

RESOLUTION NO. 2013-36

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY, COLORADO, AMENDING: SUBSECTION 82-9(g) OF THE LA PLATA COUNTY LAND USE CODE TO CLARIFY THE STATE STATUTORY CITATION; SECTION 82-2 OF THE LA PLATA COUNTY CODE TO CLARIFY AN ADMINISTRATIVE ERROR; AND SUBSECTIONS 82-3(a)(5) AND 82-7(a)(11) OF THE LA PLATA COUNTY CODE TO PROVIDE CONSISTENCY WITH STATE DEPARTMENT OF HUMAN SERVICES TERMS

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, on September 21, 2010, the Board approved Resolution No. 2010-48, which amended Section 82-9 of the Code;

WHEREAS, it was recently discovered that Subsection 82-9(g) incorrectly references C.R.S. § 30-28-110(c), instead of C.R.S. § 30-28-110(1)(c);

WHEREAS, the Board of County Commissioners previously approved Resolution No. 2013-07, which amended Sections 82-2, 82-4, 82-15, and 82-201 of the Code and Resolution No. 2013-29, which, in part, administratively amended 82-2 of the Code;

WHEREAS, due to an administrative oversight, the approval of Resolution No. 2013-29 did not incorporate the amendments to Section 82-2 of the Code that were previously approved in Resolution No. 2013-07;

WHEREAS, terms used in Subsections 82-3(a)(5) and 82-7(a)(11) of the Code were recently amended in C.R.S. § 26-6-102 and 12 CCR § 2509-8-7.701;

WHEREAS, the purpose of this Resolution is to fix the oversight and incorporate the changes to Section 82-2 of the Code that were previously approved in Resolution No. 2013-07 and Resolution No. 2013-29, revise the statutory citation in Section 82-9(g) of the Code, and update the terms provided in Subsections 82-3(a)(5) and 82-7(a)(11) of the Code;

WHEREAS, the Planning Commission for the County held a duly noticed public hearing on October 10, 2013, and after receiving competent evidence at the hearing, made a recommendation to the Board to approve Project No. 2013-0281;

WHEREAS, the Board held a duly noticed public hearing on November 5, 2013 and heard testimony and received competent evidence that Section 82-2 and Subsections 82-9(g), 82-3(a)(5) and 82-7(a)(11) of the Code should be amended 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 Section 82-2 and Subsections 82-9(g), 82-3(a)(5) and 82-7(a)(11) of the Code 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:

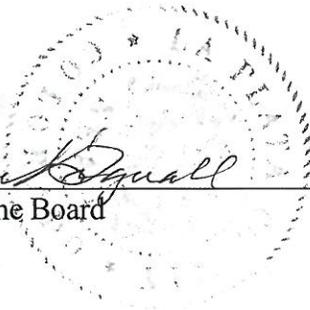
1. That Section 82-2 and Subsections 82-9(g), 82-3(a)(5) and 82-7(a)(11) of the La Plata County Code shall be and are hereby amended as set forth in the attached Exhibit A.
2. The enactment of this Resolution is necessary for the immediate preservation of public health, safety and welfare and, therefore, this Resolution shall take effect on date of its adoption.

DONE AND ADOPTED IN DURANGO, LA PLATA COUNTY, COLORADO, this 5th day
of November, 2013.

BOARD OF COUNTY COMMISSIONERS OF
LA PLATA COUNTY, COLORADO

ATTEST:


Clerk to the Board




Robert A. Lieb, Jr., Chair


Julie Westendorff, Vice-Chair


Gwen Lachelt, Commissioner

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EXHIBIT A

Sec. 82-2(3) 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.

§82-3(a)(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.

§82-7 (a)(11) Family child care homes, as defined and regulated by the state department of human services, which serve eight or fewer children.

Sec. 82-9(g) *Appeal and notification of decision.* The planning commission's decision may be appealed pursuant to C.R.S. §30-28-110 (1) (c). In the event the planning commission's decision is overruled by the body or official having jurisdiction as provided in C.R.S. §30-28-110 (1) (c), the applicant shall notify the planning department in writing of such final decision, and any conditions related thereto, no later than 14 business days after the decision is made.