dwelling unit;
- (4) The accessory use shall not include any onsite sales to customers, classes, demonstrations, or any other visits by members of the public;
- (5) The accessory use shall not include any exterior signs, or interior signs visible from the exterior, which identify the accessory use;
- (6) The accessory use shall not increase traffic more than eight (8) average daily trips above the levels normally attributable to the use of the lot for residential purposes;
- (7) The accessory use shall not include storage of heavy equipment, and shall be limited to no more than one (1) two-axle business vehicle regularly parked on the lot; and
- (8) The accessory use shall meet all other standards in subpart b of the La Plata County Code applicable to administrative developments. If the standards imposed by this subsection (c) conflict with any other standards and cannot be read harmoniously with such standards, the standards in this subsection (c) shall control and apply.

(d) *Class I land use permit.* An accessory use shall be permitted pursuant to a class I land use permit if meeting the general standards in section 82-5(a) and the following additional standards:

- (1) The accessory use shall be limited to no more than twelve hundred (1,200) square feet, and shall be located within the dwelling unit, an attached garage, a detached garage, and/or a single out-building;
- (2) The accessory use shall be limited to no more than one thousand (1,000) square feet of additional exterior storage, and such storage shall be screened;

- (3) The accessory use shall be limited to no more than two (2) employees, agents, assistants, or other individuals related to the normal operations of the accessory use that are not residents of the dwelling unit;
 - (4) The accessory use shall be limited to incidental onsite sales to customers, classes, demonstrations, or other visits by members of the public, so long as such activities do not impermissibly increase the average daily trip limit pursuant to subsection (6) below;
 - (5) The accessory use shall be limited to no more than one (1) sign, and such sign shall be no more than four (4) square feet on each side;
 - (6) The accessory use shall not increase traffic more than twenty-four (24) average daily trips above the levels normally attributable to the use of the lot for residential purposes;
 - (7) The accessory use shall be limited to no more than two (2) business vehicles regularly parked on the lot, including heavy equipment; and
 - (8) The accessory use shall meet all other standards in subpart b of the La Plata County Code applicable to class I developments. If the standards imposed by this subsection (d) conflict with any other standards and cannot be read harmoniously with such standards, the standards in this subsection (d) shall control and apply.
- (e) *Class II land use permit.* An accessory use shall require a class II land use permit if not meeting the general applicable standards in section 82-5(a) and the additional standards in sections 82-5(b), (c), or (d). Accessory uses requiring a class II land use permit shall meet all standards in subpart b of the La Plata County Code applicable to class II developments.

Sec. 82-7. Development not requiring a land use permit.

- (a) The following developments do not require a land use permit, provided that the development meets all applicable standards in subpart b:
- (1) Single-family residences on a vacant legal lot of record;
 - (2) Placement of a mobile home on a lot or parcel on a vacant legal lot of record;
 - (3) Agricultural uses not subject to class II review;
 - (4) Barns, garages, and sheds intended solely for noncommercial use;
 - (5) Uncovered decks, fences, retaining walls, sidewalks;
 - (6) Parking a recreational vehicle in a recreational vehicle park;
 - (7) Seismic, stratigraphic test, core or other exploratory holes drilled for the purpose of obtaining geological information only;
 - (8) Change of use to a land use which does not require a permit;
 - (9) Second or third dwelling units on a lot pursuant to section 82-37(a);
 - (10) Accessory uses pursuant to section 82-5(b);

(11) Family child care home, as defined and regulated by the state department of human services, which serve eight or fewer children; and

(12)

(a) Provided that an administrative review establishes that the real property meets County Code requirements for (i) access, (ii) septic, and (iii) water, any parcel that meets the following criteria:

(1) The parcel was created between May 5, 1972 and December 31, 1979; and

(2) The parcel is located in a non-water critical area pursuant to Colorado Division of Water Resources standards in effect at the time of the administrative review or the parcel has a valid well permit or the parcel is served by central water;

shall not require further County subdivision approval, however, County review and approval will be required for all other purposes as set forth in the County Code.

(b) Provided that an administrative review establishes that the real property meets County Code requirements for (i) access, (ii) septic, and (iii) water, any parcel that meets the following criteria:

(1) The parcel was created between May 5, 1972 and October 2, 2000;

(2) The parcel has a single family dwelling which was built on or after January 1, 1986 and either has a valid building permit, or following inspection by the county building inspector, a valid building permit can be issued; and

(3) A valid well permit has been issued for the parcel or the parcel is served by central water;

shall not require further County subdivision approval, however, County review and approval will be required for all other purposes as set forth in the County Code.

(c) Provided that an administrative review establishes that the real property meets County Code requirements for (i) access, (ii) septic, and (iii) water, and provided a valid well permit has been issued for the real property, any parcel that has been created on or before October 2, 2000, by foreclosure by a financial institution or by court order shall not require further County subdivision approval, however, County review and approval will be required for all other purposes as set forth in the County Code.

(b) These activities will require a county building permit, where applicable.

Sec. 82-78. Procedures for land use permit applications.

(a) The procedures for administrative land use permits shall be as follows:

(1) Submittal of complete application by applicant;

(2) Determination by planning department; and

- (3) Potential call-up to the board pursuant to section 82-91.
- (b) The procedures for class I land use permits shall be as follows:
 - (1) Submittal of complete application by applicant;
 - (2) Review by planning department;
 - (3) Determination by planning commission; and
 - (4) Potential call-up to the board pursuant to section 82-91.
- (c) The procedures for class II land use permits, conceptual development plans and subdivision plats shall be as follows:
 - (1) Submittal of complete application by applicant;
 - (2) Review by planning department;
 - (3) Recommendation by planning commission; and
 - (4) Determination by the board.

Sec. 82-81. Director report; administrative review; class I projects, lot consolidations, minor exemption subdivisions and boundary adjustments.

- (a) Administrative review shall be subject to all procedures in this chapter, except sections 82-82, 82-83, 82-85, 82-88, 82-92(b),(d),(e) and (f), 82-93.
- (b) Class I projects and lot consolidations shall be subject to all of the procedures in this chapter, except sections 82-82, 82-83 and 82-95. Boundary adjustments and minor exemption subdivisions shall be subject to all of the procedures in this chapter except sections 82-82 and 82-83 . The director shall make a recommendation to approve, approve with conditions or deny the proposal. If the proposed development implements or has no effect on all relevant required standards and is allocated a net positive number of points for the encouraged standards, the director shall recommend approval of the proposed development. The director may attach conditions which are reasonably required or necessary to comply with the standards of this division. The results of this recommendation shall be referred to the planning commission for a public hearing. At the public hearing at which the project is presented to the planning commission, the planning commission may, by vote, approve, deny, approve with conditions, continue or remand the project to the planning director for additional review.
- (c) Where class I projects, lot consolidations, minor exemption subdivisions and boundary adjustments, and any other project or facility made eligible for this procedure by this division, meet or exceed all required standards, requirements, procedures and specifications, and which are recommended for approval, or approval with conditions, the planning director, or his designee, may, but shall not be so required, place such matters on a minor projects proposed consent planning public hearing agenda. The planning commission may approve such consent agenda with a single motion, or pull any such project off of the proposed consent agenda for project specific review, at that public hearing. Any commissioner, member of the public, applicant or county staff person may request such project specific review at the public hearing.

Sec. 82-89. Reserved.

Sec. 82-91. Call up procedure.

(a) *Administrative and Class I call up procedure.* The director and the planning commission's determination for administrative and class I applications, respectively, shall be subject to a call-up hearing before the board. Within twenty (20) calendar-days following the determination by the director or the planning commission, the applicant, a surrounding landowner entitled to receive mailed notice of the application pursuant to section 82-85, or an individual county commissioner may request review of the director or the planning commission's determination by submitting a written request to the planning department. Upon receipt of a request for a call-up hearing by the planning department, the director or planning commission's determination shall be reviewed no later than twenty (20) calendar days from the date of the planning department's receipt of such request. At the call-up hearing, the board shall conduct a de novo review of the administrative or class I application and may either continue the project, approve the project, conditionally approve the project, deny the project, or remand the project to the director or the planning commission for further consideration pursuant to the requirements and standards adopted in this subpart b.

(b) *Final action.* A determination by the director on administrative applications or by the planning commission on class I applications shall be deemed final after either:

- (1) The expiration of the twenty (20) day call-up period following the director or the planning commission's determination where there was no request to call-up the application to the board; or
- (2) If a call-up is requested, the board's final decision on the application, unless remanded to the director or the planning commission.

(c) *Plat or agreement execution.* After final action as defined by subsection (b) above, an associated plat or agreement shall be signed and dated by the Chair of the board and attested by the Clerk to the board, regardless of whether the project was called-up to the board.

(d) *Judicial appeals/ripeness.* As a prerequisite to seeking judicial review of a determination by the director on an administrative application or the planning commission on a class I application, consideration of the application must have been called up pursuant to subsection (a) above.

E. The following sections in Chapter 106 shall be amended as shown:

Sec. 106-112. Animas Valley Land Use Plan.

(a) *Use.* This article is to be used in conjunction with the Animas Valley Land Use Map.

(b) *Basic plan provisions.* The basic plan provisions are as follows:

- (1) Any preexisting, legal lot of record made nonconforming by this plan shall be entitled to one single-family residence, uses that are customarily secondary to a single-family residence, including accessory uses, and other developments that do not require a land use permit as described in section 82-7 and other applicable provisions of this Code.

- (2) Any preexisting dwelling unit made nonconforming in terms of density shall enjoy the right of replacement unless the entire site is being redeveloped, at which time the entire site shall be made to conform to the plan.
 - (3) Uses made legally nonconforming shall enjoy the right to regular maintenance, repair and to some extent replacement and expansion, as provided in subsection 82-20(4).
 - (4) No new subdivisions shall occur on steep slopes (30 percent or greater). One dwelling unit is permitted on any preexisting, legal lot of record lying on steep slopes. This subsection shall in no way supersede the county's geologic hazards map regulations.
 - (5) Accessory uses shall be allowed in all Animas Valley Land Use Plan Districts so long as meeting the standards established in section 82-5 and/or permitted pursuant to section 82-5.
- (c) *Plan amendment.* Amendments to the Animas Valley Land Use Plan shall generally follow the submittal and review requirements for class II projects. Public hearings shall be held before the planning commission and board of county commissioners. Notice of public hearings before the board of county commissioners shall be published not less than 14 days prior to the date of the public hearing in accordance with C.R.S. § 30-28-116, as amended from time to time.
- (d) *Special use permit.* Special use permits shall only be approved through the class II land use permit procedures.
- (e) *Conformance.* Applications for development which are not in conformance with the Animas Valley Land Use Plan shall not be accepted by the planning department. To be submitted, the plan must first be amended to allow for the intended use or density. The process for considering amendments to the plan shall be the full class II process, with a public hearing before the planning commission and the board of county commissioners.
- (f) *Notification.* Any project proposed by a special use permit shall require a notification of adjoining landowners within 1,000 feet of the subject site.

Sec. 106-115. Personal marijuana cultivation; marijuana facilities.

- (a) *Personal marijuana cultivation.* Personal marijuana cultivation shall only be permitted as either accessory uses subject to the standards and permitting requirements established in section 82-5 or as class II land uses subject to all applicable standards in subpart b of the La Plata County code including the general standards imposed by section 82-210.
- (b) *Marijuana facilities.* When proposed to be located in the Animas Valley Land Use Plan Area, marijuana facilities shall meet all applicable standards imposed by this article II as well as the general and additional standards imposed by sections 82-210 and 82-211. If the general and additional standards imposed by section 82-210 and 82-211 conflict with the applicable standards imposed by this article II and cannot be read harmoniously with such standards, the stricter standard shall control and apply.

Sec. 106-353. Uses permitted by special use permit.

Uses permitted by special use permit in the neighborhood commercial district include neighborhood-oriented businesses, public and quasi-public facilities, single-family residential, multifamily residential (up to six units per net acre), general and professional offices not to exceed 2,500 square feet, mini-storage facilities, bed and breakfasts of no more than six guestrooms, medical marijuana centers as defined in Section 16(2)(m) of Article XVIII of the Colorado Constitution, and retail marijuana stores as defined in Section 16(2)(n) of Article XVIII of the Colorado Constitution. Impervious coverage of a lot shall not exceed 50 percent. All outdoor storage shall be screened from view. New structures shall be designed, built and buffered to blend in with the rural and scenic character of the area. Intersections along public rights-of-way shall be consolidated and improved to a level commensurate with any approved development. Developments shall provide for adequate internal circulation between properties in order to facilitate the sharing of road intersections. Parking shall be as required in section 106-111 of this chapter. It is an objective of this plan to provide for high quality commercial development at locations so designated. Projects proposed within the neighborhood and general commercial districts should be designed in a comprehensive manner with regard to access, internal circulation, drainage, parking and landscaping. It is not the purpose of these commercial districts to promote small lot subdivisions that lead to a strip commercial development.

Sec. 106-373. Uses permitted by special use permit.

Uses permitted by special use permit in the general commercial district include low-intensity, tourist-oriented recreational uses, motels, restaurants, outdoor entertainment, professional office buildings, plant nurseries, sale of goods hand-produced or hand-assembled on site, neighborhood-oriented businesses, public and quasi-public facilities, and marijuana facilities as defined in section 62-1. In all cases, outdoor storage shall be screened, and lighting shall be minimal. Noise levels shall be maintained so as to minimize the nuisance for nearby residents. Intersections along public rights-of-way shall be consolidated where appropriate and improved to a level commensurate with any approved development. Developments shall be encouraged to provide for adequate internal circulation between properties in order to facilitate the sharing of road intersections. Parking shall be as required under section 106-111. It is an objective of this plan to provide for high quality commercial development at locations so designated. Projects proposed within the neighborhood and general commercial districts should be designed in a comprehensive manner with regard to access, internal circulation, drainage, parking and landscaping. It is not the purpose of these commercial districts to promote small lot subdivisions that lead to a strip commercial development.

Sec. 106-393. Uses permitted by special use permit.

Uses permitted by special use permit in the industrial district are sand and gravel operations, asphalt plants, public and quasi-public facilities, and marijuana facilities as defined in section 62-1. The location of sand and gravel type industrial properties indicated on the Animas Valley Land Use Plan Map are based on the permitted areas map provided by the state division of minerals and geology. If there is any question of land use map accuracy, the records of the state division of minerals and geology shall prevail.

F. The following sections in Chapter 94 shall be amended as shown:

Sec. 94-45. Application criteria.

(a) *Use of increments.* Increments shall correspond to actual uses either existing on a parcel or proposed. If a parcel contains multiple and/or differing uses, then the parcel may qualify for multiple and/or differing increments. The director shall approve applications based on the following:

- (1) *Residential increment.* Only one full residential increment shall be allowed per legal residential dwelling unit. If an application is for more than one residential increment on a single parcel, the water user may be required to provide land use permit or project numbers to demonstrate that the proposed or existing additional dwelling units or the proposed subdivision complies with the Subpart B of the County Code.
- (2) *Residential lawn and garden increment.* Only one full residential lawn and garden increment shall be allowed per residential increment or legal residential dwelling unit. If an application is for more than one residential lawn and garden increment on a single parcel, the water user may be required to provide a land use permit or project numbers to demonstrate that the proposed or existing additional dwelling units, or the proposed subdivision complies with the Subpart B of the County Code.
- (3) *Limited commercial increment.* Up to one limited commercial increment shall be allowed per current commercial Class II land use permit except that, pursuant to subsection 94-50(a), the board of county commissioners may approve a special exception allowing for multiple limited commercial increments per current Class II land use permit.
 - a. *Accessory Uses.* Limited commercial increments shall not be allowed for Class I accessory uses or accessory uses conducted without a land use permit pursuant to section 82-5 of the County Code, except that, pursuant to subsection 94-50(a), the board of county commissioners may approve a special exception allowing for up to one limited commercial increment per accessory use.
 - b. [Reserved.]
- (4) *Limited commercial lawn and garden increment.* Up to one limited commercial lawn and garden increment shall be allowed per limited commercial increment or current commercial Class II land use permit except that, pursuant to subsection 94-50(a), the board of county commissioners may approve a special exception allowing for multiple limited commercial lawn and garden increments per limited commercial increment or current commercial Class II land use permit.
- (5) *Agricultural irrigation increment.* Up to one agricultural irrigation increment shall be allowed per one acre dedicated exclusively to crop production.

- (6) *Domestic animal increment.* Only one full domestic animal increment shall be allowed per three acres except that the qualifying acreage does not need to be dedicated to animal husbandry.

G. Chapter 91 shall be deleted in its entirety.