

**Planning And Zoning Commission  
Agenda  
January 9, 2024 6:30 p.m.  
420 Central Ave Dolores Co. 81323  
Or Virtually by The Link Below:**

Join Zoom Meeting  
<https://zoom.us/j/92252992315>

Meeting ID: 922 5299 2315

One tap mobile

+16699006833,,92252992315# US (San Jose)

+12532158782,,92252992315# US (Tacoma)

1. Call To Order
2. Pledge Of Allegiance
3. Roll Call
4. Identification Of Actual or Perceived Conflicts of Interest.
5. Public Participation 5 minutes per person.
6. Approval of the Agenda
7. Consent Agenda
  - 7.1 Minutes of the December 5, 2023  
Attachment, Attorney Kelly's presentation to Commissioners; excerpts from Articles 2, 7 and 13 of the 2022 Dolores Land Use Code.
8. Appointment of Offices: Motion and second needed.
  - 8.1 Chairperson, Vice Chairperson, Secretary.
  - 8.2 Commission terms reviewed.  
Chairperson Robinson Term expires 5/7/24, Vice Chairperson Heeney Term expires 5/7/2024, Commissioner Tucker Term expires 4/2/2024, Commissioner Powell term expires 4/2/2024. The newly vacant term, when filled, expires 5/6/2025. Committee members renewing in 2024 will serve 2-year terms.  
Attachment Municipal Code 2.08.Planning and Zoning Commission. (Ord 341 1986)
9. Staff Reports
  - 9.1. Manager Ruud – verbal update on recent administrative activities, Attachment December Report to the Board of Trustees
  - 9.2. Attorney Kelly

9.3. Building Official Doudy – attachment December report to the Board of Trustees

10. Commissioner Updates.

10.1 Chairperson Robinson report to the Board of Trustees December 11, 2023, attached.

11. Discussion:

**11.1. Discuss Section 13.23 of the Land Use Code specifically subsection 13.23 B. (c). Applicability and Section 2.7 Flood Hazard Definitions – substantial improvement .**

Attached – excerpts from the Land Use Code related to these items.

**11.2. Discussion of other topics that are of interest of the Planning and Zoning Commission such as:**

- Potential Historic District,
- Weed plan and compliance,
- Watershed Management Plan
- Trails and Mobility Plan revisited.

12. Future Agenda Items: continue with the analysis of the Comprehensive Plan contents.

13. Adjournment

**Planning And Zoning Commission  
Minutes  
December 5, 2023 6:30 p.m.  
420 Central Ave Dolores Co. 81323  
Or Virtually by The Link Below:**

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1. Call To Order. Chairperson Robinson called the meeting to order at 6:33 p.m.
2. Pledge Of Allegiance. The pledge was recited by the group.
3. Roll Call. Present at the meeting were Chairperson Robinson, Commissioner Tucker, Ex Officio Youngquist and Lewis, Staff members Attorney Kelly, Building Official Doudy, Manager Ruud and Assistant Clerk Swope. Commissioner Heeney arrived later at 6:55 p.m. Absent was Commissioner Powell.
4. Identification Of Actual or Perceived Conflicts of Interest. None submitted.
5. Public Participation 5 minutes per person.  
Many community members attended the meeting in person and on-line. Those that signed up to speak are listed here as well as others who asked questions throughout the meeting.  
Melissa Watters, a town resident, appealed to the commissioners to put the interest of the residents of the town first. Also, Watters requested the commission and the staff to make the necessary interpretations of the Land Use Code that support the purpose statement regarding the maintenance of the small-town character of Dolores in favor of the interests of the citizens of the town. She asked the commission and the staff to reiterate to developers and others that believe that the Land Use Code should “be solely to benefit economic development but that it was deliberately and carefully written to balance the interest of residents, developers and businesses in town while still striving to protect the visual aesthetics.” Watters included a request for the commissioners and staff to investigate signage in town for proper usage, lighting, and permitting. She says some people do not know that enforcement is complaint driven or what the requirements for compliance are. She encourages the town to not depend on complaint driven enforcement but to look for noncompliance and address it.  
Sheila Wheeler spoke of the decisions made by the town that negatively affect housing affordability, joblessness, homelessness, and the trend of gentrification. She thinks the town is doing more for the municipality than the citizens by following the rules of the state. Sheila feels like the town decision makers are creating rules that keep the “riff raff” out. In Sheila’s mind the cost of an affordable house of \$350 thousand is not affordable. She thinks politicians create conditions in the market so they can profit from other’s losses. Sheila asked the Commissioners to rethink how their decisions affect our residents and our businesses.

Jamie Stephens asked a question about the pamphlet that was sent out last month regarding the 2 year wait to sell property after the homeowner installed electric or plumbing in their home. (The question was answered later in the meeting when the Building Official was reporting to the Commission in item 8 C.)

Chris Curry made a statement from his Zoom connection. He was curious about the comment in the November minutes regarding publication and adoption dates of the Land Use Code. He also encouraged the town government to equalize regulation and apply enforcement consistently.

6. Approval of the Agenda (at 6:58 p.m.)

Commissioner Tucker moved and Commissioner Heeney seconded to approve the agenda.

Yes: All

No: none

7. Consent Agenda

7.1 Minutes of the November 7, 2023

7.2 Reschedule January 2, 2024 meeting to January 9, 2024 or some other January date TBD.

Commissioner Heeney moved and Commissioner Tucker seconded to approve the consent agenda containing the November 7, 2023 minutes and the January 2, 2024 meeting date change to January 9, 2024.

Yes: All

No: none

8. Staff Updates.

**A. Manager Ruud – verbal update on recent administrative activities or direction from the BOT.**  
*Attachments - Manager Report to the Board November 13, 2023, Public notice of Planning Commission vacancy.*

In addition to the submitted report Manager Ruud updated the Commission on advertising the Request for Proposals for the 19<sup>th</sup> street affordable housing project. He has received direction from the Board of Trustees to advertise it within the month. He has made a tentative arrangement for services from S E H for assistance with the Comprehensive Plan update. Has filed a letter of intent to the State of Colorado for a local planning capacity grant. It can't be used for consulting services but it can be used for the 19<sup>th</sup> Street project and other "Prop123" efforts. The public can see the information about the proposed 19<sup>th</sup> Street housing project on the town website in the Projects tab.

**B. Attorney Kelly - verbal report about Ordinance 567 amending Short Term Rental permit calculations etc. Information about direction to the Commission regarding reviewing the 10% trigger point for redevelopment of commercial properties. No attachments.**

Attorney Kelly reviewed the proposed ordinance for amending the percentage of short-term rental permits. The Board of Trustees reviewed the ordinance as prescribed and agreed to change the percentage of available housing from 7% to 4% which would reduce the number of permits from 22 to 15. The ordinance is going to the second reading public hearing at the next board meeting. The new percentage will not affect any existing permits unless the permit expires or is withdrawn or revoked so the permit inventory will be reduced by attrition. The

ordinance has a proposed fee increase to \$250 annually.

**C. Building Official Doudy – update on new Short Term Rental Permit applications, building permits, and ongoing new Town Hall renovations.**

*attachments: Building Official's Report to the Board of Trustees, Nov 13, 2023*

Building Official Doudy informed the Commission that since discussions about Short-Term Rental permit limits have started the office had received several applications and have had several applications picked up. The existing 7% limit will allow the total to be 23 once the Hillside Avenue townhome project is completed. The town cannot refuse any applications that are submitted until the ordinance reducing the percentage of available housing is adopted and published. So far the number of approved permits and pending permits is 22.

9. Commissioner Updates.

9.1 Chairperson Robinson – **Reviewing the LUC for additional issues within the code including the publishing component of adoption date and amendment dates included as footnotes on the pages and on the title page, and those pertaining to communication and interaction between staff and the Commission regarding business and development permits, see discussion item 10. A**

*Attachment - November Planning Commission Committee report.*

10. Discussion:

**A. Board direction to review threshold of applicability for improvement within the commercial zone districts.** *Attachment, Article 7 and 8 of the Land Use Code, screen shot of public input for Land Use Code Update 2019*

Attorney Kelly updated the Commission on the request by the board to review the Land Use Code for any discrepancies or standards that are not working well for the community. The Land Use Code has been amended three times since its adoption in 2022. The provisions of the land use code that pertain to development requirements for landscaping and parking will be reviewed by the Planning Commission. Currently the threshold is for a greater than 10% increase of total gross floor area that triggers the development to comply with landscaping and off-street parking spaces and landscaping of the parking area by the same percentage of the increase of floor area. If the improvement does not exceed the 10 % gross floor area threshold, then the development is exempt from the development requirements. Kelly reviewed portions of the code relating to changes. In article 7 section 7.2 B. and article 8, there are terms for minimal change and proportionate change. The threshold is 10% up to 75% Kelly addressed the standards of site plan review in article 13 Section 13.23 He made some observations about the initial update process where the consultant had used the national standard threshold for development requirements of 50% but the Commission and the board of trustees amended it to the 10% margin. He cautioned the Commission of the constitutionality of land use codes versus vested property rights. The amendments made to the Land Use Code are not retroactive on existing permits and development.

Commissioner Tucker introduced the subject of reviewing the sections of Article 7 and 8 pertaining to the threshold on development requirements for landscaping and parking lot landscaping. He explained how the Land Use Code is designed to be periodically reviewed and

amended from time to time, as necessary. Tucker says that the older Land Use Code was not very well organized and could be confusing to follow. The Land Use Code and the Comprehensive Plan were originally adopted consecutively in 1997 and 1998.

In 2019 due to funding availability, the Land Use Code Update project began and was updated before the Comprehensive Plan. This new version has specific standards, tables and is organized in a deliberate way to make it easier to interpret. The Land Use Code is a subset of the Comprehensive Plan.

The Land Use Code is a tool to encourage development that creates the visual and environmental quality of the Comprehensive plan proposes. Chairperson Robinson feels like the development requirements for landscaping and water management would not cost any more than a large single surface landscape. Doudy reminds the group that the standards of the Land Use Code are aimed at new development. Existing improvements or redevelopment are only required to comply with the standards in the code if the improvement is greater than the threshold in the section.

Commissioner Tucker explained that the Commissioners felt the recent remodel of a business property shows that nothing had changed for triggering development requirements. In November 2023, the Commission asked the Board of Trustees to direct a review of the threshold for development requirements. This is a preliminary discussion about what works in the new code and the expectations of the Commission. No decisions will be made at this meeting. Tucker asked the audience for any ideas, or comments. One comment was that the Land Use Code seems very prescriptive. A participant feels that the low threshold may make improvements too expensive for property owners to be able or willing to do. The Commission explained that the Land Use Code is supposed to reflect the intent of the Comprehensive Plan. The Comprehensive Plan guides the code to develop regulations to achieve the Comprehensive Plan's vision and desired outcomes.

One participant posed the question to the commission as to the effect of threshold percentages on business this new code had with the idea that the code was updated to make it more business friendly. Are the new standards meant to be more business friendly? Did the new Land Use Code create a more restrictive environment for businesses financially and time wise? If so this is not what the participant was envisioning the terminology "business friendly" to mean. If the trigger threshold is further reduced does the commission feel like it would create more difficulty for businesses both financially and time wise. Youngquist says that is to be determined yet. The speaker asks for the reason for making the threshold even lower because it would cause more of a burden. Youngquist says the Land Use Code is supposed to provide the pathway for the vision of the Comprehensive Plan develops through the process of creating the Comprehensive Plan. Another speaker suggests that the efforts of lowering the threshold for triggering development requirements could stall any improvement to business property in town. The business owners say running a business in Dolores is hard and expensive. Their question is whether it is feasible to require business to follow the requirements for landscaping and parking if any improvement is made. The Planning Commission is reviewing the landscaping and parking sections of the new Land Use Code. The purpose of the landscaping standards is to promote the general welfare of the community. The commissioners defended the standards as being important to the environmental function and appearance of the local businesses. The Commission has been deliberate with attention to visual appeal and environmental challenges the little town in a river canyon has to deal with.

Manager Ruud offered a variation on the threshold for development requirements with a percentage of the improvement costs. He suggests that even if the increase in gross floor area is set at 2% for a trigger that the developer would meet that minimum. He thinks that if the threshold for required landscaping or parking is based on the value of improvement and that is matched by the amount of additional landscaping and parking improvements. Building Official Doudy explained the percent of improvement calculation that the International Building Code and FEMA uses, as well as the code's limitations and requirements on existing structures being brought up to current code standards. The national codes have tiers of requirements for improvements. The recent remodel project that was the focus of the Commissioners' concerns was done in compliance with the Land Use Code. There is some concern that imposing the requirements at an even lower threshold may result in a stagnation of development where expensive improvements will be required. Attorney Kelly suggested the Commission look at the Land Use Code's definitions for "substantial improvement" and the definition in the landscaping chapter for "minimal change" and consider changing the definition in the landscaping threshold. Chairperson Robinson thinks the landscaping standards would not have been more expensive if they were followed versus paving the entire parking lot. These standards intend to balance feasibility with community members' goal to maintain the smalltown character of Dolores. Commissioner Heeney says he likes the feedback the audience has presented in relation to the standards of the code. It gives the commission a real-world perspective of how the code is being perceived by the public. A question about changing the landscaping in a parking lot only with temporary or partial surface improvements does that trigger the rest of the requirements? The answer is that the requirements are triggered by an expansion in gross floor area of a structure.

Chairperson Robinson wants to continue this discussion at the next meeting.

**B. Process to obtain a consultant for the Comprehensive Plan update. Discussion only.**

Item not discussed.

**C. Review terms of Commissioners.** Chairperson Robinson Term expires 5/7/24, Vice Chairperson Heeney term expires 5/7/2024, Commissioner Tucker 4/2/2024, Commissioner Powell term expires April 2, 2024. The newly vacant term, when filled, expires 5/6/2025. Commission members renewing in 2024 will serve 2-year terms. Attachment Municipal Code 2.08. Planning and Zoning Commission. (Ord 341 1986)  
Not reviewed. The Board of Trustees will direct the Clerk to advertise the vacancy.

11. Future Agenda Items: continue with the review of the 2022 land Use Code.
12. Adjournment-the meeting was adjourned at 8:30 p.m.

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Linda Robinson, Chairperson

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Ann Swope, Assistant Clerk

### **Section 7.1. Purpose**

This section is designed to provide standards for the installation and maintenance of landscaping, walls, and screening devices to promote the general welfare of the community. This is accomplished by:

- A. Enhancing the appearance of all development by providing standards for the quality, quantity, and functional aspects of landscaping and buffering.
- B. Decreasing the use of water for landscaping purposes by encouraging the use of drought-resistant, low-water native and naturalized plant materials that thrive in the regional soil types and environmental conditions in planting zone 4 in southwestern Colorado;
- C. Preserving healthy environmental conditions by providing shade, air purification and oxygen generation, groundwater recharge, stormwater runoff retardation, water quality treatment, and noise, glare, and heat abatement through the preservation of established trees and installation of landscaping;
- D. Encouraging the replanting of trees and vegetation lost to land development activity to provide heat abatement, wind deflection, and support and increase property values;
- E. Improving the quality and diversity of plant and tree selection through the implementation of landscape standards and specifications;
- F. Encouraging the creation of an attractive appearance along streets and by screening from view those uses that may be unattractive to public view;
- G. Using landscaping materials, including ground covers, shrubs, and trees that facilitate the control of erosion and the reduction of glare and dust; and
- H. Requiring long-term maintenance including the removal of weeds and the timely replacement of landscape components lost after installation.

### **Section 7.2. Applicability**

#### **A. New and Complying Development**

This article shall apply to all new development unless otherwise specified in an individual subsection.

#### **B. Redevelopment: Expansion, Enlargement, and Nonconformities**

1. When landscaping would otherwise be required for new development, this article shall apply a proportionate requirement to redevelopment, defined for this article as whenever any building is enlarged in height or in ground coverage, as follows:
  - (a) **Minimal Change.** Square footage changes that increase the total gross floor area of a structure by less than 10 percent, as determined by the building permit application, shall not be required to provide additional landscaping.
  - (b) **Proportionate Change.** Square footage changes that increase the total gross floor area of a structure by more than 10 percent but less than 75 percent, as determined by the building permit application, shall require a corresponding percent increase in compliance with landscaping standards until the site reaches compliance.



### **Section 8.1 Purpose**

The purpose of this section is to require off-street parking facilities in proportion to the parking demand for each use in order to ensure functionally adequate, aesthetically pleasing and secure off-street parking. The regulations and design standards of this section are intended to accomplish the following:

- A. To ensure the usefulness of parking facilities.
- B. To ensure sufficient parking spaces on-site to prevent excessive parking on public streets and in residential neighborhoods.
- C. To ensure that access to parking does not impair the function of adjacent roadways or endanger the public safety.

### **Section 8.2 Applicability**

#### **A. New and Complying Development**

New development occurring after the effective date of this section, and development existing on the effective date of this section and complying with the number of off-street parking spaces required by this article shall be subject to the following provisions.

- 1. Every use of a building or land hereafter established shall provide the minimum off-street parking spaces as required by this section.
- 2. The number of parking spaces may be reduced when the land use or floor area of a building is changed or reduced to a use or floor area for which fewer parking spaces are required.
- 3. Accessible parking shall be provided in compliance with Section 1106 of the International Building Code and ICC A117.1.

#### **B. Expansion, Enlargement, Change of Use, and Nonconformities**

- 1. Whenever any existing building is enlarged in height or in ground coverage, or the use is changed to a use that requires additional parking per Table 8.1, off-street parking shall be provided as follows:
  - a. **Minimal Change.** Square footage changes that increase the total gross floor area of a structure by less than 10 percent, as determined by the building permit application, shall not be required to provide additional off-street parking.
  - b. **Proportionate Change.** Square footage changes that increase the total gross floor area of a structure by more than 10 percent but less than 75 percent, as determined by the building permit application, shall require a corresponding percent increase in compliance with off-street parking standards until the site reaches compliance. For example, if the full off-street parking requirement for an existing structure is 20 spaces and the site already includes 10 spaces, a 50% expansion of the current structure requires 50% compliance with the missing 10 spaces, or 5 new parking spaces.
  - c. **Full Compliance.** Square footage changes that increase total gross floor area of a structure by 75 percent or greater, as determined by the building permit application, shall be required to fully comply with these standards.

## **F. Post-Approval Action**

### **1. Revocation**

The Zoning Administrator may, in writing, suspend or revoke a permit under provisions of this section whenever the permit was issued on the basis of a misstatement of fact or fraud.

### **2. Permit Expiration**

A sign permit shall become null and void if installation is not commenced within 120 days from the date of permit issuance.

## **Section 13.23 Site Plan Review**

### **A. Purpose**

The purpose of a site plan is to provide the decision-making authorities with a legally binding visual representation of a proposed development to ensure compliance with the development and use-specific standards of these Regulations and to encourage quality development reflective of the goals, policies, and objectives of the Dolores Comprehensive Plan.

### **B. Applicability**

1. When site plan review is required, as identified below, structures and uses may be established, and building 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 section.
2. Preliminary Planned Unit Development review and approval serves as site plan review for the purposes of this section.
3. The following applications and projects are subject to site plan approval:
  - (a) All new uses and structures that are not part of a preliminary PUD application or preliminary subdivision plat;
  - (b) All requests for temporary uses and structures;
  - (c) Any proposed redevelopment that meets or exceeds 10 percent increase in gross square footage, or 50 percent increase in assessed valuation, with either measurement calculated over a five-year period.
  - (d) Relocation of development pads, buildings, or dwelling units for some practical reasons such as topography, road alignment or easements provided that the modification does not significantly alter the site design in terms of parking layouts, vehicular circulation, landscape design, and other similar components of the development plans;
  - (e) An increase or decrease in a proposed setback, provided LUC requirements are still met;
  - (f) A modification to a recreation area or open space design, but not elimination or more than a 10 percent reduction;
  - (g) A change in the parking lot layout or vehicular circulation;
  - (h) Construction on any site with existing trees subject to Section 7.7, Tree Preservation;

Table 13.2: Applicable Common Procedures by Application Type

Common Procedures	1. Pre-App Meeting	2. Submit Application	3. Staff Review & Report	4. Recom'd	5. Decision Hearing	6. Record of Decision
Key: X = Required Step; A = Administrative/Staff; BOA = Board of Adjustment; Board = Board of Trustees; P&Z = Planning & Zoning Commission						
Minor Subdivision Plat	X	X	X	P&Z	Board	X
Major Subdivision Plat, Preliminary	X	X	X	P&Z	Board	X
Major Subdivision Plat, Final	--	X	X	A	Board	X
Planned Unit Development	See Sec. 13.30, Zoning Map Amendment					
Sign Permit	--	X	X	--	A	--
Site Plan Review	--	X	X	--	A	--
Special Exception	X	X	X	Staff	P&Z	X
Special Exception, Subdivision	X	X	X	P&Z	Board	X
Temporary Use Permit	--	X	X	--	P&Z	--
Variance	X	X	X	Staff	BOA	X
Variance, Subdivision	X	X	X	Staff	Board	X
Vested Property Right	See Sec. 13.28, Vested Rights					
Zoning Development Permit	--	X	X	--	A	--
Zoning Map Amendment (Rezoning) or LUC Text Amendment	X	X	X	P&Z	Board	X

#### 4. Administrative Manual for Additional Materials

The Zoning Administrator may compile the requirements for application contents, forms, fees, submission materials, and review schedule in an administrative manual or user's guide, which may be divided into sections or topics and which shall be made available to the public in print or electronic format. The Zoning Administrator may amend and update the administrative manual from time-to-time.

### B. Step 1: Pre-Application Meeting

#### 1. Purpose

The purpose of the pre-application meeting is to provide an opportunity for the applicant and the Town to discuss the development concept prior to the application submission for a project in order to:

- Determine the required application(s) and, if necessary, the timing of multiple application submittals (i.e., whether they may be processed concurrently or must be processed sequentially);
- Provide the applicant with application materials and inform the applicant of submittal requirements;
- Provide the applicant with an estimated time frame for the review process;

- (i) A change in the landscape design or a change of more than 20 percent of plant types for any mixed-use or non-residential development subject to a valid landscaping plan;
- (j) Any change that may affect an adjoining residential neighborhood;
- (k) Any request that would significantly alter the design of the site or building(s); or
- (l) A request to change or delete a condition of approval established by the P&Z or the Board.

### C. Procedure

#### 1. Common Procedures

Common procedures for site plan review are established in Table 13.2 and are summarized here for applicant convenience.

#### 2. Administrative Determination

Site plan applications are processed as a Section 13.6, Administrative Decision.

#### 3. Referral to Planning Commission

The Zoning Administrator may refer any site plan application to the P&Z that, in the Zoning Administrator's opinion, presents issues that require P&Z attention.

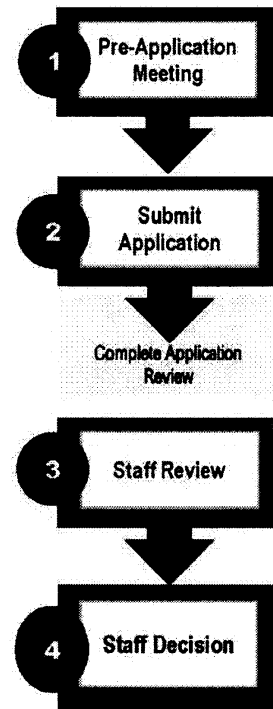
### D. Decision Criteria

The Zoning Administrator may approve a site plan upon a finding that the application meets all of the following criteria, as applicable to the specific site and development design:

1. The site plan is consistent with the Dolores Comprehensive Plan;
2. The site plan is consistent with any previously approved subdivision plat, planned development, or any other precedent plan or land use approval as applicable;
3. The site plan complies with all applicable development and design standards set forth in this LUC;
4. Any significant adverse impacts reasonably anticipated to result from the use will be mitigated or offset to the maximum extent practicable;
5. The development proposed in the plan and its general location is, or will be, compatible with the character of surrounding land uses and structures; and
6. The development can be adequately served by Town services including, but not limited to: roads, water, and wastewater.

### E. Appeal

An appeal to the BOA may be made by any applicant aggrieved by the Zoning Administrator's determination on a site plan application. Appeal of a P&Z site plan approval may be made to the Board of Trustees.



building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure: means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Damage: means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement: means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
- b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Variance: is a grant of relief to a person from the requirement of this ordinance when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation: means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by Section 9.5 is presumed to be in violation until such time as that documentation is provided.

Water Surface Elevation: means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

- (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (6) The costs of providing government services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
- (7) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- (8) The necessity to the facility of waterfront location, where applicable;
- (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (10) The relationship of the proposed use to the comprehensive plan for that area.

#### **4. Variance Procedures**

- a. The Appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.
- b. The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.
- c. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
- d. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- e. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
- f. Variances may be issued for new construction and **substantial improvements** to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section D.3.b have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- g. Upon consideration of the factors noted above and the intent of this Code, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this section.
- h. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- i. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's

continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

j. Prerequisites for granting variances:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon:

(a) showing a good and sufficient cause;

(b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and

(c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

k. Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor evaluation.

2. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:

a. The criteria outlined in Section D.3.b are met, and

b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

## **E. Provisions for Flood Hazard Reduction**

### **1. General Standards**

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

a. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

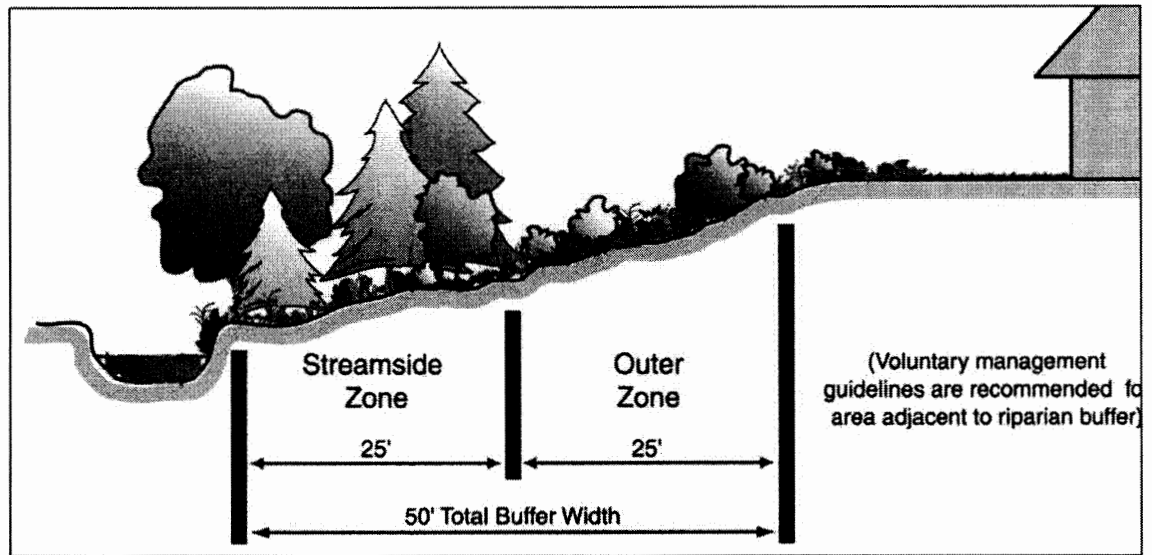
d. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

## 2. Minimum Total Width

The minimum total width of the riparian protection buffer shall be the width of the mapped floodplain, or where the floodplain is not mapped or is narrower than 50 feet, 50 feet from the AHWL on both sides. On residential properties, the minimum width of the riparian protection buffer may be reduced to 25 feet in some locations where the floodplain in that area is less than 25 feet wide, and if an average setback of 50 hundred feet is maintained across the property as a whole.

## 3. Riparian Protection Buffer Zones

The riparian protection buffer area shall be divided into two zones as described below:



Buffer zone illustration, for discussion purposes only

### a. Streamside Zone – Zone 1

- (1) Zone 1 shall begin at each edge of any identified riparian area, and shall occupy a margin of land on each side, each with a minimum width of 25 feet from any wetland, water body, or any perennial stream. Where very steep slopes (30 percent or greater) are located within, and extend beyond such margin, Zone 1 shall extend to include the entirety of the very steep slopes up to a maximum dimension of 50 feet.
- (2) No disturbance of land shall be allowed within Zone 1 including, but not limited to, dumping, filling, dredging, new construction, excavating, **substantial improvements** or modifications, scraping by motorized equipment, removal of native vegetation or root systems, or transferring materials that will reduce the natural storage capacity of the land, interfere with the natural flow pattern of any watercourse, or degrade the quality of surface or ground water. Limited exceptions to these restrictions include:
  - (a) Flood control structures;
  - (b) Stream restoration practices;



# Article 1: General Provisions

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## Section 1.1. General Provisions

### A. Title

This ordinance shall be known and may be referred to as the “Land Use Code of the Town of Dolores” this “Land Use Code,” this “Code,” or the “LUC.”

### B. Authority

This Land Use Code is adopted pursuant to the powers granted and limitations imposed by Article 23, Section 31 of the Colorado Revised Statutes, 1973, as amended.

### **C. Enactment and Repeals**

Upon the adoption of this Code through Ordinance #556, Series 2021 and Ordinance #557, Series 2022, the following are hereby repealed in their entirety: The Zoning Ordinance of the Town of Dolores, Colorado ("Town") originally adopted July 31, 1979 with Ordinance #316 together with all amendments thereto; and the An Ordinance Adopting the Dolores Subdivision Regulations and Enacting Penalties for Illegal Subdivision Activities ("Subdivision Regulations"), passed and approved on May 23, 1984, with Ordinance #333; and the Flood Damage Prevention Ordinance Statutory Authorization, Findings of Fact, Purpose and Objectives, passed and approved on August 29, 1989, with Ordinance #360; together with all amendments thereto; the Land Use Code approved through Ordinance #479 adopted on August 11, 2008, together with all amendments thereto; and any other ordinance, resolution or regulation inconsistent with this Code.

### **Section 1.2. Purpose and Applicability**

#### **A. Purpose**

The Land Use Code is adopted for the purpose of promoting the health, safety, and general welfare of the citizens of the Town of Dolores. It is adopted in accordance with, and is intended to implement, the Town's adopted comprehensive plan. More specifically, this Land Use Code is intended to do the following:

1. Extend greater opportunities for traditional community living, working, housing, and recreation to all citizens and residents of Dolores;
2. Maintain property values by stabilizing expectations and ensuring predictability in development;
3. Preserve the historic, small town character of the community by directing new development appropriate locations and minimizing the visual impact of development;
4. Prevent overcrowding of buildings and sites to avoid excessive concentrations of population, to promote energy conservation and facilitate the provision of adequate transportation, water, sewage, schools, businesses, parks and other public facilities and services;
5. Reduce development sprawl and the excessive segregation of land uses that cause unnecessary traffic congestion and increase the costs of provided adequate public facilities and services.
6. Encourage a more efficient use of land and public services and to direct new development in a more traditional pattern of mixed- and multiple-use and varied housing types;
7. Provide a procedure which can relate the type, design, and layout of residential development to the particular site, the particular need for housing at a particular time, and to the Town's goal of encouraging mixed-use development while preserving and protecting existing residential areas.
8. Establish a process that effectively and fairly applies the regulations and standards of this Land Use Code, respects the rights of property owners and the interests of citizens.

Sections:

2.08.010 - Created—Membership—Filling of vacancies.

- A. There is created a planning and zoning commission for the town, consisting of seven members, who shall be residents of the town and shall be appointed by the town board for two-year terms as follows: Three members for one year, two members for two years, and one member for three years. As the term of each member expires the vacancy thus created shall be filled by a majority vote of the town board for a two-year term.
- B. If a vacancy occurs other than by expiration of term, a majority vote of the town board shall appoint a new member to fill the unexpired term.

(Ord. 341 (part), 1986)

2.08.020 - Organization.

The planning and zoning commission shall elect a chairman from among the appointed members and shall create and fill such other of its offices as it may determine. The term of the chairman shall be one year with eligibility for reelection. The position of chairman shall be filled at the first regularly scheduled meeting in January of each year.

(Ord. 341 (part), 1986)

2.08.030 - Rules—Recordkeeping.

The planning and zoning commission shall recommend rules for adoption by the town board for the transactions of business and shall keep a record of its meetings, resolutions, transactions, findings and determinations. These records shall be a public record.

(Ord. 341 (part), 1986)

2.08.040 - Powers and duties generally.

The planning commission shall function and operate and perform all the duties and obligations and shall have all the powers and authority as provided under, by and through, Title 31, Article 23 of the Colorado Revised Statutes of 1973, as amended, and the appointed members shall be subject to removal from office as provided by said statutes.

(Ord. 393 § 1, 1991; Ord. 341 (part), 1986)

#### 2.08.050 - Regular and special meetings.

The planning and zoning commission shall hold at least one regularly scheduled meeting each month and such special meetings as are necessary in the opinion of the chairman; provided, that a special meeting may be called by any four appointed members of the commission and the town administrator upon due notice to the chairman and the other members of the commission.

(Ord. 341 (part), 1986)

#### 2.08.060 - Clerk—Frequency of meetings.

The town planner or designee shall be the ex officio clerk for the planning and zoning commission, keep its records and notify it of the filing of applications for permits and such other matters as may come before the commission. Such commission shall, when there is business to transact, hold a meeting at least once each month or more often, as the business of the commission requires.

(Ord. 341 (part), 1986)

#### 2.08.070 - Absence from meetings.

Should a member of the planning and zoning commission be absent for three consecutive meetings of the commission without cause, the office of such member shall be deemed to be vacant and the term of such member terminated. The town planner or designee shall inform the town board of such action. An absence due to illness or any unavoidable absence from the town and notice thereof to the town clerk, one day before the day of any regular meeting by such member shall excuse the member. The regular meeting is provided for by law or by rule of the commission and any regularly advertised and noticed public hearing shall be deemed a regular meeting.

(Ord. 341 (part), 1986)

#### 2.08.080 - Hearings.

The commission shall hold public hearings before submitting recommendations to the town board. The town board shall not hold its public hearings or take action until it has received the recommendations of such commission. Public hearings shall be in conformance with CRS 31-23-108, as amended.

(Ord. 341 (part), 1986)

#### 2.08.090 - Conflicting provisions.

Whenever the provisions of this chapter are at variance with any of the other lawfully adopted ordinances, rules and regulations of the town, this chapter shall govern.

(Ord. 341 (part), 1986)



## Manager's Report Dolores Colorado

To: Mayor and Trustees  
From: Paul Ruud, Dolores Town Manager  
Date: December 11, 2023  
Re: Trustees Meeting

### December 11 Town Board Meeting Manager Updates:

Trustees Meeting:	Ordinances for:	Short Term Rental Removal of Snow Permits
	Resolutions for:	2023 Budget Amendment 2024 Budget Approval Sales Tax Increase Ballot Question

**Manager Items:**

- Item 10.1 Update from the Montelores Coalition including discussion about Coalition Budget approval and discussions with Onward – A Legacy Foundation, acting as a new Fiscal Agent for the Coalition.
- Update on the Issuance of the 19<sup>th</sup> Street Affordable Housing Request for Proposals. Discussion about the Local Planning Capacity Grant application.
- Update on discussions with CDOT about winter snow maintenance on the 400 Block of Highway 145/Railroad Avenue. Update on Spring 2024 installation of Behavioral Feedback Speed Signs.
- Update on GOCO Grant application - Meeting with new Southwest Colorado Program Officer Mike Wight re: Joe Rowell Park GOCO Grant application.
- Update on Manager Ruud's Improvement Plan progress.

**Town board December 11, 2023**

**Building Official/Building Inspector report**

**Current projects:**

1. #1121 – Gas line inspection
2. #1123 – Roofing inspection
3. #1123 – Multiple inspections
4. #1124 – Multiple inspections
5. #1122 – Roofing inspection
6. #1126 – Framing
7. #1126 – Roofing

**New permits: Eight permits for a total of \$1,054.00**

1. #1120 – Demo permit
2. #1121 – Gas line
3. #1122 – Roofing permit
4. #1123 – Roofing permit
5. #1124 – Roof permit
6. #1125 – Repair
7. #1126 – Porch replacement
8. #1127 – Roofing permit

**Consultations - Phone and in person**

56 Phone and in-person

**Construction Inspections**

14 construction inspections of permits issued.

**Future projects on the horizon:**

New two car garage

**Business Inspections**

None this period

**Food trailer/truck inspections**

None

**STR Inspections**

None this period

**Internet Technology**

Picked up a replacement computer for Town Manager Ruud's computer which had a virus. Swapped out the two when Netforce had repaired the Manger's computer. Changed out the docking station in the manager's office due to failure of the existing docking station.

**SPECIAL PROJECTS**

1. New Town Hall
  - a. Painting of affected areas is ongoing.
  - b. New countertops are in.
  - c. The ceiling grid is being installed.
  - d. Solar system will be removed from current town hall on December 18 – 19.

**STR's**

There are three new applications for permits. These are all scheduled for their primary inspections.

**Compliance issues**

No new issues this month

December 07, 2023

## Planning and Zoning Commission, Town of Dolores Report to Board of Trustees on December 5, 2023 Meeting

### Meeting Participation

On Tuesday December 5, 2023, the planning and zoning commission were joined by a full house of citizens interested in the activity of the commission, spurred on by a post on the Dolores Gazette Facebook page stating The Dolores planning and zoning committee will have a meeting Dec. 5th at 6:30. You should attend if you live in or own property or a business in Dolores.... It sounds like some very strict changes are going Dolores' way if we don't pay attention.

### Discussion

The meeting became a good opportunity to discuss the work of the P&Z commission, the process, the built-in provisions of transparency and inclusion in the process, concern for businesses AND residents, and the challenges of navigating adjacencies in a tiny town.

The audience didn't present specific complaints with the code and process, rather general concern that the Town was going to make business too difficult and there should be fewer restrictions on how businesses choose to develop.

Attorney Kelly explained basic ways that the code was better for business owners than the old code: clear process and procedure, clear instructions, clear goals, specificity, and predictability.

The commission's discussions during the past couple of meetings have been focused on Land Use Code Articles 7, Landscaping Screening and Trees, and 8, Parking, Loading and Access. We explained that the provisions of these articles are meant to address outdoor spaces, and the street spaces, which are the places that the entire community participates in, and experiences. The provisions are aimed at providing a balance of development between commercial activity and residential life. Landscaped buffer zones and landscaped parking lots go a long way toward make life better and safer for the residential surrounding areas of commercial development. They also can provide emergency access, help to absorb storm water, and reduce the heat that is absorbed by and reflected off of hard surfaces.

The commissioners explained that it has been nearly two years since the Land Use Code (LUC) was adopted, and it is time to review its effectiveness. This is a process recommended within the LUC itself. The goal of the LUC is not to make life harder for residents and business owners, or make things more expensive. Its intention is to make things work better for everyone participating in the life of the town. The codes are informed by research and case study within all the disciplines that relate to urban planning, as well as public input gathered during the original process. Within the LUC we are also addressing various environmental hazards that exist within the valley of the town of Dolores: unstable slopes, flood hazards, etc.



December 07, 2023

P&Z encouraged the audience to provide specific feedback to LUC provisions under discussion, to attend meetings and participate in upcoming discussions to inform us how the code might be better adapted.

#### Primary Topic of Agenda

The primary topic for discussion on the meeting agenda was to review threshold of applicability for improvement within the commercial zone districts. P&Z wants to identify changes that would assure better development of the outside space and street space next to commercial development. Attorney Kelly pointed out sections of the code that may have some potential to do so. Manager Ruud expanded on the option to tie provisions to improve landscaping and parking lot development to the 50% threshold of the COST of re-development vs. the value of the existing building as determined by the Building Code. Though technically possible, staff expressed discomfort with any further reduction of the trigger set at 10% of square footage since the threshold is already low.

The capacity of the city storm water drainage system was another concern, considering private development's storm water is generally directed onto city property and into the storm water drainage system. Eventually the town may want to require some development to construct on-site retention features so storm water can be re-absorbed into the underground water table, and by the site's landscaping.

These options will be further explored at our next meeting, on Tuesday January 9, 2024.

Linda Robinson, Chair  
Dolores Planning and Zoning Commission

Section 2.7 Flood Hazard definitions. "Substantial improvement" (pg. 43 LUC)

Substantial Improvement: means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This includes structures which have incurred "substantial damage", regardless of actual repair work performed. The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
- b. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Common Procedures	1. Pre-App Meeting	2. Submit Application	3. Staff Review & Report	4. Recom'd	5. Decision Hearing	6. Record of Decision
Key: X = Required Step; A = Administrative/Staff; BOA = Board of Adjustment; Board = Board of Trustees; P&Z = Planning & Zoning Commission						
Minor Subdivision Plat	X	X	X	P&Z	Board	X
Major Subdivision Plat, Preliminary	X	X	X	P&Z	Board	X
Major Subdivision Plat, Final	--	X	X	A	Board	X
Planned Unit Development	<i>See Sec. 13.30, Zoning Map Amendment</i>					
Sign Permit	--	X	X	--	A	--
Site Plan Review	--	X	X	--	A	--
Special Exception	X	X	X	Staff	P&Z	X
Special Exception, Subdivision	X	X	X	P&Z	Board	X
Temporary Use Permit	--	X	X	--	P&Z	--
Variance	X	X	X	Staff	BOA	X
Variance, Subdivision	X	X	X	Staff	Board	X
Vested Property Right	<i>See Sec. 13.28, Vested Rights</i>					
Zoning Development Permit	--	X	X	--	A	--
Zoning Map Amendment (Rezoning) or LUC Text Amendment	X	X	X	P&Z	Board	X

### Section 13.23 Site Plan Review (pg. 302)

#### A. Purpose

The purpose of a site plan is to provide the decision-making authorities with a legally binding visual representation of a proposed development to ensure compliance with the development and use-specific standards of these Regulations and to encourage quality development reflective of the goals, policies, and objectives of the Dolores Comprehensive Plan.

#### B. Applicability

1. When site plan review is required, as identified below, structures and uses may be established, and building 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 section.
2. Preliminary Planned Unit Development review and approval serves as site plan review for the purposes of this section.
3. The following applications and projects are subject to site plan approval:
  - (a) All new uses and structures that are not part of a preliminary PUD application or preliminary subdivision plat;
  - (b) All requests for temporary uses and structures;
  - (c) Any proposed redevelopment that meets or exceeds 10 percent increase in gross square footage, or 50 percent increase in assessed valuation, with either measurement calculated over a five-year period.
  - (d) Relocation of development pads, buildings, or dwelling units for some practical reasons such as topography, road alignment or easements provided that the modification does not significantly alter the site design in terms of parking layouts, vehicular circulation, landscape design, and other similar components of the development plans;
  - (e) An increase or decrease in a proposed setback, provided LUC requirements are still met;
  - (f) A modification to a recreation area or open space design, but not elimination or more than a 10 percent reduction;
  - (g) A change in the parking lot layout or vehicular circulation;
  - (h) Construction on any site with existing trees subject to Section 7.7, Tree Preservation;
  - (i) A change in the landscape design or a change of more than 20 percent of plant types for any mixed-use or non-residential development subject to a valid landscaping plan;
  - (j) Any change that may affect an adjoining residential neighborhood;
  - (k) Any request that would significantly alter the design of the site or building(s); or
  - (l) A request to change or delete a condition of approval established by the P&Z or the Board.