RESOLUTION NO. 2014-20

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY, COLORADO, AMENDING SECTIONS 74-112, 74-113, 82-161, 82-165, 82-175, 82-178, 82-182 AND 102-107, OF THE LA PLATA COUNTY LAND USE CODE AND ADDING SECTION 82-203 TO THE LA PLATA COUNTY LAND USE CODE

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, the Planning Commission for the County held duly noticed public hearings on February 27, 2014 and March 13, 2014, and after receiving competent evidence at the hearings, made a recommendation to the Board to approve Project No. 2014-0043;

WHEREAS, the Board held a duly noticed public hearing on March 18, 2014 and April 1 and heard testimony and received competent evidence that the Code should be amended to modify Sections 74-112, 74-113, 82-161, 82-165, 82-175, 82-178, 82-182 and 102-107, and add 82-203 as set forth in the attached Exhibit A; 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 the Code to modify Sections 74-112, 74-113, 82-161, 82-165, 82-175, 82-178, 82-182 and 102-107, and add 82-203 as set forth in the attached Exhibit A.

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 to amended to modify Sections 74-112, 74-113, 82-161, 82-165, 82-175, 82-178, 82-182 and 102-107, and add 82-203 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 on date of its adoption.

DONE AND ADOPTED IN DURANGO, LA PLATA COUNTY, COLORADO, this 1st day of April, 2014.

BOARD OF COUNTY COMMISSIONERS OF
LA PLATA COUNTY, COLORADO

ATTEST:

Clerk to the Board

Julie Westendorff, Chair

Gwen Lachelt, Vice-Chair

Robert A. Lieb, Jr., Commissioner

EXHIBIT A

Sec. 74-112. Drainage Study Minimum Requirements.

The project engineer shall conduct a drainage study of an area to be developed and adjacent areas that affect the development in accordance with *Urban Drainage and Flood Control District Criteria Manuals, Denver, CO* unless waived by the Public Works Director. Lot split subdivisions shall be exempt from drainage studies. The results of such study shall be presented in a drainage plan. The report shall implement the design and construction of drainage facilities necessary for the development and be as prescribed in the drainage format, shown in the latter part of this *division 4*; and the drainage plan shall be as shown in the preliminary plat submittal section of this *subpart B*.

(a) *Offsite flows.* The study shall describe the effect of offsite flows on the proposed development and how they are affected by the development. The study shall also identify what control measures will be necessary for their proper conveyance.

(b) *Onsite flows.* Both historic and developed onsite flows must be provided. The study shall define the system that will convey the onsite flows throughout the development and how they will be dispersed offsite via pipes, inlets, channels, etc. No development shall occur within the 100-year floodplain; unless it conforms to La Plata County's currently adopted floodplain regulations.

(c) *Onsite detention.* Onsite detention or retention facilities shall be provided and must store the difference between the 100-year historic and developed storm runoff; and shall limit the rate of runoff from the site to the 100-year historic flow rate.

(d) *Interior storm drain system.* The ten (10) year storm event shall be the criteria for the design of the interior drain system of a subdivision; and the criteria for the design of cross culverts and bridges of major drainways must accommodate the 100-year storm frequency.

(e) *Erosion control.* The prevention of soil erosion and transport of sediments during construction is of paramount importance. Carefully thought out procedures and methods implemented into a well laid out plan shall provide the controls necessary to accomplish the above. The plan must be compiled on a 24-inch by 36-inch plan drawing sheet. It shall define the measures to be implemented during construction of the project, and notes prescribing the scheduling and implementation of these measures shall be shown on the plan drawing. The plan must include streets, drainage appurtenances, over-lot grading, etc.

Sec. 74-113. Methodology.

(a) *Rainfall and runoff analysis.* The analysis of storm runoff shall be based upon *Urban Drainage and Flood Control District Criteria Manuals*, Denver, CO, and rainfall data

taken from the National Oceanic and Atmospheric Administration. (U.S. Department of Commerce) (NOAA) Atlas 2, *Precipitation - Frequency Atlas of the Western United States, Volume III - Colorado*. For developments less than 200 acres, the Rational Method shall be used for determining the quantity of storm runoff. For developments greater than 200 acres, the methodology outlines in the SCS Technical Release No. 55 or Technical Release No. 20 shall be used for determining the quantity of storm runoff.

(b) *Storage (detention/retention).* Volumes for detention facilities can be determined from the criteria found in the *Urban Drainage and Flood Control District Criteria Manual Volume 3, Best Management Practices; and such Volumes shall be determined to be minimum requirements*. Other methods may be applied in determining storage/detention facilities upon approval by the Public Works Director.

(c) *Storage release mechanism.* The release mechanism from retention/detention ponds shall accommodate recurrence intervals of ten (10) year and 100-year storms by utilizing a structure which employs both orifice and weir flow control. Other methods of release can be specified as approved by the Public Works Director.

Sec. 82-161. Access and Roads.

(d) *Pedestrian circulation.* Developments are required to provide internal pedestrian circulation facilities. Where improved sidewalks or walkways exist adjacent to a project, and along the right-of-way, the project shall connect with sidewalks or walkways of equal or greater quality. Such facilities shall extend along property frontage for the entire distance of a lot or project.

Sec. 82-165. Buffering.

(a) *General requirements*. Buffering is required between development of different intensities and uses when necessary to achieve compatibility or when the development creates noise, glare, traffic, dust, unsightly views or other negative external effects perceptible off the site.

(b) *Requirements for all development*. All development shall meet the following requirements:

(1) Storage and service areas used for storage, loading/unloading and refuse shall be oriented away from adjacent development to the maximum extent feasible. Storage and service areas shall be screened from view from adjacent development by providing opaque barriers, or by using architectural or landscaping treatments which reduce adverse impacts. In addition, service areas shall be designed to minimize noise, vibration, and odors to adjacent development.

(2) Lighting shall comply with the following standards:

a. The maximum pole height shall be: 20 feet in height within 50 feet of a lot boundary; 25 feet in height within 50 to 150 feet of a lot boundary; and 30 feet in height in all other locations; and

b. Light sources shall be shielded and directed away from the lot boundary.

(3) An increased setback shall be used where appropriate to achieve buffering of the use. A change in the location of the use on the site may allow a use to be moved behind a topographic barrier, such as over a hill. In addition, an increased setback, even on a flat site, may provide sufficient distance to lessen noise and other impacts from the site.

(4) If mitigation requirements identified in this subsection conflict with an outside agency's requirement/s, alternative measures may be developed.

(5) Ongoing maintenance shall occur for all required landscaping, including the replacement of dead or unhealthy plantings. Landscaping shall be maintained by the property owner or other legal entity responsible for such plant materials as required and/or approved.

(c) *Requirements for development adjacent to single family residential uses and vacant lots.* Development located on a property adjacent to a lot with an existing residential dwelling unit, or vacant lot, shall comply with the requirements of this subsection (b). A property is considered adjacent even if separated by an alley or road right-of-way

(1) An opaque wall, fence or similar screening with a minimum height of four (4) feet and a maximum height of eight (8) feet shall be provided to screen nonresidential, mixed-use, and multi-family uses from the residential property, or residential dwelling unit. Such screening alternatives may be approved by the director to meet this requirement, including but not limited to, berms or landscaping. The screening material shall be designed to absorb or block sound. This screening requirement shall not apply to front or street-side yards. An increased setback may be required in addition to any screening.

(2) For structures located on a property adjacent to a lot containing an existing dwelling unit or vacant lot, the following standards shall apply:

a. The maximum structure height shall not exceed 30 feet within 25 feet of the lot line abutting a lot containing a dwelling unit or vacant lot. Structures may develop to the maximum height permitted, for those portions of the structure 25 feet or more from a lot with a dwelling unit or vacant lot;

b. The development's structures shall be oriented so as to reduce views into an existing dwelling unit; and

c. Balconies shall be oriented away from the dwelling unit on the adjacent lot(s) or use a screening device to reduce views into the rear or side yards of residential lot(s).

(3) Parking areas or areas with noise and outdoor lighting features (e.g., outdoor patio for restaurant), shall be screened from existing dwelling units by any combination of a wall, fence, and/or landscaping creating an opaque, screened condition. Chain-link fences, and unfinished side, or rough side of fabricated fences must be oriented away from adjacent properties or covered by vegetation.

(4) Nonresidential uses with outdoor components (e.g., outdoor dining, performance venues) located adjacent to a lot with an existing dwelling unit, or vacant lot, shall cease outdoor activities by 9:00 p.m.. Loading or unloading activities shall take place between the hours of 7:00 a.m. and 8:00 p.m.

(d) *Requirements for all other developments*. Development that is not located on a property adjacent to a lot with an existing residential dwelling unit or vacant lot shall comply with the standards in this subsection (c). Buffering shall be accomplished through use of a fence, a planted berm, a landscaped area, an increased setback, or a combination of these techniques.

(1) Fences shall be opaque, non-reflective, and at least six (6) feet, but not more than ten (10) feet high.

(2) Landscaped berms shall be at least two feet high and appear natural. Berms shall have a gentle transition to surrounding grade. Berms should not exceed a 3:1 side slope. Berms shall be seeded and planted with tree clusters. Tree clusters shall consist of three (3) or more trees. Evergreens shall be at least six (6) feet in height; deciduous trees shall be a minimum two-inch caliper; and fruit trees shall be a minimum 1.75-inch caliper. Tree plantings shall consist of at least 50 % evergreens, in order to accomplish year-round buffering.

(3) Landscaped areas shall be of sufficient intensity and width to buffer the use. This will require significant numbers of trees and shrubs, and may be wholly or partly accomplished by the retention of existing vegetation on the site. The use of minimal cosmetic planting strips shall not be deemed sufficient to accomplish buffering.

(4) The use of trees or landscaping shall require assurances that these plantings will survive. This obligates the developer to design the buffer to ensure this, and may

include an irrigation requirement to accomplish this. A performance guarantee will be required for one (1) year from the time of installation to guarantee the establishment of the vegetation. The planning staff has the option to waive the performance guarantee if a permanent irrigation system is in place or installed. Species which are currently known to survive in the county are required. These include species as recognized to be locally appropriate by the Association of Landscape Contractors.

Sec. 82-175. Parking.

(a) *Parking plans.* A scaled parking plan shall be submitted and depict the following:

(1) The location and names of buildings, structures, and/or land uses for which the parking spaces shall serve;

(2) General drainage direction and location of detention/retention facilities;

(3) Location of proposed landscaping within and adjacent to parking area;

(4) Vehicular and pedestrian circulation patterns;

(5) Loading/unloading area(s);

(6) Number of parking spaces, stall dimensions, and aisle widths; and

(7) Surface material type.

(b) *Parking space requirements.* All developments are required to provide off-street parking as set forth in this subsection. The parking area shall be on-site with the development, or no more than 800 feet off-site, as measured along a designed walkway or designated path or roadway. Parking shall be designed so that backing into the public right-of-way is not necessary for all uses other than single family residential.

Single-family residential: 2 spaces/dwelling unit.

Multifamily residential (apartments, condos, townhomes, etc.):

Studio and one bedroom: 1.5 spaces/dwelling unit.

Two bedrooms and larger: 2 spaces/dwelling unit.

Hotels/motels/boardinghouses/resorts: 1 space/room or unit plus 1 space/employee; adequate loading area.

Churches, funeral homes, clubs, places of assembly: 1 space/four (4) seats in main assembly room.

Dancehall, skating rink, or similar amusement enterprise: 1 space/100 square feet of floor area.

Bowling alley: 1 space/200 square feet of floor area.

Retail stores (freestanding): 1 space/300 square feet of floor area; adequate loading area.

Shopping center: 1 space/200 square feet of floor area; adequate loading area.

Banks and offices: 1 space/300 square feet of floor area; adequate loading area.

Medical and dental offices: 1 space/200 square feet.

Restaurants (sit-down) and taverns: 1 space/100 square feet of floor area; adequate loading area.

Restaurants (fast food or drive-in): 1 space/66 square feet of floor area; adequate loading area.

Service shop: 1 space/250 square feet of floor area.

Industrial and wholesale: 1 space/employee; adequate loading area.

Other uses: As determined by the director in accordance with available information.

Waiver: Waivers from the above requirements may be considered along with a parking study review performed by a Colorado-licensed engineer, and submitted by the applicant. The director may grant such waiver in writing, if he or she determines that the study demonstrates sufficient parking for the proposed use.

(c) *Stall dimensions.* Each standard parking space shall be a minimum of nine (9) feet by eighteen (18) feet. Compact car parking spaces may account for up to twenty (20) % of the required spaces, and shall be a minimum of eight (8) feet by 15 feet. Accessible parking dimensions and design shall be provided in accordance with Americans with Disabilities Act, 43 USC 12101, et seq., and the Fair Housing Act, 43 USC 12101, *et seq*.

(d) *Loading/unloading areas.* The standards in this subsection shall apply to loading/unloading areas.

(1) Loading and unloading shall not be allowed on county roads unless a revocable right-of-way permit is issued by the Public Works Director. The county may require special improvements be made to the right-of-way and road agreements

made. In no case shall traffic be blocked or a safety hazard created;

(2) Loading areas shall be clearly marked to exclude parking and have safe access to public streets or alleys. The minimum dimensions of an off-street loading space shall be 12 feet wide by 40 feet long and a minimum vertical clearance of 14 feet; and be designed with a minimum maneuvering aisle width of 40 feet; and

(3) Site plans for proposed business, commercial or industrial uses shall include on-site loading/unloading areas.

(4) Public street parking spaces shall not be used for permanent loading and/or unloading areas.

(e) *Design of parking areas.* Parking spaces accommodating ten (10) or more vehicles shall have continuous, as opposed to dead-end, circulation patterns, include adequate drainage (a minimum of 1% and a maximum of 5% slope), have safe ingress/egress to a public street, and be adequately lighted if intended for night use.

(f) *Surfacing of parking areas.* All internal driving surfaces and parking areas accommodating ten (10) or more vehicles shall be surfaced with all-weather material, such as concrete, asphalt, or other similar surface approved by the director. However, the director may grant a written request to allow alternative surface material for parking areas, provided a licensed engineer can demonstrate the surface adequately serves the intended use of the parking area without adversely impacting the subject site or adjacent properties. Gravel surfaces, including surfaces treated with dust retardants, may only be permitted when air and water quality mitigation measures are sufficiently demonstrated.

(g) *Landscaping standards.* Landscaping for parking lots (a minimum of 10 spaces) shall be provided as follows:

(1) A minimum of one (1) tree (generally planted in tree islands or a landscaped buffer) shall be planted for every ten (10) parking spaces and shall be located within the parking area/lot. The number of spaces shall be rounded up for purposes of calculating the number of required trees (e.g., 25 spaces = 3 trees);

(2) Tree islands should be installed intermittently and have a minimum length of four (4) feet from the end of the designed parking space. At a minimum, no more than ten (10) consecutive spaces shall be proposed without a tree island, and at a minimum of five (5) feet in width for each island, to provide sufficient area to protect plantings from vehicles and foot traffic, and to accommodate a tree root system with a clear, unencumbered land/planting area;

(3) Parking lots fronting a public street shall provide an eight (8) foot wide landscaped buffer and provide a vegetative screen at least 3.5 feet tall;

(4) A five (5) foot wide landscaped buffer is required around the perimeter of all parking lots; and

(5) A waiver to the parking lot landscaping requirements in this subsection may be granted by the director if the applicant demonstrates alternative buffering and stormwater mitigation measures, and consolidated tree island areas.

(h) *Bicycle Parking Facilities.*

(1) Bicycle parking facilities (e.g., racks, boxes, etc.) are required for all proposed uses likely to generate significant short-term bicycle demand (e.g., shoppers or visitors) and/or long-term bicycle demand (e.g. employees), as determined by the director. Uses that do not generate bicycle demand are not required to provide bicycle parking facilities;

(2) Four (4) bicycle parking spaces may be used to substitute one (1) required standard vehicular parking space; a maximum of 10% reduction in standard vehicular spaces may be applied to required parking areas; and

(3) When bicycle parking facilities are provided, the following standards shall apply:

a. A minimum of two (2) bicycle parking spaces shall be provided;

b. The facilities shall be of sound construction and properly anchored to the ground;

c. The facilities shall not impede vehicular or pedestrian access; and

d. The facilities shall be located within 50 feet of the building's primary entrance.

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 be considered a public nuisance.

(b) *Setbacks; Administrative and Class I developments.* The following minimum setbacks shall apply to all structures within developments that are approved by way of Administrative and Class I processes.

(1) Front setback 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 and/or board of county commissioners shall review the adequacy of the proposed setbacks using the setback criteria. If the 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, unsightly equipment or other external effects which can reasonably disturb neighbors may require alternative setbacks;

(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 roadways;

(7) Adequate visibility of traffic from driveways and intersections;

(8) Meeting building code requirements; and

(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; and

(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.

Sec. 82-182. Utilities and services.

(a) *Connection to existing systems.* Development within 400 feet, measured from the lot line to any existing central water and/or sewer system's facilities, shall be connected to such central system, unless the existing system's owner certifies in writing that sufficient capacity to serve the proposed development is not available; or that it is not feasible to make such connection.

(b) *Undergrounding.* New utilities extended to a development shall be placed underground.

(c) *Minimum services required.* All developments, except temporary uses, shall have adequate water, sewer and access. Temporary uses shall provide these services as necessary and demonstrated to serve the proposed use.

Sec. 102-107. Utilities and services.

(a) *Connection to existing systems.* Development within 400 feet, measured from the lot line to any existing central water and/or sewer system's facilities, shall be connected to such central system, unless the existing system's owner certifies in writing that sufficient capacity to serve the proposed development is not available; or that it is not feasible to make such connection.

(b) *Utilities to lot lines.* If electric and telephone service are to be provided to a subdivision, such services shall be installed to the lot line of each individual lot within the subdivision.

(c) *Utilities placed underground.* All utilities provided to a subdivision shall be placed underground within a legally established easement, except for residential lots of greater than ten (10) acres, or in areas where the topography or subsurface conditions render this impossible.

(d) *Plans for common water and sewer.*

(1) *State and federal agencies.* If a common water and/or sewer system is proposed, all detailed plans and specifications for such a system shall be prepared by a registered professional engineer, licensed by the state of Colorado and submitted to the state department of health and/or division of water resources.

(2) *Engineer's certification for common/central sewage system.* A written certification by a State of Colorado registered, professional engineer, certifying the adequacy and safety of the sewage disposal system proposed for a subdivision including, but not limited to, the adequacy of the proposed system in relation to the topography of the subdivision, the proposed population density, soil conditions, and watersheds located on or draining into or over the proposed subdivision. This certification shall appear on both the final plat and the detailed plans and specifications of the sewer system.

(3) *Engineer's certification for common/central water system.* A written certification by a State of Colorado registered, professional licensed engineer certifying the adequacy and safety of the domestic water source intended to be used for the subdivision and that the plans for domestic water supply meets county, state and federal standards. If the water system is proposed to be a public system, a written opinion on the feasibility for the proposed system is required from the state division of water resources.

(e) *Individual wells.*

(1) Proposed subdivisions of 25 or more lots, or tracts of less than three (3) acres, a public/community or a private central/community system is required.

(2) Easements with proper accommodations for distribution facilities and maintenance shall be provided for shared private wells. An agreement between appropriate parties shall be provided specifying the rights and responsibilities of all parties holding interest in the well.

DIVISION 4. VESTED RIGHTS, TRANSITIONAL AREA WAIVERS, CONDITIONS AND REQUIREMENTS.

Sec. 82-203. Transitional area waivers.

(a) *General.* The director may waive any standards within this subpart b pursuant to the process and requirements of this section.

(b) *Submittal requirements.* To obtain a waiver, an applicant must submit a written request to the planning department that includes the following:

(1) Identification of the standards(s) which a waiver is sought and the standard(s) of the adjacent municipality that are in conflict or are not harmonious; and

(2) A letter executed by the adjacent municipality that signifies: (i) its intent to negotiate an implied consent agreement or other form of agreement with the applicant; (ii) its willingness and capacity to provide municipal services or facilities to the applicant.

(c) *Determination.* The director may grant the waiver to the specific standard(s) if the submittal requirements identified in subsection (b) of this section are satisfied and he or she finds that the standard(s) are in conflict or are not harmonious with the standard(s) of the adjacent municipality. Notice of the director's determination shall be provided in writing and include identification of the standard(s) that are