Boulder County
Land Use Department

Land Use Code

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Land Use Code

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Article 1

Title, Authority, & Interpretation

Article 1 • Title, Authority, & Interpretation

1-100 Short Title

These regulations, together with all future amendments, shall be known as the Boulder County Land Use Code, may be cited as such, and will be also referred to herein as the 'Code.'

1-200 Authority

A. The Boulder County Land Use Code is hereby adopted pursuant to the authority conferred within the following sections of the Colorado Revised Statutes, as amended:

1. Article 32 of Title 22 (Zoning, Planning, and Building Code Duties of School District Boards);
2. Article 65.1 of Title 24 (Areas and Activities of State Interest);
3. Article 67 of Title 24 (Planned Unit Development Act of 1972);
4. Article 68 of Title 24 (Vested Property Rights);
5. Article 6 of Title 28 (Division of Aviation);
6. Article 20 of Title 29 (Local Government Land Use Control Enabling Act);
7. Article 11 of Title 30 (County Powers and Functions);
8. Article 15 of Title 30 (County Regulations under Police Power);
9. Article 28 of Title 30 (County Planning and Building Codes);
10. Article 1 of Title 32 (Special District Act/Provisions);
11. Article 1 of Title 34 (Preservation of Commercial Mineral Deposits);
12. Article 30.5 of Title 38 (Conservation Easements);
13. Article 2 of Title 43 (State, County, and Municipal Highways); and
14. Article 4 of Title 41 (Airports).

1-300 Purpose and Relationship to the Boulder County Comprehensive Plan

This Code is enacted to protect and promote the health, safety, and general welfare of the present and future inhabitants of Boulder County and to guide future growth, development, and distribution of land uses within Boulder County. Enactment, amendment, and administration of this Code shall be governed by the statutory authority granted to Colorado counties to govern the use and development of land, consistent with applicable constitutional principles. Enactment, amendment, and administration of this Code shall in accordance with and shall serve to implement the goals and policies of the Boulder County Comprehensive Plan, and the authority set forth in the applicable provisions of the Colorado Revised Statutes as well as the provisions of any jointly adopted intergovernmental agreement or master plan governing the use and development of land of mutual concern to Boulder County and another governmental entity.

1-400 Jurisdiction and Authority

This Code shall apply to all land within the unincorporated areas of Boulder County.

1-500 Effective Date

This Code, including any future amendments, shall take effect immediately upon adoption by the Board of County Commissioners, unless otherwise set forth in the Board's motion of approval.

1-600 Saving Provision

The enactment or amendment of this Code shall not be construed in any of the following ways, except as expressly stated:

A. abating any action either approved or pending under prior provisions;

B. as discontinuing, abating, modifying, or altering any penalty accruing or about to accrue;

C. as affecting the liability of any person;

D. as waiving any right of the County under any provision existing prior to the adoption of this Code; or

E. as vacating or annulling any rights obtained by any person by lawful action of the County.

1-700 Amendments

The provisions of this Code may be amended as defined in Article 3 of this Code.

1-800 Separability

If any provision of this Code is ruled to be invalid by any court of competent jurisdiction, the effect of such judgment shall be confined to that specific provision held to be invalid as expressly stated in such judgment, and shall not affect, impair, or nullify the validity or application of the remainder of this Code.

1-900 Interpretation

A. The following principles shall be used in interpreting this Code.

1. The provisions of this Code shall be regarded as the minimum requirements for the protection of the public health, safety, and general welfare. This Code shall therefore be regarded as remedial and shall be liberally construed to further its underlying purposes.
2. This Code is not intended to interfere or conflict with, abrogate, or annul any other regulation, statute, or provision of law.
3. Whenever a provision of this Code and a provision of any other law, ordinance, resolution, rule, or regulation of any kind, including another provision of this Code, contain any restrictions covering the same subject matter, the more restrictive shall govern.
4. It is presumed that the requirements of this Code apply to future actions unless otherwise stated.
5. The titles and subtitles of all articles and sections are operative provisions of this Code. The text shall control in any case of difference in meaning or implication.

1-1000 Rules of Construction of Language

A. The following rules of construction of language shall be used in interpreting this Code:

1. Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.
2. The particular controls the general.
3. The word 'shall' is always mandatory and not directory. The words 'may' and 'should' are permissive.
4. Words used in the present tense include the future, unless the context clearly indicates the contrary.
5. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.
6. Every word importing the masculine gender is extended and applied to females and things as well as males; every word importing the feminine gender is extended and applied to males and things as well as females; and every word importing the neuter gender is extended and applied to natural persons as well as things.
7. If there is a conflict between figures and words in expressing a number, the words govern.
8. A 'building' or 'structure' includes any part thereof. A 'building or other structure' includes all other structures of every kind, regardless of similarity to buildings.
9. The phrase 'used for' includes 'arranged for,' 'designed for,' 'intended for,' 'maintained for,' and 'occupied for.'
10. The words 'existing,' 'existed,' 'exists,' and 'occupied' shall imply the modifier 'lawfully.'
11. Unless otherwise stated, the term 'mailed' shall always mean transmitted via first class postage.

1-1100 Computation of Time

A. The term days shall always refer to calendar days.

B. In computing a period of days, the first day is excluded and the last day is included unless the last day of any period is a Saturday, Sunday, or legal holiday, in which case the last day shall be the next working day.

C. The number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun. If there are not that many days in the concluding month the period ends on the last day of that month.

1-1200 Printing

If the language of the official copy of this Code conflicts with the language of any subsequent printing or reprinting of this Code, the language of the official copy prevails.

1-1300 Incorporation and Interpretation of Maps

A. The location and boundaries of the zoning districts established by this Code are shown on the Zoning District Maps of Boulder County, which are incorporated into this Code. It is the expressed intent of the Board of County Commissioners that all unincorporated areas within Boulder County be located within a zoning district.

B. In zoning matters relating to access to existing highways, the Boulder County Road Map, as amended, is adopted as the County's official map of the public highway system.

C. If for any reason the location of any zoning district boundary line is not readily determinable from the Zoning District Maps, the location of the zoning district boundary line shall be determined by the Director in accordance with the following provisions.

1. Where more than one of the following provisions are applicable in any given situation, the first enumerated applicable provision shall prevail over all other provisions:

a. Where a zoning district boundary line is located with reference to a fixture, monument, or natural feature, the location of the boundary with respect to the attribute shall control.

b. Where a zoning district boundary line is given a position within or abutting a highway, road, street, or alley right-of-way which does not appear to be located within any zoning district (other than an overlay zoning district), the zoning district boundary line shall be deemed to be in the center of such right-of-way.

c. Where a zoning district boundary line is shown as closely (and approximately) following subdivided lot lines, municipal boundary, or county boundary lines, the zoning district boundary line shall be deemed to coincide with such known boundaries.

d. Where a zoning district boundary line is shown by a specific dimension, that dimension shall control.

e. In all other circumstances, the location of the zoning district boundary line shall be determined by scaling from the Zoning District Maps.

1-1400 Other Plans, Rules, and Regulations Cited in this Code

A. In addition to the requirements specifically established within this Code, the following plans, rules, and regulations may contain additional requirements:

1. all applicable statutory provisions;

2. the Boulder County Building Code (the 'Building Code');

3. the Boulder County Multimodal Transportation Standards (the 'Transportation Standards');

4. the Boulder County Comprehensive Plan (the 'Comprehensive Plan') adopted pursuant to Article 28 of Title 30, C.R.S., and comprehensive development plan intergovernmental agreements affecting land use in the unincorporated County as they may be entered into pursuant to Article 20 of Title 29, C.R.S.;

5. the Boulder County Storm Drainage Criteria Manual (the 'Drainage Manual');

6. any applicable rules of Boulder County Public Health, Board of Health and/or appropriate state agencies;

7. the rules of the State Highway Department for parcels, lots or outlots abutting a state highway or connecting street or road;

8. the Transportation Standards adopted by the County Engineer, other administrative officers of the County, and any agency providing community services and facilities to the land to be developed;

9. all other regulations of Boulder County;

10. specific fire code regulations in areas where such regulations have been jointly adopted by a Fire Protection District and the Board of County Commissioners; and

11. the National Fire Protection Association, National Fire Code, 1980 Edition, Standard 1231 'Standard On Water Supplies For Suburban And Rural Fire Fighting,' unless otherwise provided for in this Code.

Article 2

Administrative & Decision Making Bodies

Article 2 • Administrative & Decision Making Bodies

2-100 Relationship to State Statutes and Adopted By-laws

The purpose of this Article is to provide an illustrative summary of the functions, responsibilities, and authority of various elected, appointed, and administrative officials and boards. In cases where regulations contained in this Article 2 conflict with regulations approved as part of a state statute, the state statute shall govern. In cases where regulations contained in this Article 2 conflict with the body's bylaws these regulations shall govern.

2-200 Boulder County Board of County Commissioners

A. Short Title

1. The Boulder County Board of County Commissioners may also be referred to as the 'Board' or the 'Commissioners.'

B. Selection and Term

1. Each of the three members of the Board is elected by the registered voters of Boulder County in a general election. Although nominated from different districts, the Commissioners are selected through a county-wide vote.

2. The term of each Commissioner is four years.

C. Duties and Responsibilities

1. Under state statute, the Board has the authority to adopt and amend zoning and Subdivision Regulations, specifically including, but not limited to, regulations regarding planned unit developments and areas and activities of statewide interest; enact ordinances compelling the removal of weeds and rubbish; adopt a building code; review service plans for proposed special districts; make decisions regarding ownership and maintenance of roads, as well as access to County roads based on the Transportation Standards; and enter into intergovernmental agreements to plan for and control land uses and development.

2. The Board holds regularly scheduled meetings to take official action on these issues and any other matter which requires official Board action. Two members of the Board shall constitute a quorum necessary for official action.

2-300 Land Use Department Director

A. Short Title

1. The Land Use Department Director may also be referred to as the 'Director.'

B. Duties and Responsibilities

1. The Director is responsible for the administration of the Land Use Department, including, but not limited to, the processing of applications for comprehensive plan amendments, amendments to the land use regulations, and zoning and Subdivision Regulations approvals. The Director is authorized to enforce the County's zoning regulations under all applicable provisions of the County Planning Act such as C.R.S. §30-28-114, §30-28-124, and §30-28-124.5, to administer and enforce all provisions of the Land Use Code as provided therein, and to oversee the Boulder County Building Official in the administration of the County Building Code. In order to carry out these responsibilities, the Director also fulfills the roles of the Zoning Administrator and the Secretary to the Planning Commission and Board of Adjustment.

2-400 Boulder County Engineer

A. Short Title

1. The Boulder County Engineer may also be referred to as the 'County Engineer.'

B. Duties and Responsibilities

1. The County Engineer, is appointed by the Director of the Boulder County Transportation Department, and is responsible for the administration and/or enforcement of all floodplain and road access regulations, requirements, and provisions of this Code including, but not limited to, the Transportation Standards, floodplain development permits, letters of credit and performance guarantees, access, and right-of-way permits.

2-500 Boulder County Building Official

A. Short Title

1. The Boulder County Building Official may also be referred to as the 'Building Official.'

B. Duties and Responsibilities

1. The Building Official is responsible for the administration of the Boulder County Building Code, including, but not limited to, the issuance of building permits and conducting the necessary building inspections, the determination of hazardous or life threatening situations, and the withholding of building permits for the enforcement of zoning violations.

2-600 Boulder County Planning Commission

A. Short Title

1. The Boulder County Planning Commission may also be referred to as the 'Planning Commission.'

B. Selection, Membership, and Term

1. The Board of County Commissioners appoints nine Planning Commission members.

2. All members must be residents of the County.

3. The term of members is three years.

C. Duties and Responsibilities

1. The Planning Commission holds regularly scheduled meetings to take official action on rezoning requests, requests for approvals under the Subdivision Regulations, and special use applications, and to address any other related matters which require official Planning Commission action. The Planning Commission is responsible for the adoption of the Boulder County Comprehensive Plan and any amendments to that Plan.

2. Five members of the Planning Commission shall constitute a quorum necessary for official action.

3. The procedures followed by the Planning Commission are contained in Article 28 of Title 30, C.R.S., as amended, and in the official bylaws adopted by the Planning Commission.

2-700 Boulder County Long Range Planning Commission

A. Short Title

1. The Boulder County Long Range Planning Commission may also be referred to as the 'Long Range Planning Commission.'

B. Selection, Membership, and Term

1. The Long Range Planning Commission has 11 members; nine members appointed by the Board of County Commissioners and two members of the Planning Commission, selected by the membership of that body.

2. All members must be residents of the County.

3. The term of the nine Board appointed members is two years, while the term for the Planning Commission appointed members is one year.

C. Duties and Responsibilities

1. The Long Range Planning Commission is authorized to hold regularly scheduled meetings to discuss long range comprehensive planning matters brought to their attention by either the County Commissioners, Planning Commission, County staff, the public, or the membership of the Long Range Planning Commission.

2. The procedures followed by the Long Range Planning Commission are contained in the official bylaws adopted by the Long Range Planning Commission.

2-800 Boulder County Board of Adjustment

A. Short Title

1. The Boulder County Board of Adjustment may also be referred to as the 'Board of Adjustment.'

B. Membership, Selection, and Term

1. The Board of County Commissioners appoints five regular Board of Adjustment members. Members of the Planning Commission may take the place of a regular Board of Adjustment member in the event of a temporary absence or vacancy; however, not more than two members of the Board of Adjustment may concurrently be members of the Planning Commission.

2. All members must be residents of the County.

3. The term of regular members is three years.

C. Duties and Responsibilities

1. The Board of Adjustment holds regular meetings to hear appeals of any order, requirement, decision, or determination made by the Land Use Director or County Engineer in administering or enforcing Article 4 and related provisions (i.e., definitions in Article 18) of this Code, and to consider certain variances from the requirements of Article 4 of this Code.

2. The Board of Adjustment does not have the authority to grant any variance:

a. from uses permitted in the zoning district;

b. from the minimum lot size required or maximum gross density allowed in any zoning district;

c. from any definition;

d. from the height or yard requirements which may be obtained, or have been denied, through the approval of a special use;

e. which authorizes a substantial modification of a planned unit development or special use approved by the Board of County Commissioners; or

f. which will cause an increase in the base flood to occur.

3. In order for the Board of Adjustment to grant a variance, or to decide an appeal which overturns an official decision made in enforcing this Code, at least four members of the Board of Adjustment must vote in favor of the applicant or appellant.

2-900 Referral Agencies and Individuals

A. Purpose

1. Any application to the Land Use Department is referred to the agencies responsible for the provision of services to or affected by the proposed development, and to individuals affected by the proposed development. The purpose of this referral is to define any conflict which the agencies or individuals may have with the proposal, and to allow for the resolution, to the extent possible, of these conflicts through the processing of the application.

B. Responsibilities

1. It is the responsibility of the agency or individual receiving the referral to define any potential conflict with the proposal, or to provide other appropriate response to the application, and to return the referral response to the Boulder County Land Use Department within the specified time period. Any referral responses which are not received in a timely manner may not be included in the processing of the application. The lack of response to a referral shall be interpreted as no conflict with the proposal.

Article 3

Processes

Article 3 • Processes

3-100 Approvals and Permits Necessary Prior to Development

A. Actions Requiring Review by the Board of Adjustment, Planning Commission, and/or Board of County Commissioners

1. Appeal of an interpretation of the regulations set forth in this Code: Any person aggrieved by any decision of the Director or County Engineer made in the course of the administration or enforcement of Article 4 or any related provision of this code including, but not limited to, a decision to deny a building permit or other required permit, may appeal that interpretation or decision to the Board of Adjustment. See Section 4-1201.

2. Areas and Activities of State Interest: Areas and activities designated by the County have to go through a review process which looks at physical impacts as well as compatibility with the Boulder County Comprehensive Plan. See Section 8-200.

3. Correction Plats: A correction to a plat where the purpose of the correction is to rectify any technical error on the plat. Any corrections made must be consistent with the approved plat. See Section 5-401.

4. Exemption Plats: Exemption plats are changes to existing plats which are exempt from review under the Subdivision Regulations as may be allowed pursuant to Sections 9-200 through 9-202 of this Code, and pursuant to other provisions of this Code authorizing exemption plats for specific circumstances (such as Article 4-300).

5. Historic Designation: The Board, after review by the Historic Preservation Advisory Board, may designate structures, sites or areas as local historic landmarks. See Article 15.

6. Land Use Code Text Amendments: Additions, deletions, or changes to the text of this Code. See Article 16.

7. Limited Impact Special Review: A Board of County Commissioners shortened review of uses outlined in Article 4 as being allowed by limited impact special review to determine the compatibility of the use with the site and surrounding land and uses and the adequacy of required services. See Section 4-600.

8. Location and Extent: A review of proposed public or quasi-public facilities to ensure that the location and extent of the facilities are in conformance with the Boulder County Comprehensive Plan. See Article 8.

9. Planned Unit Developments: Planned unit developments (PUDs), including nonurban, noncontiguous nonurban, and transfer of development right planned unit developments, are a type of subdivided land. PUDs may be permitted subject to the conditions set forth in a development agreement which has been approved in accordance with the applicable requirements of this Code. See Article 6.

10. Replat: A replat is an amendment to a plat and may require the amendment of the sketch plan, preliminary plan, and/or final plat. See Section 5-402. (Replats which are processed as exemption plats fall under the requirements for exemption plats as set forth in this Code.) Final plat replats approved under the Subdivision Regulations (Article 5) constitute site specific development plans establishing vested property rights pursuant to Part 1 of Article 68 of Title 24, C.R.S., as amended (see section 3-207).

11. Rezoning: A request to amend the official zoning district map to change the zoning on a particular parcel or parcels. See Section 4-1100 and Section 4-118 in the case of Neighborhood Conservation Overlay Districts.

12. Road Name Changes: A road name which causes confusion may be changed in conformance with the 'Boulder County Roadway Naming and Housing Numbering Guide.' See Transportation Standards.

13. Site Plan Review Appeal: An appeal of the administrative review of an application for a building, floodplain development, access, and/or grading permit. See Section 4-800.

14. Special Review: Required review of those uses defined in Article 4 of this Code as being allowed through special review. The purpose of the review is to determine the compatibility of the use with the site and surrounding land and uses and the adequacy of services. See Section 4-600. Approved uses by special review constitute site specific development plans establishing vested property rights pursuant to Part 1 of Article 68 of Title 24, C.R.S., as amended (see section 3-207).

15. Subdivisions to Plat Unsubdivided Land: Review of a subdivision resulting in the creation of subdivided land under the Subdivision Regulations. The process to plat unsubdivided land to create subdivided land includes three steps: sketch plan, preliminary plan, and final plat. In some cases, a combined process may allow for the concurrent review of these steps. See Article 5.

- **a.** Sketch Plan: The sketch plan is the first step of the three step process to create subdivided land. The sketch plan is intended to review the feasibility and design characteristics of the proposal based on the standards and criteria set forth in Article 5. See Section 5-100.
- **b.** Preliminary Plan: The preliminary plan is the second step of the process to create subdivided land. The preliminary plan process will review and evaluate the proposal prior to detailed engineering and design. See Section 5-200.
- **c.** Final Plat: The final plat is the last step in the process to create subdivided land. The final plat process will review the final engineering plans, the development agreement, letters of credit, conservation easements, deeds of development rights, home owners covenants, the plat, and any other necessary documents, reports and studies. See Section 5-300. Approved final plats pursuant to the Subdivision Regulations constitute site specific development plans establishing vested property rights pursuant to Part 1 of Article 68 of Title 24, C.R.S., as amended (see section 3-207).

16. Subdivision Exemptions: An approval by the Board of County Commissioners to take certain unsubdivided land or divisions of unsubdivided land out of the definition of "subdivision," with the result that such land or divisions of land do not have to meet the requirements of the Subdivision Regulations. Types of subdivision exemptions include boundary line adjustments, lot recognitions, and community facility lot splits. See Article 9.

17. Vacation of a Public Road or Easement: A request by a property owner for the vacation of road, right-of-way, or utility easements. See Article 10.

18. Variances: The Board of Adjustment may approve a variance from the terms of this Code as set forth in Section 4-1200.

B. Development Related Permits

1. Dependent on the specific nature of the activity, one or more of these permits will be required prior to undertaking development in the unincorporated areas of Boulder County.

a. Access Permit: Required for access onto public roads. Contact the Boulder County Transportation Department for more information.

b. Building Permit: Prior to construction of or alteration to a structure, a building permit is required. Applications for this permit are available from the Boulder County Land Use Department, Building Division.

c. Deconstruction Permit: Prior to the deconstruction of any building, a deconstruction permit is required. Applications for this permit are available from the Boulder County Land Use Department, Building Division.

d. Development Plan Review for Oil and Gas Facilities: Administrative review of oil and gas drilling and production facilities. Applications for this review are available from the Land Use Department. See Article 12.

e. Floodplain Development Permit: As required in Article 4 of this Code for development within the Floodplain Overlay District. Applications for this permit are available from the Engineering Division of the Boulder County Transportation Department.

f. Grading Permit: A grading permit is necessary for movement of greater than 50 cubic yards of material. Limited impact special review is required for the movement of more than 500 cubic yards of material as provided in Section 4-516(I) of this Code. Site Plan Review and Limited Impact Special Review are not required for normal grading activity associated with agriculture, allowed mining activity, foundation construction, or grading activity associated with trail or road construction by a governmental entity on publicly acquired open space land in accordance with an open space management plan approved by the Board of County Commissioners. Applications for this permit are available from the Boulder County Land Use Department, Building Division.

g. Historic Review: A review of building permit applications for demolition, remodeling, or addition to a structure greater than 50 years in age. See Article 15.

h. Site Plan Review: Administrative review for development.

i. Stormwater Quality Permit: As required under Article 7-904 and administered by the County Engineer to control construction and post-construction stormwater discharges and to protect water quality.

2. Application forms and processing information are available from the appropriate Boulder County offices.

C. The Board of County Commissioners may grant extensions of deadlines of no more than one year for sketch plans, preliminary plans, and final plats (with annual extensions totaling up to three years being allowed for recordation of the final plat in the case of TDR/PUDS: see Section 5-500) provided there has been no change in this Code, the County Comprehensive Plan, or the surrounding neighborhood which would substantially affect the approval.

D. Special Authorization of the Building Official or Zoning Administrator

1. Approvals for certain temporary uses require special authorization of the Building Official or Zoning Administrator. The Building Official or Zoning Administrator will require information, as appropriate, concerning traffic, parking, sanitary facilities, water availability, hours of operation, and other information necessary to determine the impacts of the proposed use. The uses requiring special authorization are defined in Section 4-500 and listed in the Zoning District regulations Section 4-100.

2. Application forms and processing information for special authorization are available from the Boulder County Land Use Department, Building Safety & Inspection Services Team. Property owners should apply for special authorization at least 30 days in advance of the desired approval in order to allow for adequate processing time. If the owner applies for authorization less than 30 days in advance, Land Use may not be able to review and approve the application.

3-200 General Process Outline

A. The following is a general outline of the steps required for the approval of actions outlined in Section 3-100. Specific information regarding each of the above referenced steps follows this section. The requirements of this Article 3 may be supplemented or altered by the procedural requirements governing specific applications in other parts of this Code, including but not necessarily limited to Article 4-800 governing site plan review, Article 8-200 governing permits for areas and activities of state interest, and Article 15 governing historic preservation review.

1. Pre-application conference.
2. Application.
3. Referral to owners and interest holders in the subject property, adjacent and/or nearby property owners and affected agencies.
4. Staff review.
5. Public review before the Board of Adjustment, Planning Commission, and/or Board of County Commissioners.
6. Post-approval requirements.

B. In submitting any application under this Code, the Applicant shall be deemed to agree to and be bound by the applicable processing provisions and time frames of this Article 3.

3-201 Pre-Application Conference

A. Unless expressly provided otherwise in this Code, a pre-application conference is required of all applicants.

1. The pre-application conference shall be held between the applicant and a planner with the Land Use Department.
   - **a.** This meeting is intended to provide an understanding of the applicable review procedures, requirements, and standards, and provide information pertinent to the site and the proposal.
   - **b.** The planner will explain the application procedures and the materials required for submittal.
   - **c.** The pre-application conference may be in the Land Use Department office or at the site.
   - **d.** The applicant shall bring a conceptual site plan to the conference.
2. If the planner feels that the proposal raises any of the following issues, the applicant shall also meet with members of the appropriate department to discuss the development proposal.
   - **a.** For floodplain, road, access, traffic concerns, parking design and engineering, and all vehicular movement patterns and volumes the applicant will meet with a member of the staff of the Development Review Section of the Boulder County Transportation Department.
   - **b.** For water supply, sanitation, or water quality concerns, the applicant will meet with members of the Environmental Health Section of Boulder County Public Health. Boulder County Public Health Staff will also review the location of the property in relation to the identified radiation hazard sites as shown on Boulder County Public Health maps.
   - **c.** For open space or environmental concerns, the applicant will meet with a member of the staff of the Parks and Open Space Department to discuss any potential effects of the application on open space and environmental resources in the county.

B. Any comments or commitments made by any member of the County Staff during this pre-application conference are only preliminary in nature and should not be relied upon by the applicant. All prospective applicants should be informed that formal comments cannot be made by staff until after the application is submitted and adjacent and/or nearby property owners and referral agencies have had an opportunity to respond.

C. Pre-application conferences may be held individually with each department, or a joint conference for all, or some, of the departments may be scheduled.

D. County staff will make available to the applicant any public information regarding the development proposal which is in the County's possession.

3-202 Application Submittal Requirements Table

	Application Form(s), Project Description and Fee	Building Plans and/or Elevations [1]	Development Report	Engineering Report [2]	Exemption Map	Final Plat Map	Interpretation Letter [3]	Landscape Plans	Letter of Credit [4]	Mineral Rights Certification of Compliance, [1]	Preliminary Plan Map	Referral Packets	Required Title Information	Service Area Description	Site Plan	Sketch Plan Map	Vicinity Map
Appeal of Interpretation of Regulation	✔						✔										
Areas and Activities of State Interest	✔	✔								✔		✔		✔	✔		✔
Correction Plat	✔																
Exemption Plat	✔				✔					✔		✔	✔				✔
Historic Designation	✔														✔		✔
Land Use Code Text Amendments	✔																
Limited Impact Special Review	✔	✔	✔	✔						✔		✔	✔		✔		✔
Location and Extent	✔	✔		✔						✔		✔		✔	✔		✔
Planned Unit Development	✔	✔	✔	✔		✔		✔		✔	✔	✔	✔		✔1	✔	✔
Replat/Site Specific Development Plan	✔					✔				✔	✔1	✔	✔		✔1	✔1	✔
Rezoning	✔		✔									✔	✔		✔		✔
Road Name Change	✔																✔
Site Plan Review	✔	✔													✔		✔
Site Plan Review Appeal	✔	✔													✔		✔
Special Use/Site Specific Development Plan	✔	✔	✔					✔		✔		✔	✔		✔		✔
Subdivision Sketch Plan	✔		✔							✔		✔	✔			✔	✔
Subdivision Preliminary Plan	✔		✔	✔						✔	✔	✔	✔				✔
Subdivision Final Plat/Site Specific Development Plan	✔		✔	✔		✔		✔	✔	✔		✔	✔				✔
Subdivision Exemption	✔		✔		✔					✔		✔	✔				✔
Vacation of a Public Road or Easement	✔											✔	✔		✔		✔
Variances	✔	✔								✔					✔		

1 – May be necessary

2 – Engineering Report and plans for the following, as applicable: Streets, trails, walkways, and bikeways. The mitigation of geologic hazards. Sewage collection and water supply distribution systems. Utilities; soils report; geology report; overlot grading, final drainage, structural features (i.e. retaining walls and bridges); and Transportation System Impact Analysis.

3 – A letter stating the interpretation of these regulations being appealed.

4 – A letter of credit for all public improvements and warranty.

3-202 Application Submittal Requirements

A. The following list details the submittal requirements for the various County approvals defined in Section 3-100(A), above. A detailed description of the material to be submitted is included in Section 3-203. Except as may be otherwise required by law, the Director may waive or alter any of these minimum requirements if they are determined to be inappropriate or unnecessary.

1. Appeal of an Interpretation of the Regulations

- **a.** Statement of the interpretation being appealed.
- **b.** Application Form, Project Description and Fee

2. Areas and Activities of State Interest

- **a.** Application Form, Project Description and Fee: see Article 8-507 for complete submittal requirements
- **b.** Vicinity Map
- **c.** Site Plan
- **d.** Service Area Description
- **e.** Referral Packets
- **f.** If the application anticipates new surface development, certification of compliance with Article 65.5 of Title 24, C.R.S. (see Section 3-203A.1.d.i.), except that such certification shall not be required for applications for electric lines, natural gas pipelines, chilled and other water pipelines, or appurtenances to said lines or pipelines.

3. Correction Plat

- **a.** Application Form, Project Description and Fee
- **b.** Revised Plat Map

4. Exemption Plats

- **a.** Application Forms, Project Description and Fee
- **b.** Vicinity Map
- **c.** Exemption Map
- **d.** Referral Packets
- **e.** If the application anticipates new surface development, certification of compliance with Article 65.5 of Title 24, C.R.S. (see Section 3-203A.1.d.i.), except that such certification shall not be required for the platting or replatting of an additional single lot.
- **f.** Required Title Information

5. Historic Designation: see Article 15-500 for complete submittal procedures

- **a.** Nomination application form
- **b.** Vicinity Map
- **c.** Site Plan
- **d.** Description of the structure, site or area

6. Land Use Code Text Amendments

- **a.** Application Form, Project Description and Fee

7. Limited Impact Special Review

- **a.** Application Form, Project Description and Fee
- **b.** Vicinity Map
- **c.** Site Plan
- **d.** Development Report
- **e.** Referral Packets
- **f.** If the application anticipates new surface development, certification of compliance with Article 65.5 of Title 24, C.R.S. (see Section 3-203A.1.d.i.).
- **g.** Required Title Information
- **h.** Engineering Report

8. Location and Extent

- **a.** Application Form, Project Description and Fee
- **b.** Vicinity Map
- **c.** Site Plan
- **d.** Service Area Description
- **e.** Referral Packets
- **f.** If the application anticipates new surface development, certification of compliance with Article 65.5 of Title 24, C.R.S. (see Section 3-203A.1.d.i.) , except that such certification shall not be required for applications for electric lines, natural gas pipelines, chilled and other water pipelines, or appurtenances to said lines or pipelines.
- **g.** Engineering Report

9. Planned Unit Developments

- **a.** Application Form, Project Description and Fee
- **b.** Vicinity Map
- **c.** Sketch Plan Map
- **d.** Preliminary Plan Map
- **e.** Final Plat Map
- **f.** Development Report
- **g.** Engineering Report and plans for the following, as applicable
  - **(i)** streets, trails, walkways, and bikeways
  - **(ii)** the mitigation of geologic hazard
  - **(iii)** sewage collection and water supply distribution system
  - **(iv)** overlot grading
  - **(v)** soils report
  - **(vi)** geology report
  - **(vii)** final drainage
  - **(viii)** groundwater drainage
  - **(ix)** structural features (i.e. retaining walls and bridges)
  - **(x)** transportation system impact analysis
- **h.** Landscape Plan
- **i.** Referral Packets
- **j.** Site Plan, if necessary
- **k.** Certification of compliance with Article 65.5 of Title 24, C.R.S. (see Section 3-203A.1.d.i.) , except that such certification shall not be required for the platting or replatting of an additional single subdivided lot, or for subsequent applications for the same new surface development for which the applicant has already complied with the Article 65.5 of Title 24, C.R.S.
- **l.** Required Title Information

10. Replat

- **a.** Application Form, Project Description and Fee
- **b.** Vicinity Map
- **c.** Sketch Plan or Preliminary Plan Map, if necessary
- **d.** Final Plat Map
- **e.** Referral Packets
- **f.** Certification of compliance with Article 65.5 of Title 24, C.R.S. (see Section 3-203A.1.d.i.) , except that such certification shall not be required for the platting or replatting of an additional single subdivided lot, or for subsequent applications for the same new surface development for which the applicant has already complied with the Article 65.5 of Title 24, C.R.S.
- **g.** Required Title Information

11. Rezoning
- **a.** Application Form, Project Description and Fee
- **b.** Vicinity Map
- **c.** Development Report
- **d.** Referral Packets
- **e.** In the case of Neighborhood Conservation Overlay Districts, Article 4-118(E) shall apply.
- **f.** Required Title Information

12. Road Name Change
- **a.** Application Form, Project Description and Fee
- **b.** A vicinity map showing the road in question.
- **c.** A list of the property owners adjacent to the road, with addresses, prepared by a licensed title company.

13. Site Plan Review: see Article 4-804 for complete submittal requirements
- **a.** Application Form, Project Description and Fee
- **b.** Vicinity Map
- **c.** Site Plan

14. Site Plan Review Appeal
- **a.** Application Form, Project Description and Fee
- **b.** Vicinity map
- **c.** Site Plan

15. Special Review
- **a.** Application Form, Project Description and Fee
- **b.** Vicinity Map
- **c.** Site Plan
- **d.** Development Report
- **e.** Referral Packets
- **f.** Landscape Plans
- **g.** If the application anticipates new surface development, certification of compliance with Article 65.5 of Title 24, C.R.S. (see Section 3-203A.1.d.i.), except that such certification shall not be required for applications solely for electric lines, natural gas pipelines, chilled and other water pipelines, or appurtenances to said lines or pipelines.
- **h.** Required Title Information

16. Subdivision Request to Plat Unsubdivided Land
- **a.** Sketch Plan
  - **(i)** Application Form, Project Description and Fee
  - **(ii)** Vicinity Map
  - **(iii)** Sketch Plan Map
  - **(iv)** Development Report
  - **(v)** Referral Packets
  - **(vi)** Certification of compliance with Article 65.5 of Title 24, C.R.S. (see Section 3-203A.1.d.i.). except that such certification shall not be required for the platting or replatting of an additional single subdivided lot, or for subsequent applications for the same new surface development for which the applicant has already complied with the Article 65.5 of Title 24, C.R.S.
  - **(vii)** Required Title Information
- **b.** Preliminary Plan
  - **(i)** Application Form, Project Description and Fee
  - **(ii)** Vicinity Map
  - **(iii)** Preliminary Plan Map
  - **(iv)** Development Report
  - **(v)** Referral Packets
  - **(vi)** Certification of compliance with Article 65.5 of Title 24, C.R.S. (see Section 3-203A.1.d.i.) except that such certification shall not be required for the platting or replatting of an additional single subdivided lot, or for subsequent applications for the same new surface development for which the applicant has already complied with the Article 65.5 of Title 24, C.R.S.
  - **(vii)** Required Title Information

c. Final Plat

(i) Application Form, Project Description and Fee

(ii) Vicinity Map

(iii) Final Plat Map

(iv) Engineering Report and Plans for the following, as applicable:

(A) streets, trails, walkways, and bikeways

(B) the mitigation of geologic hazards

(C) sewage collection and water supply distribution systems

(D) overlot grading

(E) final drainage

(F) soils report

(G) geology report

(H) groundwater drainage

(I) structural features (i.e. retaining walls and bridges)

(J) transportation system impact analysis

(v) Landscape Plans

(vi) Development Report

(vii) Referral Packets

(viii) Certification of compliance with Article 65.5 of Title 24, C.R.S. (see Section 3-203A.1.d.i.), except that such certification shall not be required for the platting or replatting of an additional single subdivided lot, or for subsequent applications for the same new surface development for which the applicant has already complied with the Article 65.5 of Title 24, C.R.S.

(ix) Required Title Information

17. Subdivision Exemptions

a. Application Form, Project Description and Fee

b. Vicinity Map

c. Exemption Map

d. Development Report

e. Referral Packets

f. If the application anticipates new surface development, certification of compliance with Article 65.5 of Title 24, C.R.S. (see Section 3-203A.1.d.i.), except that such certification shall not be required for applications for a boundary line adjustment.

g. Required Title Information

18. Vacation of a Public Road or Easement

a. Application Form, Project Description and Fee

b. Vicinity Map

c. Site Plan

d. Required Title Information

19. Variances

a. Application Form, Project Description and Fee

b. Site Plan

c. Description of hardship

d. A complete building permit form and fee

e. If the application anticipates new surface development, certification of compliance with Article 65.5 of Title 24, C.R.S. (see Section 3-203A.1.d.i.).

3-203 Standards for Submittal Requirements

A. Application

1. Before any request for County approval under this Code may be processed, a complete application must be filed with the Land Use Department. A complete application includes:

a. An application form with all agents designated, exhibiting all landowner signatures, and all necessary information completed. The signature on an application form will be deemed to indicate the landowners' concurrence with all submissions and commitments made by their designated agent. If the proposal is located on property over which a conservation easement has been granted, the application shall include either:

(i) a signature from the conservation easement holder consenting to the proposal being processed under the Code, or

(ii) a written statement from the easement holder(s) indicating that, in the opinion of the easement holder(s), the proposal, if approved and commenced or constructed, would not conflict with the terms of the easement.

b. Verification that the site is a legal building lot under this code and that legal access from a public road has been obtained.

c. A written description of the proposal. The project description is the first opportunity for an applicant to present the project to Land Use staff, referral agencies, adjacent property owners, and decision makers, so the applicant should be as thorough as possible when describing the proposal. This narrative should also discuss how the proposal meets each of the applicable review criteria.

d. With respect to the applicant's compliance with Article 65.5 of Title 24, C.R.S., an application which is subject to the requirements of this statute, as provided in Section 3-202.A., above, shall be considered complete on the following basis:

(i) For purposes of commencing processing of the application, the application shall not be considered to have been submitted as complete until the applicant has submitted a certification signed by the applicant confirming that the applicant or its agent has examined the records of the Boulder County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist.

(ii) For purposes of the County convening its initial public hearing on any application involving property for which mineral estate owners or lessees owning less than full fee title in the property have been certified by the applicant to exist, the application shall not be considered to have been submitted as complete until the applicant has provided an additional signed certification confirming that the applicant has, at least 30 days prior to the initial public hearing, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.

e. The form shall be accompanied by all fees, maps, plans, and reports required by this Code.

2. If determined to be inappropriate or unnecessary, the Director may waive or alter any of these minimum requirements, except as may be otherwise provided by law.

B. Professional Qualifications

1. A professional consultant may not be necessary for all applications. Only the following will require professional assistance.

a. Improvement plans and reports for water supply, sanitation, drainage, utilities, soils, grading, roads, structures, and other civil engineering work must be certified by a registered Colorado Professional Engineer.

b. All documents containing land survey descriptions must be certified by a registered Colorado Professional Land Surveyor.

c. Geology reports shall be prepared by either a member of the American Institute of Professional Geologists, a member of the Association of Engineering Geologists, or an individual registered as a geologist by a state.

d. Wildlife impact reports, where required, shall be prepared by an approved wildlife expert retained by the County Parks and Open Space Department and paid for by the applicant.

2. All data and plans submitted for review must show the qualifications of the individual in charge of the work.

C. Consultants

1. If the County does not have qualified staff to review certain elements of a proposal or referral agencies are not able to adequately advise the County regarding certain elements of a proposal, the Board of County Commissioners may authorize the review be performed by a consultant engaged or approved by the Land Use Director after discussion with the applicant.

2. A referral agency may impose a fee for the review of the development proposal.

3. The costs of either review are the responsibility of the applicant. No hearings will be held if the consultants fee has not been paid.

D. General Requirements for Maps and Plans

1. The following are general requirements for any map or plan required as part of the application for a County approval. Minimum requirements include:

a. The name of the proposed development or use and total number of acres under consideration.

b. Since all maps and plans may be used for public presentation, the map scale and size should be large enough for effective presentation and should accurately illustrate the application.

c. Name, address, and telephone number of the applicant, designer, engineer, surveyor, and any other consultants of the applicant. The final plat may contain only the identification of the surveyor.

d. Date of preparation, revision box, written scale, graphic scale, and north arrow for each map.

E. Specific Maps and Plans

1. Vicinity Map

a. A vicinity map clearly showing and identifying the general location and boundaries of the subject parcel. The vicinity map should include all lands within a three mile radius of the subject parcel.

b. Acceptable scales and base maps include the 1 inch equals 80,000 feet County Road Map or the 1:50,000 scale USGS topographic map.

2. Site Plan

a. A detailed map of the subject property must also be submitted at a scale of either 1 inch to 200 feet for properties exceeding 160 acres in size, or 1 inch to 100 feet for properties less than 160 acres in size as appropriate.

b. The Director may require, or the applicant may choose to submit, a more detailed version of all or part of the site plan at a map scale suitable to show the particulars of the development.

c. Clearly identified boundary lines, corner pins, and dimensions of the subject parcel, including land survey data to identify the subject parcel including section corners, distance and bearing to these corners, quarter corners, township, range, etc. shall be included.

d. The plan must show the existing and proposed topographic contours at vertical intervals sufficient to show the topography affecting the development, storm drainage, and overlot grading plans.

e. Location and width of all existing and proposed roadways, pedestrian paths, road rights-of-way, and parking areas within the site must be shown.

f. The location of wells and/or location and size of water lines to serve the proposed development must be shown.

g. The plan must show the design and layout of all sewer service lines, treatment facilities and other elements of the sanitary sewer system, including the location of soil percolation tests as applicable.

h. The plan must show the approximate widths, locations, uses, and grantees of all existing and proposed easements.

i. Location and size of signs for the purpose of identification, advertising, and traffic control must be shown.

j. The area of the site, individual parcels, and areas of all development including location of structures, provided in square feet and percentage of site shall be included. This includes the total square feet of developed driveways, parking, and buildings.

k. The existing zoning district in which the site is located shall be indicated.

l. The following significant features are to be shown:

(i) existing and proposed utility lines;

(ii) natural and artificial drainage ways, ditches, streams, and lakes;

(iii) approximate flooding limits based on information available through the county;

(iv) vegetative cover;

(v) rock outcrops, soil types, geologic features, and hazards;

(vi) dams and reservoirs;

(vii) excavations and mine shafts; and

(viii) any on-site or off-site feature that influences the development.

3. Sketch Plan Map

a. Acceptable scales for the sketch plan map are either 1 inch to 200 feet for properties exceeding 160 acres in size, or 1 inch to 100 feet for properties less than 160 acres in size as appropriate. Drafting error should be less than five percent.

b. The Director may require, or the applicant may choose to submit, a more detailed version of all or part of the site plan at a map scale suitable to show the particulars of the development.

c. Clearly identified boundary lines, corner pins, and dimensions of the subject parcel, including land survey data to identify the subject parcel including section corners, distance and bearing to these corners, quarter corners, township, range, etc. shall be included.

d. The plan must show the existing and proposed topographic contours at vertical intervals sufficient to show the topography affecting the development, storm drainage, and overlot grading plans.

e. Location and width of all existing and proposed roadways, pedestrian paths, road rights-of-way, and parking areas within the site to be utilized must be shown.

f. The plan must show the approximate widths, locations, uses, and grantees of all existing and proposed easements.

g. A schematic and narrative representation of the proposed land use including:

(i) the zoning of the land to be platted;

(ii) the total proposed subdivided land area in acres with a breakdown in percentage and amounts devoted to specific land uses;

(iii) the total number, general location and type of proposed dwelling units;

(iv) approximate subdivided lot sizes;

(v) total number of square feet of proposed nonresidential floor space (for nonresidential subdivided land only);

(vi) sewage and water facilities;

(vii) utilities and service facilities;

(viii) recreation areas and open space;

(ix) school sites;

(x) off-street parking areas and anticipated number of spaces;

(xi) drainage ways and ponds;

(xii) landscaping; and

(xiii) new structures and other proposed major improvements.

h. The following significant features are to be shown:

(i) existing and proposed utility lines;

(ii) natural and artificial drainage ways, ditches, streams, and lakes;

(iii) approximate flooding limits based on information available through the county;

(iv) vegetative cover;

(v) rock outcrops, soil types, and geologic features and hazards;

(vi) dams and reservoirs;

(vii) excavations and mine shafts; and

(viii) any on site or off site feature that influences the development.

i. A schematic plan of the proposed surface storm water drainage plan and flow control system must be included.

j. The applicant shall submit a reduced copy of the sketch plan map at a size of 8 inches by 14 inches. Such reduced copy shall be legible and suitable for general, nontechnical review of the proposal.

4. Preliminary Plan Map

a. The map shall be drawn on 24 inch by 36 inch sheets with margins not less than ½ inch.

b. The scale of the preliminary plan map should best convey the detailed engineering design of the plan and confine drafting error to less than one percent. All maps must be drawn using standard engineering scales to avoid confusion.

c. A survey, by a registered land surveyor licensed within the State of Colorado, of the monumented perimeter of the proposed subdivided land, having an error of closure not greater than 1 foot to 10,000 feet and tying into the State grid or other permanent marker accepted by the County Engineer is required.

d. The plan must show the existing topographic contours at vertical intervals sufficient to show the topography affecting the development. The bench marks used are to be identified on the map. The minimum mapping accuracy shall be certified by the mapping firm or qualified land surveyor based on a representative field check.

e. Names and locations of all adjacent platted subdivisions, unsubdivided land, and public land identified by the owner's name must be included on the map.

f. The location, identification, and accurate dimensions of all blocks, subdivided lots, and outlots shall be shown. Blocks shall be identified by consecutive lettering in alphabetical order. The blocks in numbered additions to existing platted subdivisions bearing the same platted subdivision name shall be lettered consecutively throughout the several additions. All subdivided lots in each block shall be identified by consecutive numbering. Outlots shall be lettered in alphabetical order.

g. The following significant features are to be shown: existing structures, utilities, rock outcrops, soil types, geologic features and hazards, excavations, and mine shafts.

h. The location and description of principal existing and proposed vegetation including number, density, size at time of planting, size at time of maturity, area of coverage, range of size and identification of rare and/or endangered species shall be included.

i. The location of proposed sites for residential, business, industrial, agriculture, park, and all other land uses must be identified. The designation of building envelopes may be required.

j. Roads

(i) The location, identification, and principal dimensions of all existing roads, alleys, trails, recorded easements and rights-of-way within and adjacent to the proposed subdivided land must be depicted.

(ii) The proposed transportation system, including the names, approximate location, length, scaled dimensions, and point of intersection of all roads, bikeways, trails, paths, easements and other linkages must be shown. Roads shall be identified by the proposed functional classification as defined by the Boulder County Road Map, showing typical geometric cross-sections, rights-of-way, jurisdiction, surface, and maintenance.

k. The approximate widths, locations, and uses of all proposed easements must be shown.

l. The map must indicate, as applicable the locations of natural and artificial drainage ways, streams, washes, canals, ditches, the top of ditch and stream banks, irrigation laterals, culverts, lakes, dams, reservoirs, or other water features, including direction of flow, high water elevations, and location and extent of those areas subject to inundation by the 100-year storm.

m. The location of existing and proposed water distribution systems, water treatment facilities, sewage collection systems, sewage treatment facilities, gas lines, electric lines, and telephone lines must be shown.

(i) This data may be shown on separate map sheets.

(ii) Where an on-site treatment system is proposed, location and results of soil percolation tests and proposed on-site wastewater system or other type sewage treatment areas and a boring log and classification of the soils encountered to a depth of eight feet or to bedrock, whichever is lesser. The tests shall be sufficiently representative to assure that all proposed subdivided lots can reasonably be assumed to meet Boulder County Public Health requirements.

n. The map must indicate the location of subdivided land to be dedicated or reserved in deeds or easements for the use of all property owners, residents, or the general public. Notes to indicate purpose, maintenance responsibility, service responsibility for water and sanitation, and energy supplies for common areas and other areas which will serve the proposed platted subdivision must be shown.

o. The applicant shall submit a reduced copy of the Preliminary Plan Map no larger then 8 inches by 14 inches. Such reduced copy shall be legible and suitable for general, nontechnical review of the proposal.

5. Final Plat Map

a. The final plat map shall be prepared by or under the supervision of a registered land surveyor licensed within the State of Colorado. A certificate as to its accuracy and conformance with the provisions of this Code and applicable State laws and signed by the surveyor shall accompany the plat.

b. The final plat map shall be a neat, clear, permanent, legible, and reproducible document suitable for recordation with the Clerk and Recorder's Office. Any final plat map which does not meet these standards may be rejected by the Director.

c. The final plat map shall be either an original drawing using only permanent black ink that will adhere to drafting films (no ball point transfer type or stickyback) or an acceptable photographic reproduction (emulsion down) of an original drawing.

d. The final plat map shall be produced on 24 inch high by 36 inch wide flat, spliceless, tapeless, and creaseless sheet(s) of double matte mylar film with a uniform thickness of not less than .003 of an inch. A marginal line shall be drawn completely around each sheet leaving an entirely blank margin at least ½ inch on all sides. In addition, whenever possible the final plat map shall be provided in digital form in a format and on media acceptable to the Director.

e. All final plat map titles, road names, statements, certificates, notes, and sheet numbers shall be oriented, to the greatest extent practicable, to the bottom (36 inch dimension) of each sheet.

f. Each sheet of the final plat map shall display the particular number of the sheet and the total number of sheets, and shall clearly show the locational relationship of subdivided land areas depicted on the overlay sheet by use of a small key sketch.

g. Acceptable scales for the final plat map are either 1 inch to 50 feet for properties less than 100 acres in size, or 1 inch to 100 feet for properties greater than less than 100 acres in size as appropriate. Drafting error should be less than one percent.

h. The final plat map shall display the following:

(i) Ties into the State grid or other permanent marker accepted by the County Engineer dimensioning all primary boundary survey control points with complete monument and location descriptions.

(ii) All subdivided land lines dimensioned with lengths.

(iii) Curve data including chord lengths and bearings; the type of curve and pertinent data must be included for all curves other than circular curves.

(iv) The basis of bearings and relation to true meridian.

(v) All dimensions are to be shown to the nearest 0.01 feet or in the case of degrees, to the nearest second.

(vi) Such data must be sufficiently accurate and complete to permit independent County confirmation of closures for all boundaries, including blocks, subdivided lots, outlots, rights-of-way, and easements. Closure shall be achieved to an accuracy of 0.01 feet in all calculations shown on the plat.

i. All boundary lines (and survey descriptions thereof) of the subdivided land shall be clearly and prominently indicated on the final plat map.

j. The following information concerning adjacent lands shall be shown on the plat:

(i) The names and locations of all adjacent platted subdivisions.

(ii) The locations of all adjacent unsubdivided land and public lands.

(iii) The full width and locations of all adjacent easements.

(iv) The full width locations, and road names of all adjacent rights-of-way.

k. All lines, names, and descriptions on the final plat map which do not constitute a part of the proposed platted subdivision shall be dashed. Any area enclosed by the plat, but not a part thereof, shall be dash labeled as not being part of the subdivided land.

l. Concerning subdivided lots and blocks, the following standards shall apply:

(i) All blocks and subdivided lots shall be located, identified, and dimensioned with sufficient linear, angular, and curve data shown to determine readily the bearing and length of all subdivided land lines.

(ii) No ditto marks shall be used for dimensions.

(iii) All unidentified angles will be presumed to equal 90 degrees.

(iv) All subdivided lots, and wherever practicable, blocks shall be shown in their entirety on one sheet.

(v) The area of each lot 0.5 acre or larger shall be shown to the nearest 0.01 of an acre.

(vi) Blocks shall be identified by lettering in alphabetical order. The blocks in numbered additions to existing platted subdivisions bearing the same platted subdivision name shall be lettered consecutively throughout the several additions.

(vii) All subdivided lots in each block shall be identified by consecutive numbering.

m. All outlots shall be located, identified, and dimensioned. The area of each outlot, except reserve strips, 0.5 acre or larger shall be shown to the nearest 0.01 of an acre. All outlots shall be identified by consecutive lettering in alphabetical order and shall have all purposes and limitations on the use noted on the final plat.

n. The final plat map shall show all road names; right-of-way widths at each leg of an intersection, at points of curve and points of tangent at dead ends and at angle points; and right-of-way lines with accurate bearings and dimensions including chord lengths and bearings, central angles, and radii of all curves.

(i) If any road in the proposed platted subdivision is a continuation or approximately a continuation of an existing public road, the conformity or the amount of conformity of the new road to the existing roads shall be accurately shown.

(ii) Whenever the centerline of a road has been established or recorded, the date shall be shown on the final plat map.

o. No area of subdivided land shall be created within and by virtue of a final plat map unless the area is identified as either a subdivided lot, outlot, or right-of-way. All areas of subdivided land inadvertently created and not noted on the proposed plat as subdivided lots, shall be presumed to be outlots which are not intended to be subdivided lots.

p. The final plat map shall show the purpose, width, and location (with fine dashed lines) of all easements. A plat note may be necessary to provide complete information of the purpose of the easement.

(i) All easements must be clearly labeled and identified.

(ii) If any easement already of record cannot be definitely located, a statement of its existence and purpose and its recorded reference must appear on the title sheet.

(iii) Distances and bearings on the side lines of subdivided lots which are cut by an easement must be shown to indicate the actual length of the lot lines.

(iv) The widths of all easements must be shown with sufficient data to definitely locate the easement with respect to the subdivided land and each subdivided lot.

(v) If an easement shown on the plat is already of record, its recorded reference must be given.

(vi) If an easement is being dedicated by the plat, it shall be set out in the owner's certificate of dedication.

q. The final plat map shall contain executed certificates, notices, and statements on a single sheet in a standard form.

r. The final plat map shall include plat notes which adequately explain information pertinent to the execution and maintenance of the subdivided land including the ownership of outlots, references to the subdivision agreement and conservation easements, maintenance responsibility for private roads, etc.

s. The applicant shall submit a reduced copy of the final plat map no larger than 8 inches by 14 inches. This copy shall be legible and suitable for general, nontechnical review of the proposal.

6. Exemption Map

a. The exemption map shall show clearly identified boundary lines and dimensions of the land to be exempted, including land survey data to identify the subject parcel including section corners, distance and bearing to these corners, quarter corners, township, range, etc.

b. Adjacent subdivided land, unsubdivided land, and public lands, the property shall be identified by the owner's name.

c. The following significant features shall be shown:

(i) existing structures;

(ii) utility lines;

(iii) natural and artificial drainage ways, ditches, and lakes;

(iv) approximate vegetative cover;

(v) rock outcrops and salient geologic features and hazards;

(vi) dams and reservoirs;

(vii) excavations and mine shafts;

(viii) fence lines;

(ix) driveways;

(x) well sites and water lines; and

(xi) on-site wastewater systems, leach fields, and waste lines.

d. Any other data essential to the evaluation as may be reasonably requested by the Director to enable an adequate conceptual evaluation of the proposed exemption.

F. Development Report

1. A development report is required for subdivision requests to plat unsubdivided land, PUDs, special review approvals, rezonings, and exemptions. At a minimum the development report shall include the following information, unless specifically waived by the Director.

a. An address list of all owners and their addresses of real property adjacent to the subject property.

b. A description of site features such as streams, areas subject to flooding, lakes, high ground water areas, topography, vegetative cover, climatology, and other features that may aid in the evaluation of the proposed development.

c. A description of soil characteristics of the site which have a significant influence on the proposed use of the land.

d. The long and short term effect on flora and fauna shall be determined through field surveys, and/or expert opinions. The applicant shall address any material adverse impacts of the development on these biological systems, including plans for the mitigation of these impacts. Wildlife impact reports shall be required in accordance with Section 7-1700.

e. The effect on significant cultural (archaeological and historic) resources and on other designated environmental resources, including but not limited to critical wildlife habitats, shall be assessed and plans for protection of such resources included. Wildlife impact reports shall be required in accordance with Section 7-1700.

f. An evaluation of any potential radiation hazard that may have been identified by the State or County Public Health Departments.

g. An evaluation of the expected demands and effects of the development on the ability of local governments and quasi-governmental agencies to provide water, sanitation, natural gas, electricity, access, fire, schools, hospitals, police, flood protection, solid waste disposal, and other services to this development while maintaining adequate levels of service to other areas.

h. Provision of financial guarantees for public or communal improvements.

G. Engineering Report

1. Engineering reports may be required depending on the application, site conditions and scope of the project. Applicants should discuss these reports with staff during the pre-application conference.

a. Geology Report. A report on the geologic characteristics of the area including any potential natural or man-made hazards which would have a significant influence on the proposed use of the land, a determination of what effect such factors would have, and proposed corrective or protective measures.

b. Soils Report. A description of soil characteristics of the site which have a significant influence on the proposed use of the land.

c. Sewage Collection. Plans for an adequate and safe sanitation system must be provided. This system must be designed, constructed and maintained in accordance with all applicable regulations and requirements of Boulder County Public Health and other applicable regulatory agencies.

(i) Connection to a public sewer system is preferable. If a public sanitation system is not available within a reasonable distance of the subject property, then adequate treatment facilities must be planned to dispose of the sewage.

(ii) Sewer system design must be based on the maximum number of estimated users of the development, and must be approved by Boulder County Public Health prior to application.

d. Water Supply and Distribution. A report on the environmental effects of the development addressing the effect on the existing water supply. An adequate supply of water must be provided for the development.

(i) The source and method of distribution must be approved by Boulder County Public Health and other applicable regulatory agencies. The source of the water supply should be sufficient to meet all the present and future domestic and agricultural requirements of the proposed area.

(ii) Proof of contract with supplier or well log and completion report showing sustained yield. For domestic water proof that the supply meets the Colorado Primary Drinking Water Standards must be provided.

(iii) The relation of the subject parcel to floodplains, the nature of soils and subsoils, and their ability to adequately support waste disposal, the slope of the land, the effect of sewage effluents, and the presence of streams as related to pollution shall be evaluated.

(iv) The applicable health and water resource agency's regulations shall be considered.

e. Grading Report.

f. Drainage Report consistent with the Storm Drainage Criteria Manual.

g. Engineering report for structural features such as retaining walls and bridges.

h. Transportation System Impact Analysis. An assessment of the transportation impacts of the development as described in the Transportation Standards.

H. Required Title Information

1. It is the responsibility of the applicant to make a reasonable and diligent search of the public records to locate, and identify as part of the application, all owners and interest holders in the subject property as of the time of the application filing. These owners and interest holders include but are not necessarily limited to fee owners, easement owners, lessees, and lienholders and mortgagees in the subject property's surface, subsurface, or above surface (including land, water, mineral, air, or other real property which is part of the subject property). The applicant shall provide the current names and addresses of these owners and interest holders, along with information describing the nature of their respective right, interest or estate. In addition, the applicant shall independently comply with any applicable requirements of Article 65.5 of Title 24, C.R.S., regarding the identification of and notice to any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application.

2. To fulfill the requirements of this Subsection (G), the applicant at a minimum shall provide from a licensed title insurance or abstract company either

a. a title commitment for the subject property, or

b. a copy of the existing title insurance policy on the subject property with a letter from the issuing company providing updated title information.

c. a certification signed by the applicant to comply with the requirements of Article 65.5 of Title 24, C.R.S., confirming that the applicant or its agent has examined the records of the Boulder County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist. The applicant shall be responsible for making a diligent and good faith effort to ascertain the current names and addresses of the owners and interest holders in any such severed mineral estate and otherwise comply with any applicable notice requirements of Article 65.5 of Title 24, C.R.S., as amended.

d. An O & E (owners and encumbrances) report shall not be considered sufficient to provide the title information required in this Subsection G.

e. Title work must be current within six months of the application submittal date.

3. The applicant shall have the responsibility to search other records which may be reasonably available and known to the applicant which may provide the information required in this Subsection (G).

4. In addition to the information required above, the applicant shall identify any holdings of the applicant adjacent to the subject property, and shall provide an accurate legal description of the subject property.

3-204 Referral Requirements and Agency Review

A. Referral of applications

1. When an application is filed with the Land Use Department, the application materials may be referred to interest holders in the property who are not landowners, to adjacent and/or nearby property owners and to appropriate agencies. For all processes requiring a public hearing, unless otherwise specified in this Code, property owners within 1,500 feet of the subject property shall be notified. Based on the specifics of the application, the Director may waive referral requirements if those requirements are unnecessary.

a. The applicant is responsible for preparing the referral packets in the manner prescribed by the Director. An error made either intentionally or unintentionally by the applicant in the preparation of referral packets may result in a delay in processing of the application so that the proper referrals can be accomplished.

b. All mailings shall be by U. S. Mail, first-class postage prepaid, with the exception of referrals to offices and agencies in the Boulder County interoffice mail delivery route.

2. If the Director determines that the application is complete and acceptable for review and processing, it will be referred to all appropriate property owners and interest holders, and offices and agencies for their information, review, response, and recommendation.

B. Referral Packets

1. Each referral packet shall contain one copy of the site plan (full size or reduced to letter size) and application, and other materials as deemed appropriate by the Director. The number of referral packets required shall be determined by the Director.

2. Referral notices shall be mailed to each owner of estates, rights, or interests in the subject property identified in the title information submitted with the application, and to each identified adjacent property owner (or property owner within 1,500 feet of the subject property) and to appropriate referral agencies. Referral notifications may be distributed via e-mail.

3. Referral notices shall also include the name of the proposal, name of owner of the subject property, docket number, general location, number of acres, proposed use, and any other information as deemed appropriate by the Land Use Director. The notice shall also include information on where to access referral packets on the County's website, and provide staff contact information in case the person receiving the notice wishes to request a hard copy of the referral packet. The complete application referral packet shall be available for public review in hard copy form at the County Land Use Department during business hours.

C. Review of Applications by Agencies and Individuals

1. Referral responses from agencies and individuals

a. Referral responses must be received by the Director within 35 days of transmittal (with the exception of limited impact special review, exemption plats, subdivision exemptions, road name changes, and vacations which are 15 day referrals) in order to insure that recommendations and findings are considered.

b. Failure of any office, agency district or individual to respond within the above-mentioned time period, or within the period of an extension which may be expressly granted by the Director, will be regarded as a response with no conflict, unless the Director determines that such failure to respond should be interpreted differently.

2. Boulder County Public Health will review the on-lot sewage disposal reports

a. This review will report on the adequacy of existing or proposed sewage treatment systems to handle the estimated effluent and the water quality of the water supply proposed to serve the proposed development.

b. Boulder County Public Health may require the applicant to submit additional engineering or geological reports or data and to conduct a study of the economic and engineering feasibility of a sewage treatment works prior to making its recommendations.

3. Boulder County Public Health shall review the potential for radiation hazard.

4. The following referral agencies shall respond to issues dealing with water in accordance with state law:

a. The State Engineer

(i) The Engineer will issue an opinion regarding material injury likely to occur to decreed water rights by virtue of diversion of water necessary to be used to supply the proposed development.

(ii) The State Engineer will also give an opinion as to the adequacy of the proposed water supply to meet requirements of the development.

(iii) If the State Engineer finds material injury to decreed water rights or finds inadequacy, then the State Engineer shall express this finding in writing to the Director, stating the reason for the finding, including, but not limited to, the amount of additional or exchange water that may be required to prevent such injury.

b. A public or quasi-public water supply entity

(i) If a public or quasi-public entity is designated as the source of water for a proposed development, that entity shall file with the Director and the State Engineer a statement documenting the amount of water which can be supplied by the entity without causing injury to existing water rights.

(ii) The State Engineer shall file with the Director written comments on the report. If the State Engineer finds that the report is insufficient, an opinion indicating the deficiencies shall be transmitted to the Land Use Department.

5. The Colorado Geological Survey may evaluate those geologic factors which would have a significant impact on the proposed use of the land.

6. Where the application involves dwelling units, the school district shall submit specific recommendations with respect to the adequacy of school sites and the adequacy of school structures.

7. The County Engineer shall review all engineering aspects of the proposed development, including, but not limited to, impacts on the multimodal transportation system, impacts to known floodplains, stormwater management issues, grading, drainage, access, retaining walls and referral responses, and shall transmit findings and preliminary recommendations to the Director.

8. The County Parks and Open Space Department shall review the application for open space and environmental impacts. Staff will schedule applications with such impacts for discussion before the Parks and Open Space Advisory Committee.

9. The County Land Use Department shall evaluate the application for conformance with the Comprehensive Plan, any applicable intergovernmental agreement affecting land use or development, this Code, sound planning and design practices, and comments from the referral agencies and individuals.

10. The Colorado Division of Wildlife shall evaluate the application for its impacts on wildlife of federal, state and local significance and on associated wildlife habitat.

11. The Boulder County Historic Preservation Advisory Board (HPAB), as duly constituted under Article 15 of this Code, shall serve as a referral entity for applications which the Land Use Director deems have the potential to impact structures or resources of historical significance in the County.

D. Post Referral Action

If there are referral comments received by the Land Use Department which require a response from the applicant, the following actions shall occur:

1. The Land Use staff will transmit by first class mail, or hand delivery, the comments from referral agencies and individuals as soon as possible following the required referral response period.

2. Within 14 days after transmittal of those comments, or by a later date specified by the Director, the applicant shall respond in writing to all issues raised during the referral process.

a. Such response shall be considered an amendment to the application, and shall be made part of the application to be used as a basis for a final Land Use Staff recommendation.

b. If the Director finds that this new information results in a substantial change in the proposal, the Director may re-refer the amended application and supporting materials to those referral agencies and individuals outlined in Section 3-204 (C). The processing schedule will be amended accordingly.

c. If the applicant is unable to supply responses within the 14 days allowed, then the applicant may request, in writing, a delay in processing the application for up to 95 days.

d. If the applicant fails to supply responses within the specified time, the Director may either base the Land Use Staff recommendation on review of the file as it exists, or reject the application as a result of the failure to provide information necessary to its proper review. In the case of the latter, the Director shall inform the applicant in writing.

3. As part of the post-referral action, the Land Use Staff will make a reasonable effort to apprise the applicant of any deficiency in the application known to the Staff prior to any required public hearing. In the case of any application to plat unsubdivided land, or application for any extension, betterment, or addition to buildings, structures, or plants or equipment of a public utility under C.R.S. 30-28-127, the applicant may request that any technical dispute between a licensed or registered professional retained by the applicant and the County be referred to a qualified employee in the appropriate State department for a recommendation to facilitate a resolution of the dispute. If the recommended resolution results in a substantial change to the application, the Director may re-refer the application as provided in this Subsection (D).

4. The Land Use Staff shall make a recommendation based on its analysis of the record on the application, the referral comments and the applicant's responses to the referral comments.

3-205 Public Review

A. The Board of Adjustment shall hold a public hearing on all applications for variances and appeals subject to the following conditions:

1. The applicant shall submit all written or other materials to be used in the hearing no later than 14 days prior to the hearing. If the applicant plans to call any expert witnesses on its behalf, the applicant shall submit a written summary of the expert's anticipated testimony to the Director within this same time period.

2. The Director shall provide the Board of Adjustment and make available to the public copies of the recommendations, decisions and supporting material 7 days prior to the hearing at which the variance or appeal is to be considered.

3. A notice of the hearing shall be published in a newspaper of general circulation within Boulder County at least 14 days prior to the hearing date.

4. In the case of an application for a variance to the provisions of this Code, the Land Use Department Staff shall mail a written notice of the hearing by first class mail at least 14 days prior to the hearing date to the applicant, owners and interest holders in the property, and to owners of property adjacent to the property. Failure to mail this notice to every property owner shall not affect the validity of any hearing or determination of the Board of Adjustment. In addition, this notice shall not be deemed to qualify as, or substitute for, the applicant's independent obligation under Article 65.5 of Title 24, C.R.S., regarding the identification of and notice to any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application.

5. If the applicant has signed a certification pursuant to Article 65.5 of Title 24, C.R.S., identifying the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, the Applicant shall sign an additional certification confirming that the applicant has, at least 30 days prior to the initial public hearing on the application, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.

6. In the case of an application for an appeal, the staff shall mail a written notice of the hearing at least 14 days prior to the hearing to the appellant and any member of the public requesting this notice. Failure to mail this notice to every individual requesting it shall not affect the validity of any hearing or determination of the Board of Adjustment.

7. For all variances, a sign shall be posted on the subject property in a conspicuous manner at least 14 days prior to the Board of Adjustment hearing. The sign shall note the name of the docket, with the docket number, and the address and telephone number of the Land Use Department where materials relating to the proposal may be reviewed prior to the hearing.

8. In all Board of Adjustment hearings, the Director or designated representative, shall be considered to officially represent the position of Boulder County. Boulder County shall retain any authority it may have to appeal any decision made by the Board of Adjustment to District Court.

B. Planning Commission Review

1. The Planning Commission shall review and make recommendations to the Board of County Commissioners on the following applications after a public hearing.

2. Notice of public hearings for special use permits (except limited impact special use permits), PUDs, sketch plan review, rezonings (except comprehensive rezonings), and location and extent review shall include the following:

a. A notice published by the Land Use Department in a newspaper of general circulation within Boulder County at least seven days prior to the hearing date. The notice shall include

(i) the date, time, place and purpose of the public hearing;

(ii) the address and telephone number of the Land Use Department where a complete legal description of the property and all application materials relating to the proposal may be reviewed prior to the hearing;

(iii) the names of the landowner and applicant;

(iv) a general description of the proposed development;

(v) the zoning; and

(vi) a general location description of the land including Section, Township and Range, together with a road address or location by road mileage.

b. For all processes except location and extent and comprehensive rezonings, a sign posted on the subject property in a conspicuous manner at least 12 days prior to the Planning Commission hearing.

(i) The sign shall note the name of the project, the docket number, and the address and telephone number of the Land Use Department where the materials relating to the proposal may be reviewed prior to the hearing.

(ii) The sign shall remain posted through final county action on the application.

c. A written notice of the hearing, together with the final recommendations of the Land Use Department, transmitted at least seven days prior to the hearing date to the applicant.

d. A written notice similar to that contained in Section 3-205(B)(2)(a), above, transmitted by the Land Use Director at least 10 days prior to the hearing, by first class mail, to other owners of estates, rights, liens, mortgages or interests in the property and to adjacent and/or nearby property owners. Inadvertent failure to notify every such property owner shall not affect the validity of any hearing or determination of the Planning Commission.

e. The notices required in this Subsection B.2. shall not be deemed to qualify as, or substitute for, the applicant's independent obligation under Article 65.5 of Title 24, C.R.S., regarding the identification of and notice to any mineral estate owners or lessees that own less than full fee title in the property which is the subject of an application requiring compliance with Article 65.5 of Title 24, C.R.S., as set forth in Section 3-202.A, above. Therefore, if the application is one which Section 3-202.A., above, identifies as requiring compliance with Article 65.5 of Tile 24, C.R.S., and if the applicant has signed a certification pursuant to Article 65.5 of Title 24, C.R.S. identifying the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, then the applicant shall sign an additional certification confirming that the applicant has, at least 30 days prior to the initial Planning Commission public hearing on the application, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.

3. Notice of public hearings for comprehensive rezonings, Land Use Code text amendments, and Boulder County Comprehensive Plan amendments shall include:

a. a notice of the hearing, containing the applicable elements set forth in Subsection 3-205B.2.a., above, published in a newspaper of general circulation within Boulder County at least 14 days prior to the public hearing date.

b. notice via electronic means (e.g., transmitted to the most recent electronic mail address on file) to all property owners who have communicated in writing to the Director a desire to "opt in" to receiving direct notice of all proposed comprehensive rezonings, Land Use Code text amendments, and Boulder County Comprehensive Plan amendments; provided, however, that inadvertent failure to notify every such owner shall not affect the validity of any action by the County on a comprehensive rezoning, text amendment, or Comprehensive Plan amendment.

4. Notice of public hearings for preliminary plan, final plat, and vacations, shall include the following:

a. A written notice of the hearing and the final recommendations of the Land Use Department.

b. That notice is to be transmitted at least seven days prior to the hearing date to the applicant and to other owners of estates, rights, liens, mortgages or interests in the property.

c. The notices required in this Subsection B.4. for preliminary plan and final plat applications shall not be deemed to qualify as, or substitute for, the applicant's independent obligation under Article 65.5 of Title 24, C.R.S., regarding the identification of and notice to any mineral estate owners or lessees that own less than full fee title in the property which is the subject of an application requiring compliance with Article 65.5 of Title 24, C.R.S., as set forth in Section 3-202.A., above. Therefore, if the application is one which Section 3-202.A., above, identifies as requiring compliance with Article 65.5 of Title 24, C.R.S., and if the applicant has signed a certification pursuant to Article 65.5 of Title 24, C.R.S. identifying the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, then the applicant shall sign an additional certification confirming that the applicant has, at least 30 days prior to the initial Planning Commission public hearing on the application, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.

5. In any case where information becomes known to the Land Use Director or the Planning Commission that an applicant has failed to provide notice of an initial public hearing on any development application which is subject to the requirements of Article 65.5 of Title 24, C.R.S., as provided in Section 3-202.A., above, at least 30 days prior to the initial Planning Commission public hearing on the application as required by Article 65.5 of Title 24, C.R.S., the Planning Commission or the Director on behalf of the Planning Commission may continue, may reschedule, or may vacate the initial public hearing to allow proper notice to be provided under Article 65.5 of Title 24, C.R.S.

6. The Planning Commission shall conduct its public hearings expeditiously while giving due regard to the needs of both the applicant and the public to fully and fairly present their views. The Planning Commission shall conclude the public testimony portion of the hearing when all those present and wishing to testify have done so.

7. For special use permits, rezonings, text amendments, and vacations, the Planning Commission may delay the opening of the public hearing or may table the request on any application at the time of the public hearing for a reasonable period of time, to provide the public, the applicant or staff the proper time to review new technical or other information that was made available without reasonable opportunity for review or response, to obtain additional information necessary for the Planning Commission to make their decision, to allow for the applicant's compliance with the notice requirements of this Code and Article 65.5 of Title 24, C.R.S., or to allow for additional time for Planning Commission deliberation and action.

8. For any subdivision application to plat unsubdivided land (sketch plan, preliminary plan or final plat), PUD application, or application for any approval or permit for an extension, betterment, or addition to buildings, structures, or plants or equipment of a public utility under C.R.S. Section 30-28-127, the Planning Commission may delay the opening of the public hearing, or may table action on the application at the hearing, for a reasonable period of time and for the reasons stated in Subsection B.7, above. If action at the public hearing is tabled or continued to a future hearing, the tabling or continuance shall be to a date certain (unless a date certain is waived by the applicant), and the Planning Commission shall take action to recommend approval, conditional approval, or denial of the application within 40 days after the date of commencement of the public hearing, or within such longer period as the applicant in writing agrees (the applicant may waive the requirement for a written consent). This 40-day period may be extended under any of the following circumstances:
   a. If the County still needs to receive a recommendation from any agency to which a plat or plan under the Subdivision Regulations was referred pursuant to C.R. S. Section 30-28-136, although such extension shall not exceed 30 days unless the agency has notified the County that it will require additional time to complete its recommendation; or
   b. If the Planning Commission, based on specific, objective criteria in the applicable regulations, requests a redesign of all or any portion of a plat or plan or application, or subsequently requests another redesign (which additional redesign C.R.S. Section 30-28-133.5(4) permits only if necessary to allow the application to conform with a duly adopted County resolution, ordinance, or regulation); or
   c. If the Planning Commission determines, based on the information developed through the public hearing process, that a reasonable additional amount of time is necessary to allow full participation of the interested public and the development of information to make an informed decision based on the applicable regulatory criteria.
   d. If the Planning Commission determines that additional time is necessary to allow for the applicant's compliance with the notice requirements of this Code or of Article 65.5 of Title 24, C.R.S.
9. Any application submitted by a public utility or a power authority providing electric or natural gas service, which relates to the location, construction, or improvement of a major electrical or natural gas facility as contemplated by Section 29-20-108, C.R.S., as amended, and which is required to be presented to the Planning Commission for review, shall be considered to be a "preliminary application" under Section 29-20-108. Final County action on any such application shall thus be required to be taken within 120 days after submission of the application, or the application under Section 29-20-108 is deemed approved. For purposes of this Subsection B.9., "submission" shall be considered to be the submission of a complete application as required by this Article 3, including but not limited with respect to compliance with any applicable notice requirements to the mineral estate owners and lessees constituting less than full fee title in the subject property as required by Article 65.5 of Title 24, C.R.S.

C. Board of County Commissioners Review
1. Board of County Commissioners hearings
   a. The BOCC must schedule a public hearing to review and act upon special use permit, PUD, sketch plan review, and rezoning (except comprehensive rezonings) applications within a reasonable period of time after the Planning Commission's action.
2. Notice of public hearings for a special use permit, PUD, sketch plan review, and rezoning (except comprehensive rezonings), shall include:
   a. a notice of the hearing, as defined in Section 3-205(B)(2)(a), above, published in a newspaper of general circulation within Boulder County at least 14 days prior to the hearing date; and
   b. a written notice of the hearing, as defined in Section 3-205(B)(2)(a), above, transmitted at least 14 days prior to the hearing date to the applicant, to other owners of estates, rights, liens, mortgages or interests in the property, and to adjacent and/or nearby property owners. Inadvertent failure to notify every such property owner shall not affect the validity of any hearing or determination of the BOCC.
3. Notice of public hearings for comprehensive rezonings, Land Use Code text amendments, and Boulder County Comprehensive Plan amendments shall include:
   a. a notice of the hearing, containing the applicable elements set forth in Subsection 3-205B.2.a., above, published in a newspaper of general circulation within Boulder County at least 14 days prior to the public hearing date.
   b. notice via electronic means (e.g., transmitted to the most recent electronic mail address on file) to all property owners who have communicated in writing to the Director a desire to "opt in" to receiving direct notice of all proposed comprehensive rezonings, Land Use Code text amendments, and Boulder County Comprehensive Plan amendments; provided, however, that inadvertent failure to notify every such owner shall not affect the validity of any action by the County on a comprehensive rezoning, text amendment, or Comprehensive Plan amendment.

4. Notice of public hearings for limited impact special use permits shall include:
   a. a notice of the hearing, as defined in Section 3-205(B)(2)(a), above, published in a newspaper of general circulation within Boulder County at least 14 days prior to the hearing date; and
   b. a written notice of the hearing, as defined in Section 3-205(B)(2)(a), above, transmitted at least 14 days prior to the hearing date to the applicant, to other owners of estates, rights, liens, mortgages or interests in the property, and to adjacent and/or nearby property owners. Inadvertent failure to notify every such property owner shall not affect the validity of any hearing or determination of the BOCC.
   c. The notices required in this Subsection C.4. shall not be deemed to qualify as, or substitute for, the applicant's independent obligation under Article 65.5 of Title 24, C.R.S., regarding the identification of and notice to any mineral estate owners or lessees that own less than full fee title in the property which is the subject of an application requiring compliance with Article 65.5 of Title 24, C.R.S., as set forth in Section 3-202.A., above. Therefore, if the application is one which Section 3-202.A., above, identifies as requiring compliance with Article 65.5 of Title 24, C.R.S, and if the applicant has signed a certification pursuant to Article 65.5 of Title 24, C.R.S. identifying the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, then the applicant shall sign an additional certification confirming that the applicant has, at least 30 days prior to the initial BOCC public hearing on the application, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.
5. Notice of public hearings for vacations, subdivision exemptions, and exemption plats shall include:
   a. a notice of the hearing, as defined in Section 3-25(B)(2)(a), above, published in a newspaper of general circulation within Boulder County at least 14 days prior to the hearing date; and
   b. a written notice of the hearing, as defined in Section 3-205(B)(2)(a), above, transmitted at least 14 days prior to the hearing date to the applicant, to other owners of estates, rights, liens, mortgages or interests in the property, and to adjacent and/or nearby property owners. Inadvertent failure to notify every such property owner shall not affect the validity of any hearing or determination of the BOCC.
   c. The notices required in this Subsection C.5. shall not be deemed to qualify as, or substitute for, the applicant's independent obligation under Article 65.5 of Title 24, C.R.S., regarding the identification of and notice to any mineral estate owners or lessees that own less than full fee title in the property which is the subject of an application requiring compliance with Article 65.5 of Title 24, C.R.S., as set forth in Section 3-202.A., above. Therefore, if the application is one which Section 3-202.A., above, identifies as requiring compliance with Article 65.5 of Title 24, C.R.S, and if the applicant has signed a certification pursuant to Article 65.5 of Title 24, C.R.S. identifying the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, then the applicant shall sign an additional certification confirming that the applicant has, at least 30 days prior to the initial BOCC public hearing on the application, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.
6. Notice of public hearings for preliminary plans, final plats, and road name changes shall include:
   a. A written notice of the hearing, as defined in Section 3-205(B)(2)(a), above, transmitted at least 7 days prior to the hearing date to the applicant, to other owners of estates, rights, liens, mortgages or interests in the property, and to adjacent and/or nearby property owners. Inadvertent failure to notify every such property owner shall not affect the validity of any hearing or determination of the BOCC.
   b. No published notice is required.
7. In any case where information becomes known to the Land Use Director or the BOCC that an applicant has failed to provide notice of an initial public hearing on any development application which is subject to the requirements of Article 65.5 of Title 24, C.R.S., as provided in Section 3-202.A., above, at least 30 days prior to the initial County public hearing (before the Planning Commission or BOCC, as applicable) on the application as required by Article 65.5 of Title 24, C.R.S., the Board or the Director on behalf of the Board may continue, may reschedule, or may vacate the initial public hearing to allow proper notice to be provided under Article 65.5 of Title 24, C.R.S.
8. Any action taken by the Board of County Commissioners will be based on the entire record of proceedings on the matter, as that record is maintained by the Land Use Department Director and/or the Clerk of the Board of County Commissioners, including but not limited to: tape recordings or true transcripts of public hearings or hearings where the proposals were discussed; all written comments of referral agencies; the review and recommendations of the Land Use Department; and all written commitments, statements, or evidence made or submitted by or in behalf of the applicants, landowners or interest holders or their agents, and interested members of the public. The applicant shall have the burden of proof to show that the applicable criteria for approval have been met.

9. Any action to deny an application based on public hearing shall be supported by written findings specifying the regulatory provisions or criteria that the application failed to address or satisfy. The Board shall have full authority to deny an application as a result of insufficient information being available to allow the Board to make a reasonable determination that the applicable provisions or criteria have been or can be met.
10. The Board shall conduct its public hearings expeditiously while giving due regard to the needs of both the applicant and the public to fully and fairly present their views. The Board shall conclude the public testimony portion of the hearing when all those present and wishing to testify have done so.
11. For special use permits, limited impact special use permits, rezonings, text amendments, vacations, road name changes, subdivision exemptions, and exemption plats, the Board may delay the opening of the public hearing or may table the request on any application at the time of the public hearing for a reasonable period of time to provide the public, the applicant or staff the proper time to review new technical or other information that was made available without reasonable opportunity for review or response, to obtain additional information necessary for the Board to make their decision, to allow for the applicant's compliance with the notice requirements of this Code and Article 65.5 of Title 24, C.R.S., or to allow for additional time for Board deliberation and action.
12. For any subdivision application to plat unsubdivided land (sketch plan, preliminary plan or final plat), PUD application, or application for any approval or permit for an extension, betterment, or addition to buildings, structures, or plants or equipment of a public utility under C.R.S. 30-28-127, the Board may delay the opening of the public hearing, or may table action on the application at the hearing, for a reasonable period of time and for the reasons stated in Subsection C.11., above. If action at the public hearing is tabled or continued to a future hearing, the tabling or continuance shall be to a date certain (unless a date certain is waived by the applicant), and the Board shall take action to approve, conditionally approve, or deny the application within 40 days after the date of commencement of the public hearing, or within such longer period as the applicant in writing agrees (the applicant may waive the requirement for a written consent). This 40-day period may be extended under any of the following circumstances:
    a. If the County still needs to receive a recommendation from any agency to which a plat or plan under the Subdivision Regulations was referred pursuant to C.R. S. Section 30-28-136, although such extension shall not exceed 30 days unless the agency has notified the County that it will require additional time to complete its recommendation; or
    b. If the Board, based on specific, objective criteria in the applicable regulations, requests a redesign of all or any portion of a plat or plan or application, or subsequently requests another redesign (which additional redesign C.R.S. Section 30-28-133.5(4) permits only if necessary to allow the application to conform with a duly adopted County resolution, ordinance, or regulation); or
    c. If the Board determines, based on the information developed through the public hearing process, that a reasonable additional amount of time is necessary to allow full participation of the interested public and the development of information to make an informed decision based on the applicable regulatory criteria.
    d. If the Board determines that additional time is necessary to allow for the applicant's compliance with the notice requirements of this Code or of Article 65.5 of Title 24, C.R.S.
13. Any application submitted by a public utility or a power authority providing electric or natural gas service, which relates to the location, construction, or improvement of a major electrical or natural gas facility as contemplated by Section 29-20-108, C.R.S., as amended, and which is required to be presented to the Planning Commission for review, shall be considered to be a "preliminary application" under Section 29-20-108. Final County action on any such application shall thus be required to be taken within 120 days after submission of the application, or the application under Section 29-20-108 is deemed approved. Any such application for a major electrical or natural gas facility which is required to be presented to only the Board, shall be considered to be a "final application" under Section 29-20-108 on which final County action shall be required to be taken within 90 days after submission of the application, or the application under Section 29-20-108 is deemed approved. For purposes of this Subsection C.13., "submission" shall be considered to be the submission of a complete application as required by this Article 3, including but not limited with respect to compliance with any applicable notice requirements to the mineral estate owners and lessees constituting less than full fee title in the subject property as required by Article 65.5 of Title 24, C.R.S.

3-206 Post Approval Requirements

A. No activity or use authorized pursuant to an approval granted subject to the provisions of this Article shall be permitted or allowed to commence unless all post- approval requirements as required by this Code and all conditions of approval have been met.

B. Development Agreements

1. For special use approvals and final plat or final plat replat approvals under the Subdivision Regulations, a development agreement must be reviewed and approved by County staff, signed by the applicant, and then signed by the Chair of the Board. The approved and executed development agreement shall be recorded in the real property records of Boulder County at the same time the other required post-approval documents implementing the approval are recorded. The development agreement shall embody the terms and conditions of the site specific development plan creating a vested property right pursuant to Section 3-207.

2. The development agreement typically will include the following (as applicable):

a. description of the approved development,

b. site plan depicting the approved development,

c. provisions for construction of improvements,

d. performance guarantees and letters of credit,

e. evidence of payment of sewer and water tap fees and other necessary fees,

f. phasing schedule,

g. evidence of transfer of water rights,

h. agreements to provide 'as built' plans,

i. methods of providing perpetual maintenance of common property and equipment,

j. provisions for a home owners association,

k. methods for amending the agreement,

l. enforcement provisions, and

m. language establishing a vested property right in conformity with Part I of Article 68 of Title 24, C.R. S., as amended.

3. The development agreement shall be signed by all owners of the subject property.

C. Subdivision Exemptions

1. Following approval or conditional approval of an exemption, following actions may be required.

a. The applicant shall obtain all signatures necessary for execution of the appropriate documents. The Director shall be responsible for obtaining the signature of the Chair of the Board of County Commissioners.

b. The applicant shall supply a title report as defined in Section 3-203(G) which includes all owners of record as of the date of recordation.

c. The applicant shall obtain a certification from the County Treasurer's Office that there are no outstanding ad-valorem taxes to be paid on the property being exempted.

d. The Director shall verify that the proper signatures have been secured on the exemption documents.

e. The Director shall verify that references to the docket number of the exemption and date of approval are included on the deeds.

2. Upon finding that all corrections have been made to the exemption documents, the proper signatures have been received, that all payments have been received, and the documents are in the proper order and ready for recordation, the Director shall authorize the documents to be filed for recording with the Clerk and Recorder.

3. The applicant shall be responsible for all recording fees.

D. Final Plats

1. The following actions shall occur after approval or conditional approval of the final plat by the Board of County Commissioners and prior to recordation of that plat and associated documents.

a. The recordation of required materials shall occur within one year of approval by the BOCC.

b. Extensions of this deadline shall be granted per Section 5-500 Expiration of Approvals.

2. The applicant shall provide the Director with all of the proper original documents as required below.

a. The applicant shall correct, modify and amend all final plat documents in accordance with approval or conditional approval.

b. The applicant shall obtain all signatures necessary for execution of the appropriate documents. The Director shall be responsible for obtaining the signature of the BOCC Chair.

c. The applicant shall obtain itemized estimates for the cost of required improvements.

d. The applicant shall obtain a final Letter of Credit or other financial guarantee acceptable to the Director from the appropriate lending institution.

e. The surveyor shall set all points in the field that were not set previously using criteria established in Section 7-1500.

f. The applicant shall supply a title report as defined in Section 3-203 (G), above, which includes all owners of record as of the date of recordation.

g. The applicant shall obtain a certification from the County Treasurer's Office that there are no outstanding ad-valorem taxes to be paid on the property being exempted.

h. The Director shall verify that the proper signatures have been secured on the required documents.

i. The Director shall verify that a sign identifying the receiving area of a noncontiguous nonurban PUD, including the number of dwelling units approved for the parcel, has been posted on the property in a visible location consistent with all requirements of this Code.

3. Upon finding that all corrections have been made to the plat and other documents, that the proper signatures have been received, that all payments and improvements guarantees have been received, that the documents are in the proper order and ready for recordation, the Director shall sign the face of the plat authorizing the plat to be filed for recording.

4. The applicant shall be responsible for all recording fees.

5. Upon completion of the recording process, the Director shall provide the applicant with a full size reproducible copy of the signed and recorded plat and copies of recorded documents as necessary.

E. Road Name Changes

1. The Land Use Department will notify, in writing, the applicant and the following owners and agencies:

a. all owners of property abutting the road and identifiable interest owners of record in the roadway,

b. the County Transportation Department,

c. appropriate city and/or town,

d. city or county Public Health department,

e. electric and gas companies,

f. U.S. Postal Service,

g. the County Assessor's Office,

h. telephone company,

i. fire authority,

j. law enforcement agencies, and

k. any other agency deemed appropriate by the Director.

3-207 Vested Property Rights

A. A vested property right may be established pursuant to Part I of Article 68 of Title 24, C.R.S., as amended, after the following events occur:

1. Approved applications for special use permits, final plats, or final plat replats under the Subdivision Regulations, constitute site specific development plans which will cause property rights to vest as provided in Part I of Article 68 of Title 24, C.R.S., as amended

2. The site specific development plans, as identified in the preceding subsection (1), shall be deemed approved, and the associated vested property right shall be deemed established, on the date the Board signs a written resolution approving or conditionally approving the subject special use, final plat, or final plat replat application.

3. No later than 14 days after the date of the Board's adoption of its written resolution establishing the vested right, the Director shall publish a notice advising the public of the approval of the site specific development plan and the creation of the vested property right in a newspaper of general circulation of the County.

4. Once established, the vested right shall remain in effect for three years, unless the Board determines, as part of the site specific development plan approval, that a longer period is warranted in light of the relevant circumstances. Those circumstances may include but are not limited to: the size and phasing of the development, economic cycles, and market conditions. Any amendment to an approved site specific development plan shall not extend the three year vesting period unless the Board expressly authorizes an extension based on the foregoing criteria.

5. No activity or use authorized by a site specific development plan approval granted under this Article shall be allowed to commence unless a vested right is first established as required in this Section, and until all other applicable post-approval requirements have been met.

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Article 4

Zoning

Article 4 • Zoning Table

District	Lot Size: Subdivided with Water & Sewer in a Community Service Area	Lot Size: Unsubdivided	Setbacks: Front	Setbacks: Side	Setbacks: Rear	Height	Additional Restrictions
Forestry **F**	35 acres	35 acres	15'	25'	15'	30'	2 animal units/acre
Agricultural **A**	35 acres	35 acres	35'	7'	15'	30'/50'	4 animal units/acre
Rural Residential **RR**	1 acre	35 acres	25'	7'	15'	30'	2 animal units/acre
Estate Residential **ER**	1 acre	35 acres	35'	10'	25'	30'	2 animal units/acre
Suburban Residential **SR**	7,500 sq. ft.	35 acres	25'	7'	15'	30'	1 horse per one-half acre of pasturage See footnote^
Multifamily **MF**	7,500 sq. ft 15,500 sq. ft	35 acres	25'	7'	15'	50'	1 horse per one-half acre of pasturage
Manufactured Home Park **MH**	35 acres	35 acres	25'	7'	15'	30'	No animal units/acre
Transitional **T**	15,500 sq. ft	35 acres	25'	7'	15'	50'	Within Community Service Areas - Maximum dwelling units on subdivided land - 9/acre. No animal units/acre
Business **B**	No minimum requirement	35 acres	*60'	0' or 12'	20'	50'	Within Community Service Areas - Maximum dwelling units on subdivided land - 9/acre. No animal units/acre
Commercial **C**	No minimum requirement	35 acres	*60'	0' or 12'	20'	50'	Within Community Service Areas - Maximum dwelling units on subdivided land - 9/acre. No animal units/acre
Light Industrial **LI**	No minimum requirement	35 acres	*60'	0' or 12'	20'	50'	4 animal units/acre
General Industrial **GI**	No minimum requirement	35 acres	*60'	0' or 12'	20'	50'	4 animal units/acre
Mountain Institutional **MI**	35 acres	35 acres	15'	25'	15'	30'	2 animal units/acre

*From centerline of existing roadway. ^Residents in the SR zone may keep up to 8 hens and 2 bee colonies for their own use.

Article 4 • Zoning

From the Forward to the Boulder County Zoning Resolution, February 4, 1944:

A zoning ordinance imposes such reasonable limitations upon the right of a property owner to use his property as he pleases, as may be determined by considerations of public health, safety, and welfare. But he may not use his property as he pleases without regard for his neighbors, or the effect of his actions upon the welfare and prosperity of the whole community of which he is a part. Nor is a zoning ordinance merely a temporary matter. It is an integral part of public planning, which takes the long view. The use of land is a granted right, but the land itself remains long after individuals who have exercised such rights have passed away. Rural zoning contemplates not only benefits in the present, but also seeks to conserve our resources for future generations.

4-100 Zoning District Regulations

Zoning District Legend:	
(A)	Uses Permitted by Special Authorization of the Building Official (Section 2-500)
(I)	Uses Permitted by Limited Impact Special Review (Article 3 and Section 4-600)
(L)	Uses Permitted by Location & Extent Review (Article 8)
(R)	Uses Permitted by Review of Areas and Activities of State Interest (Article 8)
(S)	Uses Permitted by Special Review (Article 3 and Section 4-600)
(SPR)	Uses Permitted by Site Plan Review (Article 4-800)

4-101 Forestry (F) District

A. Purpose: Rural areas established for the purpose of efficiently using land to conserve forest resources, protect the natural environment, and preserve open areas.

B. Principal Uses Permitted

1. Agri-business Uses (see 4-501)

a. Keeping of Nondomestic Animals (S)

2. Agricultural Uses (see 4-502)

a. Equestrian Center (S)

b. Intensive Agricultural Uses (S)

c. Open Agricultural Uses

3. Commercial/Business Service Uses (see 4-503)

a. Kennel (S)

4. Community Uses (see 4-504)

a. Adaptive Reuse of a Historic Landmark (I)

b. Camp (I/S)

c. Membership Club (S)

d. Reception Halls and Community Meeting Facilities (S)

e. Use of Community Significance (I)

5. Forestry Uses (see 4-505)

a. Forestry

b. Forestry Processing and Sort Yard (I)

6. Industrial Uses (see 4-506)

a. Saw Mill (S)

b. Solid Waste Transfer Facility (S)

7. Lodging Uses (see 4-507)

a. Bed and Breakfast (I)

b. Campground (S)

c. Resort Lodge, Conference Center, or Guest Ranch (S)

d. Short-Term Dwelling Rental (I)

8. Mining Uses (see 4-508)
- **a.** Limited Impact Open Mining (I)
- **b.** Oil and Gas Operations
- **c.** Open Mining (S)
- **d.** Subsurface Mining; (I) (S)
- **e.** Subsurface Mining of Uranium (S)

9. Office Uses (see 4-509)
None Permitted

10. Recreation Uses (see 4-510)
- **a.** Livery or Horse Rental Operation (S)
- **b.** Outdoor Recreation, for day use (S)
- **c.** Outdoor Recreation, for night use (S)
- **d.** Park and/or Playfield, for day use
- **e.** Park and/or Playfield, for night use (S)
- **f.** Public Recreation Center (S)
- **g.** Ski Area (S)

11. Residential Uses (see 4-511)
- **a.** Group Care or Foster Home (S)
- **b.** Single Family Dwelling

12. Retail and Personal Service Uses (see 4-512)
- **a.** Recycling Collection Center, Small (I)
- **b.** Veterinary Clinic, without outdoor holding facilities (S)

13. Transportation Uses (see 4-513)
- **a.** Heliport (S)
- **b.** Helistop (S)
- **c.** Park and Ride Facility (S)

14. Utility and Public Service Uses (see 4-514)
- **a.** Central Office Building of a Telecommunication Company (R)
- **b.** Community Cistern (I)
- **c.** Fire Barn (I)
- **d.** Fire Station (S)
- **e.** Large Solar Energy System (S)
- **f.** Major Facility of a Public Utility (R) (S) (L)
- **g.** Medium Solar Energy System or Solar Garden (S)
- **h.** Public or Quasi-public Facility other than Listed (S)
- **i.** Public Safety Telecommunication Facility (I)
- **j.** Sewage or Water Transmission Line (R) (L)
- **k.** Sewage Treatment Facility (R) (S) (L)
- **l.** Small Solar Energy System or Solar Garden (SPR) (I)
- **m.** Small Wind-Powered Energy System
- **n.** Telecommunications Facility, existing structure meeting height requirements
- **o.** Telecommunications Facility, new structure or not meeting height requirements (S)
- **p.** Utility Service Facility
- **q.** Water Reservoir (R) (S)(L)
- **r.** Water Tank or Treatment Facility (R) (S) (L)

15. Warehouse Uses (see 4-515)
None Permitted

C. Accessory Uses Permitted (see 4-516)

1. Accessory Agricultural Sales
2. Accessory Agricultural Structure
3. Accessory Beekeeping
4. Accessory Chicken Keeping
5. Accessory Dwelling (I)
6. Accessory Horse Keeping
7. Accessory Outside Storage
8. Accessory Solar Energy System
9. Accessory Structure
10. Grading of more than 500 Cubic Yards (I)
11. Home Events
12. Home Occupation
13. Household Pets
14. Noncommercial Telecommunication Site, one structure which meets setback and height requirements
15. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)
16. Small Wind-Powered Energy System, Roof-Mounted

D. Temporary Uses Permitted (see 4-517)

1. Emergency Noncommercial Telecommunication Site (A)
2. Garage Sales or Occasional Sales
3. Group Gathering / Special Events (A)
4. Temporary Batch Plant (A)
5. Temporary Construction or Sales Office (A)
6. Temporary Dwelling Unit (A)
7. Temporary Fireworks Stand (I)
8. Temporary Special Use (nonconforming use under Section 4-1004(A)(2)) (S)
9. Temporary Weather Device Tower

E. Lot, Building, and Structure Requirements

1. Minimum lot size...35 acres
2. Minimum setbacks
   - **a.** Front yard...15 feet
   - **b.** Side yard...25 feet
   - **c.** Rear yard...15 feet
   - **d.** From an irrigation ditch...50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may -with County concurrence- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.
   - **e.** Supplementary requirements may apply, refer to Article 7-1400.
3. Maximum building height
   - **a.** On subdivided land with a final plat approved by the County prior to August 29, 1994, 35 feet unless a lower height was approved through the platting process.
   - **b.** On any other land, 30 feet unless, through a subdivided land approval or Site Plan Review approval, a lower or higher height is permitted due to the unique characteristics of the particular site; in no event, however, shall any residential structure exceed 35 feet.

F. Additional Requirements

1. Animal units...Two animal units per acre without going through Special Review

2. Special review is required for any use which:

a. generates traffic volumes in excess of 150 average daily trips per lot, as defined by the Institute of Transportation Engineers;

b. has an occupant load greater than or equal to 100 persons per lot;

c. has a wastewater flow greater than or equal to 2,000 gallons per day per lot;

d. has a total floor area greater than 25,000 square feet; or

e. has a second principal use which does not increase density.

3. Limited Impact Special Review is required for any use which is:

a. a parking area associated with a trail of a governmental entity on publicly acquired open space land, which parking area is in accordance with an open space management plan approved by the Board of County Commissioners, and which generates traffic volumes in excess of 150 average daily trips per lot as defined by the Institute of Transportation Engineers;

b. grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(I).

4. No parcel shall be used for more than one principal use, except for allowed Agricultural uses, Forestry uses, Mining uses, or any combination thereof; for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses preserve the landmark; or for second principal uses approved though Special Review under 4-101.F.2.e, above

5. Small Wind-Powered Energy Collectors Systems, and Small Solar Energy Collectors Systems or Solar Gardens, Medium Solar Energy Systems or Solar Gardens, and Large Solar Energy Systems can be approved on parcels with existing principal uses without Special Review approval, however, these uses shall be reviewed using the process and standards described in the Utility and Public Service Uses classification in this Code.

4-102 Agricultural (A) District

A. Purpose: Rural areas where conservation of agricultural resources is of major value, and where residential development compatible with agricultural uses is allowed.

B. Principal Uses Permitted

1. Agri-business Uses (see 4-501)

- **a.** Agricultural Products Processing and Storage (S)
- **b.** Commercial Feed Yard (S)
- **c.** Commercial Nursery
- **d.** Custom Meat or Poultry Processing Facility (S)(I)
- **e.** Keeping of Nondomestic Animals (S)

2. Agricultural Uses (see 4-502)

- **a.** Equestrian Center
- **b.** Farm Store (I)
- **c.** Intensive Agricultural Uses
- **d.** Open Agricultural Uses
- **e.** Seasonal Farm Stand (I)

3. Commercial/Business Service Uses (see 4-503)

- **a.** Kennel

4. Community Uses (see 4-504)

- **a.** Adaptive Reuse of a Historic Landmark (I)
- **b.** Camp (I/S)
- **c.** Cemetery (S)
- **d.** Church
- **e.** Education Facility (S)
- **f.** Membership Club (S)
- **g.** Reception Halls and Community Meeting Facilities (S)
- **h.** Use of Community Significance (I)

5. Forestry Uses (see 4-505)

- **a.** Forestry
- **b.** Forestry Processing and Sort Yard (I)

6. Industrial Uses (see 4-506)

- **a.** Composting Facility (S)
- **b.** Sawmill (S)
- **c.** Solid Waste Disposal Site and Facility (S)
- **d.** Solid Waste Transfer Facility (S)

7. Lodging Uses (see 4-507)

- **a.** Bed and Breakfast (I)
- **b.** Campground (S)
- **c.** Resort Lodge, Conference Center, or Guest Ranch (legally existing as of April 20, 2004) (S)
- **d.** Short-Term Dwelling Rental (I)

8. Mining Uses (see 4-508)

- **a.** Limited Impact Open Mining (I)
- **b.** Oil and Gas Operations
- **c.** Open Mining (S)
- **d.** Subsurface Mining (S)
- **e.** Subsurface Mining of Uranium (S)

9. Office Uses (see 4-509)
None Permitted

10. Recreation Uses (see 4-510)
- **a.** Golf Course (S)
- **b.** Livery or Horse Rental Operation (S)
- **c.** Outdoor Recreation, for day use (S)
- **d.** Outdoor Recreation, for night use (S)
- **e.** Park and/or Playfield, for day use
- **f.** Park and/or Playfield, for night use (S)
- **g.** Public Recreation Center (S)

11. Residential Uses (see 4-511)
- **a.** Group Care or Foster Home (S)
- **b.** Single Family Dwelling

12. Retail and Personal Service Uses (see 4-512)
- **a.** Day Care Center (S)
- **b.** Recycling Collection Center, Small (I)
- **c.** Veterinary Clinic, with outdoor holding facilities
- **d.** Veterinary Clinic, without outdoor holding facilities

13. Transportation Uses (see 4-513)
- **a.** Airport (S)
- **b.** Heliport (S)
- **c.** Helistop (S)
- **d.** Park and Ride Facility (S)

14. Utility and Public Service Uses (see 4-514)
- **a.** Central Office Building of a Telecommunication Company (R)
- **b.** Community Cistern (I)
- **c.** Fire Barn (I)
- **d.** Fire Station (S)
- **e.** Large Solar Energy System (S)
- **f.** Major Facility of a Public Utility (R) (S) (L)
- **g.** Medium Solar Energy System or Solar Garden (S)
- **h.** Public or Quasi-public Facility other than Listed (S)
- **i.** Public Safety Telecommunication Facility (I)
- **j.** Sewage or Water Transmission Line (R) (L)
- **k.** Sewage Treatment Facility (R) (S) (L)
- **l.** Small Solar Energy System or Solar Garden (SPR) (I)
- **m.** Small Wind-Powered Energy System
- **n.** Telecommunications Facility, existing structure meeting height requirements
- **o.** Telecommunications Facility, new structure or not meeting height requirements (S)
- **p.** Utility Service Facility
- **q.** Water Reservoir (R) (S) (L)
- **r.** Water Tank and Treatment Facility (R) (S) (L)

15. Warehouse Uses (see 4-515)
None Permitted

C. Accessory Uses Permitted (see 4-516)

1. Accessory Agricultural Sales
2. Accessory Agricultural Structure
3. Accessory Beekeeping
4. Accessory Chicken Keeping
5. Temporary Accessory Community Meeting Facility
6. Accessory Concrete or Asphalt Batch Plant (S)
7. Accessory Dwelling (I)
8. Accessory Farm Stand (I)
9. Accessory Horse Keeping
10. Accessory Outside Storage
11. Accessory Solar Energy System
12. Accessory Structure
13. Demonstration Farm, or Farm Camp(I)
14. Farm Events (I)
15. Grading of more than 500 Cubic Yards (I)
16. Home Events
17. Home Occupation
18. Household Pets
19. Noncommercial Telecommunication Site, one structure which meets setback and height requirements
20. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)
21. Small Wind-Powered Energy System, Roof-Mounted

D. Temporary Uses Permitted (see 4-517)

1. Emergency Noncommercial Telecommunication Site (A)
2. Garage Sales or Occasional Sales
3. Group Gathering / Special Events (A)
4. Temporary Batch Plant (A)
5. Temporary Construction or Sales Office (A)
6. Temporary Dwelling Unit (A)
7. Temporary Fireworks Stand (I)
8. Temporary Special Use (nonconforming use under Section 4-1004(A)(2)) (S)
9. Temporary Weather Device Tower

E. Lot, Building, and Structure Requirements

1. Minimum lot size...35 acres
2. Minimum setbacks
   - **a.** Front yard...35 feet
   - **b.** Side yard...7 feet
   - **c.** Rear Yard...15 feet
   - **d.** From an irrigation ditch...50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may -with County concurrence- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.
   - **e.** Supplementary requirements may apply, refer to Article 7-1400.
3. Maximum building height
   - **a.** Residential structures:
     - **(i)** On subdivided land with a final plat approved by the County prior to August 29, 1994, 35 feet unless a lower height was approved through the platting process.
     - **(ii)** On any other land, 30 feet unless, through a subdivided land approval or Site Plan Review approval, a lower or higher height is permitted due to the unique characteristics of the particular site; in no event, however, shall any residential structure exceed 35 feet.
   - **b.** 50 feet for nonresidential structures

F. Additional Requirements

1. Animal units...Four animal units per acre without going through Special Review

2. Special review is required for any use which:

a. generates traffic volumes in excess of 150 average daily trips per lot, as defined by the Institute of Transportation Engineers;

b. has an occupant load greater than or equal to 100 persons per lot;

c. has a wastewater flow greater than or equal to 2,000 gallons per day per lot;

d. is on a parcel with a total floor area greater than 25,000 square feet, any portion of which is not part of an agricultural use;

e. has a second principal use which does not increase density.

3. Limited Impact Special Review is required for any use which is:

a. a parking area associated with a trail of a governmental entity on publicly acquired open space land, which parking area is in accordance with an open space management plan approved by the Board of County Commissioners, and which generates traffic volumes in excess of 150 average daily trips per lot as defined by the Institute of Transportation Engineers;

b. on a parcel with a total floor area greater than 25,000 square feet all of which is part of an agricultural use.

(i) A parcel may have 1,800 square feet of additional floor area for every additional 5 acres of parcel size above 35 acres, without triggering Limited Impact Special Review, but only if the owner grants the County a conservation easement on the property which prohibits any division of the property which would result in a violation of this Code, and prohibits the addition of structures to the property; or

c. grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(I).

4. No parcel shall be used for more than one principal use, except for allowed Agricultural uses, Forestry uses, Mining uses, or any combination thereof; for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark; or for second principal uses approved though Special Review under 4-102.F.2.e, above.

5. Small Wind-Powered Energy Collectors Systems, and Small Solar Energy Collectors Systems or Solar Gardens, Medium Solar Energy Systems or Solar Gardens, and Large Solar Energy Systems can be approved on parcels with existing principal uses without Special Review approval, however, these uses shall be reviewed using the process and standards described in the Utility and Public Service Uses classification in this Code.

4-103 Rural Residential (RR) District

A. Purpose: Residential areas developed at a density and character compatible with agricultural uses.

B. Principal Uses Permitted

1. Agri-business Uses (see 4-501)

- **a.** Commercial Nursery on unsubdivided land (S)
- **b.** Keeping of Nondomestic Animals (S)

2. Agricultural Uses (see 4-502)

- **a.** Equestrian Center (S)
- **b.** Farm Store on unsubdivided land (I)
- **c.** Intensive Agricultural Uses (S)
- **d.** Open Agricultural Uses
- **e.** Seasonal Farm Stand on unsubdivided land (I)

3. Commercial/Business Service Uses (see 4-503)
None Permitted

4. Community Uses (see 4-504)

- **a.** Adaptive Reuse of a Historic Landmark (I)
- **b.** Cemetery (S)
- **c.** Church
- **d.** Educational Facility (S)
- **e.** Use of Community Significance (I)

5. Forestry Uses (see 4-505)
None Permitted

6. Industrial Uses (see 4-506)
None Permitted

7. Lodging Uses (see 4-507)

- **a.** Bed and Breakfast (I)
- **b.** Short-Term Dwelling Rental (I)

8. Mining Uses (see 4-508)

- **a.** Limited Impact Open Mining (I)
- **b.** Oil and Gas Operations

9. Office Uses (see 4-509)
None Permitted

10. Recreation Uses (see 4-510)

- **a.** Golf Course (S)
- **b.** Park and/or Playfield, for day use
- **c.** Park and/or Playfield, for night use (S)
- **d.** Public Recreation Center (S)

11. Residential Uses (see 4-511)

- **a.** Group Care or Foster Home (S)
- **b.** Single Family Dwelling

12. Retail and Personal Service Uses (see 4-512)

- **a.** Day Care Center (S)
- **b.** Veterinary Clinic, without outdoor holding facilities (S)

13. Transportation Uses (see 4-513)

- **a.** Park and Ride Facility (S)

14. Utility and Public Service Uses (see 4-514)
- **a.** Central Office Building of a Telecommunication Company (R)
- **b.** Community Cistern (I)
- **c.** Fire Barn (I)
- **d.** Fire Station (S)
- **e.** Major Facility of a Public Utility (S) (R) (L)
- **f.** Public or Quasi-public Facility other than Listed (S)
- **g.** Public Safety Telecommunication Facility (I)
- **h.** Sewage or Water Transmission Line (R) (L)
- **i.** Sewage Treatment Facility (R) (S) (L)
- **j.** Small Solar Energy System or Solar Garden (SPR) (I)
- **k.** Small Wind-Powered Energy System (see 4-514.M.)
- **l.** Telecommunications Facility, existing structure meeting height requirements
- **m.** Telecommunications Facility, new structure or not meeting height requirements (S)
- **n.** Utility Service Facility
- **o.** Water Reservoir (R) (S) (L)
- **p.** Water Tank or Treatment Facility (R) (S) (L)

15. Warehouse Uses (see 4-515)
None Permitted

C. Accessory Uses Permitted (see 4-516)

1. Accessory Agricultural Sales
2. Accessory Agricultural Structure
3. Accessory Beekeeping
4. Accessory Chicken Keeping
5. Temporary Accessory Community Meeting Facility
6. Accessory Dwelling (I)
7. Accessory Farm Stand on unsubdivided land (I)
8. Accessory Horse Keeping
9. Accessory Outside Storage
10. Accessory Solar Energy System
11. Accessory Structure
12. Demonstration Farm or Farm Camp on unsubdivided land(I)
13. Farm Events on unsubdivided land
14. Grading of more than 500 Cubic Yards (I)
15. Home Events
16. Home Occupation
17. Household Pets
18. Noncommercial Telecommunication Site, one structure which meets setback and height requirements
19. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)
20. Small Wind-Powered Energy System, Roof-Mounted

D. Temporary Uses Permitted (see 4-517)

1. Emergency Noncommercial Telecommunication Site (A)
2. Garage Sales or Occasional Sales
3. Group Gathering / Special Events (A)
4. Temporary Batch Plant (A)
5. Temporary Construction or Sales Office (A)
6. Temporary Dwelling Unit (A)
7. Temporary Special Use (nonconforming use under Section 4-1004(A)(2)) (S)
8. Temporary Weather Device Tower

E. Lot, Building, and Structure Requirements

1. Minimum lot size

a. In a community service area on subdivided land with connection to public water and sewer facilities...One acre

b. On other land...35 acres

2. Minimum setbacks

a. Front yard...25 feet

b. Side yard...7 feet

c. Rear Yard...15 feet

d. From an irrigation ditch...50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may -with County concurrence- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.

e. Supplementary requirements may apply, refer to Article 7-1400.

3. Maximum building height

a. On subdivided land with a final plat approved by the County prior to August 29, 1994, 35 feet unless a lower height was approved through the platting process.

b. On any other land, 30 feet unless, through a subdivided land approval or Site Plan Review approval, a lower or higher height is permitted due to the unique characteristics of the particular site; in no event, however, shall any residential structure exceed 35 feet.

F. Additional Requirements

1. Animal units...Two animal units per acre without going through Special Review

2. Special Review is required for any use which:

a. generates traffic volumes in excess of 150 average daily trips per lot, as defined by the Institute of Transportation Engineers;

b. has an occupant load greater than or equal to 100 persons per lot;

c. has a wastewater flow greater than or equal to 2,000 gallons per day per lot;

d. has a total floor area greater than 25,000 square feet (35,000 square feet in a community service area); or

e. has a second principal use which does not increase density.

3. Limited Impact Special Review is required for any use which is:

a. a parking area associated with a trail of a governmental entity on publicly acquired open space land, which parking area is in accordance with an open space management plan approved by the Board of County Commissioners, and which generates traffic volumes in excess of 150 average daily trips per lot as defined by the Institute of Transportation Engineers;

b. grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(I).

4. No parcel shall be used for more than one principal use, except for allowed Agricultural uses, Forestry uses, Mining uses, or any combination thereof; for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark; or for second principal uses approved though Special Review under 4-103.F.2.e, above.

5. Small Wind-Powered Energy Collectors Systems and Small Solar Energy Collectors Systems or Solar Gardens can be approved on parcels with existing principal uses without Special Review approval, however, these uses shall be reviewed using the process and standards described in the Utility and Public Service Uses classification in this Code.

4-104 Estate Residential (ER) District

A. Purpose: Low density urban residential areas

B. Principal Uses Permitted

1. Agri-business Uses (see 4-501)

a. Keeping of Nondomestic Animals (S)

2. Agricultural Uses (see 4-502)

a. Open Agricultural Uses

3. Commercial/Business Service Uses (see 4-503)
None Permitted

4. Community Uses (see 4-504)

a. Adaptive Reuse of a Historic Landmark (I)

b. Church

c. Educational Facility (S)

d. Use of Community Significance (I)

5. Forestry Uses (see 4-505)
None Permitted

6. Industrial Uses (see 4-506)
None Permitted

7. Lodging Uses (see 4-507)

a. Short-Term Dwelling Rental (I)

8. Mining Uses (see 4-508)

a. Limited Impact Open Mining (I)

b. Oil and Gas Operations

9. Office Uses (see 4-509)
None Permitted

10. Recreation Uses (see 4-510)

a. Park and/or Playfield, for day use

11. Residential Uses (see 4-511)

a. Group Care or Foster Home (S)

b. Single Family Dwelling

12. Retail and Personal Service Uses (see 4-512)

a. Day Care Center (S)

b. Veterinary Clinic, without outdoor holding facilities (S)

13. Transportation Uses (see 4-513)

a. Park and Ride Facility (S)

14. Utility and Public Service Uses (see 4-514)
- **a.** Central Office Building of a Telecommunication Company (R)
- **b.** Community Cistern (I)
- **c.** Fire Barn (I)
- **d.** Fire Station (S)
- **e.** Major Facility of a Public Utility (R) (S) (L)
- **f.** Public or Quasi-public Facility other than Listed (S)
- **g.** Public Safety Telecommunication Facility (I)
- **h.** Sewage or Water Transmission Line (R) (L)
- **i.** Sewage Treatment Facility (R) (S) (L)
- **j.** Small Solar Energy System or Solar Garden (SPR) (I)
- **k.** Small Wind-Powered Energy System
- **l.** Telecommunications Facility, existing structure meeting height requirements
- **m.** Telecommunications Facility, new structure or not meeting height requirements (S)
- **n.** Utility Service Facility
- **o.** Water Reservoir (R) (S) (L)
- **p.** Water Tank or Treatment Facility (R) (S) (L)

15. Warehouse Uses (see 4-515)
None Permitted

C. Accessory Uses Permitted (see 4-516)
1. Accessory Agricultural Sales
2. Temporary Accessory Community Meeting Facility
3. Accessory Dwelling (I)
4. Accessory Agricultural Structure
5. Accessory Beekeeping
6. Accessory Chicken Keeping
7. Accessory Farm Stand (I)
8. Accessory Horse Keeping
9. Accessory Outside Storage
10. Accessory Solar Energy System
11. Accessory Structure
12. Grading of more than 500 Cubic Yards (I)
13. Home Events
14. Home Occupation
15. Household Pets
16. Noncommercial Telecommunication Site, one structure which meets setback and height requirements
17. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)
18. Small Wind-Powered Energy System, Roof-Mounted

D. Temporary Uses Permitted (see 4-517)
1. Emergency Noncommercial Telecommunication Site (A)
2. Garage Sales or Occasional Sales
3. Group Gathering (A)
4. Temporary Batch Plant (A)
5. Temporary Construction or Sales Office (A)
6. Temporary Dwelling Unit (A)
7. Temporary Special Use (nonconforming use under Section 4-1004(A)(2)) (S)
8. Temporary Weather Device Tower

E. Lot, Building, and Structure Requirements

1. Minimum lot size

a. In a community service area on subdivided land with connection to public water and sewer facilities...One acre

b. On other land...35 acres

2. Minimum setbacks

a. Front yard...35 feet

b. Side yard...10 feet

c. Rear Yard...25 feet

d. From an irrigation ditch...50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may -with County concurrence- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.

e. Supplementary requirements may apply, refer to Article 7-1400.

3. Maximum building height

a. On subdivided land with a final plat approved by the County prior to August 29, 1994, 35 feet unless a lower height was approved through the platting process.

b. On any other land, 30 feet unless, through a subdivided land approval or Site Plan Review approval, a lower or higher height is permitted due to the unique characteristics of the particular site; in no event, however, shall any residential structure exceed 35 feet.

F. Additional Requirements

1. Animal units...Two animal units per acre without going through Special Review

2. Special review is required for any use which:

a. generates traffic volumes in excess of 150 average daily trips per lot, as defined by the Institute of Transportation Engineers;

b. has an occupant load greater than or equal to 100 persons per lot;

c. has a wastewater flow greater than or equal to 2,000 gallons per day per lot;

d. has a total floor area greater than 25,000 square feet (35,000 square feet in a community service area); or

e. has a second principal use which does not increase density.

3. Limited Impact Special Review is required for any use which is:

a. a parking area associated with a trail of a governmental entity on publicly acquired open space land, which parking area is in accordance with an open space management plan approved by the Board of County Commissioners, and which generates traffic volumes in excess of 150 average daily trips per lot as defined by the Institute of Transportation Engineers;

b. grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(I).

4. No parcel shall be used for more than one principal use, except for allowed Agricultural uses, Forestry uses, Mining uses, or any combination thereof; for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark; or for second principal uses approved though Special Review under 4-104.F.2.e, above.

5. Small Wind-Powered Energy Collectors Systems and Small Solar Energy Collectors Systems or Solar Gardens can be approved on parcels with existing principal uses without Special Review approval, however, these uses shall be reviewed using the process and standards described in the Utility and Public Service Uses classification in this Code.

4-105 Suburban Residential (SR) District

A. Purpose: Low density suburban residential areas.

B. Principal Uses Permitted

1. Agri-business Uses (see 4-501)

a. Keeping of Nondomestic Animals (S)

2. Agricultural Uses (see 4-502)
None Permitted

3. Commercial/Business Service Uses (see 4-503)
None Permitted

4. Community Uses (see 4-504)

a. Adaptive Reuse of a Historic Landmark (I)

b. Cemetery (S)

c. Church

d. Educational Facility (S)

e. Use of Community Significance (I)

5. Forestry Uses (see 4-505)
None Permitted

6. Industrial Uses (see 4-506)
None Permitted

7. Lodging Uses (see 4-507)

a. Bed and Breakfast (I)

b. Short-Term Dwelling Rental (I)

8. Mining Uses (see 4-508)

a. Limited Impact Open Mining (I)

b. Oil and Gas Operations

9. Office Uses (see 4-509)
None Permitted

10. Recreation Uses (see 4-510)

a. Park and/or Playfield, for day use

b. Park and/or Playfield, for night use (S)

c. Public Recreation Center (S)

11. Residential Uses (see 4-511)

a. Group Care or Foster Home (S)

b. Single Family Dwelling

12. Retail and Personal Service Uses (see 4-512)

a. Day Care Center (S)

13. Transportation Uses (see 4-513)

a. Park and Ride Facility (S)

14. Utility and Public Service Uses (see 4-514)
- **a.** Central Office Building of a Telecommunication Company (R)
- **b.** Community Cistern (I)
- **c.** Fire Barn (I)
- **d.** Fire Station (S)
- **e.** Major Facility of a Public Utility (R) (S) (L)
- **f.** Public or Quasi-public Facility other than Listed (S)
- **g.** Public Safety Telecommunication Facility (I)
- **h.** Sewage or Water Transmission Line (R) (L)
- **i.** Sewage Treatment Facility (R) (S) (L)
- **j.** Small Solar Energy System or Solar Garden (SPR) (I)
- **k.** Small Wind-Powered Energy System
- **l.** Telecommunications Facility, existing structure meeting height requirements
- **m.** Telecommunications Facility, new structure or not meeting height requirements (S)
- **n.** Utility Service Facility
- **o.** Water Reservoir (R) (S) (L)
- **p.** Water Tank or Treatment Facility (R) (S) (L)

15. Warehouse Uses (see 4-515)
None Permitted

C. Accessory Uses Permitted (see 4-516)
1. Temporary Accessory Community Meeting Facility
2. Accessory Beekeeping
3. Accessory Chicken Keeping
4. Accessory Dwelling (I)
5. Accessory Horse Keeping (see Section (F)(3) below)
6. Accessory Outside Storage
7. Accessory Solar Energy System
8. Accessory Structure
9. Grading of more than 500 Cubic Yards (I)
10. Home Events
11. Home Occupation
12. Household Pets
13. Noncommercial Telecommunication Site, one structure which meets setback and height requirements
14. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)
15. Small Wind-Powered Energy System, Roof-Mounted

D. Temporary Uses Permitted (see 4-517)
1. Emergency Noncommercial Telecommunication Site (A)
2. Garage Sales or Occasional Sales
3. Group Gathering / Special Events (A)
4. Temporary Batch Plant (A)
5. Temporary Construction or Sales Office (A)
6. Temporary Dwelling Unit (A)
7. Temporary Special Use (nonconforming use under Section 4-1004(A)(2)) (S)
8. Temporary Weather Device Tower

E. Lot, Building, and Structure Requirements

1. Minimum lot size

a. In a community service area on subdivided land with connection to public water and sewer...7,500 square feet

b. On other land...35 acres

2. Minimum setbacks

a. Front yard...25 feet

b. Side yard...7 feet

c. Rear Yard...15 feet

d. From an irrigation ditch...50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may -with County concurrence- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.

e. Supplementary requirements may apply, refer to Article 7-1400.

3. Maximum building height

a. On subdivided land with a final plat approved by the County prior to August 29, 1994, 35 feet unless a lower height was approved through the platting process.

b. On any other land, 30 feet unless, through a subdivided land approval or Site Plan Review approval, a lower or higher height is permitted due to the unique characteristics of the particular site; in no event, however, shall any residential structure exceed 35 feet.

F. Additional Requirements

1. Special review is required for any use which:

a. generates traffic volumes in excess of 150 average daily trips per lot, as defined by the Institute of Transportation Engineers;

b. has an occupant load greater than or equal to 100 persons per lot;

c. has a wastewater flow greater than or equal to 2,000 gallons per day per lot;

d. has a total floor area greater than 25,000 square feet (35,000 square feet in a community service area);or

e. has a second principal use which does not increase density.

2. Limited Impact Special Review is required for any use which is:

a. a parking area associated with a trail of a governmental entity on publicly acquired open space land, which parking area is in accordance with an open space management plan approved by the Board of County Commissioners, and which generates traffic volumes in excess of 150 average daily trips per lot as defined by the Institute of Transportation Engineers;

b. grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(I).

3. Riding horses for use of occupants of a lot and their guests may be kept as permitted accessory uses provided at least one-half acre of pasture is available for each horse.

4. No parcel shall be used for more than one principal use, except for allowed Agricultural uses, Forestry uses, Mining uses, or any combination thereof; for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark; or for second principal uses approved though Special Review under 4-105.F.1.e, above.

5. Small Wind-Powered Energy Collectors Systems and Small Solar Energy Collectors Systems or Solar Gardens can be approved on parcels with existing principal uses without Special Review approval, however, these uses shall be reviewed using the process and standards described in the Utility and Public Service Uses classification in this Code.

4-106 Multifamily (MF) District

A. Purpose: Medium density residential areas which allow for a variety of housing options.

B. Principal Uses Permitted

1. Agri-business Uses (see 4-501)

a. Keeping of Nondomestic Animals (S)

2. Agricultural Uses (see 4-502)
None Permitted

3. Commercial/Business Service Uses (see 4-503)
None Permitted

4. Community Uses (see 4-504)

a. Adaptive Reuse of a Historic Landmark (I)

b. Cemetery (S)

c. Church

d. Educational Facility (S)

e. Use of Community Significance (I)

5. Forestry Uses (see 4-505)
None Permitted

6. Industrial Uses (see 4-506)
None Permitted

7. Lodging Uses (see 4-507)

a. Short-Term Dwelling Rental (I)

8. Mining Uses (see 4-508)

a. Limited Impact Open Mining (I)

b. Oil and Gas Operations

9. Office Uses (see 4-509)
None Permitted

10. Recreation Uses (see 4-510)

a. Golf Course (legally existing as of April 20, 2004) (S)

b. Park and/or Playfield, for day use

c. Park and/or Playfield, for night use (S)

d. Public Recreation Center (S)

11. Residential Uses (see 4-511)

a. Boarding House

b. Group Care or Foster Home (S)

c. Multifamily Dwelling

d. Single Family Dwelling

12. Retail and Personal Service Uses (see 4-512)

a. Day Care Center (S)

13. Transportation Uses (see 4-513)

a. Helistop (S)

b. Park and Ride Facility (S)

14. Utility and Public Service Uses (see 4-514)

- **a.** Central Office Building of a Telecommunication Company (R)
- **b.** Community Cistern (I)
- **c.** Fire Barn (I)
- **d.** Fire Station (S)
- **e.** Major Facility of a Public Utility (S) (R) (L)
- **f.** Public or Quasi-public Facility other than Listed (S)
- **g.** Public Safety Telecommunication Facility (I)
- **h.** Sewage or Water Transmission Line (R) (L)
- **i.** Sewage Treatment Facility (S) (R) (L)
- **j.** Small Solar Energy System or Solar Garden (SPR) (I)
- **k.** Small Wind-Powered Energy System
- **l.** Telecommunications Facility, existing structure meeting height requirements
- **m.** Telecommunications Facility, new structure or not meeting height requirements (S)
- **n.** Utility Service Facility
- **o.** Water Reservoir (S) (R) (L)
- **p.** Water Tank or Treatment Facility (S) (R) (L)

15. Warehouse Uses (see 4-515)
None Permitted

C. Accessory Uses Permitted (see 4-516)

1. Temporary Accessory Community Meeting Facility
2. Accessory Dwelling (I)
3. Accessory Horse Keeping
4. Accessory Outside Storage
5. Accessory Solar Energy System
6. Accessory Structure
7. Grading of more than 500 Cubic Yards (I)
8. Home Events
9. Home Occupation
10. Household Pets
11. Noncommercial Telecommunication Site, one structure which meets setback and height requirements
12. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)
13. Small Wind-Powered Energy System, Roof-Mounted

D. Temporary Uses Permitted (see 4-517)

1. Emergency Noncommercial Telecommunication Site (A)
2. Garage Sales or Occasional Sales
3. Group Gathering / Special Events (A)
4. Temporary Batch Plant (A)
5. Temporary Construction or Sales Office (A)
6. Temporary Dwelling Unit (A)
7. Temporary Special Use (nonconforming use under Section 4-1004(A)(2)) (S)
8. Temporary Weather Device Tower

E. Lot, Building, and Structure Requirements

1. Minimum lot size

a. In a community service area on subdivided land where the principal structure is a single family dwelling, educational facility, or Church connected to public water and sewer facilities...7,500 square feet

b. On subdivided land where any other principal structure is connected to public water and sewer facilities...15,000 square feet

c. On any other land...35 acres

2. Minimum setbacks

a. Front yard...25 feet

b. Side yard...7 feet

c. Rear Yard...15 feet

d. From an irrigation ditch...50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may -with County concurrence- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.

e. Supplementary requirements may apply, refer to Article 7-1400.

3. Maximum building height...50 feet

F. Additional Requirements

1. Maximum gross density

a. On subdivided land where the dwellings are connected to public water and sewer facilities...Nine dwelling units per acre

b. On other land...One dwelling unit per 35 acres

2. Special Review is required for any use which:

a. generates traffic volumes in excess of 150 average daily trips per lot, as defined by the Institute of Transportation Engineers;

b. has an occupant load greater than or equal to 100 persons per lot;

c. has a wastewater flow greater than or equal to 2,000 gallons per day per lot;

d. has a total floor area of greater than 25,000 square feet (35,000 square feet in a community service area); or

e. has a second principal use which does not increase density.

3. Limited Impact Special Review is required for any use which is:

a. a parking area associated with a trail of a governmental entity on publicly acquired open space land, which parking area is in accordance with an open space management plan approved by the Board of County Commissioners, and which generates traffic volumes in excess of 150 average daily trips per lot as defined by the Institute of Transportation Engineers;

b. grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(I).

4. Riding horses for use of occupants of a lot and their guests may be kept as permitted accessory uses provided at least one-half acre of pasture is available for each horse.

5. No parcel shall be used for more than one principal use, except for allowed Agricultural uses, Forestry uses, Mining uses, or any combination thereof; for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark; or for second principal uses approved though Special Review under 4-106.F.2.e, above.

6. Small Wind-Powered Energy Collectors Systems and Small Solar Energy Collectors Systems or Solar Gardens can be approved on parcels with existing principal uses without Special Review approval, however, these uses shall be reviewed using the process and standards described in the Utility and Public Service Uses classification in this Code.

4-107 Manufactured Home Park (MH) District

A. Purpose: To provide for manufactured home parks in appropriate locations, consistent with comprehensive planning policies to encourage and provide for affordable housing including the preservation of existing housing stocks.

B. Principal Uses Permitted

1. Agri-business Uses (see 4-501)

a. Keeping of Nondomestic Animals (S)

2. Agricultural Uses (see 4-502)
None Permitted

3. Commercial/Business Service Uses (see 4-503)
None Permitted

4. Community Uses (see 4-504)

a. Adaptive Reuse of a Historic Landmark (I)

b. Church

c. Educational Facility (S)

d. Use of Community Significance (I)

5. Forestry Uses (see 4-505)
None Permitted

6. Industrial Uses (see 4-506)
None Permitted

7. Lodging Uses (see 4-507)

a. Short-Term Dwelling Rental (I)

8. Mining Uses (see 4-508)

a. Limited Impact Open Mining (I)

b. Oil and Gas Operations

9. Office Uses (see 4-509)
None Permitted

10. Recreation Uses (see 4-510)

a. Parks or Playfields for day use

b. Parks or Playfields for night use (S)

c. Public Recreation Center (S)

11. Residential Uses (see 4-511)

a. Group Care or Foster Home (S)

b. Manufactured Home Parks

c. Single Family Dwelling

12. Retail and Personal Service Uses (see 4-512)

a. Day Care Center (S)

13. Transportation Uses (see 4-513)

a. Park and Ride Facility (S)

14. Utility Uses and Public Service Uses (see 4-514)
- **a.** Central Office Building of a Telecommunication Company (R)
- **b.** Community Cistern (I)
- **c.** Fire Barn (I)
- **d.** Fire Station (S)
- **e.** Major Facility of a Public Utility (S) (R) (L)
- **f.** Public or Quasi-Public Facilities other than Listed (S)
- **g.** Public Safety Telecommunication Facility (I)
- **h.** Sewage or Water Transmission Line (R) (L)
- **i.** Sewage Treatment Facility (S) (R) (L)
- **j.** Small Solar Energy System or Solar Garden (SPR) (I)
- **k.** Small Wind-Powered Energy System
- **l.** Telecommunications Facility, existing structure meeting height requirements
- **m.** Telecommunications Facility, new structure or not meeting height requirements (S)
- **n.** Utility Service Facility
- **o.** Water Reservoir (S) (R) (L)
- **p.** Water Tank or Treatment Facility (S) (R)

15. Warehouse Uses (see 4-515)
None Permitted

C. Accessory Uses Permitted (see 4-516)
1. Temporary Accessory Community Meeting Facility
2. Accessory Dwelling (I)
3. Accessory Outside Storage
4. Accessory Solar Energy System
5. Accessory Structure
6. Grading of more than 500 Cubic Yards (I)
7. Home Events
8. Home Occupation
9. Household Pets
10. Noncommercial Telecommunication Site, one structure which meets setback and height requirements
11. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)
12. Small Wind-Powered Energy System, Roof-Mounted

D. Temporary Uses Permitted (see 4-517)
1. Emergency Telecommunication Site (A)
2. Garage Sales or Occasional Sales
3. Group Gathering / Special Events (A)
4. Temporary Batch Plant (A)
5. Temporary Construction or Sales Office (A)
6. Temporary Dwelling Unit (A)
7. Temporary Special Use (nonconforming use under Section 4-1004(A)(2)) (S)
8. Temporary Weather Device Tower

E. Lot, Building, and Structure Requirements

1. Minimum lot size...35 acres, or the area of the parcel or portion of parcel occupied by a manufactured (mobile) home park legally existing on the effective date of the amendments creating this District.

2. Minimum setbacks

a. Front yard...25 feet

b. Side yard...7 feet

c. Rear Yard...15 feet

d. From an irrigation ditch...50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may -**with County concurrence**- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.

e. Supplementary requirements may apply, refer to Article 7-1400.

3. Maximum structure height...30 feet

F. Additional Requirements

1. Special Review is required for any use which:

a. generates traffic volumes in excess of 150 average daily trips per lot, as defined by the Institute of Transportation Engineers;

b. has an occupant load greater than or equal to 100 persons per lot;

c. has a wastewater flow greater than or equal to 2,000 gallons per day per lot;

d. has a total floor area greater than 25,000 square feet (35,000 square feet in a community service area); or

e. has a second principal use which does not increase density.

2. Limited Impact Special Review is required for any use which is:

a. a parking area associated with a trail of a governmental entity on publicly acquired open space land, which parking area is in accordance with an open space management plan approved by the Board of County Commissioners, and which generates traffic volumes in excess of 150 average daily trips per lot as defined by the Institute of Transportation Engineers;

b. grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(I).

3. No parcel shall be used for more than one principal use, except for allowed Agricultural uses, Forestry uses, Mining uses, or any combination thereof; for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark; or for second principal uses approved though Special Review under 4-107.F.1.e, above.

4. Small Wind-Powered Energy Collectors Systems and Small Solar Energy Collectors Systems or Solar Gardens can be approved on parcels with existing principal uses without Special Review approval, however, these uses shall be reviewed using the process and standards described in the Utility and Public Service Uses classification in this Code.

4-108 Transitional (T) District

A. Purpose: Areas containing both a variety of residential uses and a limited number of business uses which are compatible with residential development.

B. Principal Uses Permitted

1. Agri-business Uses (see 4-501)

a. Keeping of Nondomestic Animals (S)

2. Agricultural Uses (see 4-502)
None Permitted

3. Commercial/Business Service Uses (see 4-503)
None Permitted

4. Community Uses (see 4-504)

a. Adaptive Reuse of a Historic Landmark (I)

b. Church

c. Educational Facility (S)

d. Membership Club

e. Reception Halls and Community Meeting Facilities

f. Use of Community Significance (I)

5. Forestry Uses (see 4-505)
None Permitted

6. Industrial Uses (see 4-506)
None Permitted

7. Lodging Uses (see 4-507)

a. Overnight Lodging

b. Resort Lodge, Conference Center, or Guest Ranch

c. Short-Term Dwelling Rental (I)

8. Mining Uses (see 4-508)

a. Limited Impact Open Mining (I)

b. Oil and Gas Operations

9. Office Uses (see 4-509)

a. Professional Office

10. Recreation Uses (see 4-510)

a. Indoor Recreation

b. Outdoor Recreation, for day use

c. Outdoor Recreation, for night use (S)

d. Park and/or Playfield, for day use

e. Park and/or Playfield, for night use (S)

11. Residential Uses (see 4-511)

a. Boarding House

b. Group Care or Foster Home (S)

c. Multifamily Dwelling

d. Single Family Dwelling

12. Retail and Personal Service Uses (see 4-512)

a. Building Material or Garden Store (S)

b. Day Care Center (S)

c. Eating or Drinking Place, with drive through (S)

d. Eating or Drinking Place, without drive through (S)

e. Marijuana Establishment

f. Mortuary

g. Recycling Collection Center, Small (I)

h. Veterinary Clinic, without outdoor holding facilities

13. Transportation Uses (see 4-513)
    a. Airport (S)
    b. Heliport (S)
    c. Helistop (S)
    d. Park and Ride Facility (S)
14. Utility and Public Service Uses (see 4-514)
    a. Central Office Building of a Telecommunication Company (R)
    b. Community Cistern (I)
    c. Fire Barn (I)
    d. Fire Station (S)
    e. Major Facility of a Public Utility (S) (R) (L)
    f. Public or Quasi-public Facility other than Listed (S)
    g. Public Safety Telecommunication Facility (I)
    h. Sewage or Water Transmission Line (R) (L)
    i. Sewage Treatment Facility (S) (R) (L)
    j. Small Solar Energy System or Solar Garden (SPR) (I)
    k. Small Wind-Powered Energy System
    l. Telecommunications Facility, existing structure meeting height requirements
    m. Telecommunications Facility, new structure or not meeting height requirements (S)
    n. Utility Service Facility
    o. Water Reservoir (S) (R) (L)
    p. Water Tank or Treatment Facility (S) (R) (L)
15. Warehouse Uses (see 4-515)
    None Permitted

C. Accessory Uses Permitted (see 4-516)
1. Temporary Accessory Community Meeting Facility
2. Accessory Dwelling (I)
3. Accessory Outside Storage
4. Accessory Solar Energy System
5. Accessory Structure
6. Grading of more than 500 Cubic Yards (I)
7. Home Events
8. Home Occupation
9. Household Pets
10. Noncommercial Telecommunication Site, one structure which meets setback and height requirements
11. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)
12. Small Wind-Powered Energy System, Roof-Mounted

D. Temporary Uses Permitted (see 4-517)
1. Emergency Noncommercial Telecommunication Site (A)
2. Garage Sales or Occasional Sales
3. Group Gathering / Special Events (A)
4. Temporary Batch Plant (A)
5. Temporary Construction or Sales Office (A)
6. Temporary Dwelling Unit (A)
7. Temporary Fireworks Stand (I)
8. Temporary Special Use (nonconforming use under Section 4-1004(A)(2)) (S)
9. Temporary Weather Device Tower

E. Lot, Building, and Structure Requirements

1. Minimum lot size

a. In a community service area on subdivided land where any other principal structure is connected to public water and sewer facilities...15,000 square feet

b. On any other land...35 acres

2. Minimum setbacks

a. Front yard...25 feet

b. Side yard...7 feet

c. Rear Yard...15 feet

d. From an irrigation ditch...50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may -with County concurrence- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.

e. Supplementary requirements may apply, refer to Article 7-1400.

3. Maximum building height...50 feet

F. Additional Requirements

1. Maximum gross residential density

a. In a community service area on subdivided land where the dwellings are connected to public water and sewer facilities...Nine dwelling units per acre

b. On other land...One dwelling unit per 35 acres

2. Special Review is required for any use which:

a. generates traffic volumes in excess of 150 average daily trips per lot, as defined by the Institute of Transportation Engineers;

b. has an occupant load greater than or equal to 100 persons per lot;

c. has a wastewater flow greater than or equal to 2,000 gallons per day per lot;

d. has a total floor area greater than 25,000 square feet (35,000 square feet in a community service area); or

e. has a second principal use which does not increase density.

3. Limited Impact Special Review is required for any use which is:

a. a parking area associated with a trail of a governmental entity on publicly acquired open space land, which parking area is in accordance with an open space management plan approved by the Board of County Commissioners, and which generates traffic volumes in excess of 150 average daily trips per lot as defined by the Institute of Transportation Engineers;

b. grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(I).

4. An exemption plat is required for any single family residential development on vacant land proposed for subdivided land with a final plat approved prior to March 22, 1978.

5. No parcel shall be used for more than one principal use, except for allowed Agricultural uses, Forestry uses, Mining uses, or any combination thereof; unless approved through Special Review, or for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark; or for second principal uses approved though Special Review under 4-108.F.2.e, above.

6. Small Wind-Powered Energy Collectors Systems and Small Solar Energy Collectors Systems or Solar Gardens can be approved on parcels with existing principal uses without Special Review approval, however, these uses shall be reviewed using the process and standards described in the Utility and Public Service Uses classification in this Code.

4-109 Business (B) District

A. Purpose: Areas for the development of restricted retail and business uses which have minimal exterior impact on surrounding properties.

B. Principal Uses Permitted

1. Agri-business Uses (see 4-501)

a. Keeping of Nondomestic Animals (S)

2. Agricultural Uses (see 4-502)

a. Farm Store

b. Seasonal Farm Stand

3. Commercial/Business Service Uses (see 4-503)

a. Printing and/or Publishing Establishment

b. Vehicle Sales/Rental Lot (S)

4. Community Uses (see 4-504)

a. Adaptive Reuse of a Historic Landmark (I)

b. Church

c. Educational Facility (S)

d. Membership Club

e. Reception Halls and Community Meeting Facilities

f. Use of Community Significance (I)

5. Forestry Uses (see 4-505)
None Permitted

6. Industrial Uses (see 4-506)
None Permitted

7. Lodging Uses (see 4-507)

a. Overnight Lodging

b. Resort Lodge, Conference Center, or Guest Ranch

c. Short-Term Dwelling Rental (I)

8. Mining Uses (see 4-508)

a. Limited Impact Open Mining (I)

b. Oil and Gas Operations

9. Office Uses (see 4-509)

a. Professional Office

10. Recreation Uses (see 4-510)

a. Indoor Recreation

b. Outdoor Recreation, for day use

c. Outdoor Recreation, for night use (S)

d. Park and/or Playfield, for day use

e. Park and/or Playfield, for night use (S)

11. Residential Uses (see 4-511)

a. Boarding House

b. Group Care or Foster Home (S)

c. Single Family Dwelling

12. Retail and Personal Service Uses (see 4-512)
- **a.** Bank
- **b.** Convenience Store
- **c.** Day Care Center
- **d.** Emergency Care Facility
- **e.** Eating or Drinking Place, with drive through (S)
- **f.** Eating or Drinking Place, without drive through
- **g.** Indoor Theater
- **h.** Marijuana Establishment
- **i.** Mortuary
- **j.** Recycling Collection Center, small (I)
- **k.** Retail or Personal Service Facility
- **l.** Vehicle Service Center
- **m.** Veterinary Clinic, with outdoor holding facilities
- **n.** Veterinary Clinic, without outdoor holding facilities

13. Transportation Uses (see 4-513)
- **a.** Airport (S)
- **b.** Heliport (S)
- **c.** Helistop (S)
- **d.** Park and Ride Facility (S)

14. Utility and Public Service Uses (see 4-514)
- **a.** Central Office Building of a Telecommunication Company (R)
- **b.** Community Cistern (I)
- **c.** Fire Barn (I)
- **d.** Fire Station (S)
- **e.** Major Facility of a Public Utility (S) (R) (L)
- **f.** Public or Quasi-public Facility other than Listed (S)
- **g.** Public Safety Telecommunication Facility (I)
- **h.** Sewage or Water Transmission Line (R) (L)
- **i.** Sewage Treatment Facility (S) (R) (L)
- **j.** Small Solar Energy System or Solar Garden (SPR) (I)
- **k.** Small Wind-Powered Energy System
- **l.** Telecommunications Facility, existing structure meeting height requirements
- **m.** Telecommunications Facility, new structure or not meeting height requirements (S)
- **n.** Utility Service Facility
- **o.** Water Reservoir (S) (R) (L)
- **p.** Water Tank or Treatment Facility (S) (R) (L)

15. Warehouse Uses (see 4-515)
None Permitted

C. Accessory Uses Permitted (see 4-516)

1. Temporary Accessory Community Meeting Facility
2. Accessory Dwelling (I)
3. Accessory Outside Storage
4. Accessory Solar Energy System
5. Accessory Structure
6. Grading of more than 500 Cubic Yards (I)
7. Home Events
8. Home Occupation
9. Household Pets
10. Noncommercial Telecommunication Site, one structure which meets setback and height requirements
11. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)
12. Small Wind-Powered Energy System, Roof-Mounted

D. Temporary Uses Permitted (see 4-517)

1. Emergency Noncommercial Telecommunication Site (A)
2. Garage Sales or Occasional Sales
3. Group Gathering / Special Events (A)
4. Temporary Batch Plant (A)
5. Temporary Construction or Sales Office (A)
6. Temporary Dwelling Unit (A)
7. Temporary Fireworks Stand (I)
8. Temporary Special Use (nonconforming use under Section 4-1004(A)(2)) (S)
9. Temporary Weather Device Tower

E. Lot, Building, and Structure Requirements

1. Minimum lot size
   - **a.** On subdivided land where the principal structure is connected to public water and sewer facilities...no minimum requirement
   - **b.** On other land...35 acres
2. Minimum setbacks
   - **a.** Front yard...60 feet from the centerline of the ROW
   - **b.** Side yard...Zero or 12 feet
   - **c.** Rear Yard...20 feet
   - **d.** From an irrigation ditch...50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may -with County concurrence- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.
   - **e.** Supplementary requirements may apply, refer to Article 7-1400.
3. Maximum building height...50 feet

F. Additional Requirements

1. Maximum gross residential density

a. In a community service area on subdivided land where the dwellings are connected to public water and sewer facilities...Nine dwelling units per acre

b. On other land...One dwelling unit per 35 acres

2. Special Review is required for any use which:

a. generates traffic volumes in excess of 150 average daily trips per lot, as defined by the Institute of Transportation Engineers;

b. has an occupant load greater than or equal to 100 persons per lot;

c. has a wastewater flow greater than or equal to 2,000 gallons per day per lot; or

d. has a total floor area greater than 25,000 square feet (35,000 square feet in a community service area).

3. Limited Impact Special Review is required for any use which is:

a. a parking area associated with a trail of a governmental entity on publicly acquired open space land, which parking area is in accordance with an open space management plan approved by the Board of County Commissioners, and which generates traffic volumes in excess of 150 average daily trips per lot as defined by the Institute of Transportation Engineers;

b. grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(I).

4. An exemption plat is required for any single family residential development on vacant land proposed for subdivided land with a final plat approved prior to March 22, 1978.

5. No parcel shall be used for more than one principal use, except for allowed Agricultural uses, Forestry uses, Mining uses, or any combination thereof, unless approved through Special Review; or for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark.

6. Small Wind-Powered Energy Collectors Systems and Small Solar Energy Collectors Systems or Solar Gardens can be approved on parcels with existing principal uses without Special Review approval, however, these uses shall be reviewed using the process and standards described in the Utility and Public Service Uses classification in this Code.

4-110 Commercial (C) District

A. Purpose: Areas for the development of commercial, business, retail, and/or service uses

B. Principal Uses Permitted

1. Agri-business Uses (see 4-501)

a. Keeping of Nondomestic Animals (S)

2. Agricultural Uses (see 4-502)

a. Farm Store

b. Seasonal Farm Stand

3. Commercial/Business Service Uses (see 4-503)

a. Building Contracting Shop

b. Carpentry, Woodworking, or Furniture Making Facility

c. Car Wash

d. Commercial Bakery

e. Commercial Laundry and Dry Cleaning

f. Machine Shop

g. Printing and/or Publishing Establishment

h. Vehicle Sales/Rental Lot (S)

4. Community Uses (see 4-504)

a. Adaptive Reuse of a Historic Landmark (I)

b. Church

c. Educational Facility (S)

d. Membership Club

e. Reception Halls and Community Meeting Facilities

f. Use of Community Significance (I)

5. Forestry Uses (see 4-505)
None Permitted

6. Industrial Uses (see 4-506)

a. Recycling Collection Center, Large (S)

7. Lodging Uses (see 4-507)

a. Overnight Lodging

b. Resort Lodge, Conference Center, or Guest Ranch

c. Short-Term Dwelling Rental (I)

8. Mining Uses (see 4-508)

a. Limited Impact Open Mining (I)

b. Oil and Gas Operations

9. Office Uses (see 4-509)

a. Professional Office

10. Recreation Uses (see 4-510)

a. Indoor Recreation

b. Outdoor Recreation, for day use

c. Outdoor Recreation, for night use (S)

11. Residential Uses (see 4-511)

a. Boarding House

b. Single Family Dwelling

12. Retail and Personal Service Uses (see 4-512)
- **a.** Bank
- **b.** Building Material and Garden Store
- **c.** Convenience Store
- **d.** Day Care Center
- **e.** Emergency Care Facility
- **f.** Eating or Drinking Place, with drive through (S)
- **g.** Eating or Drinking Place, without drive through
- **h.** Indoor Theater
- **i.** Marijuana Establishment
- **j.** Mortuary
- **k.** Outdoor Theater
- **l.** Recycling Collection Center, Small
- **m.** Retail or Personal Service Facility
- **n.** Vehicle Service Center
- **o.** Veterinary Clinic, with outdoor holding facilities
- **p.** Veterinary Clinic, without outdoor holding facilities

13. Transportation Uses (see 4-513)
- **a.** Airport (S)
- **b.** Heliport (S)
- **c.** Helistop (S)
- **d.** Park and Ride Facility (S)

14. Utility and Public Service Uses (see 4-514)
- **a.** Central Office Building of a Telecommunication Company (R)
- **b.** Community Cistern (I)
- **c.** Fire Barn (I)
- **d.** Fire Station (S)
- **e.** Large Solar Energy System (S)
- **f.** Major Facility of a Public Utility (S) (R) (L)
- **g.** Medium Solar Energy System or Solar Garden (S)
- **h.** Public or Quasi-public Facility other than Listed (S)
- **i.** Public Safety Telecommunication Facility (I)
- **j.** Sewage or Water Transmission Line (R) (L)
- **k.** Sewage Treatment Facility (S) (R) (L)
- **l.** Small Solar Energy System or Solar Garden (SPR) (I)
- **m.** Small Wind-Powered Energy System
- **n.** Telecommunications Facility, existing structure meeting height requirements
- **o.** Telecommunications Facility, new structure or not meeting height requirements (S)
- **p.** Utility Service Facility
- **q.** Water Reservoir (S) (R) (L)
- **r.** Water Tank or Treatment Facility (S) (R) (L)

15. Warehouse Uses (see 4-515)
- **a.** Personal Storage Facility

C. Accessory Uses Permitted (see 4-516)

1. Temporary Accessory Community Meeting Facility

2. Accessory Dwelling (I)

3. Accessory Outside Storage

4. Accessory Solar Energy System

5. Accessory Structure

6. Grading of more than 500 Cubic Yards (I)

7. Home Events

8. Home Occupation

9. Household Pets

10. Noncommercial Telecommunication Site, one structure which meets setback and height requirements

11. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)

12. Small Wind-Powered Energy System, Roof-Mounted

D. Temporary Uses Permitted (see 4-517)

1. Emergency Noncommercial Telecommunication Site (A)

2. Garage Sales or Occasional Sales

3. Group Gathering / Special Events (A)

4. Temporary Batch Plant (A)

5. Temporary Construction or Sales Office (A)

6. Temporary Dwelling Unit (A)

7. Temporary Special Use (nonconforming use under Section 4-1004(A)(2)) (S)

8. Temporary Weather Device Tower

E. Lot, Building, and Structure Requirements

1. Minimum lot size

a. In a community service area on subdivided land where the principal structure is connected to public water and sewer facilities...no minimum requirement

b. On other land...35 acres

2. Minimum setbacks

a. Front yard...60 feet from the centerline of the ROW

b. Side yard...Zero or 12 feet

c. Rear Yard...20 feet

d. From an irrigation ditch...50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may -with County concurrence- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.

e. Supplementary requirements may apply, refer to Article 7-1400.

3. Maximum building height...50 feet

F. Additional Requirements

1. Maximum gross residential density

a. On subdivided land where the dwellings are connected to public water and sewer facilities...Nine dwelling units per acre

b. On other land...One dwelling unit per 35 acres

2. Special Review is required for any use which:

a. generates traffic volumes in excess of 150 average daily trips per lot, as defined by the Institute of Transportation Engineers;

b. has an occupant load greater than or equal to 100 persons per lot;

c. has a wastewater flow greater than or equal to 2,000 gallons per day per lot; or

d. has a total floor area greater than 25,000 square feet (35,000 square feet in a community service area).

3. Limited Impact Special Review is required for any use which is:

a. a parking area associated with a trail of a governmental entity on publicly acquired open space land, which parking area is in accordance with an open space management plan approved by the Board of County Commissioners, and which generates traffic volumes in excess of 150 average daily trips per lot as defined by the Institute of Transportation Engineers;

b. grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(I).

4. An exemption plat is required for any single family residential development on vacant land proposed for subdivided land with a final plat approved prior to March 22, 1978.

5. No parcel shall be used for more than one principal use, except for allowed Agricultural uses, Forestry uses, Mining uses, or any combination thereof, unless approved through Special Review; or for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark.

6. Small Wind-Powered Energy Collectors Systems, and Small Solar Energy Collectors Systems or Solar Gardens, Medium Solar Energy Systems or Solar Gardens, and Large Solar Energy Systems can be approved on parcels with existing principal uses without Special Review approval, however, these uses shall be reviewed using the process and standards described in the Utility and Public Service Uses classification in this Code.

4-111 Light Industrial (LI) District

A. Purpose: Areas for the development of research, light industrial, warehouse, and/or distribution centers.

B. Principal Uses Permitted

1. Agri-business Uses (see 4-501)
- **a.** Agricultural Products Processing and Storage
- **b.** Commercial Nursery
- **c.** Keeping of Nondomestic Animals (S)

2. Agricultural Uses (see 4-502)
- **a.** Intensive Agricultural Uses
- **b.** Open Agricultural Uses

3. Commercial/Business Service Uses (see 4-503)
- **a.** Commercial Bakery

4. Community Uses (see 4-504)
- **a.** Adaptive Reuse of a Historic Landmark (I)
- **b.** Church
- **c.** Educational Facility (S)
- **d.** Membership Club
- **e.** Reception Halls and Community Meeting Facilities
- **f.** Use of Community Significance (I)

5. Forestry Uses (see 4-505)
None Permitted

6. Industrial Uses (see 4-506)
- **a.** Light Industrial
- **b.** Outside Storage (S)
- **c.** Recycling Processing Facility (S)

7. Lodging Uses (see 4-507)
- **a.** Overnight Lodging
- **b.** Resort Lodge, Conference Center, or Guest Ranch
- **c.** Short-Term Dwelling Rental (I)

8. Mining Uses (see 4-508)
- **a.** Limited Impact Open Mining (I)
- **b.** Oil and Gas Operations

9. Office Uses (see 4-509)
- **a.** Professional Office

10. Recreation Uses (see 4-510)
- **a.** Indoor Recreation
- **b.** Outdoor Recreation, for day use
- **c.** Outdoor Recreation, for night use (S)

11. Residential Uses (see 4-511)
- **a.** Single Family Dwelling

12. Retail and Personal Service Uses (see 4-512)
- **a.** Day Care Center
- **b.** Emergency Care Facility
- **c.** Marijuana Establishment
- **d.** Mortuary
- **e.** Recycling Collection Center, Small
- **f.** Veterinary Clinic, without outdoor holding facilities

13. Transportation Uses (see 4-513)
    a. Airport (S)
    b. Heliport (S)
    c. Helistop (S)
    d. Park and Ride Facility (S)
14. Utility and Public Service Uses (see 4-514)
    a. Central Office Building of a Telecommunication Company (R)
    b. Community Cistern (I)
    c. Fire Barn (I)
    d. Fire Station (S)
    e. Large Solar Energy System (S)
    f. Major Facility of a Public Utility (S) (R) (L)
    g. Medium Solar Energy System or Solar Garden (S)
    h. Public or Quasi-public Facility other than Listed (S)
    i. Public Safety Telecommunication Facility (I)
    j. Sewage or Water Transmission Line (R) (L)
    k. Sewage Treatment Facility (S) (R) (L)
    l. Small Solar Energy System or Solar Garden (SPR) (I)
    m. Small Wind-Powered Energy System
    n. Telecommunications Facility, existing structure meeting height requirements
    o. Telecommunications Facility, new structure or not meeting height requirements (S)
    p. Utility Service Facility
    q. Water Reservoir (S) (R) (L)
    r. Water Tank or Treatment Facility (S) (R) (L)
15. Warehouse Uses (see 4-515)
    a. Personal Storage Facility
    b. Warehouse and Distribution Center

C. Accessory Uses Permitted (see 4-516)
1. Accessory Agricultural Sales
2. Accessory Agricultural Structure
3. Accessory Beekeeping
4. Accessory Chicken Keeping
5. Temporary Accessory Community Meeting Facility
6. Accessory Concrete or Asphalt Batch Plant (S)
7. Accessory Dwelling (I)
8. Accessory Farm Stand (I)
9. Accessory Horse Keeping
10. Accessory Outside Storage
11. Accessory Solar Energy System
12. Accessory Structure
13. Grading of more than 500 Cubic Yards (I)
14. Home Events
15. Home Occupation
16. Household Pets
17. Noncommercial Telecommunication Site, one structure which meets setback and height requirements
18. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)
19. Small Wind-Powered Energy System, Roof-Mounted

D. Temporary Uses Permitted (see 4-517)

1. Emergency Noncommercial Telecommunication Site (A)

2. Garage Sales or Occasional Sales

3. Group Gathering / Special Events (A)

4. Temporary Batch Plant (A)

5. Temporary Construction or Sales Office (A)

6. Temporary Dwelling Unit (A)

7. Temporary Fireworks Stand (I)

8. Temporary Special Use (nonconforming use under Section 4-1004(A)(2)) (S)

9. Temporary Weather Device Tower

E. Lot, Building, and Structure Requirements

1. Minimum lot size

a. In a community service area on subdivided land where the principal structure is not a single family dwelling and is connected to public water and sewer facilities...no minimum requirement

b. On any other land...35 acres

2. Minimum setbacks

a. Front yard...60 feet from the centerline of the ROW

b. Side yard...Zero or 12 feet

c. Rear Yard...20 feet

d. From an irrigation ditch...50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may -with County concurrence- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.

e. Supplementary requirements may apply, refer to Article 7-1400.

3. Maximum building height...50 feet

F. Additional Requirements

1. Animal units...Four animal units per acre

2. Special Review is required for any use which:

a. generates traffic volumes in excess of 150 average daily trips per lot, as defined by the Institute of Transportation Engineers;

b. has an occupant load greater than or equal to 100 persons per lot;

c. has a wastewater flow greater than or equal to 2,000 gallons per day per lot; or

d. has a total floor area greater than 25,000 square feet (35,000 square feet in a community service area).

3. Limited Impact Special Review is required for any use which is:

a. a parking area associated with a trail of a governmental entity on publicly acquired open space land, which parking area is in accordance with an open space management plan approved by the Board of County Commissioners, and which generates traffic volumes in excess of 150 average daily trips per lot as defined by the Institute of Transportation Engineers;

b. grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(I).

4. An exemption plat is required for any single family residential development on vacant land proposed for subdivided land with a final plat approved prior to March 22, 1978.

5. No parcel shall be used for more than one principal use, except for allowed open Agricultural uses, Forestry uses, Mining uses, or any combination thereof, unless approved through Special Review; or for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark.

6. Small Wind-Powered Energy Collectors Systems, and Small Solar Energy Collectors Systems or Solar Gardens, Medium Solar Energy Systems or Solar Gardens, and Large Solar Energy Systems can be approved on parcels with existing principal uses without Special Review approval, however, these uses shall be reviewed using the process and standards described in the Utility and Public Service Uses classification in this Code.

4-112 General Industrial (GI) District

A. Purpose: Areas for the development of general industrial, manufacturing, commercial, and/or retail uses.

B. Principal Uses Permitted

1. Agri-business Uses (see 4-501)

- **a.** Agricultural Products Processing and Storage
- **b.** Commercial Nursery
- **c.** Custom Meat and Poultry Processing Facility (S)
- **d.** Keeping of Nondomestic Animals (S)

2. Agricultural Uses (see 4-502)

- **a.** Farm Stand
- **b.** Intensive Agricultural Uses
- **c.** Open Agricultural Uses
- **d.** Seasonal Farm Stand

3. Commercial/Business Service Uses (see 4-503)

- **a.** Building Contracting Shop
- **b.** Carpentry, Woodworking, or Furniture Making Facility
- **c.** Car Wash
- **d.** Commercial Bakery
- **e.** Commercial Laundry and Dry Cleaning
- **f.** Machine Shop
- **g.** Printing and/or Publishing Establishment
- **h.** Vehicle Sales/Rental Lot

4. Community Uses (see 4-504)

- **a.** Adaptive Reuse of a Historic Landmark (I)
- **b.** Church
- **c.** Educational Facility (S)
- **d.** Membership Club
- **e.** Reception Halls and Community Meeting Facilities
- **f.** Use of Community Significance (I)

5. Forestry Uses (see 4-505)
None Permitted

6. Industrial Uses (see 4-506)

- **a.** Composting Facility (S)
- **b.** General Industrial (S)
- **c.** Light Industrial
- **d.** Outside Storage
- **e.** Recycling Collection Center, Large
- **f.** Recycling Processing Facility (S)
- **g.** Saw Mill
- **h.** Solid Waste Disposal Site and Facility (S)
- **i.** Solid Waste Transfer Facility (S)

7. Lodging Uses (see 4-507)

- **a.** Overnight Lodging
- **b.** Resort Lodge, Conference Center, or Guest Ranch
- **c.** Short-Term Dwelling Rental

8. Mining Uses (see 4-508)
- **a.** Limited Impact Open Mining (I)
- **b.** Oil and Gas Operations
- **c.** Open Mining (S)
- **d.** Subsurface Mining (S)
- **e.** Subsurface Mining of Uranium (S)

9. Office Uses (see 4-509)
- **a.** Professional Office

10. Recreation Uses (see 4-510)
- **a.** Indoor Recreation
- **b.** Outdoor Recreation, for day use
- **c.** Outdoor Recreation, for night use (S)

11. Residential Uses (see 4-511)
- **a.** Boarding House
- **b.** Single Family Dwelling

12. Retail and Personal Service Uses (see-4-512)
- **a.** Bank
- **b.** Building Materials or Garden Store
- **c.** Convenience Store
- **d.** Day Care Center
- **e.** Emergency Care Facility
- **f.** Eating or Drinking Place, with drive through (S)
- **g.** Eating or Drinking Place, without drive through
- **h.** Indoor Theater
- **i.** Marijuana Establishment
- **j.** Mortuary
- **k.** Outdoor Theater
- **l.** Recycling Collection Center, Small
- **m.** Retail or Personal Service Facility
- **n.** Vehicle Service Center
- **o.** Veterinary Clinic, with outdoor holding facilities
- **p.** Veterinary Clinic, without outdoor holding facilities

13. Transportation Uses (see 4-513)
- **a.** Airport (S)
- **b.** Heliport (S)
- **c.** Helistop (S)
- **d.** Park and Ride Facility (S)

14. Utility and Public Service Uses (see 4-514)
    a. Central Office Building of a Telecommunication Company (R)
    b. Community Cistern (I)
    c. Fire Barn (I)
    d. Fire Station (S)
    e. Large Solar Energy System (S)
    f. Major Facility of a Public Utility (S) (R) (L)
    g. Medium Solar Energy System or Solar Garden (S)
    h. Public or Quasi-public Facility other than Listed (S)
    i. Public Safety Telecommunication Facility (I)
    j. Sewage or Water Transmission Line (R) (L)
    k. Sewage Treatment Facility (S) (R) (L)
    l. Small Solar Energy System or Solar Garden (SPR) (I)
    m. Small Wind-Powered Energy System
    n. Telecommunications Facility, existing structure meeting height requirements
    o. Telecommunications Facility, new structure or not meeting height requirements (S)
    p. Utility Service Facility
    q. Water Reservoir (S) (R) (L)
    r. Water Tank or Treatment Facility (S) (R) (L)
15. Warehouse Uses (see 4-514)
    a. Personal Storage Facility
    b. Warehouse and Distribution Center

C. Accessory Uses Permitted (see 4-516)
1. Accessory Agricultural Sales
2. Accessory Agricultural Structure
3. Accessory Beekeeping
4. Accessory Chicken Keeping
5. Temporary Accessory Community Meeting Facility
6. Accessory Concrete or Asphalt Batch Plant (S)
7. Accessory Dwelling (I)
8. Accessory Farm Stand (I)
9. Accessory Horse Keeping
10. Accessory Outside Storage
11. Accessory Solar Energy System
12. Accessory Structure
13. Grading of more than 500 Cubic Yards (I)
14. Home Events
15. Home Occupation
16. Household Pets
17. Noncommercial Telecommunication Site, one structure which meets setback and height requirements
18. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)
19. Small Wind-Powered Energy System, Roof-Mounted

D. Temporary Uses Permitted (see 4-517)

1. Emergency Noncommercial Telecommunication Site (A)

2. Garage Sales or Occasional Sales

3. Group Gathering /Special Events(A)

4. Temporary Batch Plant (A)

5. Temporary Construction or Sales Office (A)

6. Temporary Dwelling Unit (A)

7. Temporary Fireworks Stand (I)

8. Temporary Special Use (nonconforming use under Section 4-1004(A)(2)) (S)

9. Temporary Weather Device Tower

E. Lot, Building, and Structure Requirements

1. Minimum lot size

a. In a community service area on subdivided land where the principal structure is not a single family dwelling and is connected to public water and sewer facilities...no minimum requirement

b. On any other land...35 acres

2. Minimum setbacks

a. Front yard...60 feet from the centerline of the ROW

b. Side yard...Zero or 12 feet

c. Rear Yard...20 feet

d. From an irrigation ditch...50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may -with County concurrence- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.

e. Supplementary requirements may apply, refer to Article 7-1400.

3. Maximum building height...50 feet

F. Additional Requirements

1. Animal units...Four animal units per acre

2. Special Review is required for any use which:

a. generates traffic volumes in excess of 150 average daily trips per lot, as defined by the Institute of Transportation Engineers;

b. has an occupant load greater than or equal to 100 persons per lot;

c. has a wastewater flow greater than or equal to 2,000 gallons per day per lot; or

d. has a total floor area greater than 25,000 square feet (35,000 square feet in a community service area).

3. Limited Impact Special Review is required for any use which is:

a. a parking area associated with a trail of a governmental entity on publicly acquired open space land, which parking area is in accordance with an open space management plan approved by the Board of County Commissioners, and which generates traffic volumes in excess of 150 average daily trips per lot as defined by the Institute of Transportation Engineers;

b. grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(I).

4. An exemption plat is required for any single family residential development on vacant land proposed for subdivided land with a final plat approved prior to March 22, 1978.

5. No parcel shall be used for more than one principal use, except for allowed open Agricultural uses, Forestry uses, Mining uses, or any combination thereof, unless approved through Special Review; or for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark.

6. Small Wind-Powered Energy Collectors Systems, and Small Solar Energy Collectors Systems or Solar Gardens, Medium Solar Energy Systems or Solar Gardens, and Large Solar Energy Systems can be approved on parcels with existing principal uses without Special Review approval, however, these uses shall be reviewed using the process and standards described in the Utility and Public Service Uses classification in this Code.

4-113 Economic Development (ED) District

A. Purpose: Urban areas which have economic value for Boulder County, and which can be developed to be compatible with surrounding areas.

B. Uses Permitted by Special Review

1. The following special uses may be permitted as Principal Uses Permitted upon Special Review approval:

a. nonresidential planned unit developments such as office, industrial, research, recreational, and accessory uses, or a mixture of any uses which can be designed to be compatible with each other and with surrounding areas; or

b. any other use permitted through Special Review.

C. Minimum district area...five contiguous acres

D. Additional Requirements

1. Maximum gross residential density

a. On subdivided land where the dwellings are connected to both public water and public sewer facilities . . . Nine dwelling units/acre, except as such maximum may have been specifically limited as part of the platting process for the subject property;

b. On other land . . . One dwelling unit per 35 acres

2. Grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(I) of this Code shall go through Limited Impact Special Review.

4-114 Historic (H) District

A. Purpose: Rural areas in which residential and business uses which can be developed compatibly with established historical areas.

B. Uses Permitted

1. Principal Uses Permitted: Those uses which are required to serve the immediate area and which are public or semi-public uses or are permitted in the Business zoning district subject to the requirements of Section 4-114(C); and

2. Accessory Structures and uses permitted in the Business zoning district.

3. Uses permitted by Special Review or Limited Impact Special Review permitted in the Business zoning district.

C. Approval of Building and Structures

1. No person shall construct a new principal building or any structures accessory to a new principal building or change the principal use of a structure within the Historic zoning district unless that person has first received approval of the County Commissioners following a public hearing, notice of which shall be given by publication in a newspaper of general circulation within Boulder County at least 30 days prior to the hearing date and by transmission of written notice by first class mail, postage prepaid, at least 30 days prior to the hearing date to the applicant and to adjacent property owners. A Site Plan Review is not required in this district.

2. Approval of a new principal building or any structures accessory to a new principal building or change of principal use of a structure within the Historic zoning district shall receive approval only if the proposed building or structure meets the following standards and conditions:

a. The character of the proposed construction is in harmony with the established exterior architectural appeal of structures already located in the surrounding neighborhood.

b. The character of the proposed construction is in harmony with approved public plans for the surrounding area, so that existing and future land values within the historical area will not be depreciated.

3. In making its determination pursuant to Section 4-114(C)(2), the Board shall restrict its review in each case to the impact of the proposed construction on the health, safety, morals, and general welfare of the inhabitants of Boulder County, keeping particularly in mind the unique characteristics of certain existing structures in the Historic zoning districts within the County. As a minimum, the following specific criteria shall be considered:

a. architectural compatibility of the proposed structure with other structures in the Zoning District;

b. the proposed density of occupancy;

c. the relationship of the proposed use to existing and future open space;

d. vehicular and pedestrian access; and

e. the bulk of the proposed building or structure in relationship to surrounding buildings and land.

4. Prior to approval of a building permit which would allow the construction of any new principal building in the Historic zoning district, the Board shall request comments from the owners of properties abutting and from any representative homeowners association formed in the Historic zoning district. Although final action by the Board shall not be bound by such local comments, the opinion of such persons and the ideas expressed on the official plans for the Historic zoning district shall be given careful consideration by the County Commissioners.

5. Prior to the approving of a building permit which would allow the construction of additions, exterior remodeling or accessory structures in the Historic zoning district, the Director shall request and consider comments from the owners of properties abutting and from any representative homeowners association formed within the Historic zoning district. The decision and action of the Director shall be based upon the standards of 4-114(C)(2) and (3) and shall carefully consider, but not be bound by, local comments.

a. The Director shall make a decision on the submitted plans and information within 14 days of submission. The findings of the Director shall be transmitted by first class mail, to the applicant and the local group(s) that have commented within seven (7) days of the Director's decision.

b. The decision of the Director may be appealed pursuant to Section 4-800 of this Code.

D. Size of Zoning District

No area shall be zoned or rezoned Historic unless the area encompasses a minimum of 10 contiguous acres.

4-115 Rural Community (RC) District

A. Purpose: To encourage flexibility in the land use patterns of established rural communities in order to achieve the objectives of the Boulder County Comprehensive Plan.

B. Uses Permitted

Any approved RC District may appropriately limit, but may not alter or expand, the uses allowed in the zoning districts which govern the subject parcels immediately prior to rezoning.

C. Additional Requirements

1. A RC District may be permitted in the following established rural communities:

a. Allenspark

b. Eldora

c. Eldorado Springs

d. Gold Hill

e. Hygiene

f. Niwot Community Service Area

2. The RC District shall include only the following;

a. Parcels with existing structures;

b. Vacant parcels completely surrounded by parcels with existing structures; or

c. Vacant parcels contiguous to, or partially surrounded by parcels with existing structures, provided that the vacant parcel is determined by the Board of County Commissioners to be an essential part of the land use pattern of the community.

3. Topographical features and other land forms that provide a natural boundary or edge to the community shall be considered when determining the boundary of an RC District.

4. Each RC District must be established by a separate resolution which shall include a zoning map defining the district, and the district development plan.

a. The district development plan shall be drafted by County staff based on recommendations from the property owners, neighborhood associations, community associations, business associations, and other parties with an interest in the proposed district. The plan shall include the following:

(i) A development report as defined in Paragraph 3-203 (F) of this Code.

(ii) A site plan showing significant natural features, proposed district boundaries, and existing and proposed land uses.

(iii) A listing of existing and proposed land uses and the total proposed district area in acres with a breakdown in percentages and amounts devoted to specific land.

(iv) The proposed lot, building, and structure design and dimension requirements.

(v) The proposed parking requirements.

(vi) Standards and guidelines for

(A) the development of site facilities, including, but not limited to, parking, parks and open space, signage, landscape, and lighting;

(B) appropriate architectural design within the district; and

(C) designated historic districts, where applicable.

(vii) Any additional relevant information deemed necessary by the Land Use Director.

b. Any proposed modifications to a district development plan shall be reviewed by the Land Use Director.

(i) If found to be a substantial modification, an amendment of the district development plan shall be required.

(ii) The amendment must be reviewed by the Planning Commission and approved by the Board of County Commissioners.

(iii) Any modification to the regulatory portion of the plan shall be considered substantial.

5. Procedures under Article 15, Historic Preservation, shall control for any recognized historic district or structure.
6. Written consent of greater than 50 percent of the owners of building lots within the proposed district, with no owner having more than one vote, must be obtained prior to approval of the proposed district by the Board of County Commissioners.
7. Notification
   a. At least 30 days prior to the Planning Commission hearing, the final district development plan and all attachments shall be mailed to the property owners of parcels within the proposed district and to all property owners adjacent to the proposed district.
   b. Any changes made to the district development plan as a result of the Planning Commission hearing shall be incorporated into the plan, and the revised plan shall be mailed to property owners within the proposed district at least 14 days prior to the Board of County Commissioner hearing.

4-116 Niwot Rural Community District

(see appendix A or fully illustrated version under separate cover)

4-116A Niwot Rural Community District II

A. The purpose of this district is to allow for more flexible setback requirements on the residential parts of the original Niwot Townsite while otherwise remaining consistent with the Rural Residential Zoning District requirements.

B. Setbacks Requirements:

1. Front: 15 feet from the original surveyed townsite lot line with the ability to reduce that setback to a lesser amount if the residences on either side are less, in which case the average of those front yards can be calculated and used.
2. Side: Can be reduced to 5 feet if adequate separation from neighboring structures exists according to the building code.
3. Rear: 15 feet
4. Supplementary requirements may apply, refer to Article 7-1400.

C. On a corner lot only one lot line will be considered a front lot line for setback purposes.

D. The supplemental setback from the centerline of Niwot Road will be 80 feet within the NRCD II District, unless the road classification in the future further reduces that requirement.

E. All other provisions of the Rural Residential (RR) District as amended remain consistent with that district.

4-117 Mountain Institutional (MI) District

A. Purpose: Areas established in the mountainous part of Boulder County for the purpose of permitting more intensive use of land than the surrounding Forestry (F) District, where such use' can be accomplished without harm to forest resources, natural environment, open areas and residential uses in the surrounding area.

B. Principal Uses Permitted

1. Agri-business Uses (see 4-501)

- **a.** Keeping of Nondomestic Animals (S)

2. Agricultural Uses (see 4-502)

- **a.** Open Agricultural Uses

3. Commercial/Business Service Uses (see 4-503)

- **a.** Kennel (S)

4. Community Uses (see 4-504)

- **a.** Adaptive Reuse of a Historic Landmark (I)
- **b.** Camp (I/S)
- **c.** Cemetery (S)
- **d.** Church
- **e.** Membership Club (S)
- **f.** Use of Community Significance (I)

5. Forestry Uses (see 4-505)

- **a.** Forestry
- **b.** Forestry Processing and Sort Yard (I)

6. Industrial Uses (see 4-506)
None Permitted

7. Lodging Uses (see 4-507)

- **a.** Bed and Breakfast (S)
- **b.** Campground (S)
- **c.** Resort Lodge, Conference Center, or Guest Ranch (S)
- **d.** Short-Term Dwelling Rental (I)

8. Mining Uses (see 4-508)

- **a.** Limited Impact Open Mining (I)
- **b.** Oil and Gas Operations
- **c.** Open Mining (S)
- **d.** Subsurface Mining (I) (S)
- **e.** Subsurface Mining of Uranium (S)

9. Office Uses (see 4-509)
None Permitted

10. Recreation Uses (see 4-510)

- **a.** Livery or Horse Rental Operation (S)
- **b.** Outdoor Recreation, for day use (S)
- **c.** Outdoor Recreation, for night use (S)
- **d.** Park and/or Playfield, for day use
- **e.** Park and/or Playfield, for night use (S)
- **f.** Public Recreation Center (S)
- **g.** Ski Area (S)

11. Residential Uses (see 4-511)

- **a.** Group Care or Foster Home (S)
- **b.** Single Family Dwelling

12. Retail and Personal Service Uses (see 4-512)
- **a.** Day Care Center (S)

13. Transportation Uses (see 4-513)
- **a.** Park and Ride Facility (S)

14. Utility and Public Service Uses (see 4-514)
- **a.** Central Office Building of a Telecommunication Company (R)
- **b.** Community Cistern (I)
- **c.** Fire Barn (I)
- **d.** Fire Station (S)
- **e.** Major Facility of a Public Utility (R) (S) (L)
- **f.** Public or Quasi-public Facility other than Listed (S)
- **g.** Public Safety Telecommunication Facility (I)
- **h.** Sewage or Water Transmission Line (R) (L)
- **i.** Sewage Treatment Facility (R) (S) (L)
- **j.** Small Solar Energy System or Solar Garden (SPR) (I)
- **k.** Small Wind-Powered Energy System (see 4-514.M.)
- **l.** Telecommunications Facility, existing structure meeting height requirements
- **m.** Telecommunications Facility, new structure or not meeting height requirements (S)
- **n.** Utility Service Facility
- **o.** Water Reservoir (R) (S) (L)
- **p.** Water Tank or Treatment Facility (R) (S) (L)

15. Warehouse Uses (see 4-515)
None Permitted

C. Accessory Uses Permitted (see 4-516)

1. Accessory Agricultural Sales
2. Accessory Agricultural Structure
3. Accessory Beekeeping
4. Accessory Chicken Keeping
5. Accessory Dwelling (I)
6. Accessory Horse Keeping
7. Accessory Outside Storage
8. Accessory Solar Energy System
9. Accessory Structure
10. Grading of More than 500 Cubic Yards (I)
11. Home Events
12. Home Occupation
13. Household Pets
14. Noncommercial Telecommunication Site, one structure which meets setback and height requirements
15. Noncommercial Telecommunication Site, multiple structures and/or not meeting setback or height requirements (I)
16. Small Wind-Powered Energy System, Roof-Mounted

D. Temporary Uses Permitted (see 4-517)

1. Emergency Noncommercial Telecommunication Site (A)
2. Garage Sales or Occasional Sales
3. Group Gathering / Special Events (A)
4. Temporary Batch Plant (A)
5. Temporary Construction or Sales Office (A)
6. Temporary Dwelling Unit (A)
7. Temporary Special Use (nonconforming use under Section 4-1004(A)(2)) (S)
8. Temporary Weather Device Tower

E. Lot, Building, and Structure Requirements

1. Minimum lot size...35 acres

2. Minimum setbacks

a. Front yard...15 feet

b. Side yard...25 feet

c. Rear yard...15 feet

d. From an irrigation ditch...50 feet from the centerline of the ditch. This requirement only affects structures built after October 10, 1996. The setback may -with County concurrence- be reduced in accordance with a letter from the applicable ditch company establishing a different setback, but in any event shall not be less than 20 feet from the ditch centerline.

e. Supplementary requirements may apply, refer to Article 7-1400.

3. Maximum building height

a. On subdivided land with a final plat approved by the County prior to August 29, 1994, 35 feet unless a lower height was approved through the platting process.

b. On any other land, 30 feet unless, through a subdivided land approval or Site Plan Review approval, a lower or higher height is permitted due to the unique characteristics of the particular site; in no event, however, shall any non-agricultural structure exceed 35 feet.

F. Additional Requirements

1. animal units...Two animal units per acre without going through Special Review

2. Special Review is required for any use which:

a. generates traffic volumes in excess of 150 average daily trips per lot, as defined by the Institute of Transportation Engineers;

b. has an occupant load greater than or equal to 100 persons per lot;

c. has a wastewater flow greater than or equal to 2,000 gallons per day per lot;

d. has a total floor area greater than 25,000 square feet; or

e. has a second principal use which does not increase density.

3. Limited Impact Special Review is required for any use which is:

a. a parking area associated with a trail of a governmental entity on publicly acquired open space land, which parking area is in accordance with an open space management plan approved by the Board of County Commissioners, and which generates traffic volumes in excess of 150 average daily trips per lot as defined by the Institute of Transportation Engineers;

b. grading involving the movement of more than 500 cubic yards of material as defined and provided in Section 4-516(I).

4. No parcel shall be used for more than one principal use, except for allowed Agricultural uses, Forestry uses, Mining uses, or any combination thereof; for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark; or for second principal uses approved though Special Review under 4-117.F.2.e, above.

5. Small Wind-Powered Energy Collectors Systems and Small Solar Energy Collectors Systems or Solar Gardens can be approved on parcels with existing principal uses without Special Review approval, however, these uses shall be reviewed using the process and standards described in the Utility and Public Service Uses classification in this Code.

4-118 Neighborhood Conservation Overlay District

A. Purpose

1. To preserve and protect the character or valued features of established neighborhoods

2. To recognize the diversity of issues and character in individual neighborhoods in the unincorporated parts of Boulder County.

3. To reduce conflicts between new construction and existing development in established neighborhoods.

4. To provide knowledge and reliance about the parameters of neighborhood character.

5. To allow neighborhoods to work together with the County to formulate a plan that defines their community of common interest and that fosters a defined community character consistent with County zoning, the Land Use Code, and the Comprehensive Plan.

6. To complement the County's Site Plan Review process in neighborhoods that have defined their community character pursuant to these regulations.

B. General Provisions

1. Each Neighborhood Conservation Overlay District must be established by a separate resolution that shall include a map defining the overlay boundaries, and the Neighborhood Conservation Plan (as specified in this Article 4- 118(F)), and shall become a part of the Boulder County Land Use Code.

2. An approved Neighborhood Conservation Overlay District does not replace the underlying zoning of the area, which remains as the source of minimum, applicable restrictions on structures, uses, and development. Any approved Neighborhood Conservation Overlay District may further appropriately limit, but may not expand, the uses and development allowed in the zoning districts in which the subject parcels are mapped.

3. All new development, additions, changes, and expansions to existing structures must comply with the regulations associated with the neighborhood Conservation Overlay District.

4. Neighborhood Conservation Overlay Districts must be consistent the Boulder County Comprehensive Plan, applicable intergovernmental agreements, and the Boulder County Land Use Code.

5. Neighborhood Conservation Overlay Districts may contain requirements related to only the following issue areas: the location of proposed buildings or additions; uses; height; size; exterior materials; exterior color; exterior lighting; neighborhood character and compatibility; view preservation of or from specific locations, particularly from public lands and right of ways; visual impact on natural features or neighborhood character; compatibility with topography and vegetation; landscaping and screening; geologic hazards; wildfire mitigation; riparian areas, wetland areas, or drainage patterns; plant communities or wildlife habitat; migration corridors; geologic, geomorphic, paleontological, or pedologic features; agricultural lands; historic or archaeological resources; site disturbance; avoidance of development on visually exposed portions of the property; runoff, erosion, and sedimentation; and impact on Natural Landmarks or Natural Areas.

6. Site Plan Review will not be required in an approved Neighborhood Conservation Overlay District to the extent that the approved Neighborhood Conservation Plan covers the relevant Site Plan Review criteria of Article 4-806 of the Boulder County Land Use Code.

7. The area of each Neighborhood Conservation Overlay District:

a. shall include a minimum of 15 adjacent privately-owned parcels, unless the area proposed is an extension of the boundaries of an approved Neighborhood Conservation Overlay District.

b. shall include privately-owned parcels that are closely settled and of similar size, and which are associated by common characteristics of geography, development, services, and interests.

c. should consider other adjacent privately-owned parcels having shared distinguishing characteristics that could be found to comprise a logical neighborhood unit, when determining the boundaries of a Neighborhood Conservation Overlay District.

d. shall exempt privately-owned parcels of five acres or greater, unless the owner of the parcel agrees to inclusion of that parcel into the Neighborhood Conservation Overlay District.

8. Uses and structures legally existing at the time of adoption of a Neighborhood Conservation Overlay District under these regulations shall not become nonconforming solely by virtue of adoption of the district. Notwithstanding this provision, any changes or additions to uses or structures in the district that occur after the date of adoption of the district, shall comply with the provisions of the adopted district.

a. In Neighborhood Conservation Overlay Districts creating a size limitation or floor area restriction, the Board of County Commissioners, through adoption of the NCOD, may allow an additional 10% of floor area for parcels near or above the designated size limitation.

C. Initiation of Neighborhood Conservation Overlay District

1. The establishment of a Neighborhood Conservation Overlay District may be initiated by a group of 50% of the property owners within the proposed boundaries demonstrating interest in the Neighborhood Conservation Overlay District.

2. Neither the Board of County Commissioners nor the Planning Commission shall initiate the establishment of a Neighborhood Conservation Overlay District.

D. Pre-application Conference

A pre-application conference as defined in Article 3-201 of the Boulder County Land Use Code shall be held prior to the submission of an application for a Neighborhood Conservation Overlay District.

E. Application and Submittal Requirements

An application for a Neighborhood Conservation Overlay District must include the following:

1. Statement of Purpose that addresses the following issues:

a. what the proposed Neighborhood Conservation Overlay District wants to accomplish and why

b. description of neighborhood character and valued features to be protected in the neighborhood

c. why the proposed Neighborhood Conservation Overlay District boundaries make sense as a defined "neighborhood" (for example: consider utility and services providers in area; school attendance; transportation links)

2. Map that indicates the boundaries of the proposed Neighborhood Conservation Overlay District, and identifies the parcels within it

3. Description of the neighborhood, detailing land use, development, and distinguishing characteristics of neighborhood

4. Description of the history and evolution of the neighborhood

5. A petition that is (i) affirmatively signed by at least 50% of the property owners of parcels within the proposed district, indicating those owners' support for the County to proceed with processing of the application, and (ii) signed by all of the other owners of parcels in the proposed district indicating whether the property owner is AGAINST, UNDECIDED, or HAS NO COMMENT on the application, except that if the signature of such an owner cannot be obtained, the applicant may substitute a signed affidavit stating that the applicant has attempted in good faith to obtain the signature of such owner but has been unable to do so. Owners of record will be based on currently available Assessor's information.

6. The name and phone number of a designated representative for the neighborhood, who has the power to withdraw the application at any time

7. A list of all homeowner associations or other parties with an interest in the proposed Neighborhood Conservation Overlay District. This list should include information as to the number of members and the officers' names, mailing addresses, and phone numbers

F. Neighborhood Conservation Plan Formulation

The Neighborhood Conservation Plan shall detail the policies intended to protect the neighborhood character and valued features identified in the proposed Neighborhood Conservation Overlay District. The Neighborhood Conservation Plan shall be drafted in cooperation with the neighborhood and County staff, based on the neighborhood application, land use analysis of the neighborhood, and input from neighborhood meetings.

1. County staff will conduct a land use analysis of the neighborhood and will present it at the neighborhood meetings. The land use analysis should include at least the following elements:

a. zoning of area

b. lot sizes and configuration

c. land uses in the neighborhood

d. description of housing and other uses: size, height, etc.

e. previous Land Use reviews completed in the neighborhood

f. subject to availability, aerial maps of neighborhood showing structure locations or other applicable maps

2. Neighborhood Meetings

a. At a minimum, two neighborhood meetings will be conducted in conjunction with County staff as part of the Neighborhood Conservation Plan formulation process:

(i) an initial meeting to discuss the land use analysis, the boundaries of the proposed overlay district, and what the neighborhood wants to accomplish with the Neighborhood Conservation Overlay District

(ii) a final meeting to present and discuss the final proposed Neighborhood Conservation Plan

b. All property owners within the proposed Neighborhood Conservation Overlay District boundaries will be notified by the County of the meeting date and time, and will be sent information about the proposal.

3. Neighborhood Conservation Plan shall include:

a. a map indicating the properties affected and the proposed boundaries of the Neighborhood Conservation Overlay District. These boundaries may change from those initially submitted or proposed, based on land use analysis and input from neighborhood meetings

b. the proposed land use standards and requirements for the Neighborhood Conservation Overlay District

c. other guidelines or background information related to the Neighborhood Conservation Overlay District

d. any pertinent items in the Development Report (Article 3-203(F) of Boulder County Land Use Code) not otherwise addressed in the Neighborhood Conservation Plan

e. a statement indicating the extent to which the proposed Neighborhood Conservation Plan includes exemption from Site Plan Review

G. Standards and Conditions for Approval of a Neighborhood Conservation Overlay District

The Neighborhood Conservation Overlay District shall be approved only if the Board of County Commissioners finds that:

1. the proposed Neighborhood Conservation Overlay District is an established area with shared distinguishing characteristics, which may include geography, development, services, and interests.

2. the proposed Neighborhood Conservation Overlay District is a logical neighborhood unit with a closely settled development pattern on similar sized parcels.

3. the Neighborhood Conservation Plan complies with the standards and conditions specified by Article 4-1102 and Article 16 of the Boulder County Land Use Code.

H. Agency and Public Review

Review of a Neighborhood Conservation Plan shall proceed through the following steps:

1. Referral Requirements and Agency Review as specified by Article 3-204 of the Boulder County Land Use Code

2. Planning Commission Review as specified by Article 3-205(B) of the Boulder County Land Use Code

3. The written consent of 60% of the owners of record of the parcels within the proposed Neighborhood Conservation Overlay District, with each property not allowed more than one vote, must be obtained prior to review of the Neighborhood Conservation Overlay District by the Board of County Commissioners. Owners of record will be based on currently available Assessor's information.

4. Board of County Commissioners Review as specified by Article 3-205(C) of the Boulder County Land Use Code

a. Resolution of Approval shall include the Neighborhood Conservation Plan, and the specific Site Plan Review criteria covered by the Neighborhood Conservation Plan that are exempt from future Site Plan Review.

I. Amendments to an Approved Neighborhood Conservation Overlay District

1. Any proposal to add or subtract 15 or fewer parcels (without change to the text of the Neighborhood Conservation Plan) to an approved Neighborhood Conservation Overlay District shall be subject to the requirements of this Article 4-118(D), (E)(1)(b), (E)(1)(c), (E)(1)(e), (E)(1)(f), (E)(1)(g), (F)(1), (F)(3)(a), (G), and (H) of the Boulder County Land Use Code.

2. Any proposal to add or subtract more than 15 parcels to an approved Neighborhood Conservation Overlay District, including the dissolution of the Neighborhood Conservation Overlay District, or any proposed modification to an approved Neighborhood Conservation Plan, is subject to the requirements of this Article 4-118.

J. Waivers From the Terms of an Approved Neighborhood Conservation Overlay District

Waivers from a specific term or terms of an approved Neighborhood Conservation Overlay District for a particular proposed development on a parcel included within the district, may be granted if 60% of the property owners of the parcels included within the district (excluding the owners of the parcel requesting the waiver) agree in accordance with the voting requirements of Section (H)(3) above, and if the BOCC subsequently decides at a public hearing that the waiver does not conflict with the stated conservation purposes of the district under the unique circumstances of the particular parcel in question (or reasonable mitigation measures can be imposed on the development such that a conflict does not result). The BOCC shall provide public notice of its hearing by mailing notice of the date, place, time, and subject of the hearing to all record owners of property within the district, and by publishing notice of the hearing in a newspaper of general circulation in the County, at least 14 days prior to the scheduled public hearing date.

4-118A Fairview Estates Neighborhood Conservation Overlay District

A. The purpose of this overlay district is to emphasize the importance to the residents of the district of their westerly views (of the Flatirons, mountains, Baseline Reservoir and the city of Boulder) and to provide for the protection of these views.

B. Appropriate measures to preserve westerly views from properties within the overlay district shall be taken when building or altering any structure in the district that is subject to a County building permit or Land Use review process on or after February 28, 2006. Attention should be given to height, location, or stepped rooflines to achieve view protection. A diversity of architectural styles is encouraged.

C. These criteria will be reviewed as part of any Land Use review process required. Where a building permit but no other Land Use Review is required, the Land Use staff will review these criteria before the building permit can be issued. The Land Use Director will have the ability to add conditions of approval to the project to meet the intent of this regulation.

D. Appeals from any decision made in the course of administering this regulation may be made in accordance with the applicable appeal provisions of this Code. Neighbors within the overlay district will be notified of appeals.

4-119 Airport Overlay Zone

1. No structure or use shall create any unreasonable electrical interference with navigational signals for radio communications between airports and aircraft, make it unreasonably difficult for pilots to distinguish airport lights from others, result in glare in the eyes of the pilots using airports, unreasonably impair visibility in the vicinity of airports or otherwise in any way create a hazard or endanger the landing, take-off, or maneuvering of aircraft intending to use airports.
2. Except as otherwise provided in this article, no structure shall be erected, altered, or be maintained at a height which intrudes into the Airport Protection Surfaces, as defined by Article 18-107. The location and boundaries of the Airport Protection Surfaces are designated in the following official maps, as amended, which are hereby incorporated into this Resolution for purposes of this regulation:
   a. That map entitled F.A.R. Part 77 Surfaces - Vance Brand Airport prepared by Denver Regional Council of Governments and dated February 3, 1989.
   b. That map entitled F.A.R. Part 77 Surfaces - Boulder Municipal Airport prepared by Denver Regional Council of Governments and dated January 27, 1989.
   c. That map entitled F.A.R. Part 77 Surfaces - Jefferson County Airport prepared by Denver Regional Council of Governments and dated February 2, 1989.
   d. That map entitled Erie Airpark Tri-County Airport, Erie, Colorado - APPROACH PLAN prepared by Denver Regional Council of Governments and dated December 1, 1987. These maps shall be the official Boulder County Zoning Maps for the purpose of establishing height limits for structures hereunder and shall be kept on file and open to public inspection by the Zoning Administrator.
3. Any permit or variance granted may include conditions that require the owner of the subject structure to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

4-200 View Protection Overlay District

A. Purpose

To provide for reduced height in areas potentially affecting significant views.

B. Application

If a structure, lot, or other parcel of land lies partly within the View Protection Overlay District, that part of the structure, lot, or parcel shall meet all the requirements for this district as set forth in this Code.

C. Relationship to Underlying Zoning

With the exception of the maximum structure height requirement, the use, lot, building, and structure requirements of the underlying zoning district shall apply to all development within this district.

D. Maximum Structure Height Requirement

1. For building lots with a slope of less than 20 degrees, no portion of a structure, including additions to an existing structure, may exceed 35 feet in height as measured from the natural grade of the lot at the lowest elevation within 25 feet of the structure.
2. For building lots with a slope of 20 degrees or greater, no portion of a structure, including additions to an existing structure, may exceed 25 feet in height as measured from the natural grade of the lot at the lowest elevation of the structure.

4-300 Natural Resource Protection Overlay District

4-301 Purpose

To protect and conserve critical wildlife habitats, migratory corridors, and wetlands and historic drainage by encouraging compatible proposed development on subdivided lands which have a sketch plan approved prior to March 22, 1978 which was not otherwise subject to a discretionary review for the purpose of protecting critical wildlife habitats and wetlands.

4-302 Designation of Natural Resources to be Protected

The critical wildlife habitats and wetland areas protected and preserved through the application of this Section are those critical wildlife habitats, critical plant associations, and rare plant sites designated and shown on the Environmental Resources Maps adopted as part of the Boulder County Comprehensive Plan, and wetland areas mapped on the Boulder County Wetlands Map. The critical wildlife habitats are further described in the corresponding text of the Environmental Resources Element of the Comprehensive Plan. These maps and corresponding text of the Comprehensive Plan are hereby incorporated into this Section by this reference.

4-303 Applicability and Scope of the Natural Resource Overlay District

A. Application

1. This district shall cover subdivided lands which have sketch plan approval granted prior to March 22, 1978, have not been fully developed, and may affect significant wetlands, and wildlife and plant habitats.

2. Proposals for development under either a building, grading, access, or floodplain development permit on a vacant parcel are subject to this overlay district and require the applicant to go through an exemption plat process.

B. For purposes of this Section, 'vacant parcel' means a parcel upon which no structure for human habitation has been constructed and occupied.

C. No permit may be issued until the applicant for the permit obtains an exemption plat under this Section.

4-304 Pre-application Conference

A. The Director shall schedule a pre-application conference with the applicant.

1. This conference shall be between the applicant and appropriate members of the Land Use and Parks and Open Space Department staffs.

2. The purpose of the conference is to explain the exemption plat process to the applicant, answer any pertinent questions of the applicant, and specify for the applicant, in writing, what impact to the specific environmental resource must be mitigated.

B. The Director will determine which application materials and what standards for review of the proposal are applicable based on the nature and extent of the proposed development under the permit and the potential impact on the environmental resource.

C. As part of this pre-application conference, staff shall make available to the applicant all public information in the County's possession regarding the environmental resource.

D. Following the pre-application conference, County staff shall provide the applicant with application materials and a written copy of the relevant standards for approval pursuant to Paragraph 4-305, and the required information to be submitted by the applicant.

4-305 Exemption Plat Standards for Approval

A. Review by the Board of County Commissioners

1. An exemption plat shall be approved only if the Board finds that the exemption plat meets the following standards and conditions, or parts thereof determined to be applicable to the specific case at hand.

a. The development will not have a significant adverse impact on designated plant or wildlife habitat, migration corridors, or sensitive and unique plant or wildlife ecosystems.

b. The proposed development will not have a significant adverse impact on designated wetland areas or functions. Runoff and erosion from this development will not have a significant adverse impact on the character of the wetland.

2. This determination is to be based on the nature and extent of the proposed development, the potential impact on the environmental resource, and the adequacy of proposed mitigation measures, if any.

3. The Board shall not consider any aspect of the plat other than that directly related to the impact on the specific environmental resource.

4-306 Approval of an Exemption Plat

A. If the Board finds in reviewing an exemption plat application that the application meets the relevant standards set forth in Paragraph 4-305, the Board shall approve the plat and the applicant may continue the processing of the building, grading, access, or floodplain development permit.

B. If the Board finds that the application does not meet a relevant standard or standards set forth in Paragraph 4-305, the Board may still conditionally approve the application if reasonable conditions exist which can be imposed on the application to avoid or acceptably mitigate significant adverse impacts on the environmental resource. Such conditions may include, but are not necessarily limited to the relocation or modification of proposed structures, uses, activities, and materials, or any other measures necessary to mitigate any significant adverse impact caused by development.

C. While an exemption plat may not be denied, all reasonable measures must be taken to mitigate the significant adverse impact of the development on the environmental resource.

4-307 Contiguous Commonly-held Parcels

A. No permit shall be issued for any subdivided lot or combination of subdivided lots subject to this Article 4-300 until approval under this section is granted.

B. Notice of the provisions of these regulations has been recorded in the real estate records of the County Clerk and Recorder for each platted subdivision affected by this regulation. No permits shall be granted to any subdivided lots separately conveyed subsequent to the notice of adoption of these regulations unless the lots are a part of a unified approval under Paragraph 4-306.

4-400 Floodplain Overlay District

4-401 Purpose

A. To provide land use controls necessary to qualify unincorporated areas of Boulder County for flood insurance under requirements of the National Flood Insurance Act of 1968, as amended; to protect life, property, and health; to ensure the best available data is used in making development decisions; to avoid increasing flood levels or flood hazards or creating new flood hazard areas; to minimize public and private losses due to flooding; to reduce the need for expenditures of public money for flood control projects; to reduce the need for rescue and relief efforts associated with flooding; to prevent or minimize damage to public infrastructure, facilities, and utilities; and to meet or exceed FEMA and CWCB minimum standards for floodplain regulation.

B. FEMA requires all communities that participate in the National Flood Insurance Program ("NFIP") regulate "Development" that occurs within the Special Flood Hazard Area. FEMA defines Development as "any manmade change to improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations."

4-402 Applicability and Administration

A. **Applicability**. The Article 4-400 applies to all lands in the Floodplain Overlay ("FO") District. If a lot or other parcel of land lies partly within the FO District, this Article 4-400 applies to the part of such lot or parcel lying within the district. If a building or structure lies partly within the FO District, then this Article 4-400 applies to the entire building or structure.

B. **County Engineer Role**. The County Engineer or his or her designee is responsible for the administration and implementation of the requirements of the FO District, including reviewing all development proposals to determine the applicability of this section, all Individual Floodplain Development Permit ("Individual FDP") applications, and all notifications submitted for General Floodplain Development Permit ("General FDP") consideration.

C. **No Liability**. The degree of flood protection provided by this section has been determined to be reasonable for regulatory purposes and is based on engineering and scientific methods of study of the 1%-annual-chance (100-year) flood event, also referred to as the base flood. Floods of greater magnitude may occur. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge or culvert openings restricted by debris. This Article 4-400 does not imply that land areas outside of 100-year floodplain boundaries or land uses permitted within such areas will be free from flooding or flood damages, or that compliance with these regulations will prevent flood damage. Neither Boulder County nor any of its officers or employees shall be liable for any flood damages, including any damages that result from reliance on this article or any administrative decision.

D. **More Restrictive Prevails**.

1. The Federal Emergency Management Agency ("FEMA") and the Colorado Water Conservation Board ("CWCB") have established certain minimum standards for regulatory floodplains. To the extent a FEMA or CWCB requirement conflicts with a provision in 4-400, the most restrictive controls.
2. This Article 4-400 does not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this Article 4-400 and another ordinance, easement, covenant, or deed restriction conflict or overlap, the more restrictive applies.

E. **Permits Required**.

1. All development in the FO District requires an Individual FDP or must be covered by the General FDP. Development in the FO District not covered by a General FDP or an Individual FDP may result in enforcement action under Article 17.
2. In addition to the Floodplain Development Permits required by this section, all required local, state, and federal permits must be issued prior to development in the FO District.

F. **Referral from Other County Departments**.

1. All development that requires a planning review process through the Boulder County Land Use Department and may be susceptible to flooding will be forwarded to the County Engineer for review and comment. The County Engineer must determine if the work is covered under a General FDP, requires an Individual FDP, or does not require any type of Floodplain Development Permit. Where the County Engineer indicates that the development will need a Floodplain Development Permit, the Land Use Department should note the requirement on any planning approval.
2. All building permit applications shall be reviewed by the Building Division to determine whether the proposed development is potentially within the FO District and therefore may require a Floodplain Development Permit. If it appears to the Chief Building Official that any proposed development may be within the FO District, then the Chief Building Official shall refer the application to the County Engineer. The Chief Building Official shall not issue a building permit when floodplain issues have been raised unless the County Engineer has confirmed the development is approved under a General FDP or an Individual FDP or the County Engineer has determined that a Floodplain Development Permit is required.

3. All Onsite Wastewater Treatment System ("OWTS") applications will be reviewed by Boulder County Public Health ("Public Health") to determine whether the work, including new OWTS or repair/replacement of an existing OWTS, may be within the FO District. If it appears to Public Health that the proposed work may be within the FO District, then Public Health must refer the application to the County Engineer. Public Health must not issue an OWTS permit when floodplain issues have been raised unless the County Engineer has issued an Individual FDP or has determined that no such permit is required.

4-403 FO District Defined; Official Map

A. **FO District**. The Boulder County FO District is defined as the FEMA Floodplain together with the Boulder County Floodplain, as those floodplains are defined below.

1. The December 18, 2012 Digital Flood Insurance Rate Map ("DFIRM") and Flood Insurance Study ("FIS") report published by FEMA, as amended, is incorporated by reference. The DFIRM and FIS in effect on the date of a property owner's complete application for any permit or process in this Code, in particular those portions of the DFIRM and FIS that define the 100-year floodplain, is the foundational floodplain for the FO District (the "FEMA Floodplain"). The term "DFIRM" includes all flood risk zone designations and technical information displayed on the maps, explanatory matter, technical addenda, modeling and calculations, water surface elevations, profiles, and cross sections, and other underlying detailed study data, such as information published in the FIS report and supporting documentation, as well as approved Letters of Map Revision ("LOMR"), Letters of Map Amendment ("LOMA"), and Letters of Map Revision based on Fill ("LOMR-F"). The FEMA Floodplain includes Zone AE, A, AH, and AO flood risk zone designations, including both Floodway and Flood Fringe areas.
2. To augment the FEMA Floodplain, the Board of County Commissioners may, after review and recommendation by the Planning Commission, adopt a "Boulder County Floodplain." The purpose of adopting a Boulder County Floodplain is to facilitate use of the best data available to the County to establish floodplain boundaries, Base Flood Elevations ("BFE"), and Flood Protection Elevations ("FPE") to better protect residents of the County from flood hazards.
   a. The Boulder County Floodplain must be comprised of the same flood risk zone designations as the FEMA Floodplain.
   b. In no instance may the Boulder County Floodplain remove from the FO District an area or property designated as within the FO District by the FEMA Floodplain.
   c. The following reports, maps, and related information constitutes the initial location and boundaries of the current Boulder County Floodplain:
      (i) Floodplain Re-analysis and Floodway Delineation, North St. Vrain and St. Vrain Creeks, Boulder County, CO, by Love & Associates, Inc., October, 1992; and
      (ii) (Any area included in the definition of Floodway per Section 4-414.
   d. The maps in these reports, as well as the area described in the Floodway definition, depicting the floodplain for the base flood shall be considered the official maps for the purposes of locating the Boulder County Floodplain on the official zoning district maps. These maps and reports, together with all amendments, explanatory matter, technical addenda, water surface elevations, profiles and cross sections (where available) are incorporated by reference into this Code.
3. All records pertaining to floodplain development must be on file with the County and open to public inspection. These records include, but are not limited to, certified Lowest Floor Elevations, Elevation Certificates, commercial Floodproofing Certificates, LOMAs, LOMR-Fs, LOMRs, Floodplain Development Permits, boundary interpretations, and records of action on variance requests.

B. **Official Map**. The County Engineer shall maintain digital maps delineating the location and boundaries of the FEMA Floodplain and the Boulder County Floodplain. The FEMA Floodplain map shall depict in plan view the horizontal boundary of the flood hazards described in the underlying flood studies, as published by FEMA. The Boulder County Floodplain map shall depict in plan view the horizontal boundary of the flood hazards described in the underlying flood studies, as adopted by Boulder County. These maps of the FEMA Floodplain and the Boulder County Floodplain together establish the areas governed by the provisions of this Article 4-400 and constitute the Official Map of Boulder County's FO District ("Official Map").

1. The most current Official Map and supporting data shall be on file in the County Engineer's Office in electronic format, available for public inspection during normal business hours, with electronic and paper copies available upon request. The Official Map must also be available to the public on the Boulder County website.
2. The County Engineer shall maintain records of superseded versions of the Official Map for historical reference.

C. **Interpretation of Official Maps**

1. The County Engineer shall determine which uses, parcels, structures, or other facilities are located in a previously adopted FEMA Floodplain or a Boulder County Floodplain, including in situations where a mapped boundary appears to conflict with actual field conditions. In making such interpretations, the County Engineer shall refer, as necessary, to the best available data at that time.

2. Sources of best available data for interpretations include the engineering study upon which the maps and elevations are based, the professional engineers who prepared the study, the most recent detailed terrain data certified by a P.E. or a P.L.S., survey data certified by a P.E. or a P.L.S., any BFE/water surface elevation, floodway, and other flood risk data available from state or federal agencies, and any other reliable source that the County Engineer finds meets an acceptable level of technical accuracy as determined through prevailing industry practices.
3. The use of aerial photography to interpret FO District boundaries, but without the consideration of local terrain data, shall be for informational purposes only, and not for making determinations as to the exact location of the boundaries of the FO District.
4. If the County Engineer makes a determination regarding the relationship of the Official Map to a use, parcel, structure, or other facility, the interpretation must be noted in the records associated with any related permit(s) and available for public inspection.
5. The Engineer's determinations under this section are interpretations of precisely where the existing regulatory boundary lies on the ground. A determination as to which uses, parcels, structures, or other facilities are located in or out of a previously adopted FEMA Floodplain or a Boulder County Floodplain does not itself contract or expand the boundaries of the FO District. Therefore, such determinations do not result in an amendment to the Official Map that requires review and approval by the Planning Commission and Board of County Commissioners.

D. Amendment of Official Map

1. The FEMA Floodplain within the FO District will be deemed updated when FEMA issues a Letter of Final Determination associated with any map action, or after the effective date of any Letter of Map Change ("LOMC"), without need for review or approval by the Planning Commission or the Board of County Commissioners, regardless of how many parcels are affected.
   a. If FEMA provides notice of final BFEs and sets an effective FIRM revision date (through issuance of a Letter of Final Determination) for studies that had previously been adopted as Boulder County Floodplain, the following rules apply:
      (i) If FEMA made no changes to the studies previously adopted by Boulder County, then from the effective date of FEMA's map action forward, Boulder County will continue to regulate using those studies to partially define the FO District, but will treat the studies as FEMA Floodplain rather than Boulder County Floodplain. In this circumstance, the County Engineer is not required to obtain review and approval of Planning Commission or the Board of County Commissioners.
      (ii) If prior to its official action FEMA makes changes to maps, data, or related documentation previously included only in the Boulder County Floodplain, the County Engineer must determine whether and how the Boulder County Floodplain should be amended.
2. Except for an automatically adopted DFIRM update, a change in the boundary of the FO District requires review by the Planning Commission and approval by the Board of County Commissioners of a Zoning Map Amendment in accordance with Section 4-1100. The County Engineer shall revise the Official Map upon approval of changes to the Official Map by the Board of County Commissioners.
3. If a property owner in the FO District believes that the provisions of this Section should not apply to some or all of the property owner's property because the building or ground elevations are above the corresponding BFE, then (1) as to the Boulder County Floodplain, the owner may request a rezoning map amendment under the procedures of 4-1100, and (2) as to the FEMA Floodplain, the owner may request FEMA approve a LOMA. LOMAs must be provided to the County Engineer.
4. The County Engineer may correct clerical errors in the Official Map as they are discovered, without need for approval by the Planning Commission or the Board of County Commissioners, regardless of how many parcels are affected.
5. The County Engineer may generate or receive draft and/or preliminary flood risk analyses and reports affecting the FO District. These analyses may be any flood risk analyses, including those designated by CWCB or distributed by FEMA, as well as any other water surface elevation and/or Floodway data available from state or federal agencies or any other reliable source. Upon notification of such new information, the County Engineer shall evaluate whether a change to the boundaries of the FO District is required. If so, the County Engineer will submit a proposed Zoning Map Amendment to Planning Commission and the Board of County Commissioners for review and approval.
6. In accordance with 44 C.F.R. § 65.3 and the Rules and Regulations for Regulatory Floodplains in Colorado (the "CO Floodplain Rules"), project proponents must submit technical data to FEMA in the form of a map revision request within six months of the date of completion of a project if the project received a CLOMR from FEMA before construction or results in changes (either increases or decreases) in the 100-year water surface elevation greater than 0.3 foot.
7. The County Engineer will monitor large-scale natural physical changes as they occur. If the County Engineer deems it necessary to restudy a mapped floodplain or floodway as a result of such changes, the County Engineer shall coordinate with CWCB and FEMA and, as appropriate, submit a proposed Zoning Map Amendment to Planning Commission and the Board of County Commissioners for review and approval.

4-404 Floodplain Development Permits

A. Minimum Federal and State Standards. Development in the FO District must comply with the NFIP and State of Colorado minimum standards. These standards require applicants to demonstrate that development projects in the Floodway, when combined with all other existing and anticipated development, will not cause an increase in the modeled 1%-annual-chance water surface greater than 0.00 feet and, for projects in the Flood Fringe, will not cause an increase greater than 0.50 feet.

B. Uses Prohibited in Floodway. The following activities and uses are prohibited within all mapped Floodways:

1. Construction of new permanent buildings (either residential or non-residential) with the exception of relocated nonconforming uses otherwise permitted by this Article 4-400;
2. Construction of new temporary buildings (either residential or non-residential), unless the County Engineer reviews and approves a specific location in the Floodway in conjunction with a Special Event as defined in the Multimodal Transportation Standards, a Group Gathering / Special Event as defined in the Land Use Code, or another temporary activity permitted by county regulations;
3. Construction of additions to existing buildings that increase the building's square footage, footprint, or Habitable Space;
4. Conversion of existing accessory use space to living or primary use space;
5. Overnight campgrounds;
6. Dispersed camping, unless the camping is approved through the issuance of a Group Gathering / Special Event Permit as defined in the Land Use Code;
7. Parking of Recreational Vehicles for the purposes of overnight habitation;
8. Storing or processing of materials that are buoyant, flammable, explosive, or otherwise potentially injurious to human, animal or plant life;
9. Solid waste disposal sites and central collection sewage treatment facilities;
10. New or expanded individual on-site wastewater systems, unless the expanded system is required to bring existing buildings up to code or is allowed per 4-405(G)(4);
11. Solid wood fences, chain link fences, or any fence that does not meet the Boulder County standards for fence installation;
12. Any activity or use that would create significant potential for downstream solid debris (including, but not limited to decks) waste, or rubbish;
13. New or expanded Critical Facilities located on land lower than 6,000 feet in elevation; and
14. Any encroachment (including filling and grading) that would adversely affect the efficiency of the Floodway or change the direction of flow, unless it conforms with section 4-404(C).

C. Uses Allowed in Floodway under Certain Conditions.

1. The County Engineer may issue FDPs for the following development types and open uses within the Floodway unless the use (1) is prohibited in the underlying zoning district, (2) adversely affects the efficiency of the Floodway, (3) changes the direction of flow, or (4) poses a significant safety hazard:
   - **a.** Agricultural uses involving the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising and grazing of livestock and horses, as well as temporary buildings associated with such use, as detailed in 4-405(C)(3)(c);
   - **b.** Uses accessory to residential uses, including, but not limited to lawns, open areas, gardens, driveways, and play areas;
   - **c.** Industrial or commercial uses such as loading areas, railroad rights-of-way (but not including freight yards or switching, storage, or industrial sidings), parking areas, and airport landing strips;
   - **d.** Recreational uses not requiring permanent or temporary buildings designed as habitable space, unless a special event permit has been issued for a temporary building;
   - **e.** Utility facilities such as dams, power plants, spillways, transmission lines, pipelines, water monitoring devices, water supply ditches, irrigation ditches and laterals, and open mining;
   - **f.** Hydraulic structures such as bridges, culverts, weirs, diversions, drop structures, and fish ladders, for access and flood or stormwater control; and
   - **g.** Critical Facilities above 6,000 feet in elevation, as described in 4-405(D).
2. In addition, the County Engineer may not issue FDPs for the development types and uses listed in 4-404(C)(1) above that result in an encroachment within the Floodway unless the applicant has demonstrated through hydrologic and hydraulic analyses performed by a qualified P.E. licensed in Colorado and in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the Base Flood (a No-Rise Certification).

a. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the NFIP Regulations, a community may permit encroachments within the adopted FEMA regulatory Floodway that would result in an increase in BFEs if the applicant first receives an approved CLOMR and/or Floodway revision from FEMA.

b. Where there is a designated FEMA Floodplain but no designated FEMA Floodway, and there is a designated County Floodway, projects that result in increases greater than 0.5 foot in these areas must first receive an approved CLOMR from FEMA, and projects that result in increases between 0.0 and 0.5 foot in these areas must first receive an approved Boulder County Floodway Review from the County Engineer.

c. Where there is no designated FEMA Floodplain, but there is a designated County Floodway, projects that result in any increase in these areas must first receive an approved Boulder County Floodway Review from the County Engineer.

d. Where there is a designated FEMA Floodplain, and no FEMA or County Floodway, projects that result in increases greater than 0.5 foot must first receive an approved CLOMR from FEMA.

e. Where there is no designated FEMA Floodplain, but there is a designated County Floodplain (but not a County Floodway), the procedure set forth in 4-404.2(E) (Procedures for Modeling Proposed Development within the Floodway) must be followed.

f. For all new subdivision proposals and other developments (including, but not limited to, manufactured home parks) greater than either 50 lots or 5 acres that are located in Zone A, this analysis must also depict, as a part of the development proposal, the BFEs that Boulder County will use to determine FPEs for the proposed development.

g. In all instances, no increases in water surface elevation will be allowed that impact an insurable building.

h. Following project completion, the County Engineer shall provide FEMA with all information required by 44 C.F.R. Part 65 relating to water surface elevation changes so that FEMA may determine whether a map revision is appropriate.

D. **Uses Allowed in Flood Fringe under Certain Conditions**. Any use permitted by the underlying zoning regulations may be permitted in the Flood Fringe, provided the use meets the flood protection requirements of Section 4-405, and provided that:

1. New Critical Facilities are prohibited in the Flood Fringe below 6,000 feet (NAVD88) in elevation.
2. Wastewater treatment facilities serving more than two properties are prohibited in the Flood Fringe.
3. Individual OWTS, when allowed, must conform to the requirements of 4-405(G).
4. Fences in the Flood Fringe are subject to all Boulder County Building Code and other fence requirements.

4-404.1 General Floodplain Development Permits

A. **Intent**. To minimize undue hardship to property owners within Boulder County yet remain in compliance with FEMA regulations regarding Floodplain permitting, the County Engineer is authorized to issue one or more General Floodplain Development Permits. The intent of the General FDP is to allow certain limited uses and activities in the Floodplain without the need for an approved Individual FDP because these specific uses and activities are unlikely to increase BFEs or have an adverse effect on neighboring properties, species, or ecosystems.

B. **Review Criteria**. The County Engineer may issue or amend a General FDP so long as the following criteria are met:

1. The uses or activities covered by the General FDP are likely to have little or no effect on the efficiency or capacity of the Floodway;
2. The uses or activities covered by the General FDP are likely to have little or no effect on lands upstream, downstream and in the immediate vicinity of the development covered under the General FDP including, without limitation, utility and transportation facilities;
3. The uses or activities covered by the General FDP will not result in an unreasonable risk of harm to people or property – both onsite and in the surrounding area – from natural hazards;
4. The uses or activities covered by the General FDP are likely to have little or no effect on the flood profile and flood heights;
5. The uses or activities covered by the General FDP are likely to have little or no effect on any tributaries to the main stream, drainage ditches, water supply and irrigation ditches, storm drainage facilities, reservoirs, or any other drainage or irrigation facilities or systems;
6. The uses or activities covered by the General FDP are likely to have little or no effect on the flood management program for the area(s) in question and will not result in the need for additional public expenditures for flood protection or prevention;
7. The uses or activities covered by the General FDP shall not result in new human occupancy of structures;
8. The uses or activities covered by the General FDP are likely to have little or no effect on the safety of access to property in times of flood for ordinary and emergency vehicles;
9. The uses or activities covered by the General FDP are likely to have little or no effect on the watercourse, including streambanks and streamside trees and vegetation;

10. The alignment of the uses or activities covered by the General FDP is consistent with the Boulder County Comprehensive Plan and Watershed Master Plans;
11. The cumulative effect of the uses or activities covered by the General FDP along with other existing and anticipated uses is unlikely to increase flood heights more than the allowances specified in 4-404(A);
12. The heights and velocities of the floodwaters expected in the area where the uses or activities covered by the General FDP will not adversely affect the development of surrounding property;
13. The uses or activities covered by the General FDP are unlikely to require additional flood protection based on historical flood evidence, increased development upstream, or other flood-related hazards such as flash flooding, debris flows, rockfalls, mudslides, landslides, avalanches, channel avulsions, alluvial fan hazards, erosion and deposition of material, debris dams, ice jams, and high flood depths or velocities; and
14. The uses or activities covered by the General FDP are not contrary to federal, state, and local floodplain statutes, regulations, and guidance.

C. Rescission. The County Engineer may rescind a General FDP if uses or activities covered by the General FDP no longer meet the criteria for issuance of a General FDP as specified in section 4-404.1(B).

D. Content of a General FDP. If the County Engineer determines it appropriate to issue a General FDP after consideration of the factors in 4-404.1.B above, he shall include the following information on the face of the permit.

1. A list of specific uses and activities deemed within the scope of the General FDP.
2. Whether or not property owners must notify the County Engineer prior to beginning work on an activity included within the General FDP.
   - **a.** The County Engineer shall require such notification for development activities for which it is necessary to evaluate individual and cumulative impacts, ensure minimum compliance with federal and state floodplain rules, and confirm that the uses or activities are unlikely to increase BFEs or have an adverse effect on neighboring properties, species, or ecosystems.
   - **b.** For projects where the County Engineer will receive notice through referral required by a separate Land Use Code review process (such as Site Plan Review or Special Use Review), the County Engineer need not require duplicative notification. For all other projects where the County Engineer decides to require notification, the applicant must submit the following information to the County Engineer a minimum of 21 days prior to commencing work:
     - **(i)** Project description, including materials description and a discussion on the expected impact to the channel and floodplain;
     - **(ii)** Location description (an accompanying location map is best); and
     - **(iii)** Site plan, if necessary to further describe the work.
   - **c.** If the work is within the scope of the General FDP, the County Engineer will respond to the owner with approval to proceed. If additional information is necessary or if the work requires issuance of an Individual FDP, the County Engineer will inform the owner within 14 days of notification submission, or through the Land Use Review referral process.
3. Conditions of approval, if any, for work approved under the General FDP.

E. Process for Issuing, Amending, or Rescinding a General FDP.

1. If the County Engineer determines that a new General FDP is appropriate after consideration of the factors in 4-404.1.B above, he shall post the proposed General FDP on the Transportation Department website and also in the manner described in Article 3 by which the public is given notice of comprehensive rezonings, so that the public may review and comment. No such new FDP shall become effective until 14 days after the date it is posted.
2. If the County Engineer determines that an amendment to an existing General FDP is appropriate after consideration of the factors in 4-404.1.B above, he shall post the revised General FDP on the Transportation Department website and also in the manner described in Article 3 by which the public is given notice of comprehensive rezonings, so that the public may review and comment. No such revised FDP shall become effective until 14 days after the date the revision is posted.
3. If the County Engineer determines that an existing General FDP should be rescinded in its entirety per section 4-404.1.C above, he shall post a notice to this effect on the Transportation Department website and in the manner described in Article 3 by which the public is given notice of comprehensive rezonings, so that the public may review and comment. The General FDP shall be deemed rescinded 14 days after the date the rescission notice was posted.
4. In addition to the notice required above (per Section 3-205), the County Engineer shall maintain a record of all property owners who wish to opt in to receiving direct notice of all proposed actions by the Engineer regarding a General FDP. The Engineer shall send notice (via electronic means to the most recent electronic mail address on file) to all such owners regardless of whether the proposed action is issuance of a new General FDP, amending an existing General FDP, or rescinding a General FDP; provided, however, that inadvertent failure to notify every such owner shall not affect the validity of any action by the Engineer on a General FDP.

5. If the County Engineer receives public comment on a proposed new, amended, or rescinded General FDP during the 14-day notice period, then prior to the effective date the Engineer shall consider such comments to determine whether in his professional judgment as floodplain administrator any changes to the proposed action are merited.
6. Subject to the notice requirements described above, the County Engineer may issue, amend, or rescind a General FDP at any time, on his own initiative, without the need for public hearings before Planning Commission and Board of County Commissioners.
7. The County Engineer's decision to issue, amend, or rescind a General FDP shall be in writing and shall be a final action appealable pursuant to section 4-408.
8. All General FDPs in effect at a given point in time must comply with all applicable provisions of this section 4-404.1.

F. **No Permit Fees**. If the County Engineer determines a use or activity falls under the approval granted in a General FDP, no permit fee will be charged to the owner.

G. **Work Not Approved under a General FDP.** Any development within the Floodplain that does not meet the criteria of a General FDP requires either approval of an Individual FDP prior to beginning the work or a determination by the County Engineer that no FDP is required at all.

1. 1. Should any work commence that is assumed by an applicant to be covered by a General FDP, and the County Engineer determines it is not covered by a General FDP, a Stop Work order will be issued. The unpermitted work will be treated as a zoning violation under Article 17 until an approved Individual FDP is issued or the violation is otherwise resolved.
2. 2. Anyone considering a project in the Floodplain that varies from the projects described in an issued General FDP should contact the County Engineer to determine if an Individual FDP application is required. The County Engineer makes the final decision as to the applicability of a General FDP. Any project determined by the County Engineer to create a significant obstruction to flood flows will require an Individual FDP.

H. **Other Permits**. Eligibility for a General FDP does not eliminate the need for applicants to obtain all other required permits, including building, grading, access, construction, and/or stormwater permits from Boulder County, as well as other state and federal permits.

I. **Records of Issued General FDPs**. A copy of all issued General FDPs, including previous versions, will be kept on file in the County Engineer's office at all times and available for public review.

4-404.2 Individual Floodplain Development Permits

A. **Floodplain Pre-Application Conference**. A Floodplain Pre-Application Conference (Floodplain Pre-App) between the applicant and the County Engineer (or his/her designee) is required for all Individual FDPs, unless waived in writing by the County Engineer as unnecessary under the circumstances. The Boulder County Land Use Department may require a Pre-Application Conference as defined in Section 3-201, which may be substituted for the Floodplain Pre-App requirement of this section. The Floodplain Pre-App should include discussion of conforming and nonconforming structures and uses on the subject property.

B. **Submittal Requirements**. Applications for Individual FDPs are to be submitted to the Boulder County Land Use Department and are subject to the following submittal requirements, unless the County Engineer determines that a particular requirement does not apply.

1. For all Individual FDP submittals:
   a. A completed Individual FDP application form;
   b. A narrative describing the work to be performed; and
   c. A location map, showing the specific areas and property(ies) where the work will be performed.
2. For construction of new buildings or improvements to existing buildings, the County Engineer will obtain pertinent documents from the applicant's Building Permit submittal package. Building Permit/Individual FDP submittals should include and call out all elements for flood protection required per 4-405. In addition, the following items shall be included in the Building Permit/Individual FDP submittal:
   a. Specifications for construction and building materials (including considerations for flood resistant materials when required, per FEMA Technical Bulletin 2);
   b. Description and locations of any proposed site, filling, dredging, grading, and/or channel improvements
   c. Location of any and all proposed materials storage and staging areas, as applicable;
   d. Location of the current regulatory FO District boundaries, including both FEMA and/or Boulder County Floodplain information;
   e. Plans must include the elevation, in feet referenced to the North American Vertical Datum of 1988, to which the flood protection measures apply. See 4-405(A), Flood Protection Elevation.

f. Certification that the building or improvement is designed in accordance with the flood protection measures outlined in 4-405(C) for New Floodplain Construction and conforming existing buildings and 4-413 for improvements to nonconforming existing buildings.

3. For bridges, culverts, other hydraulic structures, work within the channel banks, and stream restoration projects, in addition to the items listed above, the following items are required:

a. A plan at a scale of 1" = 200' or larger, stamped by a P.E. registered in the State of Colorado, which includes:

(i) the site location;

(ii) existing and proposed base flood limits and water surface elevations, if applicable;

(iii) Floodway limits, if applicable;

(iv) channel, watercourse or flowpath;

(v) vertical and horizontal datum;

(vi) existing and proposed contours or elevations at 2' intervals;

(vii) existing buildings

(viii) location and elevations of existing streets, water supply, and sanitation facilities, if applicable;

(ix) limits and total land area of all existing and proposed impervious surfaces, including buildings; and

(x) x. existing water supply ditches, irrigation ditches and laterals.

b. A typical valley cross-section showing:

(i) channel, watercourse, or flowpath;

(ii) limits of floodplain adjoining each side of channel;

(iii) cross-section area to be occupied by the proposed development;

(iv) existing and proposed base flood water surface elevations;

c. Documentation that addresses scour (if required) and other design requirements in accordance with The Boulder County Storm Drainage Criteria Manual;

d. Evidence of compliance with 4-404.2(D) of this section.

e. Evidence of compliance with Section 404 of the Clean Water Act and the Endangered Species Act.

4. For OWTS, a Site Plan that includes items 4-404.2(B)(3)(a)(i-viii) above is required, in addition to the following:

a. A geotechnical report, certified by a P.E. registered in the State of Colorado, which includes specifications on the system type and layout, building connections, and the flood protection measures required under 4-405(G).

5. For underground utilities not covered by the General FDP, an analysis of the impacts of scour potential as well as design considerations to protect against scour must be provided.

6. For Projects determined to be in the Floodway as defined in 4-414, an engineering analysis certified by a Colorado-registered P.E. in accordance with 4-404.2(E).

7. For any proposed Alteration or relocation of a watercourse, including stream restoration projects and engineered channelization projects, the County Engineer requires a description of the extent to which any watercourse will be altered or relocated, and that conveyance is not decreased as a result of the project, and that the flood carrying capacity of the watercourse is maintained over time.

a. All proposals for watercourse Alteration or relocation must include, in addition to all other applicable materials, pre- and post-project conveyance calculations to demonstrate that the flood carrying capacity has not been decreased.

b. For engineered channelization projects, including those types outlined in the Boulder County Storm Drainage Criteria Manual, permit applicants are required to submit, along with all other applicable materials, a maintenance plan that outlines the maintenance activities to be performed, the timing/schedule for those activities, and the agency or representative responsible for maintenance in order to ensure the flood carrying capacity is maintained.

c. Prior to any Alteration or relocation of a watercourse, the County Engineer must notify adjacent communities, potentially affected property owners, and the CWCB in the following manner:

(i) Notification must be done through the publication of a notice of such proposed alteration or relocation once in a newspaper of general circulation in Boulder County.

(ii) The County Engineer must keep on-file evidence of such notification.

d. Watercourse Alteration/relocation/channelization projects in the FO District are subject to the county's modeling requirements covered in 4-404.2(E) prior to permitting. In addition, at the discretion of the County Engineer, any watercourse alteration/relocation/channelization project that shifts the stream horizontally in any direction more than one bankfull width will require submittal and approval of a CLOMR from FEMA prior to permitting.

8. Adequate evidence of either direct ownership of the subject property or legal authority to act on behalf of the owner(s) of record;

9. Any additional information required by the County Engineer necessary to allow the review criteria in this Article 4-400 to be adequately evaluated.

C. **Completeness Review by the County Engineer**. Once an application for an FDP is filed, the County Engineer must review it for completeness.

1. The County Engineer may suspend processing an FDP application at any time at the request of the applicant or whenever the County Engineer determines that the application is not complete. The County Engineer may deem the application incomplete, based on the application submittal requirements, at the County Engineer's initiative or at the request of a referral agency. In the event that the County Engineer deems an application incomplete, the County Engineer will immediately notify the applicant of the shortcomings. Once the requested information has been provided, the application must be deemed filed as of that date and the County Engineer will proceed to process the application and render a decision. If an application is not deemed complete within six months of the date of suspension, the County Engineer may declare the application withdrawn. The six month time frame may be extended should the County Engineer determine that circumstances beyond the control of the applicant prevent a timely completion of the application.

D. **Application Review Criteria**. In reviewing an application for a Floodplain Development Permit, the County Engineer must first determine the specific flood hazard at the site in accordance with 4-403 and evaluate the suitability of the proposed use or development in relation to the flood hazard. The County Engineer must then consider the following factors in reviewing Individual FDP applications:

1. the effect of the proposal upon the efficiency or capacity of the Floodway;
2. the effect on lands upstream, downstream and in the immediate vicinity of the development including, without limitation, utility and transportation facilities;
3. the probability that the proposal will result in unreasonable risk of harm to people or property – both onsite and in the surrounding area – from natural hazards;
4. the effect of the proposal on the flood profile and flood heights;
5. the effect of the proposal on any tributaries to the main stream, drainage ditches, water supply and irrigation ditches, storm drainage facilities, reservoirs, or any other drainage or irrigation facilities or systems;
6. the relationship of the proposed development to the flood management program for the area in question, including whether additional public expenditures for flood protection or prevention will be necessary;
7. whether the applicant would obtain an undue advantage compared to later applicants who might request a permit;
8. whether the proposed use is for human occupancy;
9. the susceptibility of the proposed facility and its contents to flood damage;
10. the safety of access to the property in times of flood for ordinary and emergency vehicles;
11. whether any proposed changes in a watercourse will have an environmental effect on the watercourse, including streambanks and streamside trees and vegetation;
12. the alignment of the proposed development with the Boulder County Comprehensive Plan, Watershed Master Plans, and any other planning-related documents pertaining to development in Boulder County;
13. whether the cumulative effect of the proposed development with other existing and anticipated uses will increase flood heights more than the allowances specified in 4-404(A);
14. whether the heights and velocities of the floodwaters expected at the site will adversely affect the development of surrounding property; and
15. whether additional flood protection is necessary based on historical flood evidence, increased development upstream, or other flood-related hazards such as flash flooding, debris flows, rockfalls, mudslides, landslides, avalanches, channel avulsions, alluvial fan hazards, erosion and deposition of material, debris dams, ice jams, and high flood depths or velocities.

E. **Procedures for Modeling Proposed Development within the Floodway**.

1. Unless one or more requirements below are modified by the County Engineer for good cause shown by the applicant, for all projects confirmed to be wholly or partially within the Floodway the applicant must submit an engineering report, including a Floodway analysis certified by a qualified engineer licensed in Colorado using the same type of model that was used to establish the current regulatory flood hazards. Applicants may obtain a copy of the applicable floodplain model from Boulder County. Models that differ from the type used to establish the regulatory flood hazards must first be approved for use by the County Engineer.
2. Modeling submitted to Boulder County in support of an Individual FDP must include the following:
   a. Duplicate Effective (Regulatory) Model. This model is necessary to confirm that the regulatory water surface elevations can be reproduced to within 0.5 foot. When Boulder County regulates flood hazards that are more conservative than those identified by FEMA, it is the model that is associated with the Boulder County Floodplain.

b. Corrected Effective Model. The model that corrects any errors that occur in the duplicate effective model, adds any additional cross sections, or incorporates more detailed topographic information than that used in the current effective model. Floodway limits should be manually set at the new cross-section locations by measuring from the effective FIRM. The cumulative reach lengths of the stream should also remain unchanged. The Corrected Effective model must not reflect any man-made physical changes since the date of the effective model.

c. Existing or Pre-Project Conditions Model. The applicant must revise the duplicate effective or corrected effective model to reflect any modifications (including man-made encroachments) that have occurred within the floodplain since the date of the effective model but prior to construction of the proposed project. If no modifications have occurred since the date of the effective model, then the model would be identical to the duplicate effective or corrected effective model, and only one of these models is required. The results of this existing conditions analysis will indicate the 100-year elevations to be used for comparison to proposed conditions at the project site.

d. Proposed or Post-Project Conditions Model. The applicant must then modify the existing conditions model (or duplicate effective, or corrected effective, as appropriate) to reflect the proposed project. The overbank roughness coefficients should remain the same unless a reasonable explanation of how the proposed project will impact roughness values is provided, with supporting data. The results of this analysis will indicate the 100-year elevation for proposed or post-project conditions at the project site. These results must demonstrate no impact (measured as 0.00) to the 100-year water surface elevations when compared to the existing conditions model (referred to as a "No-Rise Certification").

(i) Should this comparison result in water surface elevation increases that cannot be mitigated through project design changes, then the provisions of 4-404(C)(2)(a) must apply.

e. All models must use the most current regulatory hydrology.

4-405 Flood Protection Measures

Flood Protection Measures apply to development within the FO District in Zones AE, A, AO, and AH.

A. Flood Protection Elevation ("FPE"). For the purposes of this section, the Boulder County FPE is equal to the following:

1. In areas depicted as Zone AE in the FO District, the FPE is equal to the BFE plus 2 feet. The BFE is the elevation of the 1%-annual-chance (typically referred to as 100-year) flood. In other words, it is the flood that has a 1% chance of occurring in any given year.

2. In areas depicted as Zone A in the FO District, the following applies:

a. As required by 44 CFR 60.3(b)(4), Boulder County must obtain and reasonably utilize BFE and water surface elevation information from local, state, federal, or other reliable sources

b. In those Zone A areas where a BFE can be determined from the sources outlined in 4-405(A)(2)(a), the FPE will be 2 feet above the calculated BFE

c. In those Zone A areas where a BFE cannot be determined from the sources outlined in 4-405(A)(2)(a), the FPE will be 3 feet above the highest grade in the area of the proposed development.

(i) For buildings, the FPE will be 3 feet above the highest grade within the proposed building footprint, or the highest grade adjacent to the exterior of the existing building, unless the applicant supplies information sufficient to determine a BFE and subsequent FPE for the building, including data submitted as a part of identifying the Floodway boundary pursuant to the Floodway definition in 4-414.

3. In shallow flooding areas (Zone AO), the FPE is equal to:

a. Two feet above the specified flood depth; or

b. If no flood depth is specified, 3 feet above the highest grade that exists within the proposed building footprint.

B. General Requirements

1. All development in the FO District must be adequately protected from flooding according to the requirements of this section.

2. Prior to submitting an application, applicants shall confirm with the County Engineer all conforming and nonconforming structures and uses on the subject property. Improvements to conforming structures and buildings must meet all applicable requirements in section 4-405. Improvements to nonconforming structures and buildings must meet all applicable requirements in section 4-413.

3. Materials that are buoyant, flammable, hazardous, toxic, or explosive, or that in times of flooding could be harmful to human, animal, or plant life, may not be stored or processed except at or above the FPE, unless the materials are stored in accordance with 4-405(H) governing storage tanks.

4. All construction (including New Floodplain Construction as well as improvements below the FPE) must be built with materials and utility equipment resistant to flood damage up to the FPE.

5. All new and replacement water supply systems must be designed to minimize or eliminate infiltration of flood waters into the system.
6. Lateral additions to any residential building must be elevated to the FPE and adequately anchored to prevent flotation, collapse, or lateral movement of the addition resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
7. Lateral additions to any commercial or accessory building or structure must be adequately protected from flooding in accordance with 4-405(C)(3)(a) and 4-405(C)(3)(b), respectively.

C. New Floodplain Construction

1. General Requirements
   - **a.** All New Floodplain Construction must be built using methods and practices that minimize flood damage.
   - **b.** New Floodplain Construction in the Floodway is prohibited.
   - **c.** New Basements in the Flood Fringe are prohibited.
   - **d.** All New Floodplain Construction must be designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, and must be certified by a P.E. registered in the State of Colorado that they have been constructed to withstand such forces and are adequately protected from flooding up to the FPE;
   - **e.** New buildings or other structures must be placed with their longitudinal axes parallel to the predicted direction of flow of flood waters or be placed so that their longitudinal axes are on lines, parallel to those of adjoining structures, to the extent consistent with other provisions of this code. This is intended to minimize the obstruction to flow caused by a building or structure.
   - **f.** New service equipment, including, but not limited to, electrical, heating, ventilation, plumbing, and air conditioning equipment, must be located at or above the FPE.
   - **g.** New Floodplain Construction in Zone AO or AH must be accompanied by site/property grading to accommodate drainage of floodwaters around the perimeter of the building in a controlled manner, without adversely impacting adjacent properties.
   - **h.** New Floodplain Construction on a property removed from the floodplain by issuance of a LOMR-F from FEMA must have the Lowest Floor elevated to or above the FPE that existed prior to the placement of fill.
2. Residential Buildings
   - **a.** All new residential buildings constructed in the Flood Fringe or within Zones A, AO, or AH must have their Lowest Floors (including Basements, porches, and decks), as well as any and all service equipment (excepting the necessary connections to public utility), elevated to the FPE, either by the placement of fill or by construction on elevated foundation walls.
   - **b.** Fully enclosed areas below the lowest floor of a building in the FO District must be used solely for parking of vehicles, building access, or storage of materials. These areas must be designed to equalize the hydrostatic pressure flood forces on exterior walls by allowing for the entry and exit of floodwaters (known as "Wet Floodproofing"). Designs for meeting this requirement must either be certified by a registered Professional Engineer or must meet or exceed the following minimum criteria:
     - **(i)** A minimum of two openings on at least 2 walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding must be provided;
     - **(ii)** The bottom of all openings must be no higher than one foot above grade; and
     - **(iii)** Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
   - **c.** Attached garages may be constructed at-grade but must comply with 4-405(C)(2)(b) above. Openings are permitted to be installed in garage doors; however, the garage door itself does not qualify as an opening for Wet Floodproofing purposes.
3. Non-residential Buildings. Non-residential buildings built in the Flood Fringe, or within Zones A, AO, or AH must conform with 4-405(C)(2) above, or must conform with the requirements below based on building type:
   - **a.** Commercial Buildings
     - **(i)** Commercial buildings, including attendant and sanitary facilities and attached garages, must conform with 4-405(C)(2), or must be designed to be water-tight with walls substantially impermeable to the passage of water below the FPE.
     - **(ii)** The building must be anchored to prevent flotation, collapse, or lateral movement.
     - **(iii)** The building must be constructed using structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(iv) All flood protection measures for commercial buildings must be certified by a Colorado Registered Professional Engineer that the methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the Base Flood. Such certification must also state the specific elevation (including vertical datum reference) to which the construction is protected from flooding.

(v) For commercial buildings designed to be watertight, the FEMA Floodproofing Certificate for Non-Residential buildings should be completed, and must be reviewed and approved by the County Engineer.

b. Accessory Buildings and structures

(i) Accessory buildings and structures, including but not limited to detached garages, sheds, barns, and any other structure considered accessory to the primary use or primary building, must conform with 4-405(C)(2) above, or may be constructed at grade but must meet the requirements of 4-405(C)(2)(b) above for fully-enclosed areas below the FPE, and are subject to the following conditions:

(A) The building or structure must be used only for the parking of vehicles or storage of tools, materials, and equipment;

(B) The building or structure must not be designed for or used as Habitable Space;

(C) The accessory building or structure must represent a maximum investment of less than 10% of the value of the principal building on the property, or a maximum floor area of 600 square feet;

(D) The building or structure must have low flood damage potential with respect to both the building and its contents; and

(E) Permanently affixed appliances (such as furnaces, heaters, washers, dryers, etc.) are prohibited.

(F) Prior to issuance of Certificate of Occupancy or final inspection, whichever occurs last, the property owner must execute a Non-Conversion Agreement and the County must record the agreement in the real estate records. The agreement will be in the form of a restrictive covenant or other County approved binding instrument, where the benefits of the covenant run in favor of the County. The covenant must be drafted to run with the land and bind successors, in perpetuity. The purpose of the covenant is to document the current owner's understanding of the limitations on construction and use of the enclosed area in accordance with the provisions of this section 4-405(C)(3)(b) (Accessory Buildings and Structures), and to put prospective purchasers on notice of such restrictions. The covenant will also reference retrofitting criteria necessary to properly convert accessory buildings or structures to habitable space, should the owner choose to do so. In addition to any other enforcement mechanisms available, violation of the agreement will be considered a violation of this Article 4-400 and subject to all applicable zoning enforcement procedures.

(ii) Accessory structures that do not have at least two rigid walls, including but not limited to carports, gazebos, and picnic pavilions, may be constructed at grade and must use flood-resistant materials up to the FPE.

(iii) Accessory Dwelling Units (including detached garages designed with Habitable Space on the second floor) must meet the above requirements of 4-405(C)(2) for residential buildings , which includes either elevation of the entire building above the FPE, or wet floodproofing of the lower level garage space.

c. Agricultural Buildings and Structures. New Floodplain Construction of any Permanent agricultural building or structure in the Flood Fringe must be limited in use to agricultural purposes, in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock. Types of buildings and structures that qualify under this section include farm storage structures (used exclusively for the storage of farm machinery and equipment), grain bins, corn cribs, and general purpose barns/loafing sheds.

(i) The building or structure must not be designed for or used as Habitable Space.

(ii) The building or structure must be wet-floodroofed according to 4-405(C)(2)(b).

(iii) Service equipment must be elevated to the FPE, unless elevation of such equipment impedes its agricultural use.

(iv) Permanent agricultural buildings or structures are prohibited in the Floodway.

(v) Temporary agricultural buildings or structures are allowed in the floodway, but are required to be relocated outside of the FO District or deconstructed in the event of a flood warning. If relocation outside of the FO District is not possible, then relocation to the Flood Fringe will be allowed, so long as the temporary structure is properly anchored.

d. Crawlspaces. New Floodplain Construction of any Below-Grade Crawlspace must:

(i) Have the interior grade elevation, that is below BFE, no lower than two feet below the Lowest Adjacent Grade;

(ii) Have the height of the Below-Grade Crawlspace measured from the interior grade of the Crawlspace to the top of the foundation wall, not to exceed four feet at any point;

(iii) Have an adequate drainage system that allows floodwaters to drain from the interior area of the Crawlspace following a flood; and

(iv) Meet the provisions 4-405(C)(1), General Requirements.

D. Critical Facilities

1. New Critical Facilities are prohibited in the regulatory floodplain below 6,000 feet (NAVD88) in elevation.

2. In the mountain canyons above 6,000 feet (NAVD88), new Critical Facilities in the FO District will be considered on a case-by-case basis, and may require special design or flood protection considerations, including considerations of hydrodynamic flood forces and flood-induced erosion.

3. Improvements to existing Critical Facilities that are determined to be Substantial Improvements require that the entire facility (including attendant utility and sanitary facilities) be elevated to the Boulder County FPE or, if not prohibited elsewhere in this code, be retrofitted such that the building is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads, including the effects of buoyancy.

E. Manufactured Home Parks

1. General Requirements. All manufactured homes must be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated to the FPE and anchored to resist floatation, collapse, or lateral movement. All requirements below are in addition to applicable state and local requirements, including those to address wind loads.

2. For new parks commenced on or after February 1, 1979; expansions to existing parks; existing parks where the value of the repair, reconstruction, or improvement of the streets, utilities, and pads equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement has commenced; an existing park on which a manufactured home has incurred Substantial Damage; manufactured homes to be placed or substantially improved on sites in existing parks; and for manufactured homes not placed in a park:

a. Stands or lots must be elevated on compacted fill or on pilings so that the lowest floor of the manufactured home will be at or above the FPE. For homes placed on pilings:

(i) lots must be large enough to permit steps;

(ii) piling foundations must be placed in a stable soil no more than ten feet apart; and

(iii) reinforcements must be provided for pilings more than six feet above the ground level.

b. Adequate surface drainage must be provided.

c. New manufactured homes must be anchored by providing over-the-top and frame ties to ground anchors as well as the following:

(i) over-the-top ties at each of the four corners, with two additional ties per side at intermediate locations, with the exception of manufactured homes less than 50 feet long which require only one additional tie per side;

(ii) frame ties at each corner with five additional ties per side at intermediate points, with the exception of manufactured homes less than 50 feet long which require only four additional ties per side;

(iii) all components of a manufactured home anchoring system must be capable of carrying a force of 4800 pounds; and

(iv) Any additions to the manufactured home be similarly anchored.

F. Recreational Vehicles

1. At least one of the following provisions must be met:

a. The recreational vehicle must be on the site for fewer than 90 consecutive days;

b. The recreational vehicle must be fully licensed and ready for highway use; or

c. The recreational vehicle must meet the permit requirements and elevation and anchoring requirements for manufactured homes, in accordance with Section 4-405(E) of this section.

G. Onsite Wastewater Treatment Systems

1. For the purposes of this section, "New OWTS" is the first OWTS installed on a parcel.

2. The location of new and replacement OWTS must be done in such a manner as to avoid impairment to or contamination from the systems during flooding.

a. Placement of a new OWTS in the FO District (including both Floodway and Flood Fringe areas) is prohibited, unless the County Engineer determines that placement in the Flood Fringe cannot be avoided, in which case priority must be given to those locations on the subject property where flood depths and/or velocities are the lowest, and to the optimal location of the water supply.

3. New OWTS

a. All Tanks, including Septic Tanks, for new OWTS in the FO District must be made of concrete.

b. Tanks must be adequately anchored to protect against buoyant forces associated with flooding and high groundwater, which is typical during flood conditions.

(i) Tanks that are installed within the Boulder County or FEMA 500-year floodplain should be anchored to protect against uplift from high groundwater. Where the 500-year floodplain is not shown, the anchoring requirement will apply if the lowest elevation of the tank is at or below the 100-year base flood elevation adjacent to the tank location.

(ii) Boulder County requires that the FEMA-recommended calculation for determining buoyant forces (contained in FEMA P-348, or the latest FEMA guidance document covering building utilities) be used to adequately design buoyancy countermeasures. The equation is as follows:

$$F_b = 0.134 V_t \gamma FS$$

Where: F_b is the buoyancy force exerted on the tank, in pounds.

V_t is the volume of the tank in gallons.

0.134 is a factor to convert gallons to cubic feet.

γ is the specific weight of flood water surrounding the tank (generally 62.4 lb/ft3 for fresh water and 64.1 lb/ft^3 for salt water.)

FS is a factor of safety to be applied to the computation, typically 1.3 for tanks.

c. Inspection Ports and access covers must be sealed to prevent the entry of floodwaters or the exit of septic effluent.

d. Raised Soil Treatment Areas are required,. and must be designed such that the base of the distribution layer is a minimum of 2 feet above existing grade

e. Connections to the house must be fitted with backflow prevention, unless it is demonstrated in the permit application that the connection pipe rises above the calculated FPE for the site.

f. With the exception of the Soil Treatment Area, earthwork necessary for system installation must not exceed pre-construction grade.

g. While not required, backup generators are recommended for any system fitted with electric pumps or controls.

4. Repair/Replacement OWTS

a. For any OWTS in the Flood Fringe that requires replacement, the system must meet the requirements of 4-405(G)(3).

b. In addition to the requirements of 4-405(G)(4)(a), for any repair or replacement of an existing OWTS in the Floodway the County Engineer must determine that the proposed repair/replacement is consistent with Subsections (i) through (iii), below.

(i) The property owner has demonstrated that connection to a central sewer system is not feasible by:

(A) Providing a letter of denial from the closest sewer provider; or

(B) Demonstrating other reasons why connection is not feasible, such as that there is no central sewer system reasonably close to the property or building to be served, or that easement restrictions exist that effectively prohibit connection. For properties within a Community Service Area, connection will be deemed not feasible if the cost of connection exceeds 25% of the most recent assessed value of the subject property.

(ii) (The proposed repair or replacement design must be protective of groundwater and appropriate for a Floodway. In making a proposal to the County Engineer, the applicant must address the following factors, among other pertinent information:

(A) Whether it is practical to remove outbuildings or non-conforming additions to allow for increased soil availability so that the proposed repair or replacement can be located outside of the Floodway;

(B) Whether there is room for an at-grade recirculating sand filter, or similar treatment media, and the required absorption area;

(C) Whether placement in the hydraulic shadow of a legal, existing structure is possible.

(iii) In no event must a proposed repair or replacement increase the overall capacity of the existing OWTS, unless the expansion is necessary to meet the Boulder County OWTS Regulations, as administered by Boulder County Public Health. In addition, the County Engineer may approve a raised absorption system or installation of a vault only as a last option within the Floodway and provided that this option meets the provisions of Article 4-413 (Nonconforming Uses).

H. Liquid Propane Gas (LPG) or Other Similar Storage Tanks

1. Placement of a new or replacement LPG or other similar storage tanks in the FO District is prohibited, unless the County Engineer determines that placement in the FO District cannot be avoided, in which case location decisions must prioritize those portions of the subject property where flood depths and/or velocities are the lowest, including, but not limited to the conveyance shadows of existing buildings.

2. When allowed, above-ground tanks must be placed on a concrete pad that extends to or above the FPE and is sufficiently-anchored. If elevation of the tank conflicts with IBC requirements, the IBC requirements must prevail; however, in all cases, sufficient protection must be provided to the tank such that it resists the expected hydrostatic and hydrodynamic flood forces.

3. When allowed, underground tanks must be designed and installed to resist the effects of buoyancy during high groundwater or flooding conditions. Buoyancy calculations must assume an empty tank and must use the same calculation outlined for Septic Tanks in 4-405(G)(3) above. Anchoring of the tank is required if the empty tank alone will not counteract the calculated buoyant force.

4. All connections and components related to the tank or fuel system must be designed such that floodwaters cannot infiltrate or accumulate within any component of the system.

a. Inspection Ports and access covers must be sealed to prevent the entry of floodwaters or the exit of tank contents, or must extend above the FPE.

b. Tanks located inside of a building must also meet all of the requirements of this section.

I. Historic Buildings and Structures Exempt. The repair or rehabilitation of buildings or other structures designated as historic through either the Boulder County Historic Landmark process or through a State of Colorado or national historical registry process is exempt from Flood Protection Requirements under Section 4-405. Entitlement to such an exemption requires the applicant to show:

1. Documentation that the building or structure is designated as a historic building or structure as defined by Article 18-203A; and

2. Documentation that confirms that the proposed work will not preclude the structure's continued historic designation.

J. Elevation Certificate Requirements

1. As built Lowest Floor Elevations (referenced to the NAVD88 datum) for all New Floodplain Construction, Substantial Improvements, other improvements, or for new manufactured home stands, must be certified by a Colorado Registered Professional Engineer or Colorado Registered Professional Land Surveyor. Elevation Certificates must be submitted to the Building Division Inspector and County Engineer twice over the duration of the project. Failure to submit an Elevation Certificate will result in a Stop Work Order until proper certification is provided. To ensure compliance with flood protection requirements during and after construction, completed Elevation Certificates must be submitted at the following times:

a. For slab-on-grade foundations, a FEMA Elevation Certificate must be submitted prior to final pour of foundation when foundation forms are completed.

b. For buildings on elevated foundations, such as extended foundation walls, stem walls, or piles, a FEMA Elevation Certificate must be submitted prior to rough framing when the foundation is completed.

c. For all buildings that have achieved finished construction, a final FEMA Elevation Certificate must be submitted prior to the issuance of Certificate of Occupancy or final inspection.

2. To convert another elevation reference datum to NAVD88, applicants are directed to datum conversion factors within the current effective FEMA FIS report for Boulder County, or to an online datum conversion program. Assumptions used for the datum conversion must be explicitly described to Boulder County on the Elevation Certificate. For datum requirements for permit submittals, see 4-404.2(B).

4-406 County Engineer's Determination

A. If the County Engineer finds in reviewing an Individual FDP application that the application meets the applicable standards set forth in Article 4-400, the County Engineer must approve the permit.

B. If the County Engineer finds that the application can only meet all applicable standards if the FDP approval is conditioned, then the County Engineer must include all necessary and reasonable conditions when issuing the permit. Such conditions may include, but are not limited to, periods of operation, operational controls, sureties, deed restriction, and adequate flood protection. The County Engineer must specify when the conditions must be met.

C. If the County Engineer finds that the application does not meet one or more applicable standards and that a reasonable basis for mitigation measures has not been demonstrated, the County Engineer must deny the application as proposed. The County Engineer's determination must specify the reasons for the denial based upon the FDP review criteria in Section 4-404.2(D).

D. Any determination by the County Engineer to approve, conditionally approve, or deny a FDP must be in writing and mailed or otherwise provided to the applicant.

E. For purposes of appeal to the Board of Adjustment, the County Engineer's determination will be deemed final as of the date the FDP is issued. The applicant may begin work under an issued permit as of the date the permit is issued. If an applicant begins work during the 30-day appeal period to Board of Adjustment, the applicant does so at their own risk, as some or all of the work may need to be modified or removed at the applicant's expense if the Board of Adjustment overturns the County Engineer's decision to issue the permit.

4-407 Review of Permits Approved in Floodway

A. In the event that the County Engineer determines that an Individual FDP application for any development in the Floodway meets the applicable standards for approval, within five business days of permit issuance the County Engineer must publish a notice of the proposed use and the permit issuance on the Boulder County website and transmit a copy of the notice to property owners adjacent to the subject property as well as a description of the process for appealing the decision to the Board of Adjustment.

B. The County Engineer may waive or modify any requirement in 4-407(A) for the following Floodway development:

1. Emergency activities required for the immediate protection of life, safety, or property, or to restore essential public services,
2. Minor disaster recovery repair work that does not cause a rise in predicted 100-year water surface elevation as determined by a qualified engineer licensed in Colorado, and
3. Any development activities that take place entirely inside an existing building.

4-408 Appeal of County Engineer Determination

A. **Right to Appeal**. Any person aggrieved by a final written decision of the County Engineer based upon or made in the course of the administration or enforcement of the provisions of this Article 4-400 may appeal to the Board of Adjustment.

B. **Appeal Application**. The procedures and requirements for filing an appeal may be found in Article 3 and in particular section 3-202(A)(1).

C. **Public Hearing**. Upon receipt of a complete appeal application, the Board of Adjustment must hold a public hearing on the appeal application following the procedures specified in section 3-205(A).

D. **Review Criteria**. In deciding upon an appeal of a County Engineer administrative decision or interpretation made under this Article 4-400, the Board of Adjustment must consider the factors specified in Section 4-1200(A)(1) as well as the additional factors listed below:

1. the technical meaning of the provision being appealed;
2. evidence as to the past interpretation of the provision;
3. the principles of interpretation and rules of construction in Article 1 of this Code;
4. the effect of the interpretation on the intent of this Code and the implementation of the Comprehensive Plan and any applicable intergovernmental agreement affecting land use or development, and any floodplain management program for the subject area;
5. the danger that materials may be swept onto other lands to the injury of others;
6. the danger to life and property due to flooding or erosion damage;
7. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
8. the importance of the services provided by the proposed facility to the community;
9. the necessity to the use or structure of a waterfront location, where applicable;

10. the availability of alternative locations for the proposed use or structure which are not subject to flooding or erosion damage;
11. the compatibility of the proposed use or structure with the existing and anticipated development;
12. the safety of access to the property in times of flood for ordinary and emergency vehicles;
13. 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;
14. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges; and
15. the purposes of this Article 4-400.

E. **Decision of the Board**. The Board of Adjustment must make a record of its decision on the appeal in the same manner as other BOA appeals filed under Article 4-1200. The County Engineer must maintain records of the outcome of all appeals filed.

F. **Effect of Decision**.
1. In no instance can a decision on an appeal to the Board of Adjustment result in a modification to the DFIRM. In order to modify the regulatory boundaries established by FEMA, interested parties must use FEMA's LOMC process or consult FEMA on other options for modification.
2. In no instance can a decision on an appeal to the Board of Adjustment result in a modification to the lateral extent of the Boulder County Floodplain. In order to modify the regulatory boundaries established by the County, the owner must request a rezoning map amendment under the procedures of 4-1100.

4-409 Variances

A. **Right to Request Variance**. Any person may request the Board of Adjustment grant a variance from the requirements in this Article 4-400 subject to the terms and conditions in this section 4-409.

B. **Variance Application**. The procedures and requirements for filing a request for a variance may be found in Article 3 and in particular section 3-202(A)(19).

C. **Public Hearing**. Upon receipt of a complete variance application, the Board of Adjustment must hold a public hearing on the request following the procedures specified in section 3-205(A).

D. **Limitation on Board's Authority**.
1. In deciding upon a variance request made under this Article 4-400, the Board of Adjustment must comply with the limitations on its authority specified in section 4-1202(B)(1).
2. Variances may be issued for New Floodplain Construction of and Substantial Improvements to residential buildings on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing buildings constructed below the FPE, but only if the criteria in section 4-409(E) below are met and subject to the following:
   a. a variance may not be issued within any designated Floodway.
   b. Any applicant to whom such a variance is granted must be given written notice that the building will be permitted to be built with a Lowest Floor Elevation below the FPE and that the cost of flood insurance will be commensurate with the increased risk associated with the reduced Lowest Floor Elevation.

E. **Review Criteria**.
1. To grant a variance of a requirement imposed under this Article 4-400, the Board must find that all of the following criteria have been satisfied:
   a. the strict application of this Code would create an exceptional or undue hardship upon the property owner;
   b. the hardship is not self-imposed;
   c. the variance, if granted, will not adversely affect the use of adjacent property as permitted under this Code;
   d. the variance, if granted, will not change the character of the underlying zoning district in which the property is located, and is in keeping with the intent of this Code and the Boulder County Comprehensive Plan;
   e. the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County and is in accordance with the Comprehensive Plan and any applicable intergovernmental agreement affecting land use or development;
   f. the variance is the minimum necessary, considering the flood hazard, to afford relief;
   g. the variance, if granted, will not result in increased flood heights, additional threats to public safety, or extraordinary public expenses; and
   h. the variance, if granted, will not create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

2. Prior to granting a variance of a requirement imposed under this Article 4-400, the Board must also consider the following factors:
   a. the technical meaning of the provision being appealed;
   b. evidence as to the past interpretation of the provision;
   c. the principles of interpretation and rules of construction in Article 1 of this Code;
   d. the effect of the interpretation on the intent of this Code and the implementation of the Comprehensive Plan and any applicable intergovernmental agreement affecting land use or development, and any floodplain management program for the subject area;
   e. the danger that materials may be swept onto other lands to the injury of others;
   f. the danger to life and property due to flooding or erosion damage;
   g. the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
   h. the importance of the services provided by the proposed facility to the community;
   i. the necessity to the use or structure of a waterfront location, where applicable;
   j. the availability of alternative locations for the proposed use or structure which are not subject to flooding or erosion damage;
   k. the compatibility of the proposed use or structure with the existing and anticipated development;
   l. the safety of access to the property in times of flood for ordinary and emergency vehicles;
   m. 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;
   n. the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges; and
   o. the purposes of this Article 4-400.

F. **Decision of the Board**. The Board must approve, conditionally approve, or deny the variance request. The Board may attach such reasonable conditions to the granting of variances as it deems necessary to further the purposes of this Article 4-400. The Board must make a record of its decision on the variance in the same manner as other BOA requests for variances filed under Article 4-1200. The County Engineer must report variances granted on an annual basis to FEMA.

G. **Conflicts with 4-1200**. If a conflict arises between the requirements of this Section and the provisions of Section 4-1200, Board of Adjustment, the requirements of this Section control.

4-410 Final Inspection

All approved Individual FDPs are subject to final inspection by the County Engineer or his designee to verify that all conditions of approval have been satisfied.

4-411 Permit Expiration

An approved Individual FDP expires two years after the date of issuance if the permittee has not commenced construction under the permit.

4-412 Amendments to an Approved Individual FDP

Any proposal to change the nature or extent of work approved under an issued Individual FDP approved under this Article must require a request to the County Engineer to determine whether the proposed change constitutes a Substantial Modification to the approved plan. If the County Engineer determines that the change constitutes a Substantial Modification, no such change must be allowed to proceed until an application to amend the approved Individual FDP is filed with the County Engineer and approval granted in accordance with this Article. Any new application is subject to the Code in effect at the time of complete application. The applicant or its successor may appeal the County Engineer's decision to require an amended Individual FDP to the Board of Adjustment, provided that any such appeal must be in writing and must be filed with the County Engineer no later than 30 days following the date of the County Engineer's decision to require an FDP amendment.

4-413 Nonconforming Structures and Uses in the FO District

A. Principles of Construction. This Section is to be read in conjunction with Section 4-1000 (Nonconforming Structures and Uses). This section does not supersede 4-1000 in its entirety; rather, it establishes additional requirements for nonconforming structures and uses located in the FO District. If a conflict arises between the requirements of this Section 4-413 and the provisions of Section 4-1000, the requirements of this Section 4-413 control.

B. Nonconforming Structures, Generally.

1. Any building or structure within the FO District that was lawfully established before the adoption or amendment of this Article 4-400 but that does not conform to the requirements of this Article may be continued subject to the provisions of this Section 4-413 and Section 4-1002.
2. Owners of existing nonconforming insurable buildings must track major repairs, remodeling, additions, and other improvements to determine when such work would constitute a Substantial Improvement. FEMA's minimum requirements for the tracking of improvements and repairs within the Substantial Improvement/ Substantial Damage Desk Reference (FEMA P-758), dated May 2010, as amended, is incorporated herein by this reference. Estimates for repair of damage that include additional improvement costs must apply the pre-damaged market value of the building to the sum of the repair and improvement costs.
3. If an amendment to the Official Map or this Article results in a higher BFE such that a building becomes nonconforming, the higher BFE will apply to all subsequent permit applications. All work proposed subsequent to the higher BFE must be evaluated to confirm whether it will be a Substantial Improvement.

C. Nonconforming Structures in the Flood Fringe.

1. A nonconforming building or structure (whether residential or non-residential) in the Flood Fringe may not be expanded, improved, repaired, relocated, restored, or replaced unless the work complies with this section.
2. Where an owner of a nonconforming building or structure (whether residential or non-residential) in the Flood Fringe proposes a Substantial Improvement or repair of Substantial Damage, the owner shall complete the following steps in the following order:
   - **a.** Relocation Evaluation. The owner must first evaluate the feasibility of relocating the nonconforming building or structure to a less hazardous location on the property.
     - **(i)** Any relocation must be reviewed and approved by the County Engineer to ensure it reduces the risks associated with future flood events and other known natural hazard areas.
     - **(ii)** (Relocation is subject to other provisions of this Code, including without limitation setback and zoning requirements.
     - **(iii)** (Relocation to less hazardous locations is strongly encouraged, but not required.
     - **(iv)** If a nonconforming building or structure is relocated to a less hazardous location, the retrofitting requirements below may be reduced or eliminated at the discretion of the County Engineer.
   - **b.** Retrofitting Existing Buildings.
     - **(i)** The entire building or structure must be brought into compliance with the flood protection measures described in section 4-405.
     - **(ii)** All Flood Fringe retrofitting techniques will require the certification of a P.E. that demonstrates the technique and associated components will withstand the loads associated with a 1%-annual-chance flood event. Non-residential buildings require completion of a Floodproofing Certificate in accordance with 4-405(C)(3)(a)(v).
   - **c.** Work on a nonconforming building or structure (whether residential or non-residential) in the Flood Fringe that is not a Substantial Improvement or repair of Substantial Damage must comply with the flood protection measures described in section 4-405 and all other applicable requirements of this Article.

D. Nonconforming Structures in the Floodway. A nonconforming building or structure (whether residential or non-residential) in the Floodway may be improved or repaired only if it complies with all of the following:

1. A nonconforming building or structure (whether residential or non-residential) in the Floodway may not be expanded by addition of square footage, footprint, or Habitable Space.
2. If the work to improve or repair a nonconforming building in the Floodway is the result of Substantial Damage to the building through a flood or other natural hazard event, the applicant will have five years from the date of loss to begin the work. At the expiration of the five-year period, the applicant may petition the County Engineer for a single one-year extension.
3. Where an owner of a nonconforming building or structure (whether residential or non-residential) in the Floodway proposes a Substantial Improvement or repair of Substantial Damage, the owner shall complete the following steps in the following order:
   - **a.** Relocation Evaluation. The owner must first evaluate the feasibility of relocating the nonconforming building or structure to a less hazardous location on the property.
     - **(i)** Any relocation must be reviewed and approved by the County Engineer to ensure it reduces the risks

associated with future flood events and other known natural hazard areas.

(ii) Relocation is subject to other provisions of this Code, including without limitation setback and zoning requirements.

(iii) Permanent removal of encroachments in the FEMA or Boulder County Floodway may qualify the owner for bonus Transferable Development Credits pursuant to section 4-1303.

(iv) Relocation to less hazardous locations is strongly encouraged, but not required.

(v) If a nonconforming building or structure is relocated to a less hazardous location, the retrofitting requirements below may be reduced or eliminated at the discretion of the County Engineer.

b. Retrofitting Existing Buildings.

(i) In addition to requiring conformance with the flood protection measures in section 4-405, the County Engineer shall require one or more of the following retrofitting techniques to protect the entire residential building or structure from flood inundation as well as scour and erosion, debris impact, and other potential hazards associated with floodways:

(A) Elevation using Posts, Columns, or Piles

(1) Posts or columns must be placed in drilled or excavated holes or piles must be driven into the ground.

(2) Posts or columns must be encased in concrete and include a footer.

(3) Posts, columns, and piles must be sufficiently anchored to resist the expected hydrodynamic and hydrostatic flood forces.

(4) Access may be allowed to extend below the FPE.

(B) Elevation using stem walls parallel to the direction of flow

(1) Water must be allowed to flow freely at high velocities between stem walls.

(2) Footers must be designed and installed to account for potential scour associated with flooding.

(C) 3) Other techniques proposed by the applicant as determined by the County Engineer on a case-by-case basis.

(ii) In all cases, the bottom of lowest horizontal structural member (floor joists) as well as all service equipment must be above the FPE.

(iii) In all cases, a continuous load path from the retrofitted foundation to the elevated portion of the home is required.

(iv) For non-residential buildings, the applicant must first consider the retrofit requirements for residential buildings in this subsection, but at a minimum, the requirements of 4-405(C) apply.

(v) All Floodway retrofitting techniques will require the certification of a P.E. that demonstrates the technique and associated components will withstand the loads associated with a 1%-annual-chance flood event. In addition to the Elevation Certificate requirements of 4-405(J), residential building retrofit projects require completion of the Boulder County Residential Floodway Retrofit Certificate. Non-residential buildings require completion of a Floodproofing Certificate in accordance with 4-405(C)(3)(a)(v).

4. Work on a nonconforming building or structure (whether residential or non-residential) in the Floodway that is not a Substantial Improvement or repair of Substantial Damage must comply with the flood protection measures described in section 4-405 and all other applicable requirements of this Article.

E. Nonconforming Uses.

1. The use of any structure or property within the FO District that was lawfully established before the adoption or amendment of this Article 4-400, but that does not conform to the requirements of this Article may be continued subject to the provisions of this Section 4-413 and Section 4-1003.

2. A change in use (as uses are defined in Article 4-500) of a structure will require that the entire structure be flood-protected pursuant to Section 4-405; provided, however, that the County Engineer may modify or waive flood protection requirements for a change in use based on good cause shown by the applicant that all of the following conditions are met:

a. The entirety of the existing structure is located outside of the Floodway;

b. The existing structure is determined to be structurally sound by a qualified engineer licensed in Colorado;

c. The value of any work associated with the change of use is less than 50% of the current value of the structure;

d. The proposed change in use is to a use that is permitted in the zone district applicable to the property;

e. The proposed change in use is to a use that reduces, minimizes, or otherwise creates a less intensive use or decreases human occupation; and

f. There is no other potential for any significant conflict with this Article 4-400.

4-414 Definitions

Accessory Building or Structure. A building or structure which is on the same parcel of property as a principal or primary building and the use of which is incidental to the use of the principal or primary building. Examples include, but are not limited to, detached garages (but NOT ADUs), storage sheds, barns, boathouses, and pavilions.

Alteration of a Watercourse. Through man-made work, changing the bankfull channel such that the post-project location, orientation, or flow direction of said channel extends three or more bankfull channel widths from the pre-project channel location, or outside of the pre-project regulatory floodplain.

Article 4-400. Sections 4-400 through 4-416 of the Boulder County Land Use Code.

Basement. Any area of a building having a finished floor subgrade on all sides, where the finished floor is greater than four feet below the top of the foundation walls or greater than 2 feet below the Lowest Adjacent Grade.

Below-Grade Crawlspace. The interior space between the elevated finished floor of a building and the finished interior grade, where the finished grade is no greater than 4 feet below the top of the foundation walls and no greater than 2 feet below the Lowest Adjacent Grade.

Crawlspace. The interior space between the elevated finished floor of a building and the interior finished grade.

Critical Facilities. A structure or related infrastructure, but not the land on which it is situated, as specified in CWCB's Rules and Regulations for Regulatory Floodplains in Colorado at 2 CCR 408-1:6, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

Habitable Space. An enclosed area having more than 20 linear feet of finished interior walls (paneling, etc.) or used for any purpose other than solely for parking of vehicles, building access or storage.

Flood Fringe. The portions of the Floodplain Overlay District that are not in the Floodway.

Floodway. The floodway depicts the most hazardous portion of the floodplain, where flood depths and velocities are greatest and damages resulting from flooding are the most catastrophic. As such, Boulder County's development restrictions in the floodway are stricter than those within the Flood Fringe. In Boulder County, Floodway means:

1. Those portions of the FO District required for the passage or conveyance of the base flood in which waters will flow at significant depths or with significant velocities, including the channel of a river or other watercourse and any adjacent floodplain areas that must be kept free of development and other encroachments to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
   - **a.** The Colorado statewide standard for the designated height to be used for all newly studied reaches is 0.5 foot.
   - **b.** For existing Floodway delineations in previously studied reaches, the designated height is that in place at the time of the study. This information is on file with the County Engineer and available upon request. Letters of Map Revision to existing Floodway delineations may continue to use the floodway criteria in place at the time of the original delineation.
2. Areas identified as floodway by the Colorado Water Conservation Board or FEMA.
3. In the foothill canyons and in any drainage above 6,000 feet (NAVD88) in elevation, as a result of the expected high flow velocities, with reference to the best terrain data available as of the last FO District update, (a) the entirety of the 1%-annual-chance (100-year) flood hazard area, or (b) as reflected on an engineering study approved by the County Engineer and available upon request.
4. In Zone A or AE areas, where the proposed development does not involve buildings or structures, then in the absence of either a specific floodway designation by FEMA or an engineering study submitted by the applicant and approved in writing by the County Engineer, the Floodway is defined as the channel or flowpath of the river, stream, or other watercourse and areas of the floodplain where the product of flood depth (in feet) multiplied by flood velocity (in feet per second) is greater than four. This formula is derived from the 1987 Colorado State University flume study. Flow depth and velocity can be determined from a number of sources, including without limitation hydraulic modeling, water surface elevation information, terrain data, and flood risk products created specifically to display depth and/or velocity.
5. Where the proposed development involves buildings or structures in the FO District and the floodway has not been previously identified, the Floodway is those portions of the FO District determined to be floodway by an engineering study submitted by an applicant and approved by the County Engineer as further described in Section 4-404(E).

In-Kind Replacement. For storm drainage systems and system components, replacement of any system or system component with the same system or component. In-kind Replacement does not include projects that will change the size or function of the system or component.

Letter of Final Determination. A letter FEMA sends to the Chief Executive Officer of a community stating that a new or updated FIRM or DFIRM will become effective in 6 months. The letter also notifies each affected floodprone community participating in the NFIP that it must adopt a compliant floodplain management ordinance by the map effective date to remain participants in good standing in the NFIP.

Letter of Map Amendment ("LOMA"). FEMA term meaning an amendment to the currently effective FEMA map, issued only by FEMA, which establishes that a property is not located in a Special Flood Hazard Area.

Letter of Map Revision ("LOMR"). FEMA term meaning an official amendment to the currently effective FEMA map, issued by FEMA, which changes flood zones, delineations and elevations.

Lowest Adjacent Grade. The lowest point of the ground level immediately next to a building.

Maintenance. Maintenance means any routine or regularly-scheduled activity undertaken to repair or prevent the deterioration, impairment, or failure of any utility, structure, or infrastructure component. Maintenance includes activities to restore or preserve function and/or usability of a storm drainage, water delivery, or ditch system. Such activities may include, without limitation, the removal or movement of sediment, debris, and vegetation, installation of erosion and sediment control devices, stabilization of stream channel and/or water delivery channel (ditch) banks, and the replacement of structural components, so long as the work substantially conforms to the most recent County-approved design, flow condition, and vertical grade, as applicable. Maintenance does not include expansion or enlargement of a building or structure, Substantial Modifications, Substantial Improvements, total replacement of existing facilities, or total reconstruction of a facility.

Permanent. Any change or alteration expected to remain for a substantial period of time, but at a minimum will remain after permitted work is complete.

Soil Treatment Area. See Boulder County OWTS Regulations (April 2015), as amended.

4-415 Interpretation

Certain terms used in this Article 4-400 are derived from FEMA and/or CWCB regulations. The federal and state definitions of these terms may not correspond precisely to county definitions of the same or similar terms as used elsewhere in the Land Use Code and related local regulations such as the Building Code. To the extent a term is not defined in this Article 4-400, and a conflict or inconsistency in the meaning of the term cannot be resolved by the principles listed in sections 1-900 and 1-1000, the County Engineer must determine the meaning of the term by examining the following sources in the following order of priority:

1. The meaning of the term as defined in Article 4-400.
2. The meaning of the term as defined in Article 18 of this Code.
3. The meaning of the term as defined by FEMA. See 44 C.F.R. § 59.1, as amended.
4. The meaning of the term as defined by CWCB. See 2 C.C.R. 408-1:4, as amended.
5. The meaning of the term as defined elsewhere in this Code, or in another adopted Boulder County publication such as the Multimodal Transportation Standards, the Storm Drainage Criteria Manual, or the Stormwater Quality Management Permit Requirements.
6. The meaning of the term as defined in any other official document deemed a reliable source of authority given the context.

4-416 Enforcement

Upon receiving a complaint that a violation of the requirements of this Article 4-400 has occurred, the County Engineer is authorized to enforce compliance with these floodplain regulations in the same manner as other violations of the Land Use Code are enforced, as detailed in Article 17.

Use Tables • 4-501 Agri-Business Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Agricultural Products Processing and Storage		S									✔	✔	
B	Commercial Feed Yard		S											
C	Commerical Nursery		✔	S+								✔	✔	
D	Custom Meat or Poultry Processing Facility		S/I										S	
E	Keeping of Non-Domestic Animals	S	S	S	S	S	S	S	S	S	S	S	S	S

Use Table 4-501 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official
I	Uses Permitted by Limited Impact Special Review
I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest

Use Tables • 4-502 Agricultural Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Equestrian Center	S	✔	S										
B	Farm Store		I	I+						✔	✔		✔	
C	Intensive Agricultural Uses	S	✔	S								✔	✔	
D	Open Agricultural Uses	✔	✔	✔	✔							✔	✔	✔
E	Seasonal Farm Stand		I	I+						✔	✔		✔	

Use Table 4-502 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official
I	Uses Permitted by Limited Impact Special Review
I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest

Use Tables • 4-503 Commercial/Business Service Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Building Contracting Shop										✔		✔	
B	Carpentry, Woodworking, or Furniture Making Facility										✔		✔	
C	Car Wash										✔		✔	
D	Commercial Bakery										✔	✔	✔	
E	Commercial Laundry & Dry Cleaning										✔		✔	
F	Kennel	S	S/I											S
G	Machine Shop										✔		✔	
H	Printing or Publishing Establishment									✔	✔		✔	
I	Vehicle Sales/Rental Lots									S	S		✔	

Use Table 4-503 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official
I	Uses Permitted by Limited Impact Special Review
I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest

Use Tables • 4-504 Community Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Adaptive Reuse of a Historic Landmark	I	I	I	I	I	I	I	I	I	I	I	I	I
B	Camp	✔/I/S	✔/I/S											✔/I/S
C	Cemetery		S	S		S	S							S
D	Church		✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔
E	Educational Facility		S	S	S	S	S	S	S	S	S	S	S	S
F	Membership Club	S	S						✔	✔	✔	✔	✔	S
G	Reception Halls and Community Meeting Facilities	S	S						✔	✔	✔	✔	✔	
H	Use of Community Significance	I	I	I	I	I	I	I	I	I	I	I	I	I

Use Table 4-504 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official
I	Uses Permitted by Limited Impact Special Review
I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest

Use Tables • 4-505 Forestry Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Forestry	✔	✔											✔
B	Forestry Processing and Sort Yard	I	I											I

Use Table 4-505 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official
I	Uses Permitted by Limited Impact Special Review
I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest

Use Tables • 4-506 Industrial Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Composting Facility		S										S/ ✔	
B	General Industrial												S	
C	Light Industrial											✔	✔	
D	Outside Storage												✔	
E	Recycling Collection Center, Large										S		✔	
F	Recycling Processing Facility											S	S	
G	Saw Mill	S	S										✔	
H	Solid Waste Disposal Site & Facility		S										S	
I	Solid Waste Transfer Facility	S	S										S	

Use Table 4-506 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official
I	Uses Permitted by Limited Impact Special Review
I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest

Use Tables • 4-507 Lodging Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Bed and Breakfast	I	I	I		I								_
B	Campground	S	S											S
C	Overnight Lodging								✔	✔	✔	✔	✔	
D	Resort Lodge, Conference Center or Guest Ranch	S	S*						✔	✔	✔	✔	✔	S
E	Short-Term Dwelling Rentals	I	I	I	I	I	I	I	I	I	I	I	I	I

* Special Review for legally existing uses as of April 20, 2004.

Use Table 4-507 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official
I	Uses Permitted by Limited Impact Special Review
I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest

Use Tables • 4-508 Mining Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Limited Impact Open Mining	I	I	I	I	I	I	I	I	I	I	I	I	I
B	Oil & Gas Operations	D	D	D	D	D	D	D	D	D	D	D	D	D
C	Open Mining	S	S										S	S
D	Subsurface Mining	S/I/ ✔	S										S	S/I/ ✔
E	Subsurface Mining of Uranium	S	S										S	S

Use Table 4-508 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official
I	Uses Permitted by Limited Impact Special Review
I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest
D	Uses Permitted by Development Plan Review

Use Tables • 4-509 Office Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Professional Office								✔	✔	✔	✔	✔	

Use Table 4-509 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official
I	Uses Permitted by Limited Impact Special Review
I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest

Use Tables • 4-510 Recreation Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Golf Course		S	S			S*							
B	Indoor Recreation								✔	✔	✔	✔	✔	
C	Livery or Horse Rental Operation	S	S											S
D	Outdoor Recreation, Day Use	S	S						✔	✔	✔	✔	✔	S
E	Outdoor Recreation, Night Use	S	S						S	S	S	S	S	S
F	Park or Playfield, Day Use	✔	✔	✔	✔	✔	✔	✔	✔	✔				✔
G	Park or Playfield, Night Use	S	S	S		S	S	S	S	S				S
H	Public Recreation Center	S	S	S		S	S	S						S
I	Ski Area	S												S

* Special Review for legally existing uses as of April 20, 2004.

Use Table 4-510 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official
I	Uses Permitted by Limited Impact Special Review
I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest

Use Tables • 4-511 Residential Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Boarding House						✔		✔	✔	✔		✔	
B	Group Care or Foster Home	S	S	S	S	S	S	S	S	S				S
C	Manufactured Home Park							✔						
D	Multifamily Dwelling						✔		✔					
E	Single Family Dwelling	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔

Use Table 4-511 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official
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I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest

Use Tables • 4-512 Retail and Personal Service Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Bank									✔	✔		✔	
B	Building Material or Garden Store								S		✔		✔	
C	Convenience Store									✔	✔		✔	
D	Day Care Center		S	S	S	S	S	S	S	✔	✔	✔	✔	S
E	Eating or Drinking Place, With Drive-thru Service								S	S	S		S	
F	Eating or Drinking Place, Without Drive-thru Service								S	✔	✔		✔	
G	Emergency Care Facility									✔	✔	✔	✔	
H	Indoor Theatre									✔	✔		✔	
I	Marijuana Establishment								✔	✔	✔	✔	✔	
J	Mortuary								✔	✔	✔	✔	✔	
K	Outdoor Theatre										✔		✔	
L	Recycling Collection Center, Small	I	I						I	I	✔	✔	✔	
M	Retail or Personal Service Facility									✔	✔		✔	
N	Vehicle Service Center									✔	✔		✔	
O	Veterinary Clinic, With Outdoor Holding Facilities		✔							✔	✔		✔	
P	Veterinary Clinic, Without Outdoor Holding Facilities	S	✔	S	S				✔	✔	✔	✔	✔	

Use Table 4-512 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official
I	Uses Permitted by Limited Impact Special Review
I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest

Use Tables • 4-513 Transportation Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Airport		S						S	S	S	S	S	
B	Heliport	S	S						S	S	S	S	S	
C	Helistop	S	S				S		S	S	S	S	S	
D	Park & Ride Facility	S	S	S	S	S	S	S	S	S	S	S	S	S

Use Table 4-513 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official
I	Uses Permitted by Limited Impact Special Review
I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest

Use Tables • 4-514 Utility and Public Service Uses*

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Central Office of a Telecommunications Company	R	R	R	R	R	R	R	R	R	R	R	R	R
B	Community Cistern	I	I	I	I	I	I	I	I	I	I	I	I	I
C	Fire Barn	I	I	I	I	I	I	I	I	I	I	I	I	I
D	Fire Station	S	S	S	S	S	S	S	S	S	S	S	S	S
E	Gas and/or Hazardous Liquid Pipelines	I/R	I/R	I/R	I/R	I/R	I/R	I/R	I/R	I/R	I/R	I/R	I/R	I/R
F	Large Solar Energy System	S	S								S	S	S	
G	Major Facility of a Public Utility	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L
H	Medium Solar Energy System or Solar Garden	S	S								S	S	S	
I	Public or Quasi-Public Facility Other than Listed	S	S	S	S	S	S	S	S	S	S	S	S	S
J	Public Safety Telecommunications Facility	I	I	I	I	I	I	I	I	I	I	I	I	I
K	Sewage or Water Transmission Lines	R/L	R/L	R/L	R/L	R/L	R/L	R/L	R/L	R/L	R/L	R/L	R/L	R/L
L	Sewage Treatment Facility	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L
M	Small Solar Energy System or Solar Garden	SPR/I	SPR/I	SPR/I	SPR/I	SPR/I	SPR/I	SPR/I	SPR/I	SPR/I	SPR/I	SPR/I	SPR/I	SPR/I
N	Small Wind-Powered Energy System	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^
O	Telecommunication Facility, Existing Structure and Meeting Height Limits	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔
P	Telecommunications Facility, requiring a new structure or accessory structure exceeding the height limitation of the district in which the facility is located, or exceeding the accessory building size limitations.	S	S	S	S	S	S	S	S	S	S	S	S	S
Q	Utility Service Facility	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔
R	Water Reservoir	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L
S	Water Tank or Treatment Facility	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L	S/R/L

* See Use Table Legend for this table on the following page.

Use Tables • 4-515 Warehouse Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Personal Storage Facility										✔	✔	✔	
B	Warehouse & Distribution Center											✔	✔	

Use Table 4-514 & 4-515 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official
I	Uses Permitted by Limited Impact Special Review
I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest
SPR	Uses Permitted by Site Plan Review
✔^	Uses Permitted by Site Plan Review or Site Plan Review Waiver, See 4-514

Use Tables • 4-516 Accessory Use*

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Accessory Agricultural Sales	✔	✔	✔+								✔	✔	✔
B	Accessory Agricultural Structure	✔	✔	✔	✔							✔	✔	✔
C	Accessory Beekeeping	✔	✔	✔	✔	✔						✔	✔	✔
D	Accessory Chicken Keeping	✔	✔	✔	✔	✔						✔	✔	✔
E	Temporary Accessory Community Meeting Facility		S	S	S	S	S	S	S	S	S	S	S	S
F	Accessory Concrete or Asphalt Batch Plant		S									S	S	
G	Accessory Dwelling	I	I	I	I	I	I	I	I	I	I	I	I	I
H	Accessory Farm Stand		I	I+	I							I	I	
I	Accessory Horse Keeping	✔	✔	✔	✔	✔	✔							✔
J	Accessory Outside Storage	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔
K	Accessory Solar Energy System	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^
L	Accessory Structure	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔
M	Demonstration Farm		I	I+										
N	Farm Events		✔/I	✔/I+										
O	Grading of More than 500 Cubic Yards	I	I	I	I	I	I	I	I	I	I	I	I	I
P	Home Events	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔
Q	Home Occupation	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔
R	Personal Marijuana Cultivation and Marijuana Product Manufacturing	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔
S	Household Pets	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔
T	Noncommercial Telecommunications Site, One Structure Meeting District Regulations	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔
U	Noncommercial Telecommunications Site, All Others	I	I	I	I	I	I	I	I	I	I	I	I	I
V	Small Wind-Powered Energy System	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^	✔^

* See Use Table Legend for this table on the following page.

Use Tables • 4-517 Temporary Uses

		Forestry	Agricultural	Rural Residential	Estate Residential	Suburban Residential	Multifamily	Manufactured Home	Transitional	Business	Commercial	Light Industrial	General Industrial	Mountain Institutional
A	Emergency Noncommercial Telecommunications Facility	A	A	A	A	A	A	A	A	A	A	A	A	A
B	Garage Sales or Occasional Sales	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔
C	Group Gatherings/ Special Events	A	A	A	A	A	A	A	A	A	A	A	A	A
D	Temporary Batch Plant	A	A	A	A	A	A	A	A	A	A	A	A	A
E	Temporary Construction or Sales Office	A	A	A	A	A	A	A	A	A	A	A	A	A
F	Temporary Dwelling Unit	A	A	A	A	A	A	A	A	A	A	A	A	A
G	Temporary Fireworks Stand	I	I						I	I		I	I	
H	Temporary Special Use	S	S	S	S	S	S	S	S	S	S	S	S	S
I	Temporary Weather Device Tower	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔	✔

Use Table 4-516 & 4-517 Legend:	
✔	Uses Permitted by Right
✔+	Uses Permitted by Right on Unsubdivided Land
S	Uses Permitted by Special Review
S+	Uses Permitted by Special Review on Unsubdivided Land
L	Uses Permitted by Location & Extent Review
A	Uses Permitted by Special Authorization of the Building Official or Zoning Administrator
I	Uses Permitted by Limited Impact Special Review
I+	Uses Permitted by Limited Impact Special Review on Unsubdivided Land
R	Uses Permitted by Review of Areas and Activities of State Interest
✔^	Uses Permitted by Site Plan Review or Site Plan Review Waiver, See 4-514

4-500 Use Regulations

A. Unless otherwise indicated, all uses require a building lot.

B. Parking

1. The quantity and location of vehicle parking shall be appropriate for the site and use characteristics. A deviation in the number of required parking spaces as described in each use classification may be appropriate based on the specific circumstances of the proposal including but not limited to available on-street parking, seasonal or temporary needs for parking, shared parking agreements, reliance on alternative modes or other transportation demand management strategies.

2. A parking area may be shared to meet the parking requirements provided a signed agreement of sufficient length of time is provided. Revocation of the agreement will result in the loss of the dependent use until that use has provided adequate parking through other means.

3. For multiuse facilities, the parking for the most intensive use as defined in by the Land Use Department shall control.

4-501 Agri-Business Uses

A. Agricultural Products Processing and Storage

1. Definition: The processing and storage of agricultural products brought to the site, including but not limited to cleaning, sorting, grading, packaging milling, or storing of products which are intended for direct human or animal consumption or use.

2. Districts Permitted: By right in LI and GI; by special review in A

3. Parking Requirements: One space per 500 square feet of floor or storage area

4. Loading Requirements: One loading space for 10,000 or more square feet of floor or storage area

a. Additional Provisions: None

B. Commercial Feed Yard

1. Definition: A place of confinement (whether by structures, fences, pens, corals, or other enclosures) for cattle, swine, sheep, poultry, fur bearing animals, or other livestock, where the density of animal units on the parcel exceeds that allowed in the zoning district within which the use is located. The primary purpose of such confinement is to provide for the ultimate sale of products from such animals or the animals themselves. Educational agricultural projects are excepted from this use.

2. Districts Permitted: By Special Review in A

3. Parking Requirements: To be determined through the Special Review

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area

5. Additional Provisions:

a. One single family dwelling, occupied by the owner, operator, or manager of the feed yard will be considered customary and incidental as a part of this use

C. Commercial Nursery

1. Definition: A use, which may be wholly or partially contained within one or more greenhouses, where trees, shrubs, flowers, or vegetable plants are grown and sold. The dominant characteristic of this use includes sales of products not necessarily grown on-site.

2. Districts Permitted: By right in A, LI, and GI; by Special Review in RR on unsubdivided land

3. Parking Requirements: One space per 1,000 square feet of floor area.

4. Loading Requirements: One space per 10,000 square feet of floor area.

5. Additional Provisions:

a. No more than ten percent of sales may be from nonagricultural or nonhorticultural products.

b. One single family dwelling, occupied by the owner, operator, or manager of the nursery will be considered customary and incidental as a part of this use.

D. Custom Meat or Poultry Processing Facility

1. Definition: A facility for the processing of meat and poultry for individuals, not intended for resale on the premises, including but not limited to the butchering, cutting, dressing, and packaging of meat and poultry products.

2. Districts Permitted: By Special Review in A and GI; by limited impact in A as outlined in 4-501(D)(5)(a), below

3. Parking Requirements: One space per 500 square feet of floor area

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area

5. Additional Provisions:

a. This use is allowed by Limited Impact Special Review in the A district if the facility:

(i) has five or fewer employees on-site at one time;

(ii) processes no more than 200 poultry or rabbits per day or 60 larger meat animals per week; or

(iii) does not include retail sales.

E. Keeping of Nondomestic Animals

1. Definition: The location for commercial dealers, breeders, exhibitors, transporters, or researchers, or wildlife rehabilitators of any and all species not listed by the Colorado Division of Wildlife as domestic. Species listed as prohibited by the Colorado Division of Wildlife are not allowed.

2. Districts Permitted: By Special Review in all districts Except MF and MH; specific licensed wildlife rehabilitation permitted by right or Special Review in all districts except MF and MH as outlined in section 5 below.

3. Parking Requirements: To be determined through Special Review

4. Loading Requirements: To be determined through Special Review

5. Additional Provisions:

a. This use shall also be granted, maintain, and act in compliance with all applicable local, state and federal licenses or permits.

b. One single family dwelling, occupied by the owner, operator, or manager of the business will be considered customary and incidental as a part of this use.

c. Wildlife rehabilitation licensed by the Colorado Division of Wildlife that includes 20 or fewer animals at any time for small mammal species (such as rabbits, squirrels, raccoons, fox and bats), bird species (except raptors), reptiles or amphibians (except venomous reptiles or amphibians), or wildlife rehabilitation with indoor caging is permitted by right. (The change in use provision in Article 4-802(A) of the Site Plan Review regulations will not apply to this activity.)

d. Wildlife rehabilitation licensed by the Colorado Division of Wildlife of more than 20 animals at any time for small mammal species (such as rabbits, squirrels, raccoons, fox and bats), bird species (except raptors), reptiles or amphibians (except venomous reptiles or amphibians), or wildlife rehabilitation with outdoor caging is permitted by Site Plan Review.

e. Wildlife rehabilitation of any number of large animal species (such as coyote, bobcat, mountain lion, bear, deer and elk), birds of prey species (all raptors), or venomous reptiles or amphibians is permitted by Special Review.

4-502 Agricultural Uses

A. Equestrian Center

1. Definition: An establishment where 15 or more different people per month, other than the owner or manager of the property, are, for a fee, trained or instructed in riding, driving, or showing horses.

2. Districts Permitted: By right in A; by Special Review in F and RR

3. Parking Requirements: Sufficient to accommodate the use on-site

4. Loading Requirements: Sufficient to accommodate the use on-site

5. Additional Provisions:

a. Setback Requirements: Unlighted outdoor equestrian arenas shall be set back 300 feet from existing schools, churches and dwelling on other lots, unless reduced through Special Review or Site Plan Review.

b. Limited Impact Special Review is required for any equestrian center with amplified sound and/or lighted outdoor riding, driving, or showing of horses.

c. Special Review is required for competitive events open to participants outside of those who board or train at the facility.

d. Existing establishments will be considered conforming at their present levels of use provided a site plan and description of the operation, including number and types of competitive events, is submitted to the Land Use Department by December 31, 1999. Increasing the number of competitive events or lighting for night time riding activities will require Special Review or Limited Impact Special Review as required in (b) above (Section 4-600).

e. One single family dwelling, occupied by the owner or manager of the equestrian center, will be considered customary and incidental as a part of this use.

f. This use requires a building lot. Activities related to the use may occur on agricultural outlots which do not prohibit the activity, however no structures related to the use are allowed on the outlot.

g. Boarding of horses is permitted.

B. Farm Store

1. Definition: A location for the sale of agricultural and horticultural products for more than 42 days in a calendar year. The products for sale may include, but are not limited to, the sale of seasonal produce, which does not have to be grown on-site.

2. Districts Permitted: By right in B, C, and GI; by Limited Impact Special Review in A, and in RR on unsubdivided land.

3. Parking Requirements: One space per 200 square feet of floor area.

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area.

5. Additional Provisions:

a. One single family dwelling, occupied by the owner, operator, or manager of the business will be considered customary and incidental as a part of this use.

b. No more than ten percent of the Farm Store sales may be of nonagricultural or nonhorticultural products.

c. This use requires a building lot.

C. Intensive Agricultural Uses

1. Definition: Agricultural uses where the use predominantly occurs inside one or more structures, including but not limited to agricultural storage facilities, greenhouses, indoor riding facilities, and storage for accessory sales of agricultural or horticultural products.

2. Districts Permitted: By right in A, LI, and GI; by Special Review in F and RR

3. Parking Requirements: Sufficient to accommodate the use

4. Loading Requirements: Sufficient to accommodate the use

5. Additional Provisions:

a. Accessory Sales associated with Intensive Agricultural Uses shall conform to the requirements of Accessory Agricultural Sales.

b. One single-family dwelling will be considered customary and incidental as a part of this use.

D. Open Agricultural Uses

1. Definition: Agricultural uses which predominantly occur outside including but not limited to the grazing, keeping and use of livestock, the production, harvesting, and selling of agricultural or horticultural products, and accessory storage. Accessory structures such as hoop houses or high tunnels used to extend the growing season, or for storage or maintenance of items that support the agricultural use are allowed as part of this use.

2. Districts Permitted: By right in F, A, RR, ER, LI, GI, and MI

3. Parking Requirements: Sufficient to accommodate the use

4. Loading Requirements: Sufficient to accommodate the use

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located unless it has an associated principal or accessory dwelling.

b. Accessory Sales associated with Open Agricultural Uses shall conform to the requirements of Accessory Agricultural Sales.

c. One single family dwelling, occupied by the owner or manager of the farm, will be considered customary and incidental as a part of this use. Single family dwellings must be located on building lots.

d. Boarding of horses is permitted. Improved riding facilities may be provided in connection with boarding and made available to fewer than 15 different individual people per month, in addition to the owner or manager of the property.

(i) Limited Impact Special Review is required for any equestrian center with amplified sound and/or lighted outdoor riding, driving, or showing of horses. Special Review is required for competitive events open to participants outside of those who board or train at the facility.

e. Any accessory structures must be accessory to the use of the property on which the structure is located except for storage of associated agricultural equipment and agricultural and horticultural products grown on-site. On-site means agricultural and horticultural products that are grown on parcels under the same ownership, lease or contract as the parcel on which the accessory structure is located.

f. Structures that support the residential use on the property shall be considered Residential Floor Area.

g. Structures that support the agricultural use shall not be considered Residential Floor Area.

E. Seasonal Farm Stand

1. Definition: A location for the sale of agricultural and horticultural products, for a period not to exceed 42 days in any calendar year. Nonagricultural and nonhorticultural products and products may comprise no more than ten percent of sales. This use includes Christmas tree sales and pumpkin sales.

2. Districts Permitted: By right in B, C, and GI; by Limited Impact Special Review in A, and in RR on unsubdivided land.

3. Parking Requirements: On street parking may be permissible with review and approval from the Transportation Department.

4. Loading Requirements: Sufficient to accommmodate the use on-site.

5. Additional Provisions:

a. This use may include agriculturally based recreation activities.

4-503 Commercial/Business Service Uses

A. Building Contracting Shop

1. Definition: A facility providing for general building repair, service, and maintenance including installation of plumbing, roofing, signs, electrical, air conditioning, heating, and landscaping.
2. Districts Permitted: By right in C and GI
3. Parking Requirements: One space per 200 square feet of floor area
4. Loading Requirements: One loading space for 10,000 or more square feet of floor area
5. Additional Provisions: None

B. Carpentry, Woodworking, or Furniture Making Facility

1. Definition: A facility for the making, repairing, or refinishing of furniture or wood products for sale.
2. Districts Permitted: By right in C and GI
3. Parking Requirements: One Space per 500 square feet of floor area
4. Loading Requirements: One loading space for 10,000 or more square feet of floor area
5. Additional Provisions: None

C. Car Wash

1. Definition: An area of land and/or a structure with machine- or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles. A facility of this type may be able to accommodate more than one vehicle at the same time.
2. Districts Permitted: By right in C and GI
3. Parking Requirements:
   - **a.** One space per washing bay
   - **b.** Five stacking spaces per washing bay
4. Loading Requirements: None
5. Additional Provisions: None

D. Commercial Bakery

1. Definition: A commercial establishment for the production of baked goods, primarily for sale to other commercial establishments.
2. Districts Permitted: By right in C, LI, NRCD, and GI
3. Parking Requirements: One space per 5000 square feet of floor area
4. Loading Requirements: One loading space for 10,000 or more square feet of floor area
5. Additional Provisions: None

E. Commercial Laundry and Dry Cleaning

1. Definition: A facility for the cleaning or laundering of garments, fabrics, rugs, draperies, or other similar items on a commercial or bulk basis.
2. Districts Permitted: By right in C and GI
3. Parking Requirements: One space per 500 square feet of floor area
4. Loading Requirements: One loading space for 10,000 or more square feet of floor area
5. Additional Provisions: None

F. Kennel

1. Definition: Any place or premises, other than a pet shop or veterinary clinic, used in whole or part for the purpose of keeping eight or more dogs or cats in any combination whether the animals are boarded or household pets.

2. Districts Permitted: By Special Review or Limited Impact Special Review in A; by Special Review in F and MI

3. Parking Requirements: One space per 300 square feet of floor area, with a minimum of two spaces.

4. Loading Requirements: None

5. Additional Provisions:

a. For kennels with eight to 12 dogs or cats:

(i) the animals shall be kept a minimum of 100 feet from any property line or other mitigating circumstance exists or may be created which has the same or better mitigating effect; and

(ii) kennels of this size require Limited Impact Special Review in the Agricultural zoning district, and Special Review in the Forestry and Mountain Institutional zoning districts.

b. For kennels with more than 12 dogs or cats:

(i) the animals shall be kept a minimum of 300 feet from any property line or other mitigating circumstance exists or may be created which has the same or better mitigating effect.

(ii) kennels of this size require Special Review in all permitted zoning districts.

c. If a single family dwelling is used as the holding facility for boarded animals, the use shall be limited to no more than 12 boarded animals but in no case shall there be more than 15 dogs including household pets or no more than 15 total cats including household pets, and the requirements of 5 (a) above shall apply.

d. One single family dwelling, occupied by the owner, operator, or manager of the business will be considered customary and incidental as a part of this use.

e. Kennels which legally existed on April 1, 2000 will be considered conforming at their present levels of use provided a site plan and description of the operation is submitted to the Land Use Department by December 31, 2000.

G. Machine Shop

1. Definition: A facility where material is processed or treated by machining, cutting, grinding, welding, or similar processes.

2. Districts Permitted: By right in C and GI

3. Parking Requirements: One space per 500 square feet of floor area

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area

5. Additional Provisions: None

H. Printing and/or Publishing Establishment

1. Definition: A facility for the reproduction, cutting, printing, or binding of materials on a bulk basis using lithography, offset printing, blueprinting, silk screening, or similar methods.

2. Districts Permitted: By right in B, C, and GI

3. Parking Requirements: One space per 500 square feet

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area

5. Additional Provisions: None

I. Vehicle Sales/Rental Lot

1. Definition: A parcel designated for the sale or rent of three or more motor vehicles per year. Vehicles include but are not limited to cars, trucks, boats, recreation vehicles, and trailers.

2. Districts permitted: By right in GI; by Special Review in B and C for operations entirely contained inside a structure.

3. Parking Requirements: one space for every 500 square feet of floor area and 1000 square feet of outside display area.

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area.

5. Additional Provisions:

a. A vehicle service center to maintain vehicles displayed on the premises shall be considered customary and incidental to this use.

b. A vehicle sales/rental lot may not be considered accessory to another principal use.

4-504 Community Uses

A. Adaptive Reuse of a Historic Landmark

1. Definition: A community oriented use that is compatible with the historic aspects of an existing designated Historic Landmark.

2. Districts Permitted: By Limited Impact Special Review in all districts.

3. Parking Requirements: To be determined through Limited Impact Special Review.

4. Loading Requirements: To be determined through Limited Impact Special Review.

5. Additional Provisions:

a. This use must occupy a designated Historic Landmark.

b. The use must be found to be beneficial to the preservation of the Historic Landmark.

B. Camp

1. Definition: A facility for registered participants to engage in organized group activities oriented toward nature and the outdoors. This use includes the provision of meals and lodging for participants but not for the general public. If customarily incidental to the use, camps may also be used for temporary meeting, recreation, education, or social facilities for associations or groups.

2. Districts Permitted: By right for camps existing as of 11/4/10 in A, F, and MI; by Limited Impact Special Review for camps existing as of 11/4/10 that exceed the zoning district special use review triggers; for all other camps by special use review in A, F, MI

3. Parking Requirements: Sufficient to accommodate the use on-site

4. Loading Requirements: Sufficient to accommodate the use on-site

5. Additional Provisions:

a. Accessory on-site housing may be permitted for caretakers or staff members.

C. Cemetery

1. Definition: A place designated for the burial or keeping of the remains of the dead, whether human or animal, including crematories, mausoleums, and columbaria operated within the boundaries of the cemetery.

2. Districts Permitted: By Special Review in A, RR, SR, MF, and MI

3. Parking Requirements: To be determined through Special Review

4. Loading Requirements: To be determined through Special Review

5. Additional Provisions:

a. This use shall also be granted and maintain all applicable local, state, and federal permits.

D. Church

1. Definition: A facility principally used for people to gather together for public worship, religious training, or other religious activities.

2. Districts Permitted: By right in all districts except F

3. Parking Requirements: One space per 30 square feet of the worship area, plus any parking required for incidental uses

4. Loading Requirements: None

5. Additional Provisions:

a. The structure height limitations of this Code shall not apply to church spires, belfries, or cupolas.

b. One single family dwelling for the housing of the pastor or similar leader of the church and their family will be considered customary and incidental as a part of this use.

E. Educational Facility

1. Definition: Buildings and uses for educational or research activities associated with an academic institution which has curriculum for technical or vocational training, kindergarten, elementary, secondary, or higher education, including residential facilities for faculty, staff, and students.

2. Districts Permitted: By Special Review all districts, except F

3. Parking Requirements:

a. For kindergarten, elementary, and middle school facilities...three spaces per classroom

b. For all other facilities...10 spaces per classroom

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area

5. Additional Provisions:

a. This use shall also be granted and maintain all applicable local, state, and federal permits.

F. Membership Club

1. Definition: A facility, including associated eating, drinking, and recreational facilities, owned or operated by a group of people organized for a common social, educational, service, or recreational purpose. These clubs are usually characterized by certain membership qualifications, payment of fees or dues, regular meetings, a constitution, and by-laws.

2. Districts Permitted: By right in T, B, C, LI, and GI; by Special Review in F, A, and MI

3. Parking Requirements: One space per 75 square feet of floor area

4. Loading Requirements: None

5. Additional Provisions: None

G. Reception Halls and Community Meeting Facilities

1. Definition: A facility for the holding of events including but not limited to weddings, wedding receptions, community meetings, and group gatherings.

2. Districts Permitted: By right in T, B, C, LI and GI; by Special Review in F and A, and T

3. Parking Requirements: One space per 30 square feet of floor area

4. Loading Requirements: None

5. Additional Provisions: None

H. Use of Community Significance

1. Definition: An existing nonconforming use that the Board of County Commissioners determines to have at least two of the following characteristics: historic, cultural, economic, social, or environmental value.

2. Districts Permitted: By Limited Impact Special Review in all districts.

3. Parking Requirements: To be determined through Limited Impact Special Review based on the specific nature of the use and community context.

4. Loading Requirements: To be determined through Limited Impact Special Review.

5. Additional Provisions:

a. This use must meet the criteria outlined in Paragraph 4-602(E) Special Provisions of this Code.

4-505 Forestry Uses

A. Forestry

1. Definition: Cultivating and maintaining forests and managing forest land, including the selling of firewood produced on the parcel.

2. Districts Permitted: By right in F, A, and MI

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located unless it has an associated dwelling.

b. One single family dwelling, occupied by the owner, operator, or manager will be considered customary and incidental as a part of this use.

B. Forestry Processing and Sort Yard

1. Definition: A facility designed to accept wood, slash, or other woody biomass material removed from another property in order to facilitate forest health management and promote recycling of woody biomass material. Materials may be processed and recycled on-site and/or may be transferred to an approved offsite location for processing.

2. Districts Permitted: By Limited Impact Special Review in F, A, MI.

3. Parking Requirements: To be determined through Limited Impact Special Review.

4. Loading Requirement: To be determined through Limited Impact Special Review.

5. Additional Provisions:

a. The minimum parcel size shall be 3 acres.

b. All activities, except driveways, shall be setback a minimum of 50 feet from any adjacent right-of-way or private property.

c. This use is not required to be located on a building lot, or comply with the minimum lot size requirements for the district in which it is located.

d. Times and frequencies of operation shall be determined through Limited Impact Special Review.

e. All approved facilities shall be reviewed by the Board of County Commissioners every three years to ensure continued compliance with the special use criteria.

f. Access to the site shall be secured so that unauthorized persons may not use the facility when it is closed.

g. Upon permanent cessation of this use, the disturbed area must be reclaimed and revegetated.

h. These facilities shall not be the final disposal place for woody biomass materials and shall promote the recycling of all received materials to the maximum extent possible.

4-506 Industrial Uses

A. Composting Facility

1. Definition: A facility where organic materials are converted into a humus-like material under a process of managed biological decomposition.

2. Districts Permitted: By special review in A and GI

3. Parking Requirements: One space per 1000 square feet of floor area.

4. Loading Requirements: One space per 10,000 square feet of floor area.

5. Additional Provisions:

a. Backyard composting and composting incidental to farming operations are exempt from these requirements when:

(i) None of the materials to be composted are collected on-site from the general public;

(ii) Materials to be composted are limited to agricultural and yard by-products such as plant material and manure;

(iii) Composted material is not sold retail from the site;

(iv) The location of the composting is at least 300 feet from any property line if more than 50 cubic yards of material is being composted at any one time; and

(v) The total amount of active composting material does not exceed 1,000 cubic yards at any one time.

(vi) No more than 1,500 cubic yards of composted material may be removed from the site in any 36 month period.

b. In the General Industrial District, composting and composting incidental to operations are exempt from special use when:

(i) Materials to be composted are limited to organic materials;

(ii) The location of the composting is at least 300 feet from any property line if more than 50 cubic yards of material is being composted at any one time; and

(iii) The total amount of active composting material does not exceed 1,000 cubic yards at any one time.

c. Organic materials include but are not limited to leaves, tree trimmings, untreated wood, shrubbery cuttings, or urea.

B. General Industrial

1. Definition: Any manufacturing operation or industrial use, including but not limited to milling and processing of ore, junkyards, slaughter houses, and batch plants, which is not specifically listed in this Code.

2. Districts Permitted: By Special Review in GI

3. Parking Requirements: One space per 500 square feet of floor area

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area

5. Additional Provisions:

a. This use shall also be granted and maintain all applicable local, state, and federal permits.

b. Accessory inside retail sales may occupy up to 10 percent of the total floor area of the main use.

C. Light Industrial

1. Definition: Places for the conduct of any light industrial activity, which is not specifically listed in this Code, including but not limited to assembling; compounding; food or beverage processing; inside storage, processing or treatment of products; scientific research; and sign manufacturing.

2. Districts Permitted: By right in LI and GI

3. Parking Requirements: One space per 500 square feet of floor area

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area

5. Additional Provisions:

a. This use shall also be granted and maintain all applicable local, state, and federal permits.

b. Accessory inside retail sales may occupy up to 10 percent of the total floor area of the main use.

D. Major Oil and Gas Operations

1. Definition: Water injection wells and facilities, centralized water transfer stations, centralized water pump stations, storage yards and construction staging yards in place for longer than six months, and any other oil and gas operation the location of which is not dependent upon development of the mineral resource or subject to Article 12.

2. Districts Permitted: By Special Review in GI

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions: None

E. Outside Storage

1. Definition: The outside placement of items for a period of more than twenty-four hours.

2. Districts Permitted: By right in GI; by Special Review in LI

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. The items being stored must be screened from the view of adjacent roadways and properties.

b. Any vehicles or trailers shall be licensed and operable and may not be used for storage.

F. Recycling Collection Center, Large

1. Definition: A center for the acceptance and temporary storage of either recyclable or organic materials to be transferred to a processing or composting facility.

2. Districts Permitted: By right in GI; by Special Review in C

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. This use shall be considered customary and incidental to a Solid Waste Transfer Facility.

b. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

c. Organic materials are limited to plant matter including but not limited to tree limbs, leaves, and grass clippings.

G. Recycling Processing Facility

1. Definition: A facility where recyclable and organic materials are collected and processed. Processing includes but is not limited to baling, briquetting, compacting, flattening, crushing, mechanical sorting, shredding, and cleaning.

2. Districts Permitted: By Special Review in GI; by Special Review in LI when operations are contained entirely inside a structure.

3. Parking Requirements: to be determined through Special Review

4. Loading Requirements: to be determined through Special Review

5. Additional Provisions:

a. Facilities where the sole purpose is to utilize recyclable materials in manufacturing an end product which does not require further processing shall be considered a General Industrial and not a recycling use.

b. Organic materials include but are not limited to tree limbs, food wastes, leaves, and grass clippings.

H. Saw Mill

1. Definition: A facility for the storage, sales, and milling of forest products, not including the cutting of firewood.
2. Districts Permitted: By right in GI; by Special Review in F and A
3. Parking Requirements: One space per 500 square feet of floor area or area of operation
4. Loading Requirements: One loading space for 10,000 or more square feet of floor area
5. Additional Provisions: None

I. Solid Waste Disposal Site and Facility

1. Definition: The location and facility at which the collection, storage, treatment, utilization, processing, or final disposal of wastes occur.
2. Districts Permitted: By Special Review in A, GI
3. Parking Requirements: none
4. Loading Requirements: none
5. Additional Provisions:
   - **a.** This use shall also be granted and maintain all applicable local, state, and federal permits.
   - **b.** This use is not required to be located on a building lot, or comply with the minimum lot size requirements for the district in which it is located.

J. Solid Waste Transfer Facility

1. Definition: A facility at which wastes, awaiting transportation to a disposal site and facility, are transferred from one collection vehicle to another.
2. Districts Permitted: By Special Review in F, A and GI
3. Parking Requirements: To be determined through Special Review
4. Loading Requirements: To be determined through Special Review
5. Additional Provisions:
   - **a.** This use shall also be granted and maintain all applicable local, state, and federal permits.
   - **b.** This use is not required to be located on a building lot, or comply with the minimum lot size requirements for the district in which it is located.

4-507 Lodging Uses

A. Bed and Breakfast

1. Definition: An owner-occupied or tenant occupied single family dwelling unit offering transient lodging accommodations within that dwelling where meals may be provided.

2. Districts Permitted: By Limited Impact Special Review in F, A, RR, SR, and MI

3. Parking Requirements: One space per guest room in addition to the two spaces required for the single family dwelling

4. Loading Requirements: None

5. Additional Provisions:

a. A Bed and Breakfast may have no more than three guest rooms or serve no more than six guests per night.

B. Campground

1. Definition: An area of land on which accommodations for temporary occupation are located or may be placed. This includes, but is not limited to, tents and recreational vehicles.

2. Districts Permitted: By Special Review in F, A, and MI

3. Parking Requirements: To be determined through Special Review

4. Loading Requirements: None

5. Additional Provisions:

a. Actual density will be set in the Special Review; however, in no case shall a campground contain more than 8 camp sites per acre.

b. A minimum 250 foot landscaped buffer is required adjacent to private lands.

c. Camping, on a parcel, by the property owner, may occur no more than 14 days a year as a temporary allowed use.

C. Overnight Lodging

1. Definition: A facility offering transient lodging accommodations on a daily basis to the general public, and in which no provision is made for cooking in any individual room or suite. The Overnight Lodging facility may also include incidental business uses commonly associated with the main lodging use.

2. Districts Permitted: By right in T, B, C, LI, and GI

3. Parking Requirements: One space per room plus one space per 50 rooms, and any parking required for incidental uses

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area

5. Additional Provisions: None

D. Resort Lodge, Conference Center, or Guest Ranch

1. Definition: A facility, including a lodge and/or resort cabins with or without food service, which that serves as a destination point for visitors, and relies on its rural location and the natural environment to provide recreational facilities and activities for the use of guests such as horse riding, hiking, fishing, and boating. If customarily incidental to the use, these facilities may also be used for temporary meeting, recreation, education, or reception facilities.

2. Districts Permitted: By right in T, B, C, LI, and GI; by Special Review in F and MI, and by Special Review in A for legally existing uses as of April 20, 2004.

3. Parking Requirements: One and one-half spaces per room or cabin

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area

5. Additional provisions:

a. Guest residency is limited to no more than 90 days.

b. Accessory on-site housing may be allowed for caretakers or staff members.

E. Short-term Dwelling Rentals

1. Definition: A dwelling that is rented in durations of less than 30 days. This includes dwellings rented out by individual owners and dwellings rented out on behalf of an owner by a property management group. Dwellings rented on a month-to-month or longer basis shall not be considered as part of this use but rather part of the otherwise applicable dwelling use.

2. Districts Permitted:

a. By right in all districts if rented between one and 14 nights per year, with no additional use restrictions under this Article 4-507(E).

b. By right in A, F, H, MI, T, B, C, and ED if rented between 15 and 45 nights per year, provided the Additional Provisions (Article 4-507(E)(6)) are met.

c. By Limited Impact Special Review in RR, ER, SR, MF, MH, LI, and GI if rented 15 or more nights per year, provided the Additional Provisions (Article 4-507(E)(6)) and the special use criteria in Article 4-601 of this Code are met.

d. By Limited Impact Special Review in A, F, H, MI, T, B, and C if rented 46 or more nights per year, provided the Additional Provisions (Article 4-507(E)(6)) and the special use criteria in Article 4-601 of this Code are met.

3. Parking Requirements: One space per bedroom

4. Loading Requirements: None

5. Additional Provisions For All Short-Term Dwelling Rentals:

a. Historic accessory dwelling units are eligible for short-term dwelling rental use. Family care and agricultural accessory dwelling units are not eligible for this use.

6. Additional Provisions For Rentals of 15 Nights or More Per Year:

a. Short-term dwelling rentals subject to these Additional Provisions as specified above, must meet the following standards:

(i) Owners must complete a short-term dwelling rental registration form and submit it to the Land Use Department where the registration form shall be available for public review. The registration form will include the address of the rental unit, the number of bedrooms in the house, the owner's name, address, and phone number, and the name and phone number of a property manager, if applicable.

(ii) Dwellings must have an on-site wastewater system recognized and approved by Boulder County Public Health according to their applicable regulations. Existing systems do not need to be repaired or replaced unless required by Boulder County Public Health.

(iii) Dwellings must have been constructed under a valid building permit and received final inspection approval and meet applicable Building Code requirements as required when the dwelling was constructed or when upgrades to the structure subject to a building permit were made. Structures built before building permit requirements were imposed shall be structurally sound, with any plumbing, electrical, and heating and cooling systems in a good state of repair.

(iv) The parcel on which the dwelling is located must be a legal building lot under this Code, and legal access from a public road to the subject parcel must be demonstrated.

(v) Dwellings must contain operable fire extinguishers in each bedroom and in the kitchen.

(vi) Dwellings must contain operable smoke detectors in each bedroom and additional locations where appropriate.

(vii) Dwellings must contain an operable carbon monoxide detector in the dwelling installed as per the manufacturer's instructions.

(viii) This use must comply with the adopted Boulder County noise ordinance as applicable.

(ix) A map clearly indicating the subject parcel boundaries and appropriate parking spaces must be provided to renters.

(x) For dwellings rented out 45 nights or less per year, two adults per bedroom with a maximum of eight people may occupy one dwelling, unless the Director approves a greater capacity, which can be demonstrated based on parking, parcel size, the on-site wastewater system, or other relevant circumstance.

(xi) For dwellings rented 46 nights per year or more, the maximum occupancy of the dwelling shall be two adults per bedroom with a maximum of eight people or a lower number of people based on the size of the permitted and approved on-site wastewater system, unless the Director approves a greater capacity, which can be demonstrated based on parking, parcel size, the on-site wastewater system, or other relevant circumstance.

b. For rental intensities that require Limited Impact Special Review:

(i) The requirement for Limited Impact Special Review may be waived if the Director determines the short-term dwelling rental will not have the potential for significant conflict with the criteria listed in Article 4-601 of this Code. The Director may impose written terms and conditions on the short-term dwelling rental use as may be reasonably necessary to avoid conflict with the review criteria in Article 4-601. Any short-term dwelling unit for which the Director waives Limited Impact Special Review shall still be subject to the Additional Provisions of Article 4-507(E)(6).

(ii) Notice of the waiver application being reviewed shall be sent to referral agencies and adjacent property owners.

(iii) If the Director grants a waiver, the owner shall submit an annual report to the Department which shall be made available for public review. The report shall indicate the number of nights the dwelling was rented in the previous year, the number of bedrooms, contact information for the owner and property manager (if applicable) of the dwelling, and additional items as required by the Director related to the administration of this Article 4-507(E).

c. Compliance with these additional provisions shall be the responsibility of the owner. The County reserves the right to enforce these provisions in accordance with applicable zoning and building enforcement procedures.

4-508 Mining Uses

A. Limited Impact Open Mining

1. Definition: The extraction of earth materials by mining directly from the exposed deposits or other materials where mining operations affect less than ten acres of land within a parcel and extract less than 70,000 tons of earth materials, and which (a) proposes to export material in excess of 500 cubic yards off the parcel on which the mining occurs, (b) has operations that exceed five consecutive days or 14 days total, and/or (c) utilizes blasting.

2. Districts Permitted: By Limited Impact Special Review in all districts.

3. Parking Requirements: To be decided through Special Review.

4. Loading Requirements: To be decided through Special Review.

5. Additional Provisions:

a. Exceptions to this use include:

(i) The removal of decorative building materials naturally exposed at the surface of the earth.

(ii) The extraction of sandstone where such extraction does not exceed a total of 3600 tons in any 12 month period. For the purposes of this provision, sandstone is defined to be a hard, well-bedded sedimentary rock known locally as the Lyons sandstone. This material is principally used as a building stone; however, included in the definition of sandstone are waste materials, removed in the process of exposing/extracting usable building stone.

(iii) Excavations below finished grade for basements and footings of a building, retaining wall or other structures authorized by a valid building permit, or authorized by a grading permit.

b. The term limited impact open mining includes, but is not limited to, such processes as open cut mining, open pit mining, strip mining, quarrying and dredging.

c. This use shall also be granted and maintain all applicable local, state, and federal permits.

B. Oil and Gas Operations

1. Definition: See Article 12-1400

2. Districts Permitted: By development plan review for oil and gas operations in all districts (Article 12)

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions: None

C. Open Mining

1. Definition: The extraction of earth materials by mining directly from the exposed deposits or other materials. Exceptions to this use include those operations which fit the definition of limited impact open mining and excavations below finished grade for basements and footings of a building, retaining wall or other structures authorized by a valid building permit. The term open mining includes, but is not limited to, such processes as open cut mining, open pit mining, strip mining, quarrying and dredging.

2. Districts Permitted: By Special Review in F, A, GI, and MI

3. Parking Requirements: To be determined through Special Review

4. Loading Requirements: To be determined through Special Review

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

b. This use shall also be granted and maintain all applicable local, state, and federal permits.

c. Processing of the mined material (to the extent approved through the special use process) may occur on the parcel where the mining is situated, or on a parcel owned or leased by the mining parcel owner, lessee, or operator provided the parcel is located within 1,000 feet of the mining parcel.

D. Subsurface Mining

1. Definition: The extraction of natural mineral deposits, except uranium, by underground methods, including the milling and processing of the ore produced and the reprocessing of tailings.

2. Districts Permitted: By Development Plan Review, Limited Impact Special Review or Special Review in F and MI; by Special Review in A, and GI.

3. Parking Requirements: None.

4. Loading Requirements: None.

5. Additional Provisions:

a. The following review is required in F:

(i) Development Plan Review is required in F and MI when:

(A) the use has a total production level of less than 20,000 tons per year and generates less than 7 average daily truck trips, as defined by the Institute of Transportation Engineers (with trucks defined as vehicles of greater than 26,000 pounds gross vehicle weight);

(B) the use is on federal land, regardless of whether it triggers a higher level of review under subsections (ii) and (iii), immediately below.

(ii) Limited Impact Special Review is required in F and MI when the use:

(A) has a total production level of between 20,000 and up to, but not including, 70,000 tons per year; or

(B) generates between 7 and up to, but not including, 20 average daily truck trips, as defined by the Institute of Transportation Engineers (with trucks defined as vehicles of greater than 26,000 pounds gross vehicle weight).

(iii) Special use review is required in F and MI when the use:

(A) has a total production level of 70,000 tons per year or more; or, generates 20 or more average truck daily trips, as defined by the Institute of Transportation Engineers (with truck trips defined as in (i) above); or,

(B) has associated milling to occur above-ground or creates surface tailings; or

(C) falls within the threshold limits for Development Plan Review as defined in (i) (A) above, or falls within the threshold limits for Limited Impact Special Review as defined in (ii) (A) and (B) above but the area to be disturbed is located within or within 500 feet of a platted subdivision or substantially developed townsite.

(iv) In any of the applicable review processes required under subsections (i)-(iii), immediately above, the Director, Planning Commission and Board of County Commissioners, as applicable, shall consider the cumulative impacts of the proposed subsurface mining use with reference to prior or contemplated subsurface mining in the vicinity of the proposed use when applying the applicable review criteria to the use.

b. Any existing subsurface mining operation may continue at its current level, or the mining activity may expand up to the levels approved in its existing state mining permit issued on or before June 10, 1997, or must have been lawfully established prior to state mining permit requirements and have operated since January 1, 1987.

c. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

d. This use shall also be granted and maintain all applicable local, state, and federal permits.

E. Subsurface Mining of Uranium

1. Definition: The extraction of natural uranium deposits by underground methods.

2. Districts Permitted: By Special Review in F, A, GI, and MI

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

b. This use shall also be granted and maintain all applicable local, state, and federal permits.

4-509 Office Uses

A. Professional Office

1. Definition: An office for professions including but not limited to government, physicians, dentists, lawyers, realtors, architects, engineers, artists, musicians, designers, teachers, accountants, and others, who, through training are qualified to perform services of a professional nature, and where no storage or sale of merchandise exists. This use includes medical and dental clinics.
2. Districts Permitted: By right in T, B, C, LI, and GI
3. Parking Requirements: One space per 330 square feet of floor area for general office; one space per 200 square feet for medical and dental offices
4. Loading Requirements: One loading space for 10,000 or more square feet of floor area
5. Additional Provisions: None

4-510 Recreation Uses

A. Golf Course

1. Definition: A recreational facility primarily used for the purpose of playing golf, but which may include associated eating and drinking areas, retail sales areas, and staff offices.
2. Districts Permitted: By Special Review in A and RR, and in MF for legally existing uses as of April 20, 2004.
3. Parking Requirements: To be determined through Special Review
4. Loading Requirements: To be determined through Special Review
5. Additional Provisions: None

B. Indoor Recreation

1. Definition: An entirely enclosed facility which offers entertainment or games of skill for a fee, including but not limited to a bowling alley, billiard parlor, or a video game arcade. This use may include associated eating and drinking areas, retail sales areas, and staff offices.
2. Districts Permitted: By right in T, B, C, LI, and GI
3. Parking Requirements: One space per 200 square feet of floor area
4. Loading Requirements: None
5. Additional Provisions: None

C. Livery or Horse Rental Operation

1. Definition: A facility which offers horses, mules, donkeys or other animals for hire, or organizes and/or supervises groups, for riding off the property.
2. Districts Permitted: By Special Review in F, A, and MI
3. Parking Requirements: Sufficient to accommodate the use on-site
4. Loading Requirements: Sufficient to accommodate the use on-site
5. Additional Provisions: None

D. Outdoor Recreation, for day use

1. Definition: An area or facility which offers entertainment, recreation, or games of skill for a fee, where any portion of the activity takes place outside only during daylight hours. This includes but is not limited to a golf driving range, rifle range, boating facility, tennis facility, or a miniature golf course.
2. Districts Permitted: By right in T, B, C, LI, and GI; by Special Review in F, A, and MI
3. Parking Requirements: One space per 200 square feet of active area
4. Loading Requirements: None
5. Additional Provisions: None

E. Outdoor Recreation, for night use

1. Definition: An area or facility which offers entertainment, recreation, or games of skill for a fee, where any portion of the activity takes place outside and may include lighted areas for use after dusk. This includes but is not limited to a golf driving range, rifle range, boating facility, tennis facility, or a miniature golf course.
2. Districts Permitted: By Special Review in F, A, T, B, C, LI, GI, and MI
3. Parking Requirements: One space per 200 square feet of active area
4. Loading Requirements: None
5. Additional Provisions: None

F. Park or Playfield, for day use

1. Definition: A recreational area providing parks and playfields for use during daylight hours only.
2. Districts Permitted: By right in F, A, RR, ER, SR, MF, MH, T, B, and MI
3. Parking Requirements: None
4. Loading Requirements: None
5. Additional Provisions:
   a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

G. Park or Playfield, for night use

1. Definition: A recreational area providing parks and playfields which may include lighted areas for use after dusk.
2. Districts Permitted: By Special Review F, A, RR, SR, MF, MH, T, B, and MI
3. Parking Requirements: None
4. Loading Requirements: None
5. Additional Provisions:
   a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

H. Public Recreation Center

1. Definition: A publicly owned recreational area providing recreational facilities such as playgrounds, parks, game courts, swimming pools, and playing fields.
2. Districts Permitted: By Special Review in F, A, RR, SR, MF, MH, and MI
3. Parking Requirements: One space per 200 square feet of active area
4. Loading Requirements: None
5. Additional Provisions: None

I. Ski Area

1. Definition: A recreational facility for alpine and Nordic skiing, including associated lodge buildings, ski school, eating and drinking areas, and retail sales.
2. Districts Permitted: By Special Review in F and MI
3. Parking Requirements: To be determined through Special Review
4. Loading Requirements: To be determined through Special Review
5. Additional Provisions: None

4-511 Residential Uses

A. Boarding House

1. Definition: A building or portion thereof which is used to accommodate, for compensation, three or more boarders or roomers, not including members of the occupant's immediate family who might be occupying such a building.

2. Districts Permitted: By right in MF, T, B, C, and GI

3. Parking Requirements: One space per bedroom

4. Loading Requirements: None

5. Additional Provisions: None

B. Group Care or Foster Home

1. Definition: A facility which provides 24-hour care or supervision of persons who are not related by blood, marriage, or adoption, to the owner, operator, or manager thereof, and who do not meet the definition of family under this Code. A Group Care or Foster Home may be operated by a public, nonprofit, or private agency.

2. Districts Permitted: By Special Review F, A, RR, ER, SR, MF, MH, MI, T, and B

3. Parking Requirements: To be determined through Special Review

4. Loading Requirements: None

5. Additional Provisions:

a. This use shall also be granted and maintain all applicable local, state, and federal permits.

C. Manufactured Home Park

1. Definition: A parcel of land upon which two or more manufactured homes, occupied or intended to be occupied for dwelling purposes, are located.

2. Districts Permitted: By right in MH

3. Parking Requirements: Two off-street parking spaces must be provided for each manufactured home space involved in a substantial modification to an existing manufactured home park.

4. Loading Requirements: None

5. Additional Provisions:

a. Required Park Inventory Report

(i) Any manufactured home park which has received Special Review approval for the park is not required to submit a park inventory report. Any such manufactured home park shall be considered to be a use by right at the level of development and on the conditions set forth through Special Review. The Special Review approval shall become the governing park inventory report for the park.

(ii) The park inventory report shall include the following information:

(A) A site plan at a scale of 1' to 100 feet showing the acreage covered by the existing manufactured home park; the number, location, and size of all manufactured home spaces; the location and width of roadways and sidewalks or other pedestrian ways; the location and size of vehicular parking lots and recreation areas and amenities; and the location of service buildings and any accessory structures.

(B) An inventory of the existing manufactured homes located in the park, including serial and/or VIN number; model type and description; date of manufacture; and identification of space on which each home is located.

(C) Documentation showing source of water supply, and methods used for sanitation, garbage disposal, and fire protection, including but not necessarily limited to evidence of all required governmental or quasi-governmental approvals, licenses, and conditions of service.

(D) Additional information as may be reasonably requested by the Director to enable him to determine and document the existing level and type of development within the park.

b. Substantial Modifications to Existing Manufactured Home Parks

(i) The substantial modification of a manufactured home park from the level of use defined in the park inventory report requires an amendment to that report. A substantial modification includes (1) any increase in the number of manufactured homes or home spaces within the park; (2) any change in the location or configuration of manufactured homes or home spaces within the park; (3) any addition of structures to service the park residents; (4) any change in the type or level of public services servicing the park; and (5) any other change which alters the basic character, layout, or the intensity of use of or in the park.

(ii) Process for Approving Substantial Modification through Amendment of park inventory report

(A) No substantial modification of an existing manufactured home park may occur unless the owner of the park submits a complete application to the Director for administrative approval of an amendment to the park inventory report. This application shall sufficiently describe the requested amendment, and shall attach all information required for the park inventory report under Paragraph 4-511(5)(a)(ii), above, and any additional information necessary to address the applicable criteria set forth below.

(B) The Director shall refer the application to all appropriate referral agencies and all interest holders in the subject property, as identified in the title report supplied by the applicant for this purpose.

(C) The Director shall have the discretion to approve, conditionally approve, or disapprove the application, in a written decision mailed to the applicant, subject to the approval standards listed below, and based upon an entire review of the materials submitted by the applicant and the referral responses.

(D) Any final written decision of the Director may be appealed by any interested party to the Planning Commission for a de novo public hearing, provided that such an appeal is filed in writing with the Director no later than 30 days after the date of his decision. Any interested party may appeal from the Planning Commission decision for a de novo public hearing before the Board of County Commissioners, provided that such as appeal is filed in writing with the Director no later than 30 days after the date of the Planning Commission's decision.

(iii) No application to amend a park inventory report shall be approved unless the Director determines that the following standards have been met for the proposed amendment:

(A) Any increase in the number of manufactured homes or home spaces shall not result in more than eight manufactured homes per gross acre being located on the subject parcel.

(B) Any development or activity proposed by the amendment shall be capable of being serviced by the park's existing services.

(C) A minimum of 14 feet shall be provided between any manufactured homes involved in the proposed amendment, and all such homes must be located on a designated manufactured home space.

(D) Existing streams, other water bodies or wetland areas, and plant and wildlife habitat, shall be preserved to the maximum extent possible.

(E) The proposed change shall not cause any fire or other safety hazard.

(F) At least two off-street parking spaces per manufactured home involved in the proposed amendment shall be provided.

(G) Adequate open space or developed recreation areas shall be provided to serve the residents of the manufactured home park affected by the proposed amendment. At least 12 per cent of the area involved in the amendment shall be dedicated to private park or resident recreational use.

(H) A landscaping plan shall be approved to ensure that adequate screening, shade, and vegetation are provided.

(iv) The applicant must provide a satisfactory financial guarantee to the County to insure that all necessary public improvements are provided.

c. No new, additional, or replacement manufactured home, or any other form of manufactured housing or structure, including but not limited to camper trailers, shall be brought into or located within any manufactured home park for dwelling purposes, unless it meets the definition of manufactured home as set forth in Article 18 of this Code.

D. Multifamily Dwelling

1. Definition: A building which is occupied or which is arranged, designed, and intended to be occupied, by two or more families, and contains more than one dwelling unit, but not including hotels, motels, or boarding houses.
2. Districts Permitted: By right in MF and T
3. Parking Requirements: Two spaces per unit; units dedicated to elderly, 0.5 spaces per unit.
4. Loading Requirements: None
5. Additional Provisions:
   a. Approval under the Subdivision Regulations is required prior to the development of multifamily dwellings.

E. Single Family Dwelling

1. Definition: A detached building which is occupied or which is arranged, designed, and intended to be occupied, by not more than one family, and which contains not more than one dwelling unit.
2. Districts Permitted: By right in all districts
3. Parking Requirements: Two spaces
4. Loading Requirements: None
5. Additional Provisions: None

4-512 Retail and Personal Service Uses

A. Bank

1. Definition: A financial institution for the extension of credit, and the custody, loan, or exchange of money which may have drive through service.

2. Districts Permitted: By right in B, C, and GI

3. Parking Requirements:

a. One space per 333 square feet of floor area

b. Five stacking spaces per drive up window or station

4. Loading Requirements: None

5. Additional Provisions: None

B. Building Material or Garden Store

1. Definition: A facility for the sale of home, lawn, and garden supplies; landscaping materials; plants; brick; lumber; and other similar materials. This use may include the outside storage of materials.

2. Districts Permitted: By right in C and GI; by Special Review in T

3. Parking Requirements: One space per 200 square feet of sales area

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area

5. Additional Provisions:

a. This use shall also be granted and maintain all applicable local, state, and federal permits.

C. Convenience Store

1. Definition: Any retail establishment selling consumer products including primarily prepackaged food and household items, having a gross floor area of less than 5,000 square feet. A convenience store may also have associated retail sale of gasoline and other petroleum products.

2. Districts Permitted: By right in B, C, and GI

3. Parking Requirements:

a. One space per 200 square feet of floor area

b. One stacking space per gas pump

4. Loading Requirements: None

5. Additional Provisions: None

D. Day Care Center

1. Definition: A facility which provides less than 24-hour care or supervision for nine or more persons who are not related by blood, marriage, or adoption to the owner, operator, or manager, whether such facility operates at day or night, with or without compensation for such care, and with or without stated educational purpose.

2. Districts Permitted: By right in B, C, LI, and GI; by Special Review A, RR, ER, SR, MF, MH, MI, and T

3. Parking Requirements: One space per employee plus one space per 200 feet of floor area, or as determined through Special Review

4. Loading Requirements: None

5. Additional Provisions:

a. This use shall also be granted and maintain all applicable local, state, and federal permits.

E. Eating or Drinking Place, with drive through service

1. Definition: An establishment for the sale and consumption of food and beverages on the premises, which includes drive through service.

2. Districts Permitted: By Special Review in T, B, C, and GI

3. Parking Requirements:

a. One space per 75 square feet of floor area

b. Eight stacking spaces per drive up window or station

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area

5. Additional Provisions: None

F. Eating or Drinking Place, without drive through service

1. Definition: An establishment for the sale and consumption of food and beverages on the premises, which does not include drive through service. This may include small scale accessory beverage processing such as wineries, nanobreweries and microdistilleries.

2. Districts Permitted: By right in B, C, and GI; by Special Review in T

3. Parking Requirements: One space per 75 square feet of public seating area

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area

5. Additional Provisions:

a. Small scale food and beverage processing means less than 3,000 square feet of processing or manufacturing area.

G. Emergency Care Facility

1. Definition: A health-care facility, providing primarily outpatient emergency care for the diagnosis and treatment of individuals.

2. Districts Permitted: By right in B, C, LI, and GI

3. Parking Requirements: One space per 330 square feet of floor area

4. Loading Requirements: None

5. Additional Provisions: None

H. Indoor Theater

1. Definition: A facility for showing motion pictures, video, or staging theatrical performances to an audience, inside an enclosed structure.

2. Districts Permitted: By right in B, C, and GI

3. Parking Requirements: One space per 30 square feet of floor area or one space per three fixed seats, whichever is greater

4. Loading Requirements: None

5. Additional Provisions: None

I. Marijuana Establishment

1. Definition: Any location where more than six (6) plants are cultivated, produced, tested or distributed as authorized pursuant to Section 14 and Section 16 of Article XVIII of the Colorado Constitution and other applicable state law. This use includes the following:

a. Marijuana store

b. Marijuana-infused products manufacturing;

c. Optional premises cultivation or retail marijuana cultivation facility;

d. Marijuana testing and/or research facility.

e. Primary caregiver;

f. Personal cultivation.

2. Districts Permitted: By right in T, B, C, LI, and GI.

3. Parking Requirements:

a. One space per 200 square feet of floor area used for office, sales, or personal service operations.

b. One space per 1,000 square feet of floor area used for used for cultivating and research and/or testing facilities.

4. Loading requirements: One loading space for 10,000 or more square feet of floor area.

5. Additional Provisions:

a. This use must obtain and maintain all necessary state and local permits and licenses. Regardless of when they are established, businesses operating for the purpose of cultivation, manufacture, or sale of marijuana or marijuana-infused products, as defined in the Colorado Medical Marijuana Code, C.R.S. §12-43.3-101, et. seq., and the Colorado Retail Marijuana Code, C.R.S. §12-43.4-101, et. seq. ("the Codes"), are and will be subject to the provisions and limitations stated in those Codes. These provisions and limitations include those in the legislation, and any state and County requirements promulgated under the legislation. Such businesses or uses, even if allowed under this Section 4-512.I or prior provisions of this Code, are subject to termination if they cannot meet the requirements of, or legally operate pursuant to the Codes.

b. This use may include the accessory sale of products containing marijuana to the extent authorized by applicable state law.

c. Except in the LI and GI Zoning Districts, this use shall not be located within 500 feet of another Marijuana Establishment (including a Marijuana Establishment in the unincorporated County or a substantially similar facility in an adjacent municipality or county), as measured from the closest point of the subject parcel lines. This prohibition shall not prevent a marijuana store, marijuana-infused products manufacturing, optional premises cultivation, retail marijuana cultivation facility, or marijuana testing and/or research facility from locating with 500 feet of a primary caregiver or personal cultivation.

d. A Marijuana Store shall not be located within 1,000 feet of an alcohol or drug treatment facility, a licensed child care facility, or an educational facility with students below the college grade level (including facilities in the unincorporated County or substantially similar facilities in an adjacent municipality or county), as measured from the closest point of the subject parcel lines.

e. Marijuana-infused products manufacturing, optional premises cultivation, and marijuana testing and/or research facilities, are not subject to the above setback requirement in Subsection e., provided there is not an associated marijuana store on the same parcel.

f. Marijuana establishments shall not have a drive-through service.

g. Personal cultivation and Primary Caregiver cultivation facilities are limited to no more than 99 plants.

J. Mortuary

1. Definition: A facility where bodies are prepared for burial or cremation, which may include areas for embalming, performing of autopsies, and the storage of funeral supplies and vehicles.
2. Districts Permitted: By right in T, B, C, LI, and GI
3. Parking Requirements: One space per 200 square feet of floor area
4. Loading Requirements: None
5. Additional Provisions: None

K. Outdoor Theater

1. Definition: A facility for outdoor performances where the audience views the production from automobiles or while seated outside.
2. Districts Permitted: By right in C and GI
3. Parking Requirements: If the theater has fixed seats, one space per three fixed seats; otherwise one space per 30 square feet of floor area
4. Loading Requirements: None
5. Additional Provisions: None

L. Recycling Collection Center, Small

1. Definition: A center for the acceptance and temporary storage of recyclable materials to be transferred to a processing facility. Small Recycling Collection Centers involve no more than 3 collection containers up to 40 total cubic yards in size.
2. Districts Permitted: By right in C, LI, and GI; by limited impact special use in F, A, T and B
3. Parking Requirements: None
4. Loading Requirements: None
5. Additional Requirements:

a. This shall be considered customary and incidental to Solid Waste Transfer Facilities and commercial or retail uses that are 20,000 square feet or larger.

b. Collection centers located in parking lots, may not occupy required parking spaces. A collection center must be arranged so as to not impede traffic flow.

c. Such a center does not include power driven processing equipment.

d. The owner of the property and the operator of the collection center shall remove products stored at the site at least once a week.

e. The owner of the property and the operator of the collection center shall keep the collection center in proper repair and the exterior must have a neat and clean appearance.

f. Automated can recycling machines are limited to three per site.

M. Retail or Personal Service Facility

1. Definition: An establishment for the retail sale of merchandise or the provision of personal services, including drive through service. A retail facility includes but is not limited to antique or art shops, clothing, department, drug, dry good, florist, furniture, gift, grocery, hardware, hobby, office supply, package liquor, paint, pet, shoe, sporting, or toy stores. A personal service facility includes but is not limited to barber or beauty shop, dry cleaners, optometrist shop, photographic studio, or travel bureau.
2. Districts Permitted: By right in B, C, and GI
3. Parking Requirements:
   - **a.** One Space per 200 square feet of floor area
   - **b.** Five stacking spaces per drive up window or station
4. Loading Requirements: One loading space for 10,000 or more square feet of floor area
5. Additional Provisions: none

N. Vehicle Service Center

1. Definition: A facility for the retail sale of fuel for vehicles and/or where light maintenance or vehicle service activities such as engine tune-ups, lubrication, minor repairs, recharge of electrical vehicles, and carburetor cleaning are conducted.
2. Districts Permitted: By right in B, C, and GI
3. Parking Requirements:
   - **a.** One Space per gas pump, plus two spaces per service bay
   - **b.** One stacking space per service bay and car wash bay
4. Loading Requirements: none
5. Additional Provisions:.
   - **a.** A one bay car wash may be accessory to the vehicle service center.
   - **b.** Electric vehicle recharge stations built in conjunction with and accessory to homes or businesses that are for use by the owners, employees, or customers of the homes or businesses shall not be considered Vehicle Service Centers.

O. Veterinary Clinic, with outdoor holding facilities

1. Definition: A facility for the diagnosis, treatment, hospitalization, and harboring of animals, which includes outdoor holding facilities.
2. Districts Permitted: By right in A, B, C, and GI
3. Parking Requirements: One space per 330 square feet of floor area
4. Loading Requirements: None
5. Additional Provisions:
   - **a.** Setback Requirements...300 feet from all lot lines

P. Veterinary Clinic, without outdoor holding facilities

1. Definition: A facility for the diagnosis, treatment, hospitalization, and harboring of animals, which does not include outdoor holding facilities.
2. Districts Permitted: By right in A, T, B, C, LI, and GI; by Special Review in F, RR and ER
3. Parking Requirements: One space per 330 square feet of floor area
4. Loading Requirements: None
5. Additional Provisions: None

4-513 Transportation Uses

A. Airport

1. Definition: Areas used for the landing and take off of aircraft, and any appurtenant areas which are intended for use as airport buildings or other airport facilities. Such facilities may include land and buildings necessary or convenient for the accommodation of the public, including but not limited to parking, retail, dining, hotel, and training facilities.
2. Districts Permitted: By Special Review in A, T, B, C, LI, and GI
3. Parking Requirements: One space per 200 square feet of terminal building floor area
4. Loading Requirements: One loading space for 10,000 or more square feet of floor area
5. Additional Provisions: None

B. Heliport

1. Definition: Any designated area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling, and emergency service facilities.
2. Districts Permitted: By Special Review in F, A, T, B, C, LI, and GI
3. Parking Requirements: One space per 200 square feet of terminal building floor area, with a minimum of 5 spaces
4. Loading Requirements: One loading space for 10,000 or more square feet of floor area
5. Additional Provisions: None

C. Helistop

1. Definition: Any designated area used for the landing and taking off of helicopters for the purpose of picking up or discharging passengers or cargo. This use does not include fueling, refueling, or service facilities.
2. Districts Permitted: By Special Review in F, A, MF, T, B, C, LI, and GI
3. Parking Requirements: Five spaces
4. Loading Requirements: None
5. Additional Provisions: None

D. Park and Ride Facility

1. Definition: A parking area and transit facility the purpose of which is to allow the parking of motor vehicles with a connection to mass transit service.
2. Districts Permitted: By Special Review in all districts
3. Parking Requirements: To be determined through Special Review
4. Loading Requirements: To be determined through Special Review
5. Additional Provisions: None

4-514 Utility and Public Service Uses

A. Central Office Building of a Telecommunication Company

1. Definition: An above ground structure which is in excess of eight feet in height which shelters telecommunications facilities required as an operating unit, including but not limited to the switch or other facilities used to establish connections between customer lines or between lines and trunk or toll lines to other central offices.

2. Districts Permitted: By review through areas and activities of state interest in all districts

3. Parking Requirements: To be determined through review

4. Loading Requirements: None

5. Additional Provisions: None

B. Community Cistern

1. Definition: An underground water storage container with a capacity of over 5,000 gallons, operated by a municipality or fire district or department, which contains water utilized exclusively for fire protection.

2. Districts Permitted: By Limited Impact Special Review in all districts unless waived by the Director.

3. Parking Requirements: To be determined through Limited Impact Special Review

4. Loading Requirements: None

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

b. Any above ground water storage facility with a capacity over 5,000 gallons is required to meet the requirements of Section 4-514(M) or 4-514(N), as applicable.

c. The requirement for Limited Impact Special Review may be waived if the Director determines the community cistern will not have an impact on significant environmental or cultural resources identified in the Comprehensive Plan and that there is no potential for any significant conflict with the criteria listed in Article 4-601 of this Code. In considering this determination, the Director shall notify adjacent property owners. The Director shall not issue the determination for seven days and shall consider any comments received from the public.

C. Fire Barn

1. Definition: A facility operated by a municipality, fire district, or department which houses fire equipment.

2. Districts Permitted: By Limited Impact Special Review in all districts

3. Parking Requirements: To be determined through Limited Impact Special Review

4. Loading Requirements: None

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

D. Fire Station

1. Definition: A facility operated by a municipality, fire district, or department which houses fire equipment and may be used for the housing of personnel and associated meetings.

2. Districts Permitted: By Special Review in all districts

3. Parking Requirements: To be determined through Special Review

4. Loading Requirements: None

5. Additional Provisions: None

E. Gas and/or Hazardous Liquid Pipelines

1. Definition: Pipelines for the collection and transmission of natural gas or other hazardous liquids.

2. Districts Permitted: In all districts by Limited Impact Special Review, or review under Article 8 (areas and activities of state interest), as applicable. Gathering lines and flow lines which are part of new oil and gas development and which are located on the same parcel or parcels as the well head, pumping units, tanks and/or treaters will be subject to Development Plan Review under Article 12 of this Code.

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

b. Flow lines, gathering lines, and transmission lines shall be buried and shall be sited a minimum of fifty (50) feet away from general residential, commercial, and industrial buildings, as well as the high-water mark of any surface water body. This distance shall be measured from the nearest edge of the pipeline. Pipelines and gathering lines that pass within 150 feet of general residential, commercial, and industrial buildings or the high water mark of any surface water body shall incorporate leak detection, secondary containment, or other mitigation, as appropriate.

c. To the maximum extent practicable, pipelines should be aligned with established roads in order to minimize surface impacts and reduce habitat fragmentation and disturbance.

d. To the maximum extent practicable, Applicants shall share existing pipeline rights-of-way and consolidate new corridors for pipeline rights-of-way to minimize surface impacts.

e. Applicants shall use boring technology or alternative director-approved most effective performance techniques and practices when crossing streams, rivers or irrigation ditches with a pipeline to minimize negative impacts to the channel, bank, and riparian areas.

f. During pipeline construction for trenches that are left open for more than five (5) days and are greater than five (5) feet in width, install wildlife crossovers and escape ramps where the trench crosses well-defined game trails and at a minimum of one-quarter (1/4) mile intervals where the trench parallels well-defined game trails.

g. The Department may require an Applicant for a pipeline to provide a risk-based engineering study for all or part of its proposed pipeline right of way that may require the implementation of more stringent construction or operation standards or space between the pipeline and other structures.

F. Large Solar Energy System

1. Definition: A system composed of a solar energy collector which may include an energy storage facility, and components for the transmission and distribution of transformed energy, and which may be used for one or more users.

2. Districts Permitted: By Special Review in GI, LI, C, A, F if the system has a rated capacity greater than 2 MW but does not meet the Land Use Code definition of Power Plant

3. Parking Requirements: To be determined through the review

4. Loading Requirements: None

5. Additional Provisions:

a. This use is required to be located on a building lot or an outlot platted for this purpose.

b. Ground-mounted solar energy collectors may not be located within utility easements or ditch easements unless authorized in writing by the easement holder.

c. This use shall not have a significant adverse visual impact on the natural features or neighborhood character of the surrounding area and shall be located to minimize glare on adjacent properties and roadways.

d. This use is permitted in the Agricultural or Forestry zone districts will be permitted only if the area used has been contaminated or damaged making it unsuitable for agricultural, forestry, or residential uses. These areas may include former landfills, brownfields, Superfund sites, and the like.

e. This use cannot be located on areas with the following Boulder County Comprehensive Plan designations: Agricultural Lands of National Importance, Agricultural Lands of Statewide Importance, Agricultural Lands of Local Importance, Natural Landmarks and Areas, or Critical Wildlife Habitats.

f. Roof-mounted systems proposed as a principal use may be mounted on any legal structure, subject to review through the building permit process. Roof-mounted systems shall be mounted as flush as possible to the roof. In order to achieve proper solar orientation, panels may exceed the roofline by up to five feet or the maximum height of the zone district by up to five feet (whichever is more restrictive).

g. Applications shall be reviewed with special consideration given to lands identified as Open Corridor, Roadside in the Boulder County Comprehensive Plan.

G. Major Facility of a Public Utility

1. Definition: Any electric transmission lines, power plants, or substations of electric utilities; major gas regulator stations, transmission and gathering pipelines, and storage areas of utilities providing natural gas or petroleum derivatives; and their appurtenant facilities.

2. Districts Permitted: By review under the regulation of areas and activities of state interest, or Special Review and location and extent review in all districts. Power plants by review under the regulation of areas and activities of state interest in GI, LI, C, A, F

3. Parking Requirements: To be determined through the review

4. Loading Requirements: None

5. Additional Provisions:

a. With the exception of power plants, this use is not required to be located on a building lot, nor comply with the minimum lot size requirement for the district in which it is located.

b. Power plants are required to be located on a building lot.

c. Power plants in the Agricultural or Forestry zone districts will be permitted only if the area used has been contaminated or damaged making it unsuitable for agricultural, forestry, or residential uses. These areas may include former landfills, brownfields, Superfund sites, and the like.

d. Power plants cannot be located on areas with the following Boulder County Comprehensive Plan designations: Agricultural Lands of National Importance, Agricultural Lands of Statewide Importance, Agricultural Lands of Local Importance, Natural Landmarks and Areas, or Critical Wildlife Habitats.

e. Applications for power plants shall be reviewed with special consideration given to lands identified as Open Corridor, Roadside in the Boulder County Comprehensive Plan.

H. Medium Solar Energy System or Solar Garden

1. Definition: A system composed of a solar energy collector which may include an energy storage facility, and components for the transmission and distribution of transformed energy, and which may be used for one or more users.

2. Districts Permitted: By Special Review in GI, LI, C, A, F if the rated capacity of the system will be at least 500 kW but not more than 2 MW

3. Parking Requirements: To be determined through the review

4. Loading Requirements: None

5. Additional Provisions:

a. This use is required to be located on a building lot or an outlot platted for this purpose.

b. Ground-mounted solar energy collectors may not be located within utility easements or ditch easements unless authorized in writing by the easement holder.

c. This use shall not have a significant adverse visual impact on the natural features or neighborhood character of the surrounding area and shall be located to minimize glare on adjacent properties and roadways.

d. Medium solar energy systems in the Forestry zone district will be permitted only if the area used has been contaminated or damaged in the past making it unsuitable for agricultural, forestry, or residential uses. These areas may include former landfills, brownfields, Superfund sites, and the like.

e. Medium solar energy systems cannot be located on areas with the following Boulder County Comprehensive Plan designations: Agricultural Lands of National Importance, Agricultural Lands of Statewide Importance, Agricultural Lands of Local Importance, Natural Landmarks and Areas, or Critical Wildlife Habitats.

f. Applications shall be reviewed with special consideration given to lands identified as Open Corridor, Roadside in the Boulder County Comprehensive Plan.

g. Roof-mounted systems proposed as a principal use may be mounted on any legal structure, subject to review through the building permit process. Roof-mounted systems shall be mounted as flush as possible to the roof. In order to achieve proper solar orientation, panels may exceed the roofline by up to five feet or the maximum height of the zone district by up to five feet (whichever is more restrictive).

I. Public or Quasi-public Facility Other Than Listed

1. Definition: A public or quasi-public facility other than those specified in this Section 4-514.

2. Districts Permitted: By Special Review in all districts

3. Parking Requirements: To be determined through Special Review

4. Loading Requirements: To be determined through Special Review

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

b. Electric transmission lines are not required to comply with the height requirement for the district in which it is located.

J. Public Safety Telecommunication Facility

1. Definition: A facility owned and/or operated by a governmental agency or a volunteer public safety agency officially sanctioned by a government agency for that purpose, utilized for the transmission and reception of electromagnetic or electro-optic information for public safety communication uses.

2. Districts Permitted: By Limited Impact Special Review in all districts

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

K. Sewage or Water Transmission Lines

1. Definition: Pipelines used for the transport of water or sewage.

2. Districts Permitted: By review under the regulation of areas and activities of state interest or location and extent review in all districts

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

L. Sewage Treatment Facility

1. Definition: A facility for the collection, treatment, and disposal of sewage, which has a designed capacity to receive more than 2000 gallons of sewage per day.

2. Districts Permitted: By review under the regulation of areas and activities of state interest, or Special Review and location and extent review in all districts

3. Parking Requirements: To be determined through the review

4. Loading Requirements: None

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

M. Small Solar Energy System or Solar Garden

1. Definition: A system composed of a solar energy collector which may include an energy storage facility, and components for the transmission and distribution of transformed energy.

2. Districts Permitted: By Site Plan Review in all districts if the system will have a rated capacity of 100 kW or less. By Limited Impact Special Review in all districts if the system will have a rated capacity greater than 100 kW but less than 500 kW.

3. Parking Requirements: To be determined through the review

4. Loading Requirements: None

5. Additional Provisions:

a. This use is required to be located on a building lot or an outlot platted for this purpose.

b. If necessary for the system's effectiveness, ground-mounted solar energy collectors may be located within the minimum lot line setbacks for the subject property zoning district and within any applicable major road supplemental setback without the need for a variance, provided that the solar energy collector is located no less than five feet from lot lines and no less than 15 feet from road rights-of-way.

c. Ground-mounted solar energy collectors may not be located within utility easements or ditch easements unless authorized in writing by the easement holder.

d. This use shall not have a significant adverse visual impact on the natural features or neighborhood character of the surrounding area and shall be located to minimize glare on adjacent properties and roadways.

e. Applications shall be reviewed with special consideration given to lands identified as Environmental Resources and Open Corridor, Roadside in the Boulder County Comprehensive Plan.

f. If larger than 100 kW, this use cannot be located on areas with the following Boulder County Comprehensive Plan designations: Agricultural Lands of National Importance, Agricultural Lands of Statewide Importance, Agricultural Lands of Local Importance, Natural Landmarks and Areas, or Critical Wildlife Habitats.

g. Roof-mounted systems proposed as a principal use may be mounted on any legal structure, subject to review through the building permit process. Roof-mounted systems shall be mounted as flush as possible to the roof. In order to achieve proper solar orientation, panels may exceed the roofline by up to five feet or the maximum height of the zone district by up to five feet (whichever is more restrictive).

N. Small Wind-Powered Energy System

1. Definition: A wind energy conversion system which may include a wind turbine and blades, a tower, and associated control or conversion electronics.

2. Districts Permitted: By Site Plan Review Waiver in all districts if the height does not exceed the maximum height of the zone district. By Site Plan Review in all districts if the height is greater than the maximum height of the zone district and does not exceed 80 feet.

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. As a principal use, this use must be located on a building lot or an outlot platted for this purpose. As an accessory use, this use must be located on a building lot if the principal use requires a building lot.

b. This use may be considered accessory, that is, customary and incidental to a principal use when its primary purpose is to reduce consumption of utility power on the parcel on which it is located.

c. The minimum setback from any property line, right-of-way, roadway easement, or public trail shall be a distance no less than 1 times the system's highest point unless the adjacent property owner(s) grants written permission for a lesser setback. In addition to the system's structures, guy wires associated with towers shall meet applicable setbacks for the zone district.

d. The maximum height of a wind energy system shall not exceed 80 feet in height, and no variance may be granted to exceed this maximum height limit. Structure height is the vertical distance from any part of the structure (including blades) to the existing or natural grade. A system that exceeds the applicable height limit of the zone district in which it is located will not be approved, unless the applicant demonstrates through competent information, such as anemometer data or National Renewable Energy Laboratory mapping, that the proposed site provides sufficient wind potential to justify a taller system, and that the other requirements for this use and review criteria can be met.

e. Applications shall be reviewed according to the required review criteria based on the height of the structure with special consideration to:

(i) Comprehensive Plan designations. This use shall not have a significant adverse visual impact on the natural features or neighborhood character of the surrounding area. Particular consideration to view protection shall be given to proposals that would be visible from areas designated Peak-to-Peak Scenic Corridor, Open Corridor – Roadside, and areas within the Natural Landmarks and Natural Areas and buffers as designated in the Boulder County Comprehensive Plan.

(ii) Visual impacts. Colors and surface treatment of the installation shall be as neutral and non-reflective as possible with muted colors on all surfaces. Graphics, signs and other decoration are prohibited.

f. Tower structure lighting is prohibited.

g. If this use ceases to perform its originally intended function for more than 18 consecutive months, the system shall be removed and adequate site restoration performed no later than 90 days after the end of the 18-month period.

h. Prior to approving an application for a small wind-powered energy system, staff may require the applicant to show that no other less obtrusive form of renewable energy device is feasible under the circumstances.

O. Telecommunications Facility, utilizing an existing structure and meeting the height requirements of the district in which the facility is located

1. Definition: A facility used for the transmission or reception of electromagnetic or electro-optic information, which is placed on an existing structure, may or may not require accessory structures, and meets the height requirements of the district in which it is located. This use does not include any other use listed in this Code, devices not used for communication, or radio frequency machines which have an effective radiated power of 100 watts or less.

2. Districts Permitted: By right in all districts

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

b. A separate accessory equipment building is allowed as long as it is no more than 10% of the gross floor area of all existing permitted structures on the parcel or 450 square feet, whichever is less.

c. Site Plan Review is required for this use.

P. Telecommunications Facility, requiring a new structure or accessory structure exceeding the height limitation of the district in which the facility is located, or exceeding the accessory building size limitations set forth in subsection (L) immediately above.

1. Definition: A facility used for the transmission or reception of electromagnetic or electro-optic information, which is placed on a new structure, requires accessory structures, or exceeds the height requirements of the district in which it is located. This use does not include any other use listed in this Code, devices not used for communication, or radio frequency machines which have an effective radiated power of 100 watts or less.

2. Districts Permitted: By Special Review in all districts

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. In addition to the general requirements for approval of a special use permit, telecommunication facilities shall also be subject to the requirements outlined in Section 4-600 of this Code.

b. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

Q. Utility Service Facility

1. Definition: Any electrical distribution lines, natural gas distribution lines, minor gas regulator stations, cable television lines, telegraph and telephone lines, or other minor service facilities.

2. Districts Permitted: By right in all districts

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

b. No buildings shall be associated with this use.

c. This use is limited to the following sizes:

(i) gas lines less than 12 inches; and

(ii) electric lines of less than 115,000 volts.

R. Water Reservoir

1. Definition: An area of land where water rights are retained or an area intended for water storage.

2. Districts Permitted: By review under the regulation of areas and activities of state interest, or Special Review and location and extent review in all districts

3. Parking Requirements: To be determined through the review

4. Loading Requirements: None

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

b. This use does not include reservoirs used primarily for agricultural purposes. Agricultural purposes include but are not limited to stock watering ponds, irrigation reservoirs, and fish farms. Any reservoir used primarily for agricultural purposes may also be used for incidental noncommercial recreational, piscatorial and wildlife purposes by the owners of the reservoir.

S. Water Tank or Treatment Facility

1. Definition: A facility, excluding community cisterns, with a capacity of 5,000 gallons or more for purifying, supplying, and holding water.

2. Districts Permitted: By review under the regulation of areas and activities of state interest, or Special Review and location and extent review in all districts

3. Parking Requirements: To be determined through the review

4. Loading Requirements: None

5. Additional Provisions:

a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located.

b. This use shall also be granted and maintain all applicable local, state, and federal permits.

4-515 Warehouse Uses

A. Personal Storage Facility

1. Definition: A facility for storage of personal items in individual units, bins, rooms, or containers
2. Districts Permitted: By right in C, LI, and GI
3. Parking Requirements: One space per 20 units
4. Loading Requirements: None
5. Additional Provisions: Any unit, bin, room, or container must be a permanent structure.

B. Warehouse and Distribution Center

1. Definition: A building used primarily for the inside storage and distribution of goods and materials, which includes land and buildings used as a relay station for the transfer of goods from one vehicle or party to another, and the parking and storage of tractor and/or other trailer units.
2. Districts Permitted: By right in LI and GI
3. Parking Requirements: One space per 1,000 square feet of floor area
4. Loading Requirements: One loading space for 10,000 or more square feet of floor area
5. Additional Provisions: The parking and storage of tractor and/or other trailer units does not allow the storage either of empty inoperable trailers or trailers as storage units themselves.

4-516 Accessory Uses

An accessory use must be a use customarily incidental to and on the same parcel as the main use. A use listed in 4-500 may be an accessory use if the Director determines that the use is customarily incidental to a main use. Except as provided in this article, an accessory use must comply with all regulations applicable to the main use.

A. Accessory Agricultural Sales

1. Definition: A location for the retail sale or wholesale of agricultural or horticultural products which are grown on-site. Nonagricultural and nonhorticultural products and products which are not grown on-site may comprise no more than ten percent of total annual sales.

2. Districts Permitted: By right in F, A, RR on unsubdivided land, ER, LI, GI, and MI; By Limited Impact Special Review in RR (subdivided) unless waived by the Director.

3. Parking Requirements: Vehicles should be accommodated on-site. On street parking may be permissible with review and approval from the Transportation Department.

4. Loading Requirements: Sufficient to accommodate the use

5. Additional Provisions:

a. For purposes of this use, the term "on-site" means agricultural and horticultural products that are grown on parcels under the same ownership, lease or control as the parcel where the Accessory Agricultural Sales use is located.

b. Agricultural or horticultural products grown on the farm may be processed on the farm to create a value-added product provided the majority of the ingredients are grown on-site.

c. A commercial kitchen for the express purpose of processing agricultural products may be constructed. It may be used in association with a Demonstration Farm use.

d. Value-added products can be sold on-site. This may require a license from Boulder County Public Health.

e. The requirement for Limited Impact Special Review in RR subdivisions may be waived if the Director determines the Accessory Agricultural Sales will not have a negative impact on the neighborhood and that there is no potential for any significant conflict with the criteria listed in Article 4-601 of this Code. In considering this determination, the Director shall notify adjacent property owners. The Director shall not issue the determination for seven days and shall consider any comments received from the public.

B. Accessory Agricultural Structure

1. Definition: A structure that is accessory to a principal agricultural use.

2. Districts Permitted: By right in F, A, RR, ER, LI, GI, and MI

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. Accessory agricultural structures are subject to the minimum requirements of the zoning district in which they are located.

b. Accessory agricultural structures must be of a size and scale that relates to the size and scale of the agricultural use on-site. Property owners may be asked to demonstrate the agricultural use including the area where the agricultural use will take place, describe how the structure will be utilized, and discuss how the structure and its proposed size is necessary to support the agricultural use on-site. Property owners may be required to sign a zoning affidavit restricting the structure to agricultural uses.

c. For purposes of this use, the term "on-site" means parcels under the same ownership, lease or control as the parcel where the Accessory Agricultural Structure is located.

d. Structures that support the agricultural use shall not be considered Residential Floor Area. Structures that do not support an agricultural use are considered Accessory Structures and will contribute to the total Residential Floor Area on the subject parcel.

e. Agricultural structures may include barns that store animals or agricultural implements, detached greenhouses, hoop houses, indoor riding arenas, farm stands, or other accessory structures depending on their demonstrated use.

C. Accessory Beekeeping

1. Definition: Raising domestic honey bees for the purpose of collecting honey.

2. Districts permitted: By right in F, A, RR, ER, SR, LI, GI, and MI

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. Beekeeping is an Open Agricultural use.

b. Two (2) colonies are allowed per building lot in the SR zone district. (A queen and her worker bees are considered one colony.)

D. Accessory Chicken Keeping

1. Definition: Raising chicken hens primarily for the people living on the parcel.

2. Districts permitted: By right in F, A, RR, ER, SR, LI, GI, and MI

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. Keeping chickens is an agricultural use. For the F, A, RR, ER, LI, GI, and MI zone districts, the maximum number of animals on a parcel shall be determined by the animal units allowed in that zone district.

b. Building lots in the SR zone district are permitted to have as many as eight (8) hens.

c. Roosters are prohibited in the SR zone district.

d. Chicken coops are considered Accessory Agricultural Structures. See Art. 17-300.A. to determine if a building permit is required.

E. Temporary Accessory Community Meeting Facility

1. Definition: An accessory community meeting facility is the use of a legally existing Educational Facility, including its accessory structures, for meetings of community groups including, but not limited to, homeowners associations, civic groups, religious groups, philanthropic organizations and other similar groups, provided that the accessory use:

a. does not result in noise, vibration, light, odor, dust, smoke, or other air pollution causing a substantial negative impact on surrounding land uses and/or public use of public facilities in the area,

b. is clearly subordinate to the use of the lot for its principal Educational Facility use and does not change the character of the lot, including, but not limited to, possible limits on hours of use, and is otherwise subject to all restrictions applicable to the principal use except as provided herein,

c. does not include the outside storage of goods, materials, or equipment,

d. has signage limited to a nonilluminated identification sign two square feet or less in size,

e. does not produce traffic volumes exceeding that approved for the principal use, and

f. does not occur during the principal hours of operation of the principal use

2. Districts Permitted: By Special Review in all districts except F

3. Parking Requirements: Same as that required for the corresponding principal use

4. Loading Requirements: Same as that required for the corresponding principal use

5. Additional Provisions:

a. The use is limited to no more than a one year's existence on the property from the date of establishment on that property, except that the Land Use Director shall have the authority to extend this term for successive one-year terms after giving notice to property owners within 1,500 feet of the property and provided no significant opposition to continuing the use is received (and if it is, the use shall cease unless re-approved through Special Review).

b. Annually, the principal use shall submit a report to the Boulder County Land Use Department advising them of the groups who are permitted to use the property

F. Accessory Concrete or Asphalt Batch Plant

1. Definition: A facility for mixing concrete or asphalt

2. Districts Permitted: By Special Review in A, LI, and GI

3. Parking Requirements: To be determined through Special Review

4. Loading Requirements: To be determined through Special Review

5. Additional Provisions:

a. This use must comply with all applicable local, state, and federal laws and permits.

G. Accessory Dwelling

1. Definition: A dwelling unit which is accessory to a permitted principal use and which is limited to the following, allowed purposes:

a. Family care units, to be occupied by a family member who either requires some level of care or supervision from, or provides some level of care or supervision to, another family member inhabiting the principal residence.

b. Agricultural units, to be occupied by an agricultural worker or family whose help is required to support or conduct an agricultural principal use on the subject property.

c. Historical units within a landmarked structure whose purpose is to contribute to the preservation of the landmark.

2. Districts Permitted:

a. For family care units, by Limited Impact Special Review in all districts;

b. For agricultural units, by Limited Impact Special Review in the Agricultural District, and Rural Residential District on unsubdivided land; and

c. For historic units, by Limited Impact Special Review in all districts.

3. Parking Requirements: At least one off-street parking space must be provided.

4. Loading Requirements: None

5. Additional Provisions for Family Care Units.

a. The accessory dwelling may be detached from the structure housing the principal dwelling provided it is closely clustered with the principal dwelling.

b. The accessory dwelling is limited to 700 square feet in size. The Board may approve covered porches to proposed accessory dwellings which exceed these specified square footage limitations, provided that no other portion of the floor area of the proposed dwelling exceeds the specified limitation, and provided that the Board approves the additional covered porch area in accordance with the special use criteria. In no event shall any such approved covered porch area ever be enclosed.

c. A separate entrance to the accessory dwelling is allowed, but only one entrance to all dwelling units may be visible from the front property line.

d. The property owner must live on the property.

e. The owner must submit an annual report to the Land Use Department indicating that the purpose for which the accessory unit was approved has not changed, and that the unit continues to be occupied in accordance with the approval. Any impermissible change in use of the unit can result in termination of the right to occupy or use the unit.

f. The unit may only be used as approved through Special Review. If a change in use is deemed to be a substantial modification of the approval, the approval will be terminated and the unit must be removed or decommissioned.

g. A notice of these provisions will be recorded in the real property records of the Clerk and Recorder's Office for any approval granted.

6. Additional Provisions for Agricultural Worker Units.

a. The applicant shall adequately demonstrate that the property size and nature of the agricultural work on the property requires a second household for labor on-site.

b. The applicant shall adequately demonstrate that the worker is substantially employed in farming the property.

c. The applicant shall adequately demonstrate that the unit is necessary for operating the farm.

d. The accessory dwelling may be detached from the principal dwelling, provided it is either closely clustered with the principal structure or located where appropriate for the agricultural operation with which it is associated.

e. The accessory dwelling is limited to 1,800 square feet. The Board may approve covered porches to proposed accessory dwellings which exceed these specified square footage limitations, provided that no other portion of the floor area of the proposed dwelling exceeds the specified limitation, and provided that the Board approves the additional covered porch area in accordance with the special use criteria. In no event shall any such approved covered porch area ever be enclosed.

f. The property owner or a member of the owner's immediate family must work and live on the property.

g. The owner must submit an annual report to the Land Use Department indicating that the purpose for which the accessory unit was approved has not changed, and that the unit continues to be occupied in accordance with the approval. Any impermissible change in use of the unit can result in termination of the right to occupy or use the unit.

h. A notice of these provisions will be recorded in the real property records of the Clerk and Recorder's Office.

i. Agricultural accessory dwellings approved by Boulder County or legally nonconforming prior to October 19, 1994 shall be permitted to be repaired, remodeled or replaced, provided the new structure is in the same general location and does not exceed 1,800 square feet.

7. Additional Provisions for Historic Units.
   a. The accessory dwelling must occupy an existing historic structure that has been designated as a historic landmark by Boulder County.
   b. The Boulder County Commissioners (BOCC), considering a recommendation from the Historic Preservation Advisory Board (HPAB), must determine that the proposed accessory dwelling is necessary for the preservation of the landmark.
   c. The accessory dwelling is limited to the existing size of the landmarked structure except for minor additions that may be necessary for health and safety purposes and which are approved by the BOCC, considering a recommendation from the HPAB.
   d. Construction of new structures on the property cannot cause a significant negative impact on the landmark.
   e. The unit may only be used as approved through the review. If unapproved changes occur the approval will be terminated and the unit must be removed or decommissioned. Rescission of the landmark designation will automatically rescind the approval of the unit.
   f. A notice of these provisions will be recorded in the real property records of the Clerk and Recorder's Office.

H. Accessory Farm Stand
1. Definition: A location for the retail sale or wholesale of seasonal agricultural products, the majority of which are grown on-site. Agricultural products grown on-site must comprise at least 60% of total annual sales. Nonagricultural products may comprise no more than ten percent of total annual sales.
2. Districts Permitted: By Limited Impact Special Review in A, RR on unsubdivided land, ER, LI, and GI
3. Parking Requirements: Vehicles should be accommodated on-site. On street parking may be permissible with review and approval from the Transportation Department.
4. Loading Requirements: Sufficient to accommodate the use
5. Additional Provisions:
   a. For purposes of this use, the term “on-site” means agricultural and horticultural products that are grown on parcels under the same ownership, lease or control as the parcel where the Accessory Farm Stand use is located.
   b. Agricultural or horticultural products grown on the farm may be processed on the farm to create a value-added product provided the majority of the ingredients are grown on-site.
   c. A commercial kitchen for the express purpose of processing agricultural products may be constructed. It may be used in association with a Demonstration Farm use.
   d. Sales of value-added products may require a license from Boulder County Public Health.
   e. The requirement for Limited Impact Special Review may be waived if the Director determines the Accessory Farm Stand will not have a negative impact on the neighborhood or Significant Agricultural Lands and that there is no potential for any significant conflict with the criteria listed in Article 4-601 of this Code. In considering this determination, the Director shall notify adjacent property owners. The Director shall not issue the determination for seven days and shall consider any comments received from the public.

I. Accessory Horse Keeping
1. Definition: The keeping and use of horses on a parcel where such keeping and use is not the principal use of the parcel.
2. Districts Permitted: By right in F, A, RR, ER, SR, MF, MI, GI, and LI
3. Parking Requirements: None
4. Loading Requirements: None
5. Additional Provisions:
   a. The number of horses is controlled by each zoning district.
   b. The term horses shall include horses, mules, and donkeys.
   c. A minimum of one-half acre of pasture per horse is required for horse keeping in the SR and MF zoning districts.

J. Accessory Outside Storage

1. Definition: The outside placement, for a period of more than 24 hours, of items which are customary and incidental to the main use of the property.

2. Districts Permitted: By right in all districts

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. The area of placement may not exceed five percent of the lot area.

b. Items must be adequately screened from the view of adjacent roadways and properties.

c. Any unit, bin, room, or container used for storage must be a permanent structure.

d. Any vehicles or trailers shall be licensed and operable and may not be used for storage.

e. With the exception of the prohibition on using vehicles or trailers for storage, accessory outdoor storage of agricultural products and operable agricultural equipment is exempt from these additional provisions.

K. Accessory Solar Energy System

1. Definition: A system composed of a solar energy collector which may include an energy storage facility, and components for the distribution of transformed energy, which may be attached to a residence or other structure.

2. Districts Permitted: By right in all districts for roof-mounted systems. By Site Plan Review Waiver for ground-mounted systems.

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. Ground-mounted systems are considered structures and must meet applicable setbacks for the zone district except as provided in 5.d. below.

b. Ground-mounted systems shall not have a significant adverse visual impact on neighboring private and public property.

c. Roof-mounted solar energy systems shall be mounted as flush as possible to the roof. In order to achieve proper solar orientation, panels may exceed the roofline by up to five feet or the maximum height of the zone district by up to five feet (whichever is more restrictive).

d. If necessary for the system's effectiveness, ground-mounted solar energy collectors may be located within the minimum lot line setbacks for the subject property zoning district and within any applicable major road supplemental setback without the need for a variance, provided that the solar energy collector is located no less than five feet from lot lines and no less than 15 feet from road rights-of-way.

e. Ground-mounted solar energy collectors may not be located within utility easements or ditch easements.

L. Accessory Structure

1. Definition: A subordinate structure detached from, but located on, the same lot as the principal use, the use of which is incidental and accessory to that of the principal use.

2. Districts Permitted: By right in all districts

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. Any accessory structure is subject to the minimum requirements of the zoning district in which it is located.

M. Demonstration Farm or Farm Camp

1. Definition: An area of agricultural land, including accessory structures, used to demonstrate farming, ranching and agricultural practices, to assist in the evaluation of farming practices and technologies, and to increase public awareness of food production and preparation practices. This accessory use must be accessory to Open Agricultural Uses. Overnight classes and overnight camps are not permitted as part of this use.

2. Districts Permitted: By Limited Impact Special Review or by right in A and in RR on unsubdivided land (see Additional Provisions below).

3. Parking Requirements: Vehicles should be accommodated on-site. On street parking may be permissible with review and approval from the Transportation Department.

4. Loading Requirements: Sufficient to accommodate the use on-site.

5. Additional Provisions:

a. Classes of farm camps for 8 or fewer people per day are allowed by right.

b. Classes or farm camps for more than 8 people are allowed by Limited Impact Special Review.

c. A related structure, including a classroom or kitchen for food preparation, may be approved as part of the Demonstration Farm use.

d. A building lot is required for this use.

e. All farm camps for children must provide a copy of their child care license or a written exemption from the Colorado Department of Human Services to the Land Use Department regardless of the number of children participating in the camp

N. Farm Events

1. Definition: A use accessory to a farm consisting of any group between 26 and 99 individuals assembled for or participating in an event where the farm is used as a venue. The purpose of this use is to allow commercial farms the opportunity to showcase their farm and crops, introduce their customers to the farm, demonstrate their farming practices, and host community-oriented events that provide marketing opportunities to the farm and help diversify farmers' incomes in a way that is low-impact on the land and neighboring property owners. This includes farm-to-table dinners, weddings, wedding receptions, and any other gathering where eating and socializing occurs where the majority of the food served at the event is made with ingredients grown or raised in Boulder County or by the host farmer(s).

2. Districts Permitted: By right or Limited Impact in A, RR unsubdivided

3. Parking Requirements: Vehicles should be accommodated on-site. On street parking may be permissible with review and approval from the Transportation Department.

4. Loading Requirements: None

5. Additional Provisions

a. This use requires a building lot.

(i) Parcels that are not building lots may host farm-to-table dinners only.

b. Open Agriculture must be the principal use of the parcel.

c. The review process required is based on the frequency of events:

(i) By right: No more than six (6) Farm Events per calendar year.

(ii) By right: If Home Events also occur on a parcel where Farm Events occur, not more than 12 total events (including a maximum of six Farm Events) may occur per calendar year.

(iii) By Limited Impact Special Review: Seven (7) to 12 Farm Events per calendar year.

(iv) Thirteen (13) or more Farm Events per calendar year will be considered a Reception Halls and Community Meeting Facilities use.

d. This use must occur on a parcel large enough to accommodate the use, parking, and sanitary facilities in a manner that does not negatively impact the neighboring parcels and traffic and the principal use of the parcel itself.

e. No event will occur before 9 a.m. or after 10 p.m.

f. Building new Floor Area or utilizing existing Floor Area for these events is prohibited under this use classification. Utilization of structures that meet the definition of Floor Area would be considered a Reception Halls and Community Meeting Facilities use.

g. This use shall also be granted and maintain all applicable local, state, and federal permits. It is possible separate permits or approvals may be required by County or State agencies for any food or drink provided. The applicant should contact the applicable agencies well in advance of the event to ensure adequate time for processing any applications, including Boulder County Public Health regarding requirements for food service handling and the County Commissioners' Office regarding requirements for Liquor Permits, County Transportation Department for Special Events that utilize or impact County Right-of-Way, and Parks and Open Space for Events or Group Gatherings on Parks and Open Space -owned property.

O. Grading of more than 500 Cubic Yards

1. Definition: Movement of more than 500 cubic yards of material, with the following exceptions:

a. normal grading activity associated with agriculture, allowed mining activity, or foundation construction.

b. normal grading activity associated with trail or road construction by a governmental entity on publicly acquired open space land in accordance with an open space management plan approved by the Board of County Commissioners.

2. Districts Permitted: By Limited Impact Special Review in all districts

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. While it may be exempt from these provisions, grading which impacts a floodplain is not exempt from applying for and receiving a Floodplain Development Permit.

b. Normal agricultural grading that is exempt from the definition of this use includes but is not limited to: tilling fields, creating or altering irrigation ditch laterals, field leveling, field access roads for agricultural purposes, and other activities associated with farming and agricultural operations. Agricultural grading does not include terraforming for aesthetic purposes, landscaping ponds, altering wetlands, or other non-essential grading.

c. Ponds to be constructed at a depth of more than 24" must obtain a grading permit prior to construction. Ponds used to store/hold water for agricultural purposes (stock ponds, irrigation ponds) shall be exempt from the Site Plan Review or Limited Impact Special Review process (unless they require a Floodplain Development Permit).

P. Home Events

1. Definition: A use accessory to a principal residential use consisting of any group between 26 and 99 individuals total, assembled for or participating in an event where

a. The group is assembled for live music, broadcast music, or other commercial entertainment on a property where a fee or financial donation is requested from attendees to pay for the event; or,

b. The group is assembled for product sales or a product sales party where a purchase is expected from attendees.

2. Districts Permitted: By right in all districts

3. Parking Requirements: All vehicles must be accommodated on-site or in permitted on-street parking spaces

4. Loading Requirements: None

5. Additional Provisions:

a. The event must be hosted by one or more of the individuals who reside on the property.

b. Events will not occur more than 12 times per year at any residence.

c. No events will occur before 9 a.m. or after 11 p.m. or will exceed six consecutive hours in duration.

d. This use is subject to the Boulder County noise ordinance (Ordinance No. 92-28, as it may be amended from time to time).

e. All other legally accessory residential uses which are not Home Events, as defined above, are allowed by right with none of the restrictions in (a) through (c) above.

Q. Home Occupation

1. Definition: A home occupation shall mean an accessory use consisting of a vocational activity conducted inside a dwelling unit or its accessory structures, and used only by the individuals who reside therein and one employee, provided that the home occupation:

a. does not result in noise or vibration, light, odor, dust, smoke, or other air pollution noticeable at or beyond the property line,

b. includes only the incidental sale of stocks, supplies, or products,

c. is clearly subordinate to the use of the lot for dwelling purposes and does not change the character of the lot,

d. does not include the outside storage of goods, materials, or equipment,

e. has signage limited to a nonilluminated identification sign two square feet or less in size,

f. does not exceed one-half the total floor area of the dwelling including activities carried out in an accessory structure, with the exception of child care which may exceed this limit,

g. does not produce traffic volumes exceeding that produced by the dwelling unit by more than 16 average daily trips or a maximum of 30 trips during any 24 hour period,

h. does not include nursing homes, restaurants, vehicle repair businesses, boarding houses, or marijuana establishments.

2. Districts Permitted: By right in all districts

3. Parking Requirements: One off-street space

4. Loading Requirements: None

5. Additional Provisions:

a. In subdivisions, no more than one vehicle associated with the use, registered as a passenger vehicle, light truck, recreational truck, or farm truck may be parked outside on the property.

b. The number or type of registration for vehicles associated with the use is not limited on properties located outside subdivisions.

R. Residential Marijuana Processing and Cultivation

1. Definition: Cultivation, production, or processing of marijuana or manufacture of marijuana products/by-products, or as authorized pursuant to Section 14 and Section 16 of Article XVIII of the Colorado Constitution and other applicable state law, in a legal dwelling unit or accessory structure, not for the purpose of sale or profit, primarily by and for the individuals living on the parcel. A maximum of six (6) plants may be grown per legal dwelling unit, regardless of the number of occupants. Processing of plants is limited only to those plants grown on the parcel.

2. Districts permitted: By right in all districts.

3. Parking Requirements: none

4. Loading Requirements: none

5. Extraction of Marijuana Concentrate:

a. Use of compressed, flammable gas as a solvent in the extraction of THC or other cannabinoids is prohibited.

b. Alcohol/ethanol extraction is permitted provided it is done without application of an open flame or open heat source and uses not more than 375 ml of alcohol or ethanol during the extraction process.

c. Food-based extraction is permitted including production of marijuana concentrate by extracting cannabinoids from marijuana through the use of propylene, glycol, glycerin, butter, olive oil, or other cooking fats or oils.

d. Water-based extraction is permitted including production of marijuana concentrate by extracting cannabinoids from marijuana through the use of only water, ice or dry ice.

6. Additional provisions:

a. Residential Marijuana Processing and Cultivation must not result in noise or vibration, light, odor, dust, smoke, particulate or other air pollution noticeable at or beyond the property line or shared dwelling unit wall.

b. Supplemental carbon dioxide and/or ozone is prohibited.

c. Marijuana plants shall not be cultivated, produced processed or possessed in the common areas of a multi-family or attached residential development.

S. Household Pets

1. Definition: Domestic animals kept for pleasure exclusive of livestock.

2. Districts Permitted: No more than four weaned animals in RR, ER, SR, and MF; and no more than seven weaned animals in all other districts. Small birds, small reptiles, and fish and small mammals including gerbils, rabbits, mice and similar small animals are not limited in number.

3. Parking Requirements: None
4. Loading Requirements: None
5. Additional Provisions:
   a. Household pets shall not include any nondomestic animals (see 4-501D Keeping of Nondomestic Animals)

T. Noncommercial Telecommunications Site, one structure which meets setback and height requirements

1. Definition: A facility utilized for the transmission or reception of electromagnetic or elector-optic information, which is accessory to a residential use, is not commercial in nature, and meets the setback and height requirements of the district in which the facility is located.
2. Districts Permitted: By right in all districts
3. Parking Requirements: None
4. Loading Requirements: None
5. Additional Provisions: None

U. Noncommercial Telecommunications Site, multiple structures and/or not meeting setback or height requirements

1. Definition: Any facility or facilities utilized for the transmission or reception of electromagnetic or electro-optic information, which is accessory to a residential use, is not commercial in nature, and does not meet either the setback or height requirements of the district in which the facility is located.
2. Districts Permitted: By Limited Impact Special Review in all districts
3. Parking Requirements: None
4. Loading Requirements: None
5. Additional Provisions:
   a. Setback requirements...50 feet from all lot lines

V. Small Wind-Powered Energy System, Roof-Mounted

1. Definition: A wind energy conversion system which may include a wind turbine and blades, a support structure, and associated control or conversion electronics and is mounted to an existing structure.
2. Districts Permitted: By right in all districts.
3. Parking Requirements: None
4. Loading Requirements: None
5. Additional Provisions:
   a. By right, roof-mounted systems may exceed the roofline by up to five feet or the maximum height of the zone district by up to five feet (whichever is more restrictive).
   b. Roof-mounted systems that propose to exceed the roofline or zone district by more than five feet but not more than 15 feet must be reviewed through the Site Plan Review Waiver process using the same review criteria for Small Wind-Powered Energy Systems.

4-517 Temporary Uses

A. Emergency Noncommercial Telecommunications Facility

1. Definition: A facility owned and/or operated by a governmental agency or a volunteer public safety agency officially sanctioned by a government agency for that purpose, utilized for the transmission and reception of electromagnetic or electro-optic information for public safety communication uses. This facility may operate for a maximum of six months.

2. Districts Permitted: By special authorization of the Building Official in all districts

3. Parking Requirements: To be determined by the Building Official

4. Loading Requirements: To be determined by the Building Official

5. Additional Provisions: None

B. Garage Sales or Occasional Sales

1. Definition: The sale of tangible personal property at retail by a person who is not in the business of selling tangible personal property at retail.

2. Districts Permitted: By right in all districts

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. Sales may occur no more than four times a year for no more than three days on each occurrence.

b. A person shall not sell merchandise acquired solely for the purpose of resale at a garage or occasional sale.

C. Group Gathering / Special Events

1. Definition: Any group of 50 or more persons assembled on a parcel as a venue for a meeting, festival, social gathering, or other similar purpose for a period of time which exceeds 8 hours in a single day or extends over a maximum of three consecutive days. A parcel may not accommodate more than two (2) Group Gatherings per calendar year as this is a Temporary Use. Additional events could be reviewed under the Reception Hall and Community Meeting Facility use.

2. Districts Permitted: By special authorization of the Zoning Administrator in all districts

3. Parking Requirements: To be determined by the Zoning Administrator

4. Loading Requirements: To be determined by the Zoning Administrator

5. Additional Provisions:

a. Exceptions:

(i) Events that meet the Definition and Additional Provisions of Home Events or Farm Events do not fall within this use classification.

(ii) Events occurring within, or upon the grounds of a private property where the property owner receives no compensation for hosting the event and guests/attendees are not charged an admission fee, are allowed by right without Special Authorization of the Zoning Administrator.

b. This use must occur on a parcel large enough to accommodate the use, parking, and sanitary facilities in a manner that does not negatively impact the neighboring parcels, or the principal use of the parcel itself.

c. A parcel may not accommodate more than two (2) Group Gatherings per calendar year. A group gathering which occurs over multiple days cannot exceed (3) consecutive days. Additional events could be reviewed under the Reception Hall and Community Meeting Facility use.

d. Any tent (other than personal camping tents or recreational vehicles), trailer, or structure subject to the requirements of these regulations and intended or used for human occupancy shall comply with the International Codes, as amended by the County, as well as with any County Health Department requirements, and shall not be used or occupied until approved by the Chief Building Official.

e. Permanent alterations to the subject site are prohibited.

f. Any activities or ground disturbance must not have adverse impacts on agricultural or environmental resources as mapped in the County Comprehensive Plan or otherwise identified on-site.

g. The site must be returned to its original condition prior to the establishment of the use within 48 hours of its discontinuance.

h. It is the applicant's responsibility to notify adjacent property owners of the Group Gathering/Special Event in writing at the time of application to the Zoning Administrator. If the applicant wishes to notify a larger surrounding area of the proposed event, they should contact the Land Use Department and request a mailing list of all property owners within 1500 feet of the property.

i. This use shall also be granted and maintain all applicable local, state, and federal permits. It is possible separate permits or approvals may be required by County or State agencies for any food or drink provided. The applicant should contact the applicable agencies well in advance of the event to ensure adequate time for processing any applications, including Boulder County Public Health regarding requirements for food service handling and wastewater treatment, Colorado Department of Public Health and Environment as a potential water supplier to more than 25 people, the County Commissioners' Office regarding requirements for Liquor Permits, County Transportation Department for Special Events that utilize or impact County Right-of-Way, and Parks and Open Space for Events or Group Gatherings on Parks and Open Space-owned property.

D. Temporary Batch Plant

1. Definition: A temporary facility for mixing concrete.
2. Districts Permitted: By special authorization of the County Building Official in all districts.
3. Parking Requirements: To be determined by the Building Official
4. Loading Requirements: To be determined by the Building Official
5. Additional Provisions: None

E. Temporary Construction or Sales Office

1. Definition: A facility temporarily used as a construction or sales office.
2. Districts Permitted: By special authorization of the Building Official in all districts
3. Parking Requirements: To be determined by the Building Official
4. Loading Requirements: To be determined by the Building Official
5. Additional Provisions: None

F. Temporary Dwelling Unit

1. Definition: A dwelling unit temporarily used, by the property owner, during construction or remodeling of the principal dwelling unit.
2. Districts Permitted: By special authorization of the Building Official in all districts
3. Parking Requirements: To be determined by the Building Official
4. Loading Requirements: None
5. Additional Provisions: None

G. Temporary Fireworks Stand

1. Definition: Unless otherwise expressly provided in this code, an operation which is open to the public and scheduled to occur over a period not to exceed 42 days in any calendar year.
2. Districts Permitted: By Limited Impact Special Review in F, A, T, B, LI, and GI.
3. Parking Requirements: To be determined through Limited Impact Special Use.
4. Loading Requirements: To be determined through Limited Impact Special Use.
5. Additional Provisions:
   a. One nonilluminated identification sign not to exceed 32 square feet in total surface area shall be permitted.
   b. This use may be allowed on a parcel with an existing principal use.

H. Temporary Special Use (nonconforming use under Section 4-1004(A)(2))

1. Definition: A nonconforming use under Section 4-1003(A)(2) which receives special use approval as a temporary use under Section 4-1004(A)(2).
2. Districts Permitted: By Special Review in all districts.
3. Parking Requirements: To be determined through Special Review.
4. Loading Requirements: To be determined through Special Review.
5. Additional Provisions: See Section 4-1004(A)(2).

I. Temporary Weather Device Tower

1. Definition: A tower erected for the express purpose of mounting an anemometer or other weather device.

2. Districts Permitted: By right in all districts

3. Parking Requirements: None

4. Loading Requirements: None

5. Additional Provisions:

a. Temporary towers must meet the setback requirements for Small Wind-Powered Energy Systems and shall not exceed 80 feet in height.

b. Temporary towers must be removed within two years unless approved to be converted to a Small Wind-Powered Energy System.

4-600 Uses Permitted by Special Review and Limited Impact Special Review

A land use designated as a special use in a zoning district is one that – because of its inherent nature, extent and external effects – may be allowed to establish if subject to Special Review to assure the use is located, designed, and operated in harmony with neighboring development and the surrounding area and does not adversely affect the public health, safety, and welfare. The purpose of the review process is to determine the compatibility of the use with the site and surrounding land and uses and the adequacy of services. Public review is necessary because the effect of a special use on the surrounding environment cannot be determined adequately in advance of the use being proposed for a particular location. During the review process, the county considers location, design, configuration, intensity, and impacts by comparing the proposal to the code criteria, intergovernmental agreements, established hazard areas, parcel specific conditions, site context and any other applicable regulations to assure that the use can operate in a sustainable way with minimal danger or impact to the users, the natural environment, or the developed environment.

A. A use permitted by Special Review may be established in a zoning district only upon approval of the Board, after review by the Planning Commission, subject to conditions and mitigation measures.

B. A use permitted through Limited Impact Special Review may be established in a zoning district only upon approval of the Board subject to conditions and mitigation measures.

4-601 Review Criteria

A. A use will be permitted by Special Review or Limited Impact Special Review only if the Board finds that the proposed use meets the following criteria as applicable:

1. Except as otherwise noted, the use will comply with the minimum zoning requirements of the zoning district in which the use is to be established, and will also comply with all other applicable requirements;

2. The use will be compatible with the surrounding area. In determining compatibility, the Board should consider the location of structures and other improvements on the site; the size, height and massing of the structures; the number and arrangement of structures; the design of structures and other site features; the proposed removal or addition of vegetation; the extent of site disturbance, including, but not limited to, any grading and changes to natural topography; and the nature and intensity of the activities that will take place on the site. In determining the surrounding area, the Board should consider the unique location and environment of the proposed use; assess the relevant area that the use is expected to impact; and take note of important features in the area including, but not limited to, scenic vistas, historic townsites and rural communities, mountainous terrain, agricultural lands and activities, sensitive environmental areas, and the characteristics of nearby development and neighborhoods;

3. The use will be in accordance with the Comprehensive Plan;

4. The use will not result in an over-intensive use of land or excessive depletion of natural resources. In evaluating the intensity of the use, the Board should consider the extent of the proposed development in relation to parcel size and the natural landscape/topography; the area of impermeable surface; the amount of blasting, grading, or other alteration of the natural topography; the elimination or disruption of agricultural lands; the effect on significant natural areas and environmental resources; the disturbance of plant and animal habitat, and wildlife migration corridors; the relationship of the proposed development to natural hazards; and available mitigation measures such as the preservation of open lands, the addition or restoration of natural features and screening, the reduction or rearrangement of structures and land disturbance, and the use of sustainable construction techniques, resource use, and transportation management;

5. The use will not have a material adverse effect on community capital improvement programs;

6. The use will not require a level of community facilities and services greater than that which is available;

7. The use will support a multimodal transportation system and not result in significant negative impacts to the transportation system or traffic hazards;

8. The use will not cause significant air, odor, water, or noise pollution;

9. The use will be adequately buffered or screened to mitigate any undue visual impacts of the use;

10. The use will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Boulder County; and

11. The use will establish an appropriate balance between current and future economic, environmental, and societal needs by minimizing the consumption and inefficient use of energy, materials, minerals, water, land, and other finite resources.

12. The use will not result in unreasonable risk of harm to people or property – both onsite and in the surrounding area – from natural hazards. Development or activity associated with the use must avoid natural hazards, including those on the subject property and those originating off-site with a reasonable likelihood of affecting the subject property. Natural hazards include, without limitation, expansive soils or claystone, subsiding soils, soil creep areas, or questionable soils where the safe-sustaining power of the soils is in doubt; landslides, mudslides, mudfalls, debris fans, unstable slopes, and rockfalls; flash flooding corridors, alluvial fans, floodways, floodplains, and flood-prone areas; and avalanche corridors; all as identified in the Comprehensive Plan Geologic Hazard and Constraint Areas Map or through the Special Review or Limited Impact Special Review process using the best available information. Best available information includes, without limitation, updated topographic or geologic data, Colorado Geologic Survey landslide or earth/debris flow data, interim floodplain mapping data, and creek planning studies.

13. The proposed use shall not alter historic drainage patterns and/or flow rates unless the associated development includes acceptable mitigation measures to compensate for anticipated drainage impacts. The best available information should be used to evaluate these impacts, including without limitation the Boulder County Storm Drainage Criteria Manual, hydrologic evaluations to determine peak flows, floodplain mapping studies, updated topographic data, Colorado Geologic Survey landslide, earth/debris flow data, and creek planning studies, all as applicable given the context of the subject property and the application.

B. If the proposed use is approved or conditionally approved, the Board may impose such conditions and safeguards to insure compliance with the requirements, standards, and conditions of this Section 4-600. Where development or activity associated with the proposed use cannot completely avoid one or more natural hazard, whether because no other site on the subject property can be reasonably designated or developed for the use or because the proposed site is the best location due to the need to avoid or minimize significant adverse impacts under other applicable review criteria, the use may be conditionally approved only if one or more measures will satisfactorily mitigate all significant natural hazard risk posed by the proposed use to the subject property and to the surrounding area. The violation of any condition, safeguard, or commitment of record shall be sufficient grounds for revocation of the Special Review approval by the Board, after a public hearing held in accordance with provisions of Paragraph 3-205(C).

C. An application for a use by Special Review shall include a development agreement which must be submitted and approved by the Board.

D. Where appropriate, in order to enable the proposed use to meet the standards set forth in (A) above, the Board may require the dedication of a perpetual conservation easement upon so much of the site as may be determined necessary to mitigate impacts of special uses.

4-602 Special Provisions

A. Special Review Approval for Mining

1. In addition to the standards of approval set forth in Paragraph 4-601(A), an applicant for open mining, subsurface mining, or limited impact mining must also meet the following:

a. compliance with a plan of reclamation; and

b. compliance with use, location, and setback regulations established by the Board for the proposed operation.

2. If the proposed mining use is approved, the Board shall impose such conditions and safeguards as are necessary to insure continued compliance with the requirements set forth in this Paragraph.

B. Special Review for Development in the ED District

1. In addition to the standards of approval set forth in Paragraph 4-601(A), approval for a planned development in the ED district must also meet the following:

a. Employment projections and projected space requirements demonstrate a need for such a development.

b. The applicant is the intended user of the site and has demonstrated legal interest in the property.

c. Direct and indirect local employment opportunities for the community, that would result if the application were to be approved, are consistent with the rate of growth of population as projected within the Comprehensive Plan.

d. The public benefits are substantial and there will be no significant negative impacts on the quality of life of those residents in the surrounding area, and no major negative fiscal, service, environmental, or related land use impacts upon the County, or other communities in the County.

e. Uses Permitted: Uses shall have no harmful or unpleasant effects which would be more objectionable than the normal environmental features of surrounding areas. Uses within the ED district shall be compatible with surrounding areas of noise, odors, fumes, glare, vibration, smoke, vapors and gases, electrical emissions, and industrial wastes.

f. Traffic: Traffic going to and from the ED district shall be permitted on nonresidential streets only. Within the ED district, access and service roads from existing through streets may be required. Traffic routes within the ED district shall ordinarily be at least 100 feet from outer boundaries of the Economic Development District.

g. Truck Loading Facilities: Adequate provision shall be made for off-street truck loading facilities. These areas shall not be in a front yard and shall not be within 100 feet of a residential zoning district.

h. Landscaping: The front yard of each principal use within an ED district shall be planned (and subsequently maintained) in a dust-free condition by suitable landscaping with trees, shrubs, or other planted or natural ground cover. Other yards within an ED district shall be similarly landscaped or paved with asphaltic, concrete, rock, oil surfacing or other resilient materials.

i. Storage: All materials and equipment used in connection with an economic development project shall be enclosed within a building or enclosed within a solid wall or fence at least six feet in height. Ordinarily such storage areas shall be at least 100 feet from any property line or street line.

j. Lot Coverage: Developed areas may constitute no more than 40% of the entire site, unless it is determined that it is in the best interest of the community to allow a larger area to be developed in which case developed areas may constitute as much as 50% of the site. The purpose of this requirement is to assure that the development will be compatible with the surrounding area.

k. Construction Plans: Preliminary construction plans for the proposed buildings and preliminary engineering plans for installation of necessary utilities shall be presented prior to approval of a site plan.

l. Number of Employees or Residents: An estimate of the maximum number of employees or residents contemplated for the proposed development shall be presented.

m. Site Plan: The site plan and accompanying documents as approved by the Board shall be filed with the Director. Location and size of the undeveloped area and siting and phasing of the developed area must be approved as part of the application. The effects of phasing on population increases that may result from an expansion of the employment base shall be considered, along with all other relevant impacts.

n. Certificate of Occupancy: Prior to the use or change in use of a structure approved through this process, a certificate of occupancy shall have been issued by the Building Official. Such certificate shall show that such building or premises and the proposed use are in conformity with the provisions of this Code and with all requirements set forth by official action of the Board in their approval of the site plan.

2. A Special Review approval for a use within the ED district shall expire three years after the date upon which it was issued, if not more than one-half the floor area of all buildings and improvements shown on the approved site plan has been constructed within that period of time.

C. Special Review for Community Uses and Lodging Uses

In addition to the established criteria for Special Review and Limited Impact Special Review, Community Uses and Lodging Uses in the F, A, RR, ER, SR, MF, MH, and MI zone districts must also meet the following floor area limitations:

1. New Development: New Community and Lodging are those legally approved or established after November 4, 2010, on property where no Community or Lodging use previously existed. New Community and Lodging uses shall not exceed the total floor area specified in the table below, based on the parcel size on which the use is located:

	Parcel Size (acres)				
	<10	10-19.9	20-34.9	35-69.9	>=70
Maximum Total Square Footage	10,000	15,000	20,000	25,000	30,000

2. Existing Uses: Existing Community and Lodging uses are those legally approved or established prior to November 4, 2010. Expansions of these uses shall not cause the use to exceed the total floor area specified in the table below, based on the parcel size on which the use is located (unless the additional requirements of Section 4-602(C)(3) are met):

	Parcel Size (acres)			
	<10	10-19.9	20-34.9	35 acres or larger
Maximum Total Square Footage	15,000	20,000	25,000	30,000 and for each additional 35 acres of parcel size an additional 5,000 square feet may be allowed but not to exceed 45,000 total sq ft

3. Ability of Existing Uses to Expand Over Maximum Development Allowed Under Section 6-602(C)(2) Above: Existing Community and Lodging Uses may expand beyond the floor area limitations established for Existing Uses, up to the additional floor area amounts specified in the table in this section, based on the parcel size on which the use is located, and subject to compliance with the additional impact mitigation requirements of this section:

a. The expansion is offset through the purchase of one Transferable Development Credit per 500 square feet of new floor area. Development Credits must be acquired through the Boulder County Development Rights Clearinghouse prior to the issuance of a building permit for any approved expansion, and;

b. Any significant additional land use impacts resulting from the expansion are offset as follows:

(i) Increase in traffic to and from the site: through an acceptable, multimodal transportation management plan, and provision of transportation system improvements reasonably necessitated by the expansion.

(ii) Increase in water and energy usage at the site: through an acceptable plan to incorporate sustainable measures and practices, including but not limited to use of renewable energy sources, management of energy and water demands, and energy-efficient construction methods.

(iii) Increase in visual impacts of the development: through a plan that substantially mitigates visual impacts using the design, location, and number of buildings and other developed areas to screen buildings and developed areas, and through the use of natural topography, landscaping, color and materials, and below-grade construction or construction shielded by existing development.

(iv) Increase in noise: through appropriate siting of, or limitations on hours of operation or types of, noise-generating activities.

These measures may be applied to existing development as well as new development if deemed appropriate to enable the resulting site development to meet the special use criteria. Reasonable mitigation measures that are different from those listed above may also be imposed for this same purpose.

c. When calculating the maximum possible expansion, either the maximum total square footage (20,000, 25,000, 30,000, 35,000, 40,000, 45,000 or 50,000 sq ft depending on parcel size) will apply, or the percentage increase over the existing or previously approved square footage will apply – whichever increase in square footage is greater.

	Parcel Size (acres)			
	<10	10-19.9	20-34.9	35 acres or larger
Expansion above the established maximum shall be based on the size of the subject parcel:	Up to 20,000 total sq ft OR 20% of the square footage over that which existed or was previously approved as of 11/4/10.	Up to 25,000 total sq ft OR 20% of the square footage over that which existed or was previously approved as of 11/4/10.	Up to 30,000 total sq ft OR 20% of the square footage over that which existed or was previously approved as of 11/4/10.	Up to 35,000 total sq ft and for each additional 35 acres of parcel size, an additional 5,000 square feet may be allowed but not to exceed 50,000 total sq ft OR 20% of the square footage over that which existed or was previously approved as of 11/4/10.

D. Special Review for a Telecommunication Facility

1. In addition to the listing of adjacent owners required as part of the title report submitted with the Special Review application, the Land Use Staff may prepare a similar listing of all owners and their addresses of real property within one-half mile of the location of the proposed facility. This listing may be used in addition to the adjacent owner list for all referral and notice requirements of Article 3.

2. In addition to compliance with those conditions required within or imposed by the Board of County Commissioners pursuant to Paragraph 4-601(A), an applicant seeking Special Review approval for a telecommunication facility shall comply with the following conditions and requirements:

a. Alternative site and/or design studies provided by the applicant shall show that reasonable consideration has been given to such alternative sites and/or designs and the proposal is the most acceptable alternative to Boulder County.

b. The alternative of consolidation of multiple telecommunication facilities onto a single tower, either by use of an existing tower or moving existing facilities to the proposed tower, shall be studied by the applicant and, when feasible and not otherwise detrimental, shall be considered the preferred alternative. Colocation may not be required when, in the opinion of the Director or the Board of County Commissioners, as appropriate, the consolidation of facilities will create an over-intensive use of the existing site, or will create a significant negative visual impact on surrounding private or public lands.

c. When feasible, telecommunication facilities shall be located adjacent to, on, or incorporated into existing or proposed buildings or other structures.

d. Where a telecommunication system uses a network of facilities, the applicant shall demonstrate that a comprehensive approach for evaluating potential sites in Boulder County with a view to minimizing the number of sites required and any adverse impact has been taken.

e. Proposed landscaping and/or screening shall be in harmony with the character of the neighborhood and compatible with the surrounding area.

E. Limited Impact Special Review for a Use of Community Significance

1. A use of community significance may be approved through Limited Impact Special Review even though it does not meet the bulk or minimum lot size requirements of the zoning district in which it is located.

2. The use must meet the following criteria rather than the standard Review Criteria for Uses Permitted by Special Review and Limited Impact Special Review:

a. The use does not impair the Goals and Policies of the Comprehensive Plan, considering the nature and history of the use.

b. The use has at least two of the following characteristics: historic, cultural, economic, social, or environmental value to the inhabitants of Boulder County as a whole, or to a recognized community of interest within the County such as through an adopted townsite plan or subarea plan.

c. The use is not detrimental to the health, safety, or welfare of the present or future inhabitants of Boulder County considering the historic nature and use of the property including but not limited to traffic hazards, noise, odors, and pollutants.

d. The applicant has obtained, or commits to obtain as a condition of the Special Review approval, all applicable federal, state, and local licenses or permits, and is in compliance with all applicable federal, state, and local regulations.

e. If a Use of Community Significance seeks a substantial modification, the standard Review Criteria for Uses Permitted by Special Review and Limited Impact Special Review must be met.

4-603 Modification of a Special Review Approval

A. Prior to modifying an approved special use or limited impact special use, a written request for modification must be submitted to the Director, detailing the nature and extent of the modification, and providing any additional information pertaining to the request which the Director may require. In response, the Director may take one of the following actions:

1. Determine that the requested modification is minor, and approve the request in writing, including any necessary clarifications or conditions. A special use amendment process will not be required for a minor modification.

2. Determine that the requested modification is substantial. Substantial modifications require approval of a special use or limited impact special use amendment. The applicant may appeal this determination to the Board of County Commissioners, provided a written appeal is filed with the Director no later than 30 days after the date of the Director's determination. The appeal shall be heard by the Board in the same manner as a direct referral on a modification question from the Director to the Board, as specified in Subsection 3 below.

3. Make no determination and refer the request to the Board of County Commissioners for a decision at a public business meeting of the Board, of which the applicant shall receive prior notice. If the Board determines that the modification is minor, it may approve the modification, subject to any necessary clarifications and conditions, and the modification may proceed without a formal special use amendment process. If the Board determines that the modification is substantial, approval through the special use amendment process is required.

B. In determining whether the proposed modification to a special use or limited impact special use approval is minor or substantial, the Director or the Board shall consider the record of the special use approval, including any express conditions, limitations, or agreements governing the approved special use and the nature, character, and extent of the land use impacts of the approved use. The following proposed modifications may be presumed substantial: changes in the use expressly approved, structural additions that exceed stated square footage limitations, and changes to express conditions or agreements. Other changes shall be considered substantial if they significantly alter the nature, character, and/or extent of the land use impacts of the development or activity contemplated under the approved use.

C. Any modification to a previously approved development shall require a request to the Land Use Director to determine whether the proposed change constitutes a substantial modification.

4-604 Limitation of Uses by Special Review

A. Subject to vested rights, no use by Special Review shall commence operation or construction later than five years from the date of the Board approval or conditional approval.

B. Any approved use by Special Review that does not significantly commence operation or construction as described and approved in a building permit on any portion of the special use permit within five calendar years after the Board has approved the use, shall lapse, and shall be of no further force and effect unless a new discretionary approval is granted under this Code. If a vesting period of longer than five years is expressly approved as part of the special use permit, the approval shall lapse if operation or construction is not commenced within the vesting period.

C. Any approved use by Special Review which commences operation or construction as required under Subsection (B), immediately above, shall lapse, and shall be of no further force and effect, if the use is inactive for any continuous five-year period or such shorter time as may be prescribed elsewhere in this code or in a condition of a specific docket's approval. If this period of inactivity occurs, the use may not be recommenced without a new discretionary approval granted under this Code. An approved special use shall be deemed inactive under this Subsection (c) if there has been no activity under any portion of the special use permit for a continuous period of five years or more as a result of causes within the control of the special use permittee or agent.

D. The Land Use Director may declare a Special Review and Limited Impact Special Review application withdrawn if more than 24 months have passed without any public hearings or submittals from the applicant. The 24 month time frame may be extended should the Director determine that circumstances beyond control of the applicant prevent a timely completion of the application. If the application is withdrawn, a new application and new fee must be submitted in order to continue the project.

4-800 Site Plan Review

4-801 Purpose

A. Site Plan Review is an administrative review procedure for certain proposed developments which are considered likely to significantly impact important ecosystems, agricultural lands, surrounding land uses and neighborhoods, and infrastructure needs and demands, and which may be unsafe due to natural hazards.

B. This Site Plan Review process for proposed new development will allow any significant adverse impacts on the environment, agricultural lands, surrounding land uses and neighborhoods, and infrastructure to be identified, evaluated, and avoided or acceptably mitigated through the imposition of reasonable conditions.

4-802 Applicability and Scope of the Site Plan Review Process for Development

A. Site Plan Review shall be required for (unless not required or waived pursuant to sections B and C below):

1. Any development requiring a building permit on vacant parcels in unincorporated Boulder County.

2. Any increase in residential floor area which results in a total residential floor area greater than 125%of the median residential floor area for the defined neighborhood in which the subject parcel is located. In determining if the proposed development is greater than 125%of the residential median floor area, any demolition and rebuilding of any existing residential structure or any portions thereof, shall be counted toward the threshold.

3. Any cumulative increase in floor area of more than 1,000 square feet on a parcel over that existing as of September 8, 1998.

a. In calculating this 1,000 square foot threshold, any demolition and rebuilding of any existing structure or any portions thereof, shall be counted toward the threshold.

b. Any floor area not legally existing as of September 8, 1998 shall be counted toward the threshold.

c. Applies to all principal and accessory structure(s).

4. New structures of any size requiring a building permit when the site is located within a Natural Landmark or Natural Area as described in the Environmental Resources Element of the Comprehensive Plan and shown on the Zoning District Maps of Boulder County.

5. New structures 500 square feet or more in the 250' buffer associated with a Natural Landmark or Natural Area, as described in the Environmental Resources Element of the Comprehensive Plan and shown on the Zoning District Maps of Boulder County.

6. New structures or additions to existing structures of any size on property over which a conservation easement has been granted.

7. Development occurring in a Rural Community District as described in the regulations for that District.

8. Any development or earthwork requiring a floodplain development permit.

9. Any grading permit for over 50 cubic yards of earthwork (including grading associated with an access permit).

10. A change of use of a parcel.

11. A commercial telecommunications facility utilizing an existing structure and meeting the height requirements of the district in which the facility is located.

12. A small wind-powered energy system.

13. A small solar energy system as a principal use.

14. Any proposal which is eligible to be waived from Site Plan Review, but for which a waiver was not granted.

B. Site Plan Review shall not be required for:

1. Earthwork that is part of normal agricultural or mining practices.

2. Accessory structures less than 1,000 square feet.

a. Except in those circumstances in which Site Plan Review is required because of cumulative threshold specified in this section A(2) or A(3).

b. Except in a Natural Landmark, a Natural Area, or in the associated 250' buffer as specified in this section A(3) & (4).

c. Except on conservation easements held by Boulder County.

3. Restoration of a structure that has been damaged or destroyed by causes outside the control of the property owner or their agent provided the restoration involves the original location, floor area, and height. Such restoration must comply with the current provisions of the Boulder County Land Use Code other than 4-800 (also see Nonconforming Structures & Uses, Article 4-1002(D) and 4-1003(F)).

a. Such restoration must be commenced within six months after the date on which the structure was damaged or destroyed, or a latent defect discovered and completed within one year after the date on which the restoration commenced. This limitation may be extended in the case of extenuating circumstances as determined by the Director.

b. Replacement of bridges, box culverts or low-water crossings or other hydraulic structures spanning a creek or other drainage within a mapped floodplain under Article 4-400, may also be exempt from Site Plan Review under this Subsection 3., subject to administrative approval by the County Engineer for compliance with the Boulder County Storm Drainage Criteria Manual. The County Engineer may impose conditions on the construction to assure basic safety, including but not limited to requiring construction of a replacement bridge or crossing that is compliant with the Land Use Code and the Storm Drainage Criteria Manual either as a temporary or Permanent replacement hydraulic structure.

c. The provisions of this Section 4-802(B)(3) shall not apply to Substantial Improvements to buildings in the Floodplain Overlay District as provided for in Section 4-400 of this Code.

4. Development on subdivided land with a final plat approved after February 22, 1994, unless the plat approval otherwise requires Site Plan Review for the lots.

5. Development in approved Neighborhood Conservation Overlay Districts to the extent that the approved Neighborhood Conservation plan covers the relevant Site Plan Review criteria detailed in this Article 4-806.

6. Any development or earthwork which the County Engineer deems eligible for a General Floodplain Development Permit.

C. Site Plan Review may be waived for the following circumstances if the Land Use Director determines that there is no potential for any significant conflict with the criteria listed in Article 4-806 of this Code:

1. Any increase in the total residential floor area to a size less than 125% of the median residential floor area for the defined neighborhood in which the subject parcel is located, up to an increase of 2,000 square feet.

a. This provision includes instances in which Site Plan Review would be required because the floor area exceeds the cumulative threshold specified in this section A(2) and B(2)(a)

2. In the plains, any nonresidential accessory structure less than 5,000 square feet

3. In the mountainous areas, any nonresidential accessory structure less than 2,000 square feet

4. Any grading permit involving under 500 cubic yards of earthwork

5. Any free-standing small wind-powered energy system that meets the height limitations for the zone district.

6. Any roof-mounted small wind-powered energy system as described in that use classification description (4-516(P)).

7. Any ground-mounted accessory solar energy system.

8. Any development or earthwork requiring an Individual Floodplain Development Permit, so long as the Director consults with the County Engineer before granting the waiver.

In considering a waiver determination, the Director shall notify adjacent property owners. The Director shall not issue the determination for seven days following such notification and shall consider any comments received by the public. In waiving any requirement for Site Plan Review as authorized under this section 4-802, the Director may impose written terms and conditions on the waiver as may be reasonably necessary to ensure that the regulatory basis for the waiver is not contravened once the subject use or construction is commenced.

D. If the proposed permit or development requires Special Review, Limited Impact Special Review, Development Plan Review, Historic District Review (Section 4-114), or Subdivision Regulations or PUD Review, Subdivision Exemption, or Exemption Plat Review, the applicable Review process shall substitute for the Site Plan Review process under this section. In any such combined review process, the standards in Section 4-806 shall be applied to the part of the proposal requiring Site Plan Review.

4-803 Pre-application Conference

A pre-application conference as defined in Section 3-201 shall be held prior to the submission of an application for Site Plan Review.

4-804 Application and Submittal Requirements

A. Within four days of the time application is made, all proposed access points, driveways, wells, leach fields, cisterns, turn-out, turn-arounds, and at least four corners of the proposed structures must be visibly marked on the property with clearly labeled stakes.

B. For the purpose of referring the project to applicable agencies, the applicant shall submit a minimum of five copies of the following information:

1. The application form available at the Land Use Department as specified in Section 3-202 of this Code.

2. A vicinity map clearly showing and identifying the general location and boundaries of the subject property prepared by using the 1:80,000 scale County Road Map base; and a location map clearly identifying the subject property and how to access it from the closest county right-of-way. This map must be of acceptable scale to show the names of all public roads.

3. Name of the proposed development or use and total number of acres.

4. A site plan at a scale which best conveys the conceptual aspects of the plan and allows for effective public presentation. This site plan must have the following elements:

a. Date of preparation, revision box, written scale, graphic scale, and north arrow (designated as true north)

b. Clearly identified boundary lines, corner pins, dimensions of the subject property, and distance of structures from property lines.

c. Location, and dimension of all structures, existing and proposed,

d. Parking areas, driveways, emergency turn-outs, and emergency turn-arounds will be shown, with locations and dimensions including all proposed grading for the property.

e. All roads, railroad tracks, irrigation ditches, fences, existing and proposed utility lines, and easements on or adjacent to the parcel.

f. Significant on-site features including, but not limited to: natural and artificial drainage ways, wetland areas, ditches, hydrologic features (with flooding limits based on information available through the County), aquatic habitat, geologic features (including slopes, alluvial fans, areas of subsidence, rockfall areas, USDA soil classification and landslide areas), vegetative cover, dams, reservoirs, excavations, and mines.

g. Location and size of leach field, sewer service lines, treatment facilities, well(s) and/or water lines to serve the proposed development.

h. (For mountainous area properties only) Existing and proposed topographic contours at maximum intervals of five feet for at least 50 feet around all proposed disturbances. The remainder of the site may show greater contour intervals (i.e. 20 foot intervals) or obtain contours from the area's U.S.G.S. topographic map.

i. Any Floodplain, 100 year Floodplain or Floodway located on the property as indicated in Article 4-400 of this code.

j. Any Natural Landmark or Natural Area along with a 250 foot buffer zone surrounding the landmark or area as shown on the Zoning District Maps of Boulder County. Significant Natural Communities, Rare Plant Areas or Riparian Corridors that are indicated in the Natural Resources Element of the Comprehensive Plan must also be included on the site plan.

k. The location and type of proposed exterior lighting.

5. Four elevation drawings showing existing grade, finished grade, and height of the structure above existing grade. The location and dimensions of all windows must also be included on each of the elevations.

6. Verification that the site is a legal building lot under this code and that legal access from a public road has been obtained.

C. The following information may be required to be submitted with a site plan application if the Director determines that such information is necessary to allow the site plan standards of 4-806 to be adequately evaluated:

1. A detailed site plan of developed portions of the property presented at a larger scale than required in (B) above.
2. Land survey data to identify the subject property including section corners and distance and bearing to these corners, quarter corners, township, range, etc.
3. (For non-mountainous portions of the county) Existing and proposed topographic contours at maximum intervals of five feet for at least 50 feet around all proposed disturbances. The remainder of the site may show greater contour intervals (i.e. 20 foot intervals) or obtain contours from the area's U.S.G.S. topographic map.
4. Location, width, and typical cross-section of all existing and proposed earthwork, including but not limited to: driveways, pedestrian paths, parking areas, and berms. This information may include earthwork calculations, grading plan, drainage plan, and/or geotechnical/soils reports. The Director may request that any or all of this information be certified by a Colorado registered Professional Engineer.
5. Information regarding the use of ignition/fire resistant construction materials.
6. Location of existing and proposed landscaping including a revegetation plan. The site plan shall illustrate the type, height, and/or caliper of the trunk of proposed plantings. All plantings will be specified by type and location.
7. Location and results of soil percolation tests (Boulder County Public Health approval) where on-site wastewater systems or similar systems are proposed. This may include site approval and discharge permit, if required, as issued by the Colorado Department of Health.
8. Erosion control and revegetation plan.
9. The areas of all development in square feet and percentage of site, including total square feet of developed driveways, parking, and buildings.
10. A development report addressing the standards in 4-806.
11. A letter of verification of a search of Inventory of Cultural Resources from the State Historical Society, a report defining the archaeological or historical resources on the site (based on information available from the State Historic Preservation Officer) or the appropriate archeological field survey report.
12. A Wildfire Mitigation Plan demonstrating the appropriate site location of structures, construction design and the use of ignition resistant building material, defensible space and fuel reduction around the structures, driveway access for emergency vehicles, and an emergency water supply for fire fighting.
13. A control plan for noxious weeds.
14. A topographic survey certified by a Colorado Registered Surveyor or Professional Engineer.
15. Information regarding the type of glass used on the structure as it relates to reflectivity of sunlight and their emission of internal lighting.
16. A wildlife impact report meeting the requirements of Section 7-1700 of this Code. The requirement for a wildlife impact report shall not be construed to import the substantive requirements of Article 7-1700 into the Site Plan Review process, but rather shall provide additional information for the County to apply the site plan review criteria to the facts of the application.

4-805 Review by the Director

A. Once an application for SPR is filed, the Director shall promptly forward one copy of the application and supporting materials to the Transportation, Public Health, Parks and Open Space Departments, local fire district, and any other potentially affected agencies or organizations. The Director shall also post a sign on the property stating the Site Plan Review docket number and the address and phone number of the Land Use Department. Referrals shall be returned to the Director no later than 18 days from date the application is filed.

B. Any determination by the Director to approve, conditionally approve, or deny a site plan application must be in writing and mailed or otherwise provided to the applicant no later than 28 days after the date on which the site plan application is filed. Once the determination is made, the Director shall also provide notice of the determination to all referral agencies and the adjacent property owners within 1500 feet of the property. If the Director fails to make a determination on the site plan application within this time period, the application as submitted shall be considered approved and the applicant's building permit shall be processed.

C. The Director may suspend the 28-day decision period required in subsection (B) above at any time during the 28-day period at the request of the applicant or whenever the Director determines that the application is not complete. The Director may deem the application incomplete, based on the application submittal requirements, at the Director's initiative or at the request of any or all referral agencies. In the event that the Director deems an application incomplete, the Director shall immediately notify the applicant of the shortcomings. Once the requested information has been provided, the application shall be deemed filed as of that date and the Director shall render a decision within 28 days. However, if the application is not completed within 6 months of the date of suspension, the Director may declare the application withdrawn. The 6 month time frame may be extended should the Director determine that circumstances beyond the control of the applicant prevent a timely completion of the application.

4-806 Site Plan Review Standards

A. All Site Plan Review applications shall be reviewed in accordance with the following standards which the Director has determined to be applicable based on the nature and extent of the proposed development. When two or more of the standards listed below conflict, the Director shall evaluate the applicability and importance of each of the conflicting standards under the facts of the specific application and make a reasonable attempt to balance the conflicting standards in reaching a site plan decision.

1. To provide a greater measure of certainty as to the applicable neighborhood relevant for comparison, the following definition of neighborhood shall be used to review proposed Site Plan Review applications:

a. For applications inside platted subdivisions, which have seven or more developed lots, the neighborhood is that platted subdivision.

b. For applications within the mapped historic townsites of Allenspark, Eldora, Eldorado Springs, Raymond, and Riverside, the neighborhood is defined as the mapped townsite.

c. For applications outside of platted subdivisions with seven or more developed lots or the townsites of Allenspark, Eldora, Eldorado Springs, Raymond, and Riverside, the defined neighborhood is the area within 1,500 feet from the applicable parcel. The neighborhood shall not include any parcels inside municipal boundaries, platted subdivisions with seven or more developed lots or the townsites of Allenspark, Eldora, Eldorado Springs, Gold Hill Historic District, Raymond, and Riverside.

2. The size of the resulting development (residential or nonresidential) must be compatible with the general character of the defined neighborhood.

a. In determining size compatibility of residential structures with the defined neighborhood, it is presumed that structures of a size within the larger of a total residential floor area of either (1) 125% of the median residential floor area for that defined neighborhood or (2) of a total residential floor area of 1,500 square feet in the mapped townsites of Allenspark, Eldora, Eldorado Springs, Raymond, and Riverside, or 2,500 square feet for all other areas of the County, are compatible with that neighborhood, subject also to a determination that the resulting size complies with the other Site Plan Review standards in this section 4-806.A.

(i) The Boulder County Assessor's Records will be the base source of data to determine both the median size within that defined neighborhood as well as the existing residential floor area on a given parcel, as verified by Land Use staff for the subject parcel.

(ii) Median floor area will include the total residential floor area, as defined in Section 18-189D.

b. Either the applicant or the Director may demonstrate that this presumption does not adequately address the size compatibility of the proposed development with the defined neighborhood.

(i) Factors to be considered when determining the adequacy of this presumption and whether it can be overcome include:

(A) The visibility of the proposed development from other private parcels within the defined neighborhood, as well as visibility from either public roads or open space both within and outside that defined neighborhood.

(1) The proposed development must be minimally visible from the above-listed areas. Mitigation of visibility impacts may be achieved by:

(a) the use of natural topography to screen the proposed development, or

(b) underground construction to screen the proposed development; existing underground residential floor area may be considered, or

(c) distance of the proposed development from other private parcels, public roads and open spaces.

(B) The distribution of residential floor area within the defined neighborhood, taking into consideration the sizes (a minimum of two) adjacent to the subject property.

(1) If the proposed development is able to overcome the size presumption due to the adjacent sizes, the size of the resulting development may not exceed the median residential floor area of those adjacent to the subject property that are over the size presumption.

(C) For properties which are encumbered by a Boulder County conservation easement that specifies an allowable house size on that parcel, that specified home size is a factor to be considered in rebutting a size presumption which is smaller than the house size defined in the conservation easement.

(D) Significant adverse impacts demonstrated according to Standards 3 through 16 of this Section 4-806.A.

(E) Demolition and rebuilding of legally existing residential floor area that is not in conflict with the other standards set forth in this Section 4-806.

(F) Retrofitting of an existing structure for purposes of making a demonstrated energy efficiency improvement.

(G) Existing residential floor area that already exceeds the size presumption and has not been limited through a prior County land use approval.

(1) Up to a one-time maximum of 200 square feet of residential floor area may be granted under this factor.

(H) Historic structure(s) that are landmarked or otherwise protected cause the residential floor area to exceed the size presumption.

3. The location of existing or proposed buildings, structures, equipment, grading, or uses shall not impose an undue burden on public services and infrastructure.

4. The proposed development shall avoid natural hazards, including those on the subject property and those originating off-site with a reasonable likelihood of affecting the subject property. Natural hazards include, without limitation, expansive soils or claystone, subsiding soils, soil creep areas, or questionable soils where the safe-sustaining power of the soils is in doubt; landslides, mudslides, mudfalls, debris fans, unstable slopes, and rockfalls; flash flooding corridors, alluvial fans, floodways, floodplains, and flood-prone areas; and avalanche corridors. Natural hazards may be identified in the Comprehensive Plan Geologic Hazard and Constraint Areas Map or through the Site Plan Review process using the best available information. Best available information includes, without limitation, updated topographic or geologic data, Colorado Geologic Survey landslide or earth/debris flow data, interim floodplain mapping data, and creek planning studies. Development within or affecting such natural hazards may be approved, subject to acceptable measures that will satisfactorily mitigate all significant hazard risk posed by the proposed development to the subject property and surrounding area, only if there is no way to avoid one or more hazards, no other sites on the subject property can be reasonably developed, or if reasonably necessary to avoid significant adverse impacts based upon other applicable Site Plan Review criteria.

5. The site plan shall satisfactorily mitigate the risk of wildfire both to the subject property and those posed to neighboring properties in the surrounding area by the proposed development. In assessing the applicable wildfire risk and appropriate mitigation measures, the Director shall consider the referral comments of the County Wildfire Mitigation Coordinator and the applicable fire district, and may also consult accepted national standards as amended, such as the 2003 Urban-Wildland Interface Code; NFPA / 80A, 299, 1231; 2003 International Fire Code; and the 2003 International Building Code.

6. The proposed development shall not alter historic drainage patterns and/or flow rates or shall include acceptable mitigation measures to compensate for anticipated drainage impacts. The best available information should be used to evaluate these impacts, including without limitation the Boulder County Storm Drainage Criteria Manual, hydrologic evaluations to determine peak flows, floodplain mapping studies, updated topographic data, Colorado Geologic Survey landslide, earth/debris flow data, and creek planning studies, all as applicable given the context of the subject property and the application.

7. The development shall avoid significant natural ecosystems or environmental features, including but not necessarily limited to riparian corridors and wetland areas, plant communities, and wildlife habitat and migration corridors, as identified in the Comprehensive Plan or through the Site Plan Review process. Development within or affecting such areas may be approved, subject to acceptable mitigation measures and in the discretion of the Director, only if no other sites on the subject property can be reasonably developed, or only if reasonably necessary to avoid significant adverse impacts based upon other applicable Site Plan Review criteria.

8. The development shall avoid agricultural lands of local, state or national significance as identified in the Comprehensive Plan or through the Site Plan Review process. Development within or affecting such lands may be approved, subject to acceptable mitigation measures and in the discretion of the Director, only if no other sites on the subject property can be reasonably developed, or only if reasonably necessary to avoid significant adverse impacts based upon other applicable Site Plan Review criteria.

9. The development shall avoid significant historic or archaeological resources as identified in the Comprehensive Plan or the Historic Sites Survey of Boulder County, or through the Site Plan Review process. Development within or affecting such resources may be approved, subject to acceptable mitigation measures and in the discretion of the Director, only if no other sites on the subject property can be reasonably developed, or only if reasonably necessary to avoid significant adverse impacts based upon other applicable Site Plan Review criteria.
10. The development shall not have a significant negative visual impact on the natural features or neighborhood character of surrounding area. Development shall avoid prominent, steeply sloped, or visually exposed portions of the property. Particular consideration shall be given to protecting views from public lands and rights-of-way, although impacts on views of or from private properties shall also be considered. Development within or affecting features or areas of visual significance may be approved, subject to acceptable mitigation measures and in the discretion of the Director, only if no other sites on the subject property can be reasonably developed, or only if reasonably necessary to avoid significant adverse impacts based upon other applicable Site Plan Review criteria.
    a. In reviewing development proposals in the Peak-to-Peak Scenic Corridor Area, special attention will be paid to the visibility of the development from the Peak-to-Peak Highway, with the intent to ensure development is minimally visible from the Highway.
    b. For development anywhere in the unincorporated areas of the county, mitigation of visual impact may include changing structure location, reducing or relocating windows and glazing to minimize visibility, reducing structure height, changing structure orientation, requiring exterior color and materials that blend into the natural environment, and/or lighting requirements to reduce visibility at night.
11. The location of the development shall be compatible with the natural topography and existing vegetation and the development shall not cause unnecessary or excessive site disturbance. Such disturbance may include but is not limited to long driveways, over-sized parking areas, or severe alteration of a site's topography. Driveways or grading shall have a demonstrated associated principal use.
12. Runoff, erosion, and/or sedimentation from the development shall not have a significant adverse impact on the surrounding area.
13. The development shall avoid Natural Landmarks and Natural Areas as designated in the Goals, Policies & Maps Element of the Comprehensive Plan and shown on the Zoning District Maps of Boulder County. The protection of Natural Landmarks and Natural Areas shall also be extended to their associated buffer zones. Development within or affecting such Landmarks or Areas may be approved, subject to acceptable mitigation measures and in the discretion of the Director, only if no other sites on the subject property can be reasonably developed, or only if reasonably necessary to avoid significant adverse impacts based upon other applicable Site Plan Review criteria.
14. Where an existing principal structure is proposed to be replaced by a new principal structure, construction or subsequent enlargement of the new structure shall not cause significantly greater impact (with regard to the standards set forth in this Section 4-806) than the original structure.
15. The proposal shall be consistent with the Comprehensive Plan, any applicable intergovernmental agreement affecting land use or development, and this Code.

4-807 Land Use Department Director's Determination

A. If the Director finds in reviewing a site plan application that the application meets the applicable standards set forth in Section 4-806, the Director shall approve the site plan and the applicant can continue to process the building permit.

B. If the Director finds that the application does not meet an applicable standard or standards, and that a reasonable basis for mitigation measures has been demonstrated, the Director shall approve the application with reasonable conditions that will avoid or acceptably mitigate the significant adverse impacts of the development. These conditions may include, but are not necessarily limited to the relocation or modification of proposed structures, additional landscaping, buffering, screening, relocation of access, or any other measures necessary to mitigate any significant impact or reduce hazards. The Director shall specify when the conditions shall be met.

C. If the Director finds that the application does not meet an applicable standard or standards and that a reasonable basis for mitigation measures has not been demonstrated, the Director shall deny the application as proposed. The Director's determination must specify the reasons for the denial based upon the Site Plan Review standards in Section 4-806.

D. Once the Director issues a determination, the determination shall not be final, and no permit based upon the determination shall be issued, for 14 calendar days after the date of the determination, in order to allow time for the applicant to appeal, or for the Board of County Commissioners to call up the determination for further review, pursuant to Sections 4-808 and 4-809 of this Article. The Director's determination shall become final, and permits applied for in accordance with the determination may be issued, only after the expiration of this 14-day period, and only if the determination is not reviewed and acted upon by the Board of County Commissioners at a subsequent appeal or call-up hearing.

4-808 Applicant's Right of Appeal of a Conditional Approval or Denial

A. If the Director denies a site plan or conditionally approves it with conditions to which the applicant objects the applicant shall be entitled to appeal the Director's determination to the County Commissioners.

B. The applicant must file an appeal for this purpose with the Land Use Department in writing received no later than 14 calendar days after the date of the Director's determination.

C. The Board shall review the Director's determination at a public hearing held as soon as practical after the appeal has been filed. Prior written notice of this hearing shall be provided to the applicant and to property owners within 1500 feet, and shall be published as part of the Board's agenda in a newspaper of general circulation in Boulder County.

D. At the public hearing, the Board shall consider evidence related to the Director's determination which may be presented by the Director, the applicant, or interested members of the public. The Board shall not be limited in their review to the subject of the appeal, but may review any aspect of the site plan application. Based upon this evidence the Board may affirm the Director's decision, alter conditions, add new conditions, or reverse the Director's determination on any aspect of the Site Plan Review application. In the case of denial of a site plan, the Board shall state its reasons for its decision based upon the Site Plan Review standards in Section 4-806. No permit shall be issued until and unless the Board acts on the Director's determination at the public hearing, and approves the site plan.

E. Any site plan application submitted by a public utility or a power authority providing electric or natural gas service, which relates to the location, construction, or improvement of a major electrical or natural gas facility as contemplated by Section 29-20-108, C.R.S., as amended, shall be considered to be a “final application” under Section 29-20-108 on which final County action in the event of an appeal shall be required to be taken within 90 days after submission of the application, or the application under Section 29-20-108 is deemed approved. For purposes of this Subsection G., “submission” shall be considered to be the submission of a complete application as required by this Article 4, including but not limited with respect to compliance with any applicable notice requirements to the mineral estate owners and lessees constituting less than full fee title in the subject property as required by Article 65.5 of Title 24, C.R.S.

4-809 Board of County Commissioner's Review (“Call-up”) of a Conditional Approval or Denial

A. No permit may be issued for 14 calendar days after the date of the Director's approval.

B. At the same time written approval of the site plan is provided to the applicant, the Director shall forward to the Board a written statement including

1. the location of the affected property,

2. a description of the proposed development under the permit, and

3. the basis for the Director's determination. The Director's determination can be either that there is no significant adverse impact, that the significant adverse impacts can be avoided or acceptably mitigated through the conditions imposed as specified in the statement, or that the application be denied for reasons specified in the statement.

C. Upon receiving the Director's statement, and no later than 14 calendar days after the date of the approval, the Board may call the Director's determination up for review before the Board. The call-up generally shall be made by the Board at a public meeting convened within this 14-day period. However, if it is not practical for the Board to convene a public meeting for this purpose within the 14-day period, any member of the Board may authorize a call-up within the 14-day period, which call-up shall be effective provided that the Board subsequently ratifies the call-up at a public meeting held within a reasonable period of time after the 14-day period expires.

1. The Board shall review the Director's determination at a public hearing held as soon as practical after the Director's determination. Prior written notice of this hearing shall be provided to the applicant and to property owners within 1500 feet, and shall be published as part of the Board's agenda in a newspaper of general circulation in Boulder County.

D. At the public hearing, the Board shall consider evidence related to the Director's determination which may be presented by the Director, the applicant, or interested members of the public. The Board shall not be limited in their review to the subject of the call-up, but may review any aspect of the site plan application. Based upon this evidence, the Board may affirm the Director's decision, alter conditions, add new conditions, or reverse the Director's determination on any aspect of the Site Plan Review application. In the case of denial of a site plan, the Board shall state its reasons for its decision based upon the Site Plan Review standards in Section 4-806. No permit shall be issued until and unless the Board acts on the Director's determination at the public hearing, and approves the site plan.

E. Any site plan application submitted by a public utility or a power authority providing electric or natural gas service, which relates to the location, construction, or improvement of a major electrical or natural gas facility as contemplated by Section 29-20-108, C.R.S., as amended, shall be considered to be a “final application” under Section 29-20-108 on which final County action in the event of a call-up shall be required to be taken within 90 days after submission of the application, or the application under Section 29-20-108 is deemed approved. For purposes of this Subsection G., “submission” shall be considered to be the submission of a complete application as required by this Article 4, including but not limited with respect to compliance with any applicable notice requirements to the mineral estate owners and lessees constituting less than full fee title in the subject property as required by Article 65.5 of Title 24, C.R.S.

4-810 The Effect of an Approved Site Plan

A. A Site Plan Review determination or determination to waive Site Plan Review shall expire 3 years from the date the application was approved.

B. The approval of a site plan by the Director does not result in the vesting of development rights, nor does it permit the violation of any county or state regulations to preclude the Building Official from refusing to issue a permit if the plans and specifications do not comply with applicable regulations, or that the work described in the application for the permit does not conform to the requirement of the Uniform Building Code as adopted by Boulder County.

4-811 Amendments to an Approved Site Plan

A. Any proposal to change a site plan approved under this Article shall require a request to the Land Use Department to determine whether the proposed change constitutes a substantial modification to the approved plan. If the Director determines that the change constitutes a substantial modification, no such change shall be allowed to proceed until an application to amend the approved site plan is filed with the Director and approval granted in accordance with this Article. The applicant or its successor may appeal the Director's decision to require an amended site plan to the Board of County Commissioners, provided that any such appeal shall be in writing and shall be filed with the Land Use Director no later than 30 days following the date of the Director's decision to require a site plan amendment.

4-900 Development Plan Review for Subsurface Mining

4-901 Purpose

A. This Development Plan Review is an administrative review procedure for subsurface mining which is considered likely to significantly impact important ecosystems, surrounding land uses and infrastructure needs and demands.

B. Development Plan Review shall occur before subsurface mining commences on a mining site. As part of the review procedure, the applicant shall be required to submit a development plan indicating mine and building siting and layout, buffering, landscaping, access, lighting, and other specific data.

C. This Development Plan Review process for proposed mining will allow any significant adverse impacts on the environment to be identified, evaluated, and avoided or acceptably mitigated through the imposition of reasonable conditions.

4-902 Development Plan Review Requirements

A. A development plan must be submitted for any subsurface mining, proposed to be located in the unincorporated area of Boulder County (see Section 4-508 (E)). Development plan approval is required prior to the issuance of any county building permits, or associated grading, access, or floodplain development permits, for the subsurface mining. In addition, subsurface mining which may not require a building or other associated county permit must also obtain development plan approval under this Article.

4-903 Pre-Application Conference

A. A pre-application conference as defined in Section 3-201 shall be held prior to the submission of an application for Development Plan Review.

4-904 Application

A. The application for Development Plan Review shall be made on application forms available at the Land Use Department. Such forms shall have all spaces completed, designate all agents, exhibit all owner or operator signatures, and be accompanied by required fees and all materials required within these regulations. (There is no fee for processing a Development Plan Review application for subsurface mining.)

4-905 Development Plan Submission

A. The applicant shall submit seven copies of the proposed development plan with the completed application form to the Land Use Department, or alternatively, the plan shall be submitted in a digital form acceptable to the Land Use Department. The following information must be submitted with a development plan application unless waived by the Director where inappropriate or unnecessary. An attempt will be made to reduce the application requirements to the minimum necessary for adequate processing of the application. For any of the following requirements, the State Division of Minerals and Geology (DMG) submittal may be substituted if it contains the same or similar information.

1. A vicinity map indicating the section, township, and range of the site, and its relation to surrounding public roads and municipal boundaries.

2. A detailed drawing of the site (affected surface area) at a scale of 1 inch to 100 feet or other appropriate scale, including the following:

a. the dimensions of the site, indicating area in square feet and acres, names of the mining claims, if applicable, and the area of the site to be disturbed;

b. the location of all structures, laydown yards, settling ponds, milling facilities, and any other facilities or stationary equipment;

c. existing and proposed roads within the site as well as ingress and egress from public or private roads;

d. on-site features such as floodplain designations, water courses and springs, drainage, utility lines and easements, ditches, wetlands or aquatic habitat, significant plant ecosystems, wildlife habitat and migration routes, geologic features and hazards, vegetative cover including any mapped wildfire hazard areas, dams, reservoirs, mines, and known cultural resources;

e. existing and proposed topographic contours at vertical intervals of five feet maximum within 50 feet of the proposed activity. In terrain where the average cross slope exceeds 15 percent, vertical intervals may be 20 feet maximum for the area within 50 feet of the proposed activity. The remainder of the site may show topography using a U.S.G.S. topographic map; and

f. existing and proposed vegetation, buffers, berms, fences, and other screening devices.

3. Diagram showing adjacent properties and the approximate location of roads and buildings and their uses within a distance of 200 feet of any proposed structure, facility, or area to be disturbed. This may be drawn at a smaller scale than the site plan.

4. One copy of application forms and/or approvals for all applicable local, state, or federal permits. Where such permits have not yet been applied for, a listing of all such permits which will be needed shall be included, together with an explanation of which particular activities the permits will enable. Supplemental submission of subsequent permit applications and/or approvals may be made a condition of Development Plan approval.

5. A summary of the mining plan, per the State Division of Mining and Geology regulations, including the method of and associated schedules for the production, milling or processing; 'moth balling' and abandonment; hours of operation; an access and transportation route plan; anticipated truck traffic generation; a waste disposal plan; production rates and total volumes of ore and waste rock; a drainage and erosion control plan for both on-site and off-site drainage; and, a description of the water source to be used in the operation where applicable.

6. For all designated mining operations (DMO), as defined in CRS 34-32-103, an emergency response plan, including a list of all hazardous substances which will be used or generated, fire protection and hazardous materials spills plan, which specifies planned actions for possible emergency events, a listing of persons to be notified of an emergency event, proposed signage, and provisions for access by emergency response teams. The emergency plan must be acceptable to the appropriate fire district or the County Sheriff, as appropriate. The plan shall include a provision for the operator to reimburse the appropriate emergency service provider for costs incurred in connection with emergency response for the operator's activities at the site.

7. A summary of the reclamation plan submitted or intended to be submitted to the DMG, including proposed recontouring, revegetation or other appropriate measures to restore the surface while operations proceed or after they cease.

8. A noise, odor, or dust abatement plan as specified in 4-907A to control impacts on adjacent properties.

9. Any proposed measures, pursuant to the standards in 4-907A, necessary to mitigate anticipated adverse impacts on the aesthetic features of the site, on views from surrounding properties or public rights-of-way, or on significant environmental resources such as wetlands or plant and wildlife habitats.

10. Distance to nearest subdivided land or substantially developed townsite.

11. A noxious weed management plan for the site.

4-906 Referral and Review by Director

A. The Director will coordinate the review of the development plan application. Upon the filing of a complete application for Development Plan Review, the Director shall promptly forward one copy to the County Transportation, Public Health, and Parks and Open Space Departments; the appropriate fire district; the County Sheriff; and any adjacent municipality for comment.

1. Referral comments on the proposed development shall be returned to the Director no later than 18 days from the date of application.

2. The Land Use Department shall determine if the application is complete as soon as possible after submittal.

B. In addition, the Director shall notify the property owners within 1,500 feet and surface owners of the subject property, if different from the applicant, and post a sign on the site within seven days after accepting the application for Development Plan Review. Both the notice and the sign shall indicate that a Development Plan Review application has been made, and the phone number of the Land Use Department where information regarding the application may be obtained.

C. Any determination by the Director to approve or conditionally approve a development plan application must be in writing and mailed or otherwise provided to the applicant no later than 28 days after the date on which the development plan application is accepted as complete. Failure to make a determination on the application within this time period shall result in the application being considered approved and the applicant's building permit or associated grading, access, or floodplain development permit being processed.

4-907 Development Plan Review Standards and Criteria for Approval

A. A development plan shall be approved or conditionally approved in accordance with the following standards and criteria.

1. Any equipment used in production or reclamation of a mine must comply with Section 25-12-103, C.R.S., Maximum Permissible Noise Levels.

a. For any mine where noise from the site will have a substantial impact in adjacent areas, additional noise mitigation may be required. One or more of the following additional noise mitigation measures may be required:

(i) acoustically insulated housing or covers enclosing any motor or engine;

(ii) screening of the site or noise emitting equipment by fencing or landscaping;

(iii) a noise management plan specifying the hours of maximum noise and the type, periodicity, and level of noise to be emitted, including blasting; and

(iv) any other noise mitigation measures required by the Colorado Division of Minerals and Geology, or other responsible agency, or as proposed by the operator and accepted by the Director.

2. Subsurface mining facilities shall be located in a manner to minimize their visual and physical impact and disturbance of the land surface, and to maximize their compatibility with the character of the neighborhood and surrounding land uses.

a. Facilities shall be painted or otherwise finished in a noncontrasting, nonreflective color, to blend with the adjacent landscape.

b. In areas where the facilities will have a substantial visual impact on the surrounding area, landscaping or screening of the site, or the use of less intrusive equipment, may be required. Specific landscaping or screening requirements may include, but are not necessarily limited to, establishing and properly maintaining ground cover, shrubs, and trees; shaping cuts and fills to appear as natural forms; designing the operation to utilize natural screens; or constructing fences for use with or instead of landscaping.

c. The development plan will incorporate the use of wildfire mitigation measures, such as location of structures, fuel reduction, incorporation of a buffer around structures, and the use of fire resistant building material, if applicable.

d. The facilities will not have a significant adverse impact on surrounding land uses.

e. The facilities will not have an adverse safety impact on adjacent parcels and rights-of-way.

3. Access roads on the site and access points to public roads shall be reviewed by the County Transportation Department. All access and oversize or overweight vehicle permits must be obtained from the County Transportation Department prior to beginning operation. All proposed transportation routes to the site shall also be reviewed and approved by the County Transportation Department to minimize traffic hazards and adverse impacts on public roadways. Existing roads shall be used to minimize land disturbance unless traffic safety, visual or noise concerns, or other adverse surface impacts clearly dictate otherwise.

4. For any subsurface mining located in or adjacent to a significant wildlife habitat, as defined by the Colorado Division of Wildlife; or, Environmental Conservation Area; or, environmental resource, as designated in the Boulder County Comprehensive Plan, or identifiable on or near the site the operator shall consult with the Division of Wildlife or the county as applicable to determine appropriate mitigation procedures. In no case shall an operator engage in activities which jeopardize a state, federal, or otherwise listed threatened or endangered species.

5. Air contaminant emissions shall be in compliance with the permit and control provisions of the Colorado Air Quality Control Program, Title 25, Article 7, C.R.S., and the fugitive dust regulations administered by Boulder County Public Health.

6. All operations shall comply with all applicable state Water Quality Control and drinking water standards.

7. All waste disposal or treatment facilities shall comply with all requirements of the state or County Public Health Department and responsible emergency response authorities, as applicable.

8. Subsurface mining shall comply with all state and Federal requirements. However, to the extent that a state or Federal requirement falls within a land use regulatory area addressed by this Article, and conflicts with any conditions of a development plan approved under this Article, the development plan conditions shall be enforceable provided they do not materially impede the state or Federal interest. The applicant may appeal the development plan approval to the Board of County Commissioners under Section 4-909A, below (or within thirty days after written notification to the Director of an alleged material conflict if the conflict is discovered after the appeal deadline in Section 4-909A has expired and could not reasonably have been discovered earlier), or any argument as to material conflict shall be deemed waived. If it is possible for the applicant to appeal to the applicable state or Federal agency for a variance or waiver to comply with a conflicting development plan condition, there shall be a presumption in any appeal before the Board of County Commissioners that a material conflict does not exist, unless the applicant has pursued an appeal with the applicable agency.

9. The proposal shall be consistent with the Comprehensive Plan, any applicable intergovernmental agreement affecting land use or development, and this Code.

4-908 Land Use Director's Determination

A. If the Director finds in reviewing a development plan application that the application meets the applicable standards set forth above, the Director shall approve the development plan, and the applicant may continue the processing of the building or other associated county permit application, or otherwise engage in the proposed subsurface mining.

B. If the Director finds that the application does not meet an applicable standard or standards, and that a reasonable basis for mitigation measures has been demonstrated, the application shall be approved with appropriate reasonable conditions imposed to avoid or acceptably mitigate the significant adverse impacts of the development. Such conditions may include, but are not necessarily limited to, the relocation or modification of proposed access roads, facilities, or structures; landscaping, buffering, or screening; posting of adequate financial guarantees; compliance with specified surface reclamation measures; or any other measures necessary to mitigate any significant impact on surrounding properties and public infrastructure.

C. If the Director finds that the application does not meet an applicable standard or standards and that a reasonable basis for mitigation measures has not been demonstrated, the Director shall deny the application as proposed.

D. Once the Director issues a determination on the development plan, the determination shall not be final, and no permit based upon the determination shall be issued, for 14 calendar days after the date of the determination, in order to allow time for the applicant to appeal, or for the Board of County Commissioners to call up the determination for further review, pursuant to Sections 4-909A and 4-910A of this Article. The Director's determination shall become final, and permits applied for in accordance with the determination may be issued, only after the expiration of this 14-day period, and only if the determination is not reviewed and acted upon by the Board of County Commissioners at a subsequent appeal or call-up hearing.

4-909 Applicant's Right of Appeal of Conditional Approval or Denial

A. In the event that the Director conditionally approves or denies a development plan application, the applicant shall be entitled to appeal the approval to the Board of County Commissioners. The applicant must file an appeal for this purpose with the Director in writing received no later than seven calendar days after the date of the Director's determination. If the determination is mailed to the applicant, three additional days for mailing shall be added to the time for filing an appeal.

B. The Board shall review the Director's determination at a public hearing scheduled as soon as practical after the appeal has been. Prior written notice of this hearing shall be provided to the applicant and property owners within 1,500 feet and shall be published as part of the Board's agenda in a newspaper of general circulation in Boulder County.

C. At the public hearing the Board shall consider evidence related to the Director's determination which may be presented by County staff, the applicant, or interested members of the public. The Board shall not be limited in their review to the subject of the appeal, but may review any aspect of the development plan application. Based upon this evidence the Board may affirm the Director's determination, or may approve the development plan with modified, altered, deleted, or added conditions in accordance with Section 4-907A of this Article. No County building, grading, access, or floodplain development permit shall be issued, or the applicant otherwise allowed to proceed with the operation, until the Board acts on the Director's determination at the public hearing, and approves the development plan with or without the addition or modification of conditions.

4-910 Board of County Commissioners' Review (“Call-up”) of a Determination to Approve or Conditionally Approve a Development Plan

A. No county building, grading, access, or floodplain development permit may be issued to the applicant, nor shall the applicant be authorized to proceed with any proposed subsurface mining operation not requiring one of these county permits, for 14 calendar days after the date of the Director's approval, in order for the Board of County Commissioners to review the approval. At the same time written approval of the development plan is provided to the applicant, the Director shall forward to the Board a written statement which shall include the location of the site, a description of the proposed subsurface mining, and, if the development plan is conditionally approved, the conditions of approval.

B. Upon receiving the Director's statement, and no later than 14 calendar days after the date of the approval, the Board may call the Director's determination up for review before the Board. The call-up generally shall be made by the Board at a public meeting convened within this 14-day period. However, if it is not practical for the Board to convene a public meeting for this purpose within the 14-day period, any member of the Board may authorize a call-up within the 14-day period, which call-up shall be effective provided that the Board subsequently ratifies the call-up at a public meeting held within a reasonable period of time after the 14-day period expires.

1. The Board shall review the Director's determination at a public hearing held as soon as practical after the Director's determination. Prior written notice of the hearing shall be provided to the applicant and property owners within 1,500 feet and shall be published as part of the Board's agenda in a newspaper of general circulation in Boulder County.

C. At the public hearing the Board shall consider evidence related to the Director's determination which may be presented by County staff, the applicant, or interested members of the public. The Board shall not be limited in their review to the subject of the call-up, but may review any aspect of the development plan application. Based upon this evidence the Board may affirm the Director's determination or denial, or alter, delete, or add conditions of approval, in accordance with Section 4-907A of this Article. No County building, grading, access, or floodplain development permit shall be issued, or the applicant otherwise allowed to proceed with the proposed surface mining operation, until the Board acts on the Director's determination at the public hearing, and approves the development plan with or without the addition or modification of conditions.

4-911 Effect of the Approved Development Plan

A. After approval of a development plan for an subsurface mining, the applicant shall be entitled to have processed any necessary building, grading, access, or floodplain development permits or to otherwise proceed with the proposed operation. The approval of a development plan by the Director does not result in the vesting of development rights, nor does it permit the violation of any county, state, or federal regulations or preclude the County Building Official or Transportation Department or Public Health from refusing to issue a permit if the plans and specifications do not comply with applicable county regulations.

4-912 Inspections

A. Any site under an approved development plan may be inspected by the county at any time, to ensure compliance with the requirements of the approved development plan, provided that reasonable prior notice is given to the contact person at the telephone number supplied by the applicant. The approved development plan shall be considered to grant the applicant's implied consent to such inspections.

4-913 Enforcement

A. In addition to any other remedy authorized under this Code to enforce the provisions of this Article, the Director shall be entitled to draw on any financial guarantee provided by an applicant pursuant to this Article, if the applicant violates any term or condition of an approved development plan. If the Director has reason to believe that a violation of an approved development plan for which a financial guarantee has been provided has occurred, the Director shall provide written notice to the applicant describing the violation, and stating a reasonable time within which the violation must be corrected. If, within that time period, the applicant has not either corrected the violation or filed a written appeal with the Board of County Commissioners, the Director shall be entitled to enter upon the site to take any reasonable measures to correct the violation, and may draw on the financial guarantee to cover the costs of corrective measures. The County may not require any financial guarantee which is related to mining operation within the State's purview under the Colorado Mined Land Reclamation Act, as amended.

B. If the applicant files a timely appeal with the Board of County Commissioners, the Board shall schedule a hearing on the appeal at the soonest possible time of which the applicant shall receive reasonable prior notice. If the Board confirms at the hearing that the violation has occurred and has not been corrected, the Board in its discretion may give the applicant additional time to correct the violation, or may specify the time at which the Director may take appropriate action to have the violation corrected and draw on the financial guarantee to cover the costs of corrective measures.

C. To insure the Director's ability to enforce the provisions of any approved development plan, the Director shall not release any financial guarantee provided under this Article for an individual development plan, until the Director confirms that all applicable provisions of the plan have been complied with.

4-914 Amendments to a Development Plan

A. Any proposal to change a development plan approved under this Article shall require an application to the Land Use Department to determine whether the proposed change constitutes a substantial modification to the approved plan. If the Director determines that the change constitutes a substantial modification, no such change shall be allowed to proceed until an application to amend the approved development plan is filed with the Director and approval granted in accordance with this Article. The applicant or its successor may appeal the Director's decision to require an amended development plan to the Board of County Commissioners, provided that any such appeal shall be in writing and shall be filed with the Land Use Director no more than 30 days following the date of the Director's decision to require a development plan amendment.

4-1000 Nonconforming Structures and Uses

4-1001 Principles of Construction as Applied to Nonconforming Structures and Uses

A. In recognition of the broadly accepted policy that nonconforming uses and structures should be brought to conforming status as speedily as justice will permit, and favoring the reasonable regulation of nonconforming uses and structures to minimize their adverse impacts on current comprehensive zoning schemes and the community, this Article shall be strictly construed against the continuation or expansion of nonconformity in Boulder County.

4-1002 Nonconforming Structures

A. A nonconforming structure is any existing structure which does not conform to the structure regulations of this Code for the zoning district in which such nonconforming structure is located, as a result of either (1) the adoption or amendment of this Code, or (2) a final county administrative or judicial decision precluding Boulder County from enforcing this Code specific to a structure on the basis of estoppel, laches, or waiver.

B. A nonconforming structure may continue to be occupied, except as otherwise provided for in this Section.

C. A nonconforming structure may not be altered, repaired, or enlarged in any way which would increase the degree of nonconformity with respect to the setback or height regulations of this Code,

1. For purposes of this Section, an increase in the degree of nonconformity shall be any alteration which adds to the floor area or height of the portion of the structure which violates this Code.

2. This restriction may be waived if the Building Official determines that any such alteration, repair, or enlargement is necessary to rectify a hazardous health or safety situation, or to comply with the public health or safety requirements of another governmental entity having lawful jurisdiction over the structure.

3. Agricultural structures, either singly or cumulatively, legally constructed which were over 25,000 square feet (or 35,000 square feet in a community service area) as of October 18, 1994, may be altered, repaired, or enlarged provided the total square footage of the structures on a parcel is not increased.

D. A nonconforming structure which has been damaged or destroyed by causes outside the control of the property owner or their agent, may be restored to its original location, floor area, and height, provided that such restoration complies with the current provisions of the Boulder County Building Code.

1. Such restoration must be commenced within six months after the date on which the nonconforming structure was damaged or destroyed and completed within one year after the date on which the restoration was commenced.

a. These times may be extended for a reasonable period, if approved by the County Commissioners at a public hearing upon a showing of extraordinary circumstances by the property owner or their agent.

2. The provisions of this Section 4-1002 (D) shall not apply to substantial improvements to structures in the Floodplain Overlay District as provided for in Section 4-400 of this Code.

3. Restoration meeting the requirements of this provision are not required to undergo a Site Plan Review. (See Article 4-802 (B) (3))

4-1003 Nonconforming Uses

A. A nonconforming use is any existing use which does not conform to the use regulations of this Code for the zoning district in which such nonconforming use is located, as a result of either

1. the adoption or amendment of this Code, or

2. a final administrative or judicial decision precluding the County from enforcing this Code specific to a use on the basis of estoppel, laches, or waiver.

a. Uses are not considered nonconforming due to inadequate parking.

b. Uses which fall within Section 4-1003 (A) (2), above shall not be eligible to apply for a special use permit for a use of community significance (Section 4-506 (H)).

B. Except as otherwise provided in this Section, a nonconforming use may be continued and normal or routine maintenance of a structure containing a nonconforming use shall be permitted. Normal or routine maintenance shall include any maintenance or repair which does not impermissibly enlarge or alter the structure containing a nonconforming use under Section 4-1003(C), below.

C. Enlargement or Alteration of a Nonconforming Use

1. The right to continue a nonconforming use terminates immediately when the nonconforming use is enlarged, expanded, extended, or altered in any of the following ways, and the property owner does not successfully pursue any of the options specified in Section 4-1003 (H) within 30 calendar days after the Director provides written notification of an alleged illegal enlargement or alteration to the owner.

a. Addition of a new structure containing or accessory to the nonconforming use;

b. Enlargement or alteration of a structure containing or accessory to the nonconforming use, including but not necessarily limited to an increase in floor area, an increase in height, or any other alteration or improvement in excess of normal or routine maintenance of the structure;

c. Enlargement or alteration in the land area occupied by the nonconforming use, unless the basic nature of the use, at the time it became nonconforming, clearly indicated or contemplated such an increase or alteration; or

d. Any other enlargement or alteration of the nonconforming use which has the effect or threatened effect of creating a hazard or nuisance on or off the property, of adversely affecting the character of the neighborhood, or of intensifying the use of the land or its need for services.

e. Removal or replacement of any structural member in a use for which the County is precluded from enforcing this Code specific to use on the basis of estoppel, laches, or waiver.

2. An impermissible enlargement or alteration shall not include the following:

a. a change of ownership of the property;

b. an alteration or expansion which the Building Official determines is necessary to rectify a hazardous health or safety situation or to comply with the public health or safety requirements of another governmental entity having lawful jurisdiction over the structure;

c. an extension of the nonconforming use within the structure containing the use, provided that such extension is not accompanied by an alteration of the structure falling within category (b), above;

d. the addition of a solar energy device to a structure containing a nonconforming use; or

e. any replacement or upgrading of outmoded or worn equipment or supplies, provided that such activity does not fall within category Section 4-1003(C)(1)(d), above.

3. Owners of legal building lots containing agricultural uses which have become nonconforming as a result of adoption or amendment of this Code, may restore, modify, and maintain existing conforming structures, and may construct new conforming structures, provided such structures are directly related to the agricultural use, and provided the use is not enlarged or altered in any other way.

D. Change of a Nonconforming Use

1. A nonconforming use may be changed only to a use which is conforming in the zoning district in which the use is located.

2. Any change of a nonconforming use to any other use shall operate immediately to terminate the right to continue the nonconforming use. Thereafter, the property shall be used only in conformity with the use provisions of its zoning district.

E. Destruction of a Structure Containing a Nonconforming Use

1. A structure containing a nonconforming use shall be deemed destroyed when either greater than 50 percent of its floor area, or greater than 50 percent of its actual value (as determined by the Boulder County Assessor) is destroyed.

2. The right to continue a nonconforming use terminates immediately when the structure containing that use is destroyed by an intentional act of the property or structure owner or their agent.

3. In all other cases, when a structure containing a nonconforming use is destroyed, the structure may be restored, and the nonconforming use may be reestablished.

a. Restoration of the structure must be commenced within six months after the date on which the nonconforming structure was destroyed and completed within one year after the date on which the restoration was commenced.

b. These times may be extended for a reasonable period, if approved by the County Commissioners at a public hearing upon a showing of extraordinary circumstances by the property owner or their agent.

4. The provisions of this Section 4-1003(E) shall not apply to substantial improvements to structures in the Floodplain Overlay District as provided for in Section 4-400.

F. Damage to a Structure Containing a Nonconforming Use

1. The right to continue a nonconforming use terminates immediately when the structure containing that use is damaged by an intentional act of the property or structure owner or their agent.

2. In all other cases, when a structure containing a nonconforming use is damaged, the structure may be restored, and the nonconforming use may be reestablished.

a. Restoration of the structure must be commenced within six months after the date on which the nonconforming structure was damaged and completed within one year after the date on which the restoration was commenced.

b. These times may be extended for a reasonable period, if approved by the Board of County Commissioners at a public hearing upon a showing of extraordinary circumstances by the property owner or their agent.

3. The provisions of this Section 4-1004 (F) shall not apply to substantial improvements to structures in the Floodplain Overlay District as provided for in Section 4-400.

4. Restoration meeting the requirements of this provision are not required to undergo a Site Plan Review. (See Article 4-802 (B) (3))

G. Abandonment of a Nonconforming Use

1. The right to continue a nonconforming use terminates as soon as the use is abandoned through the discontinuance of the use for an uninterrupted period of six months or more, as a result of causes within the control of the property owner or their agent.

a. Discontinuance of the use shall be a complete cessation of all activity on the property related to the use as determined in relationship to the nature and history of the nonconforming use, based upon available public information on the use.

b. If the nonconforming use is a seasonal use, the use shall be terminated if it is discontinued for an entire single season based upon the history and nature of the use.

2. Any nonconforming use may be abandoned in less than six months or a season, as applicable, if the property owner expressly states an intent to abandon the use, or engages in action which unambiguously expresses an intent to abandon.

H. Notice of Termination in the Event of Unlawful Enlargement or Alteration of a Nonconforming Use, Change of Use, Abandonment of a Nonconforming Use, or Destruction or Damage to a Structure Containing a Nonconforming Use

1. In the event that the Director receives information upon which a determination is made that the right to continue a nonconforming use has been or may have been terminated by operation of Section 4-1003, the Director shall provide a written notification of this determination by first class mail to the property owner, and to the parcel address, all as shown on the records of the Boulder County Assessor. The property owner shall have 30 calendar days after the date of the notification within which to provide evidence satisfactory to the Director to show that the determination is in error, to abate the illegal enlargement or alteration, to apply for approval of a special use or other applicable approval under this Code, or to file an appeal of the Director's determination to the Board of County Commissioners. In any appeal, the property owner shall have the burden to show that the right to continue the nonconforming use was not terminated according to the applicable provisions of this Article, when judged in light of the history and nature of the use and the circumstances of the alleged termination.

2. Nothing in this Section shall alter or diminish the Director's right to take enforcement action against the unlawful continuation of a nonconforming use terminated by operation of Section 4-1003 hereof, as set forth in 30-28-124, C.R.S., as amended, and Article 17 of this code. Moreover, except in the case of an illegal enlargement or alteration for which the owner shall be provided with a 30 day opportunity to abate, any failure by the Director to provide a notification of a determination of termination as provided for in this Section shall in no way entitle the property owner to continue or resume a nonconforming use terminated by operation of this Section 4-1003(H).

4-1004 Recognition of Nonconforming Uses

A. A nonconforming use may be recognized as a conforming use if:

1. The use was made nonconforming pursuant to Section 4-1003(A)(1), and receives special use review approval as a use of community significance under Sections 4-506(H) and 4-602(E) of this Code, or

2. The use is nonconforming pursuant to 4-1003(A)(2), and receives special use approval as a temporary use under Section 4-600(A). In addition to satisfying the special use criteria of Section 4-601, such a use may receive special use approval only if it meets the following requirements, to assure that these nonconforming uses are brought into conformity as quickly as justice may permit:

a. The use is required to totally cease, or to be changed to a conforming use, within a reasonable time certain as determined by the Board of County Commissioners through the special use review process, not to exceed 30 years.

b. During the time certain when the use is allowed to exist as a temporary special use, the property owner grants a conservation easement to the County to assure that no future expansion of the use or its associated structures occurs on the property beyond that approved in the special use. The conservation easement will also require that at the expiration of the temporary use period established in subsection 4-1004(A)(2)(a), the temporary special use shall cease, and the property's use and structures shall be made to conform to the zoning districts requirements and in accordance with any specific requirement of the special use review and conservation easement.

c. Approval of the use as a temporary special use will result in some measurable decrease in one or more of the adverse land use impacts associated in the nonconforming use (such as in traffic, noise, or adverse visual impact).

3. The use was a legal residential use when it became nonconforming pursuant to subsection 4-1003(A)(1) and receives Limited Impact Special Review use approval under Section 4-600(A), and, in addition, the owner/applicant agrees to permanently deed restrict the approved special use as affordable housing under the adopted standards of the BOCC based upon the recommendation and policies of the Boulder County Housing Authority.

a. No increase in density is permitted through this approval.

b. Minor expansions to the use may be allowed through the limited impact special use process, so long as the proposed use results in some measurable decrease in one or more of the adverse land use impacts associated with nonconforming use (such as in traffic, noise, or adverse visual impact) and so long as current County Building Code requirements are met.

4. The nonconforming use is changed to any other conforming use recognized under this Code.

4-1100 Rezoning (Zoning Map Amendments)

4-1101 Initiation of Amendments

A. Initiation of Map Amendments

1. Map amendments may be initiated by the Board of County Commissioners, the Planning Commission, or the legal owner of any property in Boulder County.

2. Map amendments shall be reviewed and acted upon in accordance with the procedural provisions contained within Article 3 of this Code, except the following:

a. Comprehensive map amendments initiated by the Board of County Commissioners or Planning Commission including map amendments resulting from a text amendment to this Code. In this case, the following notification requirements may be adopted by the Planning Commission.

(i) The newspaper notice need not contain the name of the landowner and applicant, the proposed and existing zoning, or the general location description of the land.

(ii) The property need not be posted with a sign.

(iii) The written notice of the hearing need not be provided to the applicant.

(iv) A written notice of the hearing need not be mailed to all owners of interest and adjacent land owners identified in the title report.

4-1102 Standards and Conditions

A. No map amendment shall be adopted by the Board of County Commissioners unless the Board has determined that:

1. a public need exists for the map amendment;

2. the amendment is consistent with and in furtherance of the stated intent and purposes of this Code;

3. the amendment is in accordance with the Boulder County Comprehensive Plan and any applicable intergovernmental agreement affecting land use or development;

4. the subject property is an appropriate site for the map amendment, and is a reasonable unit of land for such reclassification;

5. the map amendment would not have a material adverse effect on the surrounding area;

6. the map amendment will not result in an over-intensive use of land;

7. the map amendment will not have a material adverse effect on community capital improvement programs;

8. the map amendment will not require a level of community facilities and services greater than that which is available;

9. the map amendment will not result in undue traffic congestion or traffic hazards;

10. the map amendment will not cause significant air, water, or noise pollution;

11. the map amendment will not permit the use of any area designated within the Boulder County Comprehensive Plan for the extraction of commercial mineral deposits in a manner which would interfere with the present or future extraction of such deposit by an extractor to any greater extent than under the present zoning of the property;

12. it must be demonstrated that any structures to be built on the property will not be affected by geologic hazards if they exist; and

13. the map amendment will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Boulder County.

4-1200 Board of Adjustment

4-1201 Appeals to the Board of Adjustment

A. Appeals to the Board of Adjustment may be taken by any person aggrieved by any decision of the Land Use Director or County Engineer made in the course of the administration or enforcement of Article 4 or any related provision of this code.

B. An application for an appeal must be made within 30 days after the Director or County Engineer makes a written decision on the matter being appealed. The 30 days shall start to run on the third day after the date of mailing of the decision to the last known address of the person concerning whom the decision is made. If not appealed to the Board of Adjustment the decision shall be final.

C. The process for filing an appeal and specifics regarding the public hearing before the Board of Adjustment are outlined in Article 3 of this Code.

D. No appeals to the Board of Adjustment or requests for variances before the Board of Adjustment are permitted for any matters under Article 12, Development Plan Review for Oil and Gas Operations.

4-1202 Standards of Review

A. Interpretations of this Code

1. In hearing an appeal of an administrative decision or interpretation, the Board of Adjustment shall consider the following:

a. the technical meaning of the provision being appealed;

b. evidence as to the past interpretation of the provision;

c. the principles of interpretation and rules of construction in Article 1 of this code; and

d. the effect of the interpretation on the intent of this Code and the implementation of the Comprehensive Plan and any applicable intergovernmental agreement affecting land use or development.

B. Requests for a Variance from the Provisions of this Code

1. The Board of Adjustment shall not grant a variance to this Code which allows:

a. a use in a zoning district other than those as allowed in Section 4-100 of this Code;

b. a variance to the minimum lot area requirements or maximum gross density;

c. the alteration of any definition;

d. a substantial modification to any planned unit development or special use allowed approved by the County Commissioners;

e. any increase in the base flood level;

f. a change in the height or yard requirements which could be obtained, or have been denied, through Special Review; or

g. A decrease in the spacing requirements for Marijuana Establishments under the Additional Provisions of Article 4-512.I. of this Code.

2. In order to grant a variance, the Board of Adjustment shall find that the following criteria have been satisfied:

a. there exist exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope;

b. because of these physical circumstances, the strict application of this Code would create an exceptional or undue hardship upon the property owner;

c. the hardship is not self-imposed;

d. the variance, if granted, will not adversely affect the use of adjacent property as permitted under this code;

e. that the variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of this Code and the Boulder County Comprehensive Plan; and

f. that the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County and is in accordance with the Comprehensive Plan and any applicable intergovernmental agreement affecting land use or development.

3. In addition to any other procedural requirements which the Board of Adjustment may require in its duly adopted Supplemental Rules, no initial hearing on any variance application which anticipates new surface development may be held until the applicant provides a certification of compliance with Article 65.5 of Title 24, C.R.S. signed by the applicant, confirming that the applicant or its agent has examined the records of the Boulder County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist. If any such mineral estate owners or lessees exist, the Applicant must sign an additional certification confirming that the applicant has, at least 30 days prior to the initial public hearing on the variance, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.
4. In any case where information becomes known to the Land Use Director or the Board that an applicant has failed to provide notice of the initial public hearing on a variance as required by Article 65.5 of Title 24, C.R.S., the Board or the Director on behalf of the Board may continue, may reschedule, or may vacate the initial public hearing to allow proper notice to be provided under Article 65.5 of Title 24, C.R.S.

C. Additional requirements for variances and appeals under Section 4-400 of this Code ("Floodplain Overlay District") are set forth in Section 4-408 and 4-409, respectively.

D. Request for variances from Article 13 – Sign Code

1. The Board of Adjustment shall have the power to hear an appeal from a decision based on an interpretation of any provision of Article 13 denying a sign permit on grounds other than those governed by the Building Code.
2. The Board of Adjustment may grant a variance from the height, size and/or setback limitations for any sign regulated in Article 13 when, by reason of topography, road location or elevation, or other exceptional difficulties or unique circumstances associated with the parcel on which the sign is located, the sign would not be visible or serve its intended purpose under the existing size or setback regulations.
3. The Board of Adjustment shall not have the power to grant a variance from any other provision of Article 13.

4-1203 Expiration

A. Unless otherwise stated in the motion made by the Board of Adjustment, all rights to permits authorized by the granting of any variance shall expire one year from the time approval for a variance is final.

4-1204 Extensions

A. An extension of up to six months for good cause shown may be granted by the Board of Adjustment.

4-1300 Expanded TDR Program and Structure Size Thresholds for Single Family Uses

A. Introduction and Purposes

1. This Section 4-1300 establishes a structure size threshold for single family residences, above which additional Development Credits must be obtained to offset the impacts of larger scale homes, and below which Development Credits can be severed to preserve a supply of smaller scale homes. These regulations also provide for the transfer of Development Credits to maintain rural character through the preservation of vacant land.

2. This Section 4-1300 allows for the transfer of Development Credits to offset the impact of existing Community Uses and Lodging Uses that are approved to expand over the maximum development thresholds established in the Special Provisions, Special Review for Community and Lodging Uses (Art 4-602(C)(2)).

3. These regulations are adopted to implement the goals and policies in the Sustainability Element of the Boulder County Comprehensive Plan. Those goals and policies include:

a. Preserving the rural character of unincorporated Boulder County, especially those areas with particular historic or contextual character;

b. Promoting more sustainable development through incentives, education and regulation;

c. Allowing for the impacts of larger scale home development to be offset through the preservation of vacant land and smaller scale residential development elsewhere in the County;

d. Providing flexibility for property owners to build and keep smaller scale homes which will help provide a diversity of housing stock in unincorporated Boulder County; and

e. Promoting and preserving vacant land by creating incentives for property owners to leave land undeveloped.

4-1301 Division of the County into Geographic Areas

A. For purposes of this Article 4-1300, unincorporated Boulder County is divided into the following two geographic areas:

1. Mountain Area – The Mountain Area includes the mountainous areas of the County as defined in the Land Use Code Section 18-178A (the area west of CO 93 from its intersection with the south county line to the City of Boulder, west of the City of Boulder city limits, west of US 36 from the City of Boulder to CO 66, and west of the St. Vrain Supply Canal from CO 66 to its intersection with the north county line).

2. Plains Area – The Plains Area includes all areas of the County that are not included in the Mountain Area.

4-1302 Single Family Residential Size Threshold

A. The Size Threshold is the measure of single family residential floor area that is allowed on a legal building lot without having to purchase Development Credits, as further provided below. Building lots with residential floor area at a specified level less than the Size Threshold may sell Development Credits, as further provided below.

1. Size Threshold to be applied county-wide

a. Total residential floor area, as defined in Article 18-189D, equal to 6,000 square feet.

b. This total floor area includes all residential floor area as defined in Article 18-189D.

2. Structures exempt from the Size Threshold are manufactured homes located in a zoned Manufactured Home Park; nonresidential structures including agricultural accessory structures such as barns and loafing sheds; and Agricultural, Family Care and Historic Accessory Dwelling Units that are approved though a Special Review process.

4-1303 Conveyance and Severance of Development Credits

A. Development Credits may be conveyed either in a private market transaction or through the County Clearinghouse (see Section 4-1305, below).

1. For Development Credits conveyed through private market transactions, the parties must obtain Development Credit Certificates from the County Clearinghouse in advance of conveyance.

a. Adequate documentation of private transactions, such as purchase agreements or bills of sale, must be submitted to the County Clearinghouse within five business days after the closing of the transaction, for registration purposes.

b. The County Clearinghouse may request information as necessary to provide adequate evidence of the private transaction.

2. Boulder County may sell or donate Development Credits to the County Clearinghouse from properties purchased by the Boulder County Parks and Open Space Department under the rules and policies governing the operation of the Clearinghouse, contained in Section 4-1305, below, and the purchase of properties by the Parks and Open Space Department.

B. Severance of Development Credits from Vacant Building Lots Which Are To Remain Vacant

1. Development Credits may be severed from a vacant building lot, provided that the lot meets the following requirements and any future development potential removed from the lot as specified below:

a. In the Plains Area

(i) The lot must be a building lot.

(ii) The lot must meet the definition of "vacant building lot" under Article 18 of this Code. Building lots which are not vacant under this definition may be rendered vacant, provided that all necessary structures and improvements are removed from the lot and all necessary land restoration accomplished to the satisfaction of the Director pursuant to all applicable Land Use Code review and building permit requirements (including historic review if necessary), prior to the issuance and transfer of any Development Credits.

(iii) The lot must not be required to remain vacant by a conservation easement or other instrument recorded outside the scope of this Article 4-1300.

(iv) The lot must have legal access.

(v) The property owner may offer to grant a conservation easement, or other preservation instrument, on the lot to either the County or another land preservation entity approved by the County, keeping the lot vacant in perpetuity. If such offer is accepted, the property owner retains fee title to the lot and will receive ten Development Credits, which may then be held by the property owner or sold to either the County Clearinghouse or on the private market.

(vi) The property owner may offer to convey the lot in fee to either the County or another land preservation entity approved by the County. If such offer is accepted, the property owner will receive as compensation twelve Development Credits, which may then be held by the property owner or sold to either the County Clearinghouse or on the private market.

b. In the Mountain Area

(i) The lot must be a building lot.

(ii) The lot must meet the definition of "vacant building lot" under Article 18 of this Code. Building lots which are not vacant under this definition may be rendered vacant, provided that all necessary structures and improvements are removed from the lot and all necessary land restoration accomplished to the satisfaction of the Director pursuant to all applicable Land Use Code review and building permit requirements (including historic review if necessary), prior to the issuance and transfer of any Development Credits.

(iii) The lot must not be required to remain vacant by a conservation easement or other instrument recorded outside the scope of this Article 4-1300.

(iv) The lot must have legal access.

(v) The property owner may offer to grant a conservation easement, or other preservation instrument, on the lot to either the County or another land preservation entity approved by the County, keeping the lot vacant in perpetuity. If such offer is accepted, the property owner retains fee title to the lot and will receive five Development Credits which may then be held by the property owner or sold to either the County Clearinghouse or on the private market.

(vi) The property owner may offer to sell the lot in fee to either the County or another land preservation entity approved by the County. If such offer is accepted, the property owner will receive seven Development Credits, which may then be held by the property owner or sold to either the County Clearinghouse or on the private market.

C. Severance of Development Credits from Building Lots Where Restricted Residential Floor Area Is To Be Allowed

1. Development Credits may be severed from a building lot, whether or not the lot is a vacant building lot as defined in Article 18 of this Code, provided that the lot meets the following requirements and single-family residential floor area on the lot is limited as specified below:

a. The lot must be a building lot.

b. If the lot is not a vacant building lot, it must contain only legal single-family residential floor area and accessory structures (though other forms of existing floor area may be removed from the lot provided all such removal and any necessary land restoration is accomplished to the satisfaction of the Director pursuant to all applicable Land Use Code review and building permit requirements (including historic review if necessary), prior to the issuance and transfer of any Development Credits).

c. The lot must not already be restricted to 2,000 square feet or less of single-family residential floor area through a conservation easement or other recorded instrument (although such lots can sever Development Credits as perpetually vacant lots if they follow the requirements of Subsection 4-1303.B. above).

d. The lot must not already be firmly (vs. presumptively) restricted to 2,000 square feet or less of single-family residential floor area through a County land use approval (although such lots can sever Development Credits as perpetually vacant lots if they follow the requirements of Subsection 4-1303.B., above).

e. The lot must have legal access.

f. The property owner must restrict single-family residential floor area on the eligible lot to the amount of residential floor area specified below, and if so done will receive the following Development Credits:

(i) For development restricted to 2,000 square feet of residential floor area, the owner may receive two Development Credits.

(ii) For development restricted to 1,500 square feet of residential floor area, the owner may receive three Development Credits.

(iii) For development restricted to 1,000 square feet of residential floor area, the owner may receive four Development Credits.

2. The owners of eligible lots shall receive the authorized number of Development Credits upon the granting of a restrictive covenant or other county approved preservation instrument to assure that the restriction imposed on the size of future development will run with the property in perpetuity.

3. A developed lot, whose owner restricts the size of development on that property under this Section, may develop or redevelop to the maximum size included in that deed restriction.

D. Additional "Bonus" Development Credits may be awarded for eligible building lots under Subsections 4-1303.B. and C. above, subject to the provisions of this subsection.

1. Lots owned or under contract for purchase by Boulder County on the effective date of these regulations, or being purchased by the Boulder County Parks and Open Space without property owner participation in this Article 4-1300, are not eligible for Bonus Development Credits.

2. Bonus Development Credits may be awarded to a particular lot based on a site-specific assessment of the parcel by the applicable County Department.

a. The availability of Bonus Development Credits will be based on the number and extent of significant conservation values or significance of the floodway mitigation which the Parks and Open Space Department, Land Use Department, or Transportation Department in its sole discretion finds associated with the specific building lot.

b. Such review will be undertaken upon request of the building lot owner.

c. The award of Bonus Development Credits is limited to a maximum of five Development Credits per building lot.

(i) Significant conservation values or floodway mitigation based on which the County Parks and Open Space, Land Use, or Transportation Department may award Bonus Development Credits include:

(A) Preservation of Resources – The lot(s) contains natural, cultural or ecological resources as outlined in the Boulder County Comprehensive Plan that would be preserved through a restriction on development on the lot. These resources include, but are not limited to, mapped environmental conservation areas, natural landmarks, natural areas, significant natural communities, rare plant areas, critical wildlife areas, significant riparian corridors, open roadside corridors or significant agricultural lands of national importance, significant wetlands, and historic or archaeological resources.

(B) Agricultural Water Rights – The lot(s) have agricultural water for irrigation tied to the land to be preserved.

(C) Urban Shaping – The lot(s) helps to create significant buffer zones between communities or between residential and nonresidential uses, including, but not limited to, rural preservation areas specified in County intergovernmental comprehensive planning agreements with municipalities.

(D) Other Open Space Benefits – The lot(s) offers desired linkages to trails or other open space properties, provides desired access to public lakes, streams or other usable open space properties, or eliminates private property enclaves.

(E) Preservation of Historic Resources – The lot(s) have historically landmarked structures that would be preserved.

(F) Floodway mitigation – Development within the mapped floodway will be removed from the lot(s).

E. Limitations on the Use of Development Credits on Preserved Lots

1. Once a property owner has severed the Development Credits from a vacant lot under Section 4-1303.B, above, Development Credits may not be repurchased to allow development on that lot.

a. Restricted lots from which Development Credits have been severed may be combined with adjacent parcels that are or may be developed, provided the combination is approved through any applicable land use process and provided the restrictions remain in place and the portion of the lot which is restricted is not available for development.

2. Once a property owner has severed Development Credits from a lot where development has been restricted under Section 4-1303.C., above, the preservation instrument restricting development on that lot may be amended to allow the purchase and use of Development Credits to increase the floor area allowed on that lot up to a maximum of 2,000 square feet.

a. Prior to the issuance of a building permit for the allowed increase in floor area, the owner must execute and record an amended preservation instrument approved by the Clearinghouse to memorialize the new restricted floor area.

b. The property owner shall submit the required Development Credit Certificates along with building permit application for construction of the additional square footage.

4-1304 Acquisition and Use of Development Credits for Construction

A. Requirement for Acquisition of Development Credits – Development Credits must be acquired prior to the issuance of a building permit for the approved development.

B. Development Credits must be obtained for development of residential floor area greater than the Size Thresholds in Section 4-1302 according to the following table. This table shall be applied cumulatively to residential floor area subject to this Article 4-1300 (i.e., development in phases shall require the same number of Development Credits as a single combined application).

Number of square feet	Number of Credits	Total Additional Square Footage	Total Credits for Additional Square Footage
1st 500	1*	500	1
2nd 500	1	1000	2
3rd 500	2	1500	4
4th 500	2	2000	6
5th 500	2	2500	8
Each additional 500 square feet	2		

* Minor additions (under 200 square feet) may be exempt; see Article 4-1306.

C. Development Credits for nonresidential floor area must be obtained for approved floor area above the thresholds established in Art. 4-602.C. of this code. One Development Credit is required for each 500 square feet of new floor area.

D. Fractional Development Credits will not be recognized, nor can they be banked for future use.

E. Process for the Acquisition of Development Credits

1. In the case of either a private transaction or purchase from the Clearinghouse, the Clearinghouse shall issue the appropriate Development Credit certificates. Certificates may be acquired in a private transaction at any time, and applicants purchasing Credits prior to a land use review approval do so at their own risk. Certificates may not be acquired from the Clearinghouse for development exceeding the applicable size threshold until the development has received final County land use approval.

2. Any building permit application for a single family residential structure greater than the applicable Size Threshold, or for an existing Community Use or Lodging Use approved through the Special Use Review process, shall not be considered complete without the submission of the necessary Development Credit certificates and completion of any required land use process.

F. Relationship between Size Thresholds Existing Single Family Residential Structures

1. Single family residential structures existing on the effective date of these regulations (August 8, 2008) are not subject to the Size Threshold requirement in this Article 4-1300; however, any addition of residential floor area to an existing structure which increases the total residential floor area to a size greater than the specified size threshold, will be subject to a requirement to purchase Development Credits to offset the portion of that additional new residential floor area above the threshold. Demolition and rebuilding of any existing residential structure or any portions thereof will not be counted toward the Size Threshold.

4-1305 Boulder County Development Credits Clearinghouse

A. Short Title

1. The Boulder County Development Credits Clearinghouse (also referred to as the "Clearinghouse") shall be established to assist in the administration of this Article 4-1300.

B. Duties and Responsibilities

1. Purchase and Sale of Development Credits – The Clearinghouse will have the ability to purchase Development Credits from willing sellers, and to sell Credits to willing buyers needing additional floor area for their development.

2. Registration of the Development Credits – The Clearinghouse will maintain a registration of the Development Credits available for purchase either through private market transactions or through the Clearinghouse, and of Development Credits that have been purchased and sold.

3. Issuance of Development Credit Certificates – The Clearinghouse shall be responsible for the issuance of Development Credit Certificates to be used in both private and Clearinghouse transactions to convey or acquire Development Credits.

4. Recordation – The Clearinghouse shall oversee the recordation of the necessary approved documents to assure that development size limitations and vacant land preservation encumbrances on specific lots associated with the transfer of Development Credits are maintained as required in this Article 4-1300.

4-1306 Application of Article 4-1300

A. The following development shall be exempt from compliance with the Size Threshold outlined in Section 4-1302 to the extent noted below:

1. The specific development recognized in any land use approval granted prior to the effective date of these regulations, which on the effective date of these Regulations, is within the statutory vesting period granted under Section 3-207 of the Land Use Code (codifying Part 1 of Article 68, Title 24, C.R.S.). The applicable statutory vesting period is specified in the Commissioners' resolution approving the subject development. Once the statutory vesting period for these developments expires, an additional three years shall be added to that original vesting period before the development will be subject to these regulations. After this vesting period expires, any development covered by this Subsection A.1., which is also an approved PUD subdivision, shall be exempted from the Size Thresholds on the same basis as Transfer of Development Rights PUD subdivisions (i.e., up to a total residential floor area of 9,000 square feet per lot - see Subsection A.4., below).

2. The specific development for which a complete application for a County building permit has been submitted prior to the effective date of these regulations. If any building permit issued under this subsection expires or is not lawfully pursued, the development becomes subject to these regulations.

3. The specific development approved as a Site Plan Review under Article 4-800 of this Code (whether approved solely as a Site Plan Review request, or as a Site Plan Review request combined with another form of land use review), pursuant to a complete application submitted on or before September 7, 2007. This exemption lasts for the three-year period specified in Section 4-810.A., after which the Site Plan Review approval expires and the development becomes subject to these regulations.

4. Development in a Transfer of Development Rights Planned Unit Development Subdivision receiving site approved and recorded under Article 6-700 of this Code will be exempted from the Size Threshold up to a total residential floor area of 9,000 square feet per lot. Residential floor area greater than 9,000 square feet per lot will be subject to the requirement to purchase additional Development Credits for the floor area greater than 9,000 square feet.

5. Development in a Noncontiguous Nonurban Planned Unit Development Subdivision receiving area approved and recorded under Article 6-500 of this Code will be exempted from the Size Threshold up to a total residential floor area of 9,000 square feet per lot. Residential floor area greater than 9,000 square feet per lot will be subject to the requirement to purchase additional Development Credits for the floor area greater than 9,000 square feet.

6. The specific development recognized in a Commissioners' authorization for a firm, numerical house size to be built as stated in a land use approval granted pursuant to a complete application submitted on or before September 7, 2007, and for which a recorded conservation easement was required or agreed to as part of the approval. This exemption does not apply, however, where the conservation easement was anticipated or required under the general land use regulations governing the development, such as PUD, NUPUD, NCNUPUD, and TDR sending site regulations. This exemption also does not apply where the house size allowance in the subject approval is stated presumptively (as opposed to authorizing a definite size), or where the size allowance applies to multiple structures (making it difficult to determine the particular size authorized for the residence itself).

7. The restoration of a structure under Section 4-802.B.3, where a structure has been damaged or destroyed by causes outside the control of the property owner or agent.

8. A one-time allowance of up to 200 square feet of residential floor area may be exempt from the requirement to purchase Development Credits.

B. For purposes of interpreting the exemptions contained in Section A, above, the following additional provisions shall govern:

1. The effective date of these regulations shall be the effective date of August 8, 2008 stated in the Commissioners' resolution (Resolution 2008-72) approving the regulations.
2. Approvals granted prior to the effective date of these regulations shall be approvals that have a final Commissioners' vote of approval before the regulations' effective date.
3. A requirement for a complete application to be filed, means a complete application as determined by the Director with reference to this Code's or the Building Code's submittal requirements for the application in question.
4. The reference to an exemption applying to the "specific development" in a submitted or approved application means the exact development in the submitted or approved application, with only minor modifications being allowed in the discretion of the Land Use Director.

C. The Land Use Director is empowered to make interpretations regarding the application of the exemptions stated in Section A., above, to specific development. In making interpretations, the Land Use Director shall consider the purposes of the regulations in this section, as well as the principles of interpretation and rules of construction contained in Article 1 of this Code. Any aggrieved party may appeal the Director's final interpretation under this Section to the Board of County Commissioners, provided that any such appeal shall be in writing, and shall be filed with the Land Use Director no later than 30 days following the date of the Director's final interpretation.

4-1307 Review and Amendment of These Regulations

A. The Board of County Commissioners will undertake a review of this Article 4-1300, including the Size Threshold and the operation of the Clearinghouse, six months after the effective date of these regulations. This review was conducted on March 3, 2009.

B. The Board may establish a regular time interval for continued review of this program.

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Article 5

Subdivision Regulations

Article 5 • Subdivision Regulations

5-100 Sketch Plan

5-101 Introduction

A. The sketch plan is the first step of the three step approval process to plat unsubdivided land. During this step, public hearings will be held before the Planning Commission and the Board of County Commissioners. The applicant must receive sketch plan approval or conditional approval in order to proceed to the second step, the preliminary plan.

B. The sketch plan process will review, at a conceptual level, the feasibility and design characteristics of the development proposal based on the standards set forth in this Section. Residential densities will be based on unit types and/or commercial/industrial square footage limits, as established in Article 4 of this Code, with the understanding that additional technical engineering design material, survey work and preparation of required documents will be submitted for review at later steps in the application review process.

C. The preliminary plan and final plat may be combined with the sketch plan if the proposed development contains 7 subdivided lots or less and development of the lots does not require extensive engineering. The Director shall determine whether a particular application may combine sketch plan, preliminary plan, or final plat processes.

5-102 Standards and Conditions for Sketch Plan Approval

A. The Planning Commission and the Board of County Commissioners shall not approve a sketch plan proposal until the applicant has adequately shown that the proposal meets the following:

1. The design conforms to the criteria established in Section 7-200.

2. A water source is designated and the method of distribution within the proposed platted subdivision is defined. Also necessary, as applicable, are a preliminary agreement for water service from the appropriate water provider, well permits from the State Engineer, preliminary evidence on the availability of water, and/or a preliminary water augmentation proposal. In accordance with Section 7-300, the water supply must be adequate for the type of platted subdivision proposed.

3. Either a written commitment to provide a public sewage disposal system or a sewage disposal system which complies with state and local laws and regulations, in accordance with Section 7-400.

4. The develop proposal conforms with the Comprehensive Plan, any applicable intergovernmental agreement affecting land use or development, and this Code.

5. The proposed methods for fire protection comply with Section 7-1100.

6. The proposed uses for all areas are appropriate and the design is based on the constraints of topography, soil types, geologic hazards, aggregate resources, environmental resources, flood plain, airplane flight overlays, or other constraints.

7. Services are available and adequate to meet the needs of the proposed platted subdivision including transportation, police protection, schools, recreation, telephone, mail, gas, electric power and other services, and comply with Section 7-1200.

5-103 Planning Commission Consideration of a Sketch Plan Proposal

A. Planning Commission action on a sketch plan proposal shall include either a recommendation of:

1. approval of the sketch plan;

2. conditional approval, including a listing of all conditions; or

3. denial, including a listing of reasons for denial.

B. If the Planning Commission determines that more information is required for a decision to be made on the proposal, they may table their consideration of the sketch plan, in accordance with the provisions of Section 3-205.

C. Following action under Section 5-103(A):

1. The Land Use Director shall certify the action by the Planning Commission and transmit this certificate to the Board of County Commissioners.

2. The Director shall transmit this certificate to the applicant.

3. This certificate shall include any special conditions of approval or reasons for denial and the date, place, and time of the hearing before Board of County Commissioners.

D. The Planning Commission may reserve the right to reconsider sketch plan issues during their consideration of the preliminary plan or final plat.

5-104 Board of County Commissioners' Consideration of a Sketch Plan Proposal

A. Board action on a sketch plan proposal shall include either:

1. Approval of the sketch plan.

2. Conditional approval of the sketch plan, including a listing of all conditions. The Board may specify conditions which shall be satisfied prior to the filing of a preliminary plan application.

3. Denial of the sketch plan, including a listing of the reasons for denial.

4. The Board may table their consideration of a sketch plan for more information from the applicant, or they may return the sketch plan to the Planning Commission for the Commission's reconsideration at a public hearing, in accordance with the provisions of Section 3-205.

B. Following action by the Board:

1. The Director shall certify any action taken by the Board and shall transmit such certification to the applicant.

2. The certification of action shall also specify the sketch plan expiration dates as defined in Section 5-500 of this Code.

3. The Board may reserve the right to reconsider sketch plan issues during their consideration of the preliminary plan or final plat.

5-200 Preliminary Plan

5-201 Introduction

A. The preliminary plan is the second step of the three step approval process to plat unsubdivided land. During this step, public hearings will be held before the Planning Commission and the Board of County Commissioners. The applicant must have received sketch plan approval or conditional approval in order to proceed with the preliminary plan application.

B. The preliminary plan process will review the feasibility and design characteristics of the proposal based on the standards set forth in this Section. The preliminary plan process will also evaluate preliminary engineering design. The applicant must receive preliminary plan approval or conditional approval in order to proceed to the third step, the final plat.

C. The preliminary plan may be combined with the sketch plan and the final plat if the proposed platted subdivision contains 7 subdivided lots or less and development of the lots does not require extensive engineering. The Director shall determine whether a particular application may combine sketch plan, preliminary plan, or final plat processes.

5-202 Standards and Conditions for Preliminary Plan Approval

A. The Planning Commission and Board of County Commissioners shall not approve a preliminary plan proposal until the applicant has adequately shown that the proposal meets the following:

1. The proposal complies with sketch plan approval.
2. The proposed water supply meets the requirements of Section 7-300 of this Code, including a schematic design of the water distribution system, and, if applicable, well pump tests.
3. If a public sewage disposal system is proposed, provision has been made for such system, or, if other methods of sewage disposal are proposed, that such systems will comply with state and local laws and regulations and the requirements of Section 7-400 of this Code.
4. The proposed roads meet the requirements of Section 7-600 of this Code and the Transportation Standards.
5. The proposed drainage meets the requirements of Section 7-900 of this Code.
6. The preliminary engineering plans provide evidence to show that the proposed methods for fire protection comply with Section 7-1100 of this Code.
7. The proposal meets other applicable sections of Article 7.

5-203 Planning Commission Consideration of a Preliminary Plan Proposal

A. Planning Commission action on a preliminary plan shall include either:

1. Approval of the preliminary plan.
2. Conditional approval of the preliminary plan, including a complete listing and clear explanation of all conditions.
3. Denial of the preliminary plan, including a listing of reasons for the denial.
4. If the Planning Commission determines that more information is required for a decision to be made on the proposal, they may table their consideration of the preliminary plan, in accordance with the provisions of Section 3-205.

B. The Planning Commission may reserve the right to reconsider preliminary plan issues during their consideration of the final plat.

5-204 Board of County Commissioners Consideration of a Preliminary Plan Proposal

A. Board action on a preliminary plan shall include either:

1. Approval of the preliminary plan.
2. Conditional approval of the preliminary plan, including a complete listing and clear explanation of all conditions.
3. Denial of the preliminary plan, including a listing of reasons for the denial.
4. If the Board determines that more information is required for a decision to be made on the proposal, they may table their consideration of the preliminary plan for more information from the applicant, or may return the preliminary plan to the Planning Commission for the Commission's reconsideration at a public hearing, in accordance with the provisions of Section 3-205 .

B. The Board may reserve the right to reconsider preliminary plan issues during their consideration of the final plat.

5-300 Final Plat

5-301 Introduction

A. The final plat is the last step in the three step approval process to plat unsubdivided land. During this step, there will be public hearings before the Planning Commission and Board of County Commissioners. The applicant must have received preliminary plan approval or conditional approval in order to proceed with the final plat process.

B. The final plat process will review the final engineering plans, the development agreement, letters of credit, conservation easements, home owners covenants, the plat, and any other documents, reports, or studies as necessary; and may also review sketch plan or preliminary plan issues such as building height, landscaping, and building envelopes which have been deferred.

C. The final plat may be combined with the sketch plan and the preliminary plan if the proposed platted subdivision contains 7 subdivided lots or less and development of the lots does not require extensive engineering. The Director shall determine whether a particular application may combine sketch plan, preliminary plan, or final plat processes.

5-302 Standards and Conditions for Final Plat Approval

A. Neither the Planning Commission nor the Board of County Commissioners shall approve a final plat proposal until the applicant has met the following standards and conditions.

1. Complies with all conditions of sketch and preliminary plan approval.
2. Includes adequate final engineering plans for the water distribution system, final agreements to provide water service from the water provider, and provisions for the perpetual maintenance of the water system.
3. Meets all planning, engineering, and surveying requirements of the County for maps, data, surveys, analyses, studies, reports, plans, designs, documents, and other supporting materials.
4. Does not include a lien, conveyance, or encumbrance to the property dividing a subdivided lot or outlot.
5. Provides certification from the Boulder County Treasurer's Office that all ad valorem taxes applicable to the land have been paid.

B. The applicant must also submit a development agreement.

5-303 Planning Commission Consideration of a Final Plat Proposal

A. Planning Commission action on a final plat proposal shall include a recommendation for:

1. approval of the final plat;
2. conditional approval, including a listing of all conditions; or
3. denial, including a listing of the reasons for denial.

B. If the Planning Commission determines that more information is required for a decision to be made on the proposal, they may table their consideration of the final plat, in accordance with the provisions of Section 3-205.

C. Following action by the Planning Commission:

1. The Land Use Director shall certify the action by the Planning Commission and transmit this certificate to the Board of County Commissioners.
2. The Director shall transmit this certificate to the applicant.
3. This certificate shall include any special conditions of approval or reasons for denial and the date, place, and time of the hearing before the Board of County Commissioners.

5-304 Board of County Commissioners' Consideration of a Final Plat Proposal

A. Board action on a final plat proposal shall include either:

1. Approval of the final plat.

2. Conditional approval of the final plat, including a listing of all conditions of such approval and authorization for the chairperson to sign the final plat and other associated documents.

a. Conditions other than final plat map notes or conditions to be satisfied prior to plat recordation shall be avoided.

b. Where necessary, the Board may table its decision until such time as the applicant can comply with the conditions.

3. A denial of the final plat, including a listing of the reasons for denial.

B. Following action by the Board:

1. The Director shall certify any action taken by the Board and shall transmit such certification to the applicant by mail or by hand delivery.

2. The certification of action shall also specify the final plat expiration dates as specified in Section 5-500.

C. After the denial of a final plat by the Board, unless a substantial modification to the proposal is made, the applicant may not submit an application for the proposed platted subdivision for a period of 12 months.

5-305 Post Approval Action

A. The final plat may be filed for recording once the applicant has submitted and the Board has approved a development agreement.

B. Recordation

1. The applicant must complete all conditions of final plat approval prior to recording the plat and associated documents.

2. The plat does not become effective until it is properly filed for recording with the Boulder County Clerk and Recorder.

3. A plat proposal becomes complete and the subdivided land becomes eligible for public sale of lots and development only after the post approval requirements of Section 5-305(A), above, are met, and the plat and associated documents are recorded.

5-400 Correction Plats and Replats

5-401 Correction Plats

A. The Board of County Commissioners may approve a correction plat if the sole purpose of such correction plat is to correct one or more technical errors in an approved plat when the correction plat is consistent with the approved final plat.

B. The correction plat shall comply with all provisions and requirements contained within Section 5-300 and Article 3, and shall bear an explanation of the relationship between the correction plat and the plat corrected, including a full description of all matters corrected.

5-402 Replats

A. Changes other than approved technical corrections (see Section 5-401) to any plat shall be considered a subdivision and must comply with the standards and conditions for subdivided land approval included in this Code, unless the Director determines that they fall within the Exemption Plat provisions of Article 9 of this Code.

B. The Director may modify the application process defined in Article 3 of this Code if it is determined that adequate public notice and input on the replat application can be attained through a shortened process.

C. A replat may be required to amend the sketch plan, preliminary plan, and/or the final plat, but shall be subject to the relevant standards and criteria and may be subject to the original conditions of approval.

D. The proper naming or titling of a replat shall correspond to the convention established by the Land Use Department.

1. In general, these include the name of the original platted subdivision followed by a letter representing the replat.
2. Example: Crestview Estates, Second Filing, Replat - which is the first replat of any lots found in Crestview Estates, Second Filing.

5-500 Expiration of Approvals

A. The Board of County Commissioners decision to approve or conditionally approve a sketch plan, preliminary plan, or a final plat shall, unless otherwise stated in such action, be effective as follows:

1. Sketch plan - 1 year with the ability to request an extension of 1 year.
2. Preliminary plan - 1 year with the ability to request an extension of 1 year.
3. Final plat - 1 year with the ability to request an extension of 1 year; and the ability for the applicants of a TDR/PUD to request annual extensions, provided the period from final plat approval to final recordation of the plat is no more than 3 years.

B. Extensions

1. The Board of County Commissioners may grant extensions if it finds that there has been no change or change proposed in this Code, the County Comprehensive Plan, or the surrounding neighborhood which would substantially affect the approved plan or final plat.
2. A request for an extension shall include:
   - **a.** The reasons for the applicant's inability to comply with the specified deadlines.
   - **b.** Any changes in the character of the neighborhood or this Code or the Comprehensive Plan which have occurred since approval of the plan or final plat.
   - **c.** The effect of these changes on the proposed platted subdivision.
   - **d.** The anticipated time schedule for completing the process to plat the subject land.

C. Final engineering plans required for final plat approval shall expire one year after approval by the County Engineer, or one year from final plat approval, whichever is later.

D. The County Engineer may re-approve the final engineering plans if it is found that there, have been no substantial changes in available engineering technology, the requirements of the Transportation Standards, or this Code, or the property or surrounding properties since the approval of the final plat.

E. Expiration of approvals shall require that the applicant repeat the process to plat unsubdivided land with a new application.

Article 6

Planned Development Districts

Article 6 • Planned Development Districts

6-100 Introduction and Purposes

A. A Planned Unit Development (PUD), as authorized by C.R.S. 24-67-101 et seq., as amended, may be permitted in any area of the unincorporated county.

1. The PUD is an entire development concept and shall be reviewed as a whole.

2. Any modifications to a PUD shall result in a review by the Director, and, if found to be a substantial modification, amendment of the approved PUD development plan shall be required.

B. Planned Unit Developments are formulated in order to encourage the flexibility in the development of land that may be necessary to permit adjustment to changing public and private needs; to foster the ability to provide development patterns which are more compatible with and effective in meeting such needs; to promote the more efficient use of land so as to preserve and enhance the natural characteristics and unique features of a property; to improve the design, character and quality of new development; to encourage integrated planning to achieve the objectives of the Boulder County Comprehensive Plan; to preserve open areas; to facilitate the adequate and economical provision of streets and utilities and to reduce the burden on existing streets and utilities by more efficient development; and to conserve the value of land. The PUD is an entire development concept and shall be reviewed as a whole. Modifications to a PUD shall result in a review and amendment of the approved Sketch Plan.

C. Besides the general PUD, specific types of PUDs include the Nonurban Planned Unit Development (NUPUD), the Noncontiguous Nonurban Planned Unit Development (NCNUPUD), the Mountain PUD, and the Transferred Development Rights PUD (TDR/PUD).

D. In addition to those purposes outlined within these Regulations, NUPUD, NCNUPUD, and TDR/PUD submission, review, and action shall be guided by the following objectives:

1. To accomplish the preservation of those lands identified within the Boulder County Comprehensive Plan as agricultural lands of National, Statewide, and Local Importance and other valuable agricultural lands; to accomplish such preservation through the strategic and planned location of subdivided lots.
2. To accomplish the preservation of those natural and cultural resources as identified in the Cultural and Environmental Resources Elements of the Comprehensive Plan; to accomplish such preservation through the strategic and planned location of subdivided lots.
3. To offer density bonus as an incentive to discourage the development of valuable agricultural and other resource lands in Boulder County.
4. To offer the NUPUD and TDR/PUD processes as a viable alternative to municipal annexation for development purposes.
5. To stabilize nonurban land values.
6. To create a process for platting unsubdivided land whereby agricultural property owners may realize profits from the conveyance of portions of their land or the development rights from that land without being forced to sell large or entire agricultural tracts.
7. To provide for subdivided lots of such size, location, design, and orientation to minimize future demands for services while providing opportunities for the support of a variety of lifestyles.

6-200 General Requirements for all Planned Unit Developments

A. The parcel being considered for a PUD must be a legal building lot.

B. Any proposed PUD, or substantial modification to an approved PUD, is subject to the requirements of this Article and the public hearing process defined in Article 3 of this Code.

C. Any proposed plat for a NUPUD or NCNUPUD must meet the applicable general requirements included in Section 6-300 for all PUDs as well as the specific requirements for that type of PUD as described below. A TDR/PUD is not subject to the requirements of 6-300, but is subject to the specific requirements of Section 6-700, below.

D. Any common areas proposed within a PUD shall be included within the overall area covered by the development plan.

1. Each lot or interest within the PUD shall be deemed as a unit granting to the parcel owner a proportionate undivided interest in the common area in perpetuity, with such restrictions as may be consistent with the unified development plan of the PUD.
2. There shall be a plan, which shall also be a deed restriction by covenant or otherwise, in perpetuity, binding the PUD owners to the maintenance of the common areas.

E. No PUD shall be approved without a plan setting forth the provisions for unified development of the PUD, including but not necessarily limited to easements, covenants and restrictions relating to use, location, and bulk of buildings and other structures; intensity of use or density of development; utilities; private and public streets, ways, roads, pedestrian areas, and parking facilities; common (or dedicated) open spaces; and other public facilities.

F. A PUD must be maintained during construction and occupation under unified development control or a unified development plan.

G. Ownership and maintenance of the common areas designated for the enjoyment of residents shall be the responsibility of a homeowners association and/or architectural control committee pursuant to appropriate covenant, unless a different arrangement is determined to be adequate.

H. No PUD shall be approved without the written consent of the landowner whose properties are included within the PUD.

I. The proposal shall be in accordance with the Comprehensive Plan, and any applicable intergovernmental agreement affecting land use or development;

6-300 Planned Unit Development

A. Any use, or combination of uses allowed in the underlying zoning district may be included in a PUD. The uses permitted in the PUD must be specifically defined and approved as a part of the unified development plan controlling the PUD.

B. There is no minimum area requirement or maximum density for a PUD; however the PUD must meet the standards and conditions for approval in Section 6-1000, below.

C. Unless otherwise specifically described in the PUD development plan the following bulk requirements will be applied:

1. For Commercial and Business uses

a. Front yard setback...60 feet

b. Side yard setback...0 or 12 feet

c. Rear yard setback...20 feet

d. Maximum building height...50 feet

2. For Industrial uses

a. Front yard setback...60 feet

b. Side yard setback...0 or 12 feet

c. Rear yard setback...20 feet

d. Maximum building height...50 feet

3. For Residential uses

a. Front yard setback...35 feet

b. Side yard setback...7 feet

c. Rear yard setback...15 feet

d. Building height...30 feet unless a lower or higher height is justified by the unique characteristics of the particular site; in no event, however, shall any residential structure exceed 35 feet in height.

6-400 Nonurban Planned Unit Development

A. Purpose: A residential PUD consisting of subdivided land which may allow for an increase in density from one dwelling unit per 35 acres up to one unit per 17.5 acres on a minimum of 320 acres in order to preserve agricultural, environmental, or open space resources. The mechanism to preserve these resources is a conservation easement held by Boulder County on that portion of the subdivided land platted as an outlot, which may not be developed for residential use.

B. Requirements

1. Area

a. A NUPUD must contain an area of at least 320 acres, of which 75% or more is covered by one or more of the following designations identified for preservation in the Boulder County Comprehensive Plan: agricultural lands of state or national significance, designated open space, critical wildlife habitats and corridors, critical plant associations and rare plant sites, natural landmarks and natural areas, wetlands, and archeological sites; or

b. A NUPUD may contain an area of 35 up to (but not including) 320 acres if the following circumstances are met:

(i) 75% or more of the area is covered by one or more of the designations listed in subsection (a), above; and

(ii) the proposed area is contiguous along at least one-sixth of its perimeter to a NUPUD or other subdivided land with a plat recorded on or before August 17, 1994; and

(iii) the proposed area is composed entirely of parcels created on or before August 17, 1994 which are in the same ownership (including legal heirs) as existed on or before August 17, 1994; and

(iv) the proposed units are clustered with the development in the contiguous NUPUD or other subdivided land, except where the applicant can show that clustering would significantly diminish the viability of the designated area (as per (i) above); and

(v) the residences to be constructed on the proposed subdivided lots do not exceed 2,500 square feet above grade; or

c. A NUPUD may contain an area of 35 up to (but not including) 320 acres also if the following circumstances are met:

(i) 75% or more of the area is covered by one or more of the designations listed in subsection (a), above; and

(ii) the area is within one mile of an existing municipality, or is entirely included within the Rural Preservation area of the East Central Boulder County Intergovernmental Agreement, in which case it does not have to meet (i) above, except that no NCNUPUD shall be approved in the Rural Preservation area; and

(iii) the residences to be constructed on the proposed subdivided lots do not exceed 2,500 square feet above grade; or

d. A NUPUD may contain an area of 35 up to (but not including) 52.5 acres provided that the proposed area is composed entirely of parcels created on or before August 17, 1994 which are in the same ownership (including legal heirs) as existed on or before August 17, 1994, and provided that the residences to be constructed on the proposed subdivided lots do not exceed 2,500 square above grade.

e. NUPUD applications may be proposed only on lands in the Agricultural, Rural Residential, Suburban Residential, or Multifamily zoning districts.

2. Uses Allowed

a. Any use, or combination of uses, allowed in the underlying zoning district may be included in a NUPUD. The uses permitted in the NUPUD must be specifically defined and approved as a part of the development plan, with the following requirements:

(i) Outlot...Agricultural uses, and accessory agricultural structures

(ii) Subdivided Lots...Single family residential units, homestead units, open or intensive agricultural uses, and any use requiring special review.

3. Homestead Units
   a. Any existing dwelling which is determined to be historically significant, contributing to the rural character of the county, or which has been lived in by the same person since March 22, 1978 may be counted as a dwelling unit in addition to the one unit per 17.5 acres allowed though the approval of a NUPUD. These homestead units must have been built and used in full conformance with existing County regulations.
   b. The area around any existing dwelling may be platted as a separate subdivided lot from the outlot and shall be counted as part of the developed portion of the NUPUD.
   c. The homestead, if approved, shall be permitted as long as the original structure remains. The unit of density is lost if demolished. Alteration of more than 50% of the original structure is not permitted. If the structure is lost through a casualty or accident, it may be restored to its original size and appearance, or to an appearance approved by the County as contributing to the rural character of Boulder County. If a homestead in the Floodplain Overlay District is lost through flooding, the home may be restored only if relocated outside the Floodplain Overlay District, if approved by the BOCC through a replat of the NUPUD.
4. Density and the Developed Area
   a. The overall density of the NUPUD shall not exceed one dwelling unit per 17.5 acres. Any fraction of a unit of density shall be rounded down to the next whole number.
   b. All residential improvements, including, but not limited to, subdivided lots, residential roads, recreation areas, water systems, and waste facilities, to be used by the residential area, shall be considered as part of the developed area of the NUPUD.
   c. In no case shall the developed area of a NUPUD exceed 25% of the total area of the NUPUD. However, the Board of County Commissioners, after review by the Planning Commission, may reduce the allowable developed area to no less than 15%, if it is determined that a reduction is justified by the unique characteristics of the particular site, including but not necessarily limited to the existence of designated agricultural lands or environmental resources.
5. Subdivided Lot and Use Design
   a. The subdivided lots created though the NUPUD process should be located on the least productive agricultural land and in such a manner as to have little impact on any environmental or open space resource area located on the parcel. The subdivided lots shall also be located outside any known hazard area.
   b. The subdivided lots shall be clustered in such a manner to make efficient use of land resources and infrastructure. The subdivided lots and dwelling units in the NUPUD should also be clustered with respect to dwellings on surrounding properties. The impact on the existing uses and the rural character of the area must be included in the consideration of the number of units allowed in a cluster including undeveloped lots.
   c. Subdivided lots should be located nearest to utilities and roads to minimize the amount of construction and the loss of agricultural land, unless this directly conflicts with 6-400 (B)(5)(a) or other preservation goals.
   d. Where technically feasible, joint or common water and/or sanitation systems should be used.
6. Undeveloped Area (Outlot)
   a. The undeveloped area should be platted as a single outlot, unless an existing ditch, physical feature, or road separates the preserved area in such a way as to make a single use of the property infeasible. The existence of a historic site, wildlife habitat, or other resource would also allow for the platting of separate outlots.
   b. The area set aside for trail easements and peripheral roads may be considered as part of the outlot.
   c. The outlot may be owned jointly by the owners of the subdivided lots, a single lot owner, Boulder County, any municipality, or other party.

6-401 Continued Agricultural Use

A. An inventory and history of agricultural production must be provided as part of the application for a NUPUD which proposes agricultural use of the outlot. This must include soils survey information, information regarding water rights owned and used, and the availability of water for irrigation purposes.

B. In order to maintain and implement the goals and policies of the Environmental Resource Element of the Comprehensive Plan, the following objectives shall apply.
   1. Maintain soil stability through the use of appropriate vegetative cover to prevent soil loss due to wind and water erosion.
   2. Maintain water use at a non-erosive rate of application. This section shall not require the owner of the outlot to acquire water and commence irrigation when the outlot has not been irrigated in the previous 10 years.

C. If the proposed outlot does not meet the resource preservation objectives, the Board may require a resource preservation plan be submitted prior to recording the final plat. If, in the future, the outlot does not meet the resource preservation objectives a plan to meet these objectives shall be required pursuant to the terms of the conservation easement.

6-500 Noncontiguous Nonurban Planned Unit Development

A. Purpose: A Noncontiguous Nonurban Planned Unit Development (NCNUPUD) is a NUPUD which allows for a transfer of density from a sending area to a receiving area in order to protect specific agricultural, environmental, or open space resources.

B. A NCNUPUD is a type of NUPUD and shall meet the NUPUD requirements, except as modified by the following additional requirements.

1. Noncontiguous parcels included within the NCNUPUD must be within the same water service area or water and/or sanitation district, school district, and fire district/response area, unless provisions to mitigate any development imbalances created by the transfer of residential development are accepted and approved by Boulder County.

2. There will be less negative impact and a greater benefit from the proposed NCNUPUD, in comparison to individual NUPUDs on the parcels, as measured by the criteria in this Article and in the Boulder County Comprehensive Plan.

3. The land proposed for preservation must meet one of the following:

a. At least 90 percent of the land proposed for preservation under the conservation easement must be identified either as significant agricultural land of National Importance in the Comprehensive Plan.

b. A majority of the land must be proposed open space or a significant natural or cultural feature noted on the Environmental Resources Map of the Comprehensive Plan.

c. A majority of the land must be determined to have significant environmental resource or open space value (i.e., scenic area/corridor or community buffer) supported by the Open Space goals and policies of the Comprehensive Plan.

4. The cumulative impact of units transferred into an area must not result in a significant change in the nonurban character of the area. For receiving parcels greater than 35 acres, no transfer shall be permitted which creates a density greater than 6 units per 35 acres, excluding the homestead units. In the case of parcels less than 35 acres, a transfer may result in a density of four units per 35 acres excluding the homesteads.

5. Areas proposed for inclusion in conservation easements from which dwelling units are being transferred shall not be located within adopted Community Service areas and or other areas which Boulder County believes are likely to be annexed and developed within municipalities without approval by such municipalities.

6. Sending Area

a. The sending area shall contain a significant agricultural, environmental, or open space resource which is in the best interest of the residents of Boulder County to preserve.

b. Sending area lands in the Forestry district shall consist of 175 contiguous acres and may transfer one dwelling unit per 35 acres. The sending area shall include an environmental or cultural feature or area identified for preservation by Boulder County, and be dedicated to the County in fee unless the County determines that a conservation easement is adequate protection for the resources identified for preservation.

c. Sending area lands in the districts where NUPUDs are allowed, as specified above, may consist of any parcel of 35 acres or more and may transfer two dwelling units per 35 acres.

d. If dwelling units remain on a sending area, the area of land remaining for development shall be reduced in proportion to the percentage of development which has been transferred.

7. Receiving Area

a. No more than 50 percent of the receiving area shall be used for development, unless further restricted below.

b. A receiving area which contains lands designated in the Comprehensive Plan as Agricultural lands of Nationwide Importance, a natural or cultural resource, or proposed open space shall not be permitted unless:

(i) no more than 25 percent of the receiving area is used for residential development; and

(ii) the development shall in no way be detrimental to the continued agricultural use of the remaining preserved area, to any significant natural or cultural resource, or to the open space values which support the proposed open space designation.

8. Banking of Unutilized Density

a. Units not utilized in an NCNUPUD application may be held and used in a subsequent application as follows:

(i) The unused units shall not exceed the units used or platted for development on the receiving parcel of the original application.

(ii) The unused units shall be platted in a block on the receiving parcel as a part of the final plat; the block shall be clearly identified on the plat as to its purpose, and configured in such a manner so that it is not possible to develop the banked units on the receiving site, without amendment to the original PUD.

(iii) Any subsequent application to use and develop the banked units shall be evaluated with regard to the impact of additional density on the receiving parcel identified in that application.

(iv) The County shall be required to recognize the platted but unused units only to the extent that a development proposal for the units may be submitted and subsequently approved under the land use regulations of Boulder County in affect at the time of that subsequent application.

(v) The benefits of preservation of the larger land area which is accomplished by the banking of units must clearly outweigh the benefits of approving a development which preserves a smaller area, and leaves the unused density on the sending parcel, when considered with respect to the goals of preservation of agricultural lands, environmental resources and/or open lands.

9. Additional Notice Requirements

a. In addition to the notice requirements in Section 3-204 the following shall apply:

(i) For NUPUDs comprised of noncontiguous parcels, notice shall be provided to all owners and addresses within one-half mile of the boundary of the parcels proposed to receive transferred units. The title/property owner report, prepared for a NCNUPUD shall reflect the names and addresses of the owners and address of properties within one-half mile of the boundary of the parcels to receive building lots.

(ii) After the approval of a NCNUPUD, a sign which complies with the Boulder County Sign regulations, shall be placed in a visible location on the receiving parcel, which indicates the number of dwelling units approved for the parcel.

6-600 Mountain Planned Unit Development

A. Purpose: Mountain Planned Unit Developments may be permitted in the Forestry zoning district in order to minimize service and management costs of lands located in mountain areas; to provide flexibility and to accommodate personal desires in the sale of mountain properties; to encourage the retention of large areas of mountain land in forestry uses by allowing the conveyance of small land parcels; to provide flexibility in the location of residential lots in mountain areas; and, to provide a means of development sensitive to environmental concerns and existing capital services, such as roads.

B. Mountain PUDs shall meet both the PUD requirements and the following additional requirements.

1. The Mountain PUD shall include an area of not less than 70 acres.

2. The overall density of the Mountain PUD does not exceed one dwelling unit per 35 acres.

3. Conservation easements, or other acceptable means, are applied to prevent further subdivision or development of lands committed for forestry or other open uses.

6-700 Transferred Development Rights Planned Unit Development

A. Purpose: To promote county-wide preservation of agriculture, rural open space and character, scenic vistas, natural features, and environmental resources for the benefit of the residents of Boulder County. The preservation and maintenance of these resources will be ensured by encouraging county wide land use planning including the perpetuation of large areas of generally contiguous properties suitable for agricultural use through the transfer of development rights from parcels suitable for preservation to properties meeting the criteria for development.

B. Designation of Areas to be Preserved: The sending sites to be preserved and protected through the application of this article are those designated on the Boulder County TDR Sending Sites Map, the Niwot Sending and Receiving Area Map, and areas designated through Intergovernmental Agreements with municipalities in Boulder County.

C. Areas to be Developed Utilizing Development Rights Transferred From a Sending Site: The areas which are suitable for development using the density transferred from the sending sites must meet the criteria and standards for approval defined in 6-700(E), (G), and K below as applicable. These areas are referred to as receiving sites.

D. Zoning Requirements: The uses approved as part of a TDR/PUD shall be limited to the following:

1. Residential and nonresidential density, uses, minimum lot area, minimum receiving land area, building height, and yard requirements shall be determined at the TDR/PUD sketch plan approval. The receiving site will include 2 units per 35 acres plus the density transferred to the site.

2. Residential TDR/PUDs: Residential development rights may be transferred from any designated sending site in the A, RR, ER, and SR zoning districts, to any approved residential receiving site meeting the applicable criteria for receiving sites under these regulations. The maximum allowable total units within a residential TDR/PUD shall be 200.

3. Residential/nonresidential TDR/PUDs: Residential development rights may be transferred from any designated sending site in the A, RR, ER, and SR zoning districts, and converted to nonresidential uses and density on any receiving site in the B, C, LI, and GI zoning districts which meets the applicable receiving site criteria under these regulations. The sketch plan for a nonresidential TDR/PUD shall establish the ratio of nonresidential floor area to be developed on the receiving site, to the number of residential development rights being sent. In establishing this ratio, the effect of the proposed nonresidential floor area shall be of no greater impact to the surrounding area than would the equivalent amount of residential development which is transferred into the site. In evaluating the land use impact of the proposed nonresidential floor area, the impacts considered shall include but not be limited to traffic and circulation patterns, compatibility with adjoining development and land uses, and the effect on designated open space, environmentally sensitive lands, and critical wildlife habitats or corridors.

E. Development Criteria for Receiving Sites which Accept Transferred Development Rights

1. In order to be eligible for additional density from development rights, a property-owner must apply for and receive approval to plat a TDR/PUD on the parcel.

2. Adequate facilities and services must be provided to serve a TDR/PUD development. Receiving sites shall be subject to any school impact fee in effect and to any other requirements, such as phasing of the project, necessary to mitigate the impact of new students on overcrowding of schools, or to assure that other facilities and services are adequate and available to serve the TDR/PUD.

3. Defined Subareas for transfer - For every TDR/PUD, 75% of the total number of development rights needed to complete the project must be acquired from designated sending sites located in the same subarea as the proposed receiving site unless the applicant proposes a specifically defined and identified sending area which is designated by the BOCC in the TDR/PUD approval.

F. Development Criteria for Sending Sites from which Development Rights are Transferred

1. Parcels eligible for the density transfer option must be located within approved sending areas, as depicted on Boulder County TDR Sending Sites Map, the Niwot Sending and Receiving Area Map, or any map adopted through an Intergovernmental Agreement with a municipality in Boulder County.

2. In no case shall the developed acreage of a sending site exceed 5% of the total area of the sending site, and the conservation easement shall cover all of the sending site area.

3. The conservation easement, pursuant to C.R.S. 38-30.5-101 through 38-30.5-110, or other acceptable means are effected to prevent further subdivision or development of lands committed for agriculture or other open uses.

4. Units which have been expressly banked as unutilized density through an approved and recorded NUPUD or NCNUPUD, may be eligible to participate in a TDR/PUD if the Commissioners determine that participation enhances the preservation of the sending site, and otherwise furthers the purposes of this Section 6-700 and the Comprehensive Plan. Any such banked units which are not proposed or approved for use in a TDR/PUD, can still be platted as part of an NUPUD or NCNUPUD application provided that all regulations in effect at the time of the application are met.

5. Units which have not been expressly banked as required in the preceding subsection, and which are merely units not utilized in or approved as part of a NUPUD or NCNUPUD application, may not be held and used as part of a TDR/PUD.

6. Units proposed for transfer from sending sites which have been acquired in fee by a governmental entity for the preservation purposes listed in Section 6-700(A), above, or from sending sites encumbered by a conservation easement held by a governmental entity for the preservation purposes listed in Section 6-700(A), above, will be eligible for participation in a TDR/PUD only if the Commissioners determine that the proposal for participation enhances the preservation of the sending site and otherwise furthers the purposes of this Section 6-700 and the Comprehensive Plan. If such a determination is made, participation in a TDR/PUD will not require a separate conservation easement to be granted to the County over the sending site, unless the Commissioners determine that a separate easement is necessary to assure the long-term preservation of the sending site on substantially the same terms as the Conservation Easement form approved by the County for use in these TDR/PUD regulations. A public hearing shall be held prior to the sale of development rights from open space.

G. Standards and Conditions of Approval for Development on a Receiving Site: A PUD utilizing transferred development rights shall be approved only if the Board of County Commissioners finds that the proposed development meets the following standards and conditions:

1. The proposed TDR/PUD must be adjacent to and compatible with adjoining development and land uses, as well as compatible with the land uses designated for the area in adopted municipal master or comprehensive plans.

2. The proposal must be located adjacent to a major arterial, collector, or transit route.

3. Except as provided in 6-700(G)(7), below, receiving sites shall not be located on national significant agricultural land, designated open space, environmentally sensitive lands, or critical wildlife habitats or corridors, as identified in the Comprehensive Plan.

4. Within any residential TDR/PUD not more than 5% of the total land area may be developed for structural nonresidential uses.

5. Within any residential TDR/PUD, the nonresidential portions of the TDR/PUD will not be issued a Certificate of Occupancy until such time as 75% of the residential portions of the development are complete.

6. The proposed development shall include, where appropriate, methods to contribute to the costs for the provision of capital facilities including schools.

7. Exceptions to the above approval criteria may be granted by the Board of County Commissioners if the following conditions apply:

a. The proposed project is located within an approved Community Service Area, or

b. The proposed project is located adjacent to existing subdivided land which is developed at greater than rural density or is a platted subdivision within a municipality.

No exception shall alter receiving sites as designated in the Niwot Area or in an approved TDR IGA.

H. Development Standards for Sending Sites

1. Principal and accessory uses will be determined through the establishment of a conservation easement pursuant to the provisions of this Article following a form approved by Boulder County.

2. Property owners choosing not to participate in the transfer of development program still may utilize the use by right of one residential unit per 35 acres.

3. The potential number of development rights available for transfer from sending sites and the number of building lots permitted on sending sites participating in the transfer density program is as follows:

a. For parcels between 35 and 52.49 acres

(i) two development rights can be sent; OR

(ii) one unit may be sent AND one unit may be built on site, but only if specifically approved by the Commissioners based on a finding that the proposal enhances the preservation of the sending site and otherwise furthers the purposes of this Section 6-700 and the Comprehensive Plan.

b. For parcels between 52.5 and 69.9 acres

(i) three development rights can be sent; OR

(ii) two units may be sent AND one unit may be built on site, but only if specifically approved by the Commissioners based on a finding that the proposal enhances the preservation of the sending site, and otherwise furthers the purposes of this Section 6-700 and the Comprehensive Plan.

c. For parcels between 70 and 87.49 acres

(i) four development rights can be sent; OR

(ii) three rights can be sent AND one unit may be built on site.

d. For parcels between 87.5 and 104.9 acres

(i) five development rights can be sent; OR

(ii) four rights can be sent AND one unit built on site.

e. For parcels between 105 and 122.49 acres

(i) six development rights can be sent; OR

(ii) five rights can be sent AND one built on site.

f. For parcels between 122.5 and 139.9 acres

(i) Seven development rights can be sent; OR

(ii) six development rights can be sent AND one built on site.

g. For parcels 140 acres and larger

(i) two development rights per 35 acres can be sent; OR

(ii) any combination of transfer and on site development which does not exceed two units per 35 acres transferred or one unit per 70 acres on site (i.e., on 140 acres there could be the transfer of 6 units and the construction on site of 2 units).

4. Sending sites which have deliverable agricultural water rights in an annual average amount of 1½ acre feet per acre or more attached to, available for use on, or used on a significant portion (generally considered to be 75%) of the property, for at least 5 years prior to August 17, 1994, shall receive an additional unit of density for each 35 acres irrigated. This may be exercised only through the sending of that unit to a recognized receiving site. This additional unit shall be made available if the owner provides the County an undivided interest in the water rights which have been historically applied to the sending site as set forth in this subsection.

5. Verification of sending site acreage through a survey will be required if the property is within 5% of the minimum acreage needed to be eligible for a development right.

I. Procedure for Obtaining Transferred Development Rights

1. Development rights may be transferred to an approved receiving site only after the applicant obtains a Development Right Certificate for each right to be utilized from an eligible sending site.

a. A Development Right Certificate will be issued by the Boulder County Land Use Department upon the conveyance of a Conservation Easement to the County on the sending site. A Conservation Easement will not be required only under the circumstances provided in Section 6-700(F)(6), above.

b. The Conservation Easement, which defines the limitation on the development of the sending site, including the number of development rights severed from that parcel, shall be recorded in the real property records for that sending site at the office of the Boulder County Clerk and Recorder.

c. Any remaining development rights shall be built only after the sending parcel goes through the proper process for establishment of location of buildings or lots as follows:

(i) Development of one right must be on the undivided sending site and requires Site Plan Review (see Article 4-800).

(ii) Development of two or three rights requires a Subdivision Exemption (see Article 9) if separate lots are being created, or PUD approval if separate lots are not being created.

(iii) Development of more than three rights requires a Subdivision Regulations and/or PUD approval, as applicable, if separate lots are being created, or PUD approval if separate lots are not being created (see Articles 5 and 6).

2. The receiving site may be established by a conceptual plan, including location, size and general development parameters, submitted by the applicant and approved by the Board of County Commissioners after review and recommendation by the Planning Commission. A sketch plan will be required following the conceptual plan approval or in lieu of submittal of a conceptual plan.

3. A TDR/PUD approval shall also require a preliminary plan which shall be submitted by the applicant and approved by the Board of County Commissioners after review and recommendation by the Planning Commission.

4. The final plat will only plat and record the number of subdivided lots for which all of the development rights have been acquired and documented by Development Right Certificates.

a. Prior to the acquisition of all development rights approved on a receiving parcel, the final plat will only define the rights utilized in each block. Building permits will not be issued for development using those rights platted in blocks until an amendment to the TDR/PUD, including an amended final plat converting the blocks into subdivided lots, is approved.

b. Improvements directly related to the block for which some or all of the subdivided lots have been platted, must be complete or adequately guaranteed prior to the issuance of building permits.

J. The following parcels will not be considered for a TDR/PUD receiving site:

1. Parcels of less than 35 acres, unless

a. they are adjacent to an approved sending site or an approved conservation easement so that the total land area committed to agricultural or other open space use is at least 35 acres; or

b. they are located within a municipal community service area or municipal influence area as described in the Boulder County Comprehensive Plan or a jointly adopted intergovernmental agreement between Boulder County and the relevant municipality, subject to the concurrence and approval of that municipality.

2. Any parcel of less than 35 acres meeting the criteria of Sections 6-700(1)(a) or 6-700(1)(b), above, which is located more than one-half of a mile away from a municipal boundary, shall not be developed at a gross density of more than one unit per acre.

3. A subdivided lot shown on a plat recorded prior to August 17, 1994, the date of the first public notice of Planning Commission consideration of these regulations.

4. Parcels of LESS than 70 acres created after August 17, 1994, will only be eligible for development rights at the base density of the zoning district in which the parcel is located. No additional development rights may be granted to those parcels.

K. The following additional requirements shall apply within the Niwot Sending and Receiving area:

1. No more than a total of 93 units shall be received within the potential Niwot Receiving Areas.

2. Units may be sent to Niwot receiving areas only from sending areas designated on the Niwot Sending and Receiving map as sending areas and only in the following ratios:

Table 6-700-K-2

Sending Area	Percentage Eligible to be sent into Niwot Receiving Areas
1A	100%
1B	100%
2	70%
3A	70%
3B	50%
4A	50%
4B	33%
4C	50%
5	100%

Remaining development rights may be used in receiving sites if approved outside of the Niwot Receiving Area.

3. Any development approved within receiving area R2 shall incorporate a buffer along Highway 52.

4. Any units approved within receiving area R4 shall be compatible with the agricultural character of existing adjacent development.

6-800 Conservation Easement

A. Before the Board of County Commissioners may approve a NUPUD, a NCNUPUD, or a TDR/PUD the applicant shall agree to grant to Boulder County a deed of conservation easement in gross pursuant to Article 30.5 of Title 38, C.R.S., as amended, protecting the preserved land from development in accordance with the approved conservation values. Conservation easements encumbering required outlots shall provide for long-term preservation and appropriate management of the property's conservation values and shall be granted in perpetuity, subject to transfer or termination only pursuant to the express terms of these regulations and the governing conservation easement.

B. The conservation easement shall include the following terms:

1. The easement shall limit future County termination of the easement to situations where:

a. the termination is consistent with the current Comprehensive Plan and this Code; and

b. the termination is consistent with a management or land use plan contractually agreed to by the County and another interested governmental entity or entities.

2. If termination of the conservation easement is proposed, the County may require compensation in an amount sufficient to offset any loss of public benefit resulting from the proposed easement termination. Determination of the amount and form of compensation shall be made on a case-by-case basis by the Board.

3. If transfer of the conservation easement is proposed, the recipient of any transferred interests must be a governmental entity, or a charitable organization, defined as a "qualified organization" under Section 170(h) of the Internal Revenue Code of 1986, as amended.

4. The parcel preserved by the conservation easement shall be managed as a single agricultural unit, unless multiple outlots are approved or to separate areas of the parcel or parcels that are unsuitable for agricultural uses. These areas would include natural areas, wildlife preserves, trails, or other identified environmental or open lands resources.

5. The conservation easement for a TDR/PUD sending site shall include a reference to the extinguishment of the development rights transferred off that site. If additional rights are transferred after the recordation of the conservation easement, the easement shall be amended to reflect the extinguishment of those additional rights and the amendment shall be recorded.

6-900 Coordination With Other Provisions and Processes

A. If review and approval under the Subdivision Regulations is necessary, review of an application under this article shall be carried out simultaneously, and under the same application, referral, notice, and public hearing procedural requirements as is provided for sketch plan review in Article 5 of this Code.

B. In cases where special use approval is required for a proposed use, review of the PUD application under this article shall be carried out simultaneously with the special use review as provided for within Article 4 of this Code.

C. Recordation of the development agreement shall vest the owner's property rights for a period of three years, unless a longer vesting period is approved as authorized in Section 3-207 of this Code.

6-1000 Standards and Criteria for Approval of a Planned Unit Development

A. The PUD shall be approved only if the Board of County Commissioners finds that the development meets the following standards and criteria:

1. the development achieves the purposes of the PUD and the Comprehensive Plan when development at one unit per 35 acres would interfere with or be counter to those purposes;
2. the PUD would be a benefit through the provision of interconnected open space, conservation of environmental features, aesthetic features and harmonious design, and/or energy efficient site design;
3. the development will not have a material adverse impact on the surrounding area and will be in harmony and compatible with the neighborhood (compatibility includes but is not limited to size, scale, mass, architectural design, and landscaping);
4. the proposal fully complies with the minimum zoning and Subdivision Regulations requirements set forth in this Code;
5. the development will be in accordance with the Comprehensive Plan, and any applicable intergovernmental agreement affecting land use or development;
6. the project will be served by adequate facilities including streets, fire protection, water and sanitation;
7. the PUD results in no significantly greater burden on present and projected public facilities and services than development at one unit per 35 acres;
8. undue traffic congestion or traffic hazards will not result from the proposed PUD; roadways, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed PUD and in the vicinity of the proposed PUD;
9. the development will not cause significant air, water, or noise pollution;
10. detrimental conditions will not result due to development on excessive slopes or in geologic hazard areas;
11. the soil and drainage conditions are of a sufficiently stable nature to support development, including whatever sewage disposal treatment is used;
12. fire hazards will not be created or increased;
13. the PUD will not adversely affect any land of significant historical, cultural, recreational or aesthetic value;
14. the benefits of preservation of the larger land area which is accomplished by the banking or transfer of units shall clearly outweigh the potential impacts of approving a development which preserves a smaller area; and
15. the PUD will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Boulder County.

B. Upon approval of the PUD, the Board of County Commissioners may impose reasonable conditions or safeguards to insure compliance with these regulations.

6-1100 Modifications to an Approved Planned Unit Development

A. A substantial modification, removal, or release of the provisions of the PUD shall only be permitted by the Board of County Commissioners, following review and a public hearing held in accordance with the provisions of Article 3 of this Code.

B. The modification shall be consistent with the efficient development and preservation of the entire PUD; shall not affect, in a substantially adverse manner, either the enjoyment of land abutting or across a street from the PUD, or the public interest; and, is not granted solely to confer a special benefit upon any person.

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Article 7

Development Standards

Article 7 • Development Standards

This Article 7 is intended to apply to all types of development regulated by the Land Use Code. Except as may otherwise be required by law, the Director may waive or alter any of these requirements if they are determined to be inappropriate or unnecessary in a particular instance given the nature and extent of the proposal.

7-100 General Restrictions on Development

A. Character of the Land

1. Land which is found by the Board of County Commissioners to be unsuitable for subdivision or development due to physical constraints shall not be subdivided or developed unless methods are used to solve the problems created by these unsuitable land conditions.

2. Land shall be used in a manner appropriate to the constraints.

B. Self-imposed Restrictions

1. If the applicant voluntarily commits to restrictions or requirements greater than those contained within this Code the commitments may be required to be indicated on the final plat, contained within the development agreement, or in restrictive covenants.

2. If the commitment is accepted by the Board of County Commissioners in their approval of any subdivision, the commitment shall be fully enforceable under these Regulations as a requirement of the subdivision approval.

7-200 Development Design

A. The following shall be considered requirements for development design.

1. All subdivisions shall result in the creation of lots which are developable and capable of being built upon in conformance with this Code, the Building Code, or other County adopted regulations.

2. The design of the development shall eliminate or mitigate the potential effects of hazardous site conditions.

3. Lots shall be laid out to provide positive drainage away from all buildings.

4. Individual lot drainage shall be coordinated with the general storm drainage pattern for the area.

5. Drainage shall be designed to avoid concentration of storm drainage from any lot to an adjacent lot.

6. Lot area, width, frontage, depth, shape, location, and orientation shall conform to all provisions of this Code and be appropriate for the location of the development and for the type of use allowed.

7. All lots shall front on and have access to a public right-of-way or approved private access easement.

8. All proposed points of access must comply with the Transportation Standards.

9. No lot shall be divided by a municipal or County boundary line, road, alley or other lot.
10. Internal and external links to public trails and open space abutting the property shall be provided.
11. Extensions required for future development shall be provided.
12. Lot boundaries should conform to descriptions in liens or mortgages so that the division of a lot through a foreclosure does not occur.
13. Maintenance of common facilities must be accomplished either through covenants and a homeowners association, a separate maintenance agreement, or some other perpetual agreement.
14. The overall development design should conform to the Comprehensive Plan.

B. The following guidelines shall be used to the greatest extent possible.

1. The design and development of subdivisions should preserve the natural terrain, drainage, existing topsoil, and vegetation, including tree masses and large individual trees.
2. The layout of lots and blocks should provide desirable settings for structures by making use of natural contours, maintaining existing views, affording privacy for the residents and protection from adverse wind, noise, and vehicular traffic.
3. Development design should provide for efficiency in the installation and provision of all public and private facilities and services.
4. The development should provide for solar access on site and on adjacent properties.
5. The development design should maintain stands of trees or other vegetative cover to reduce the effects of winds on buildings.
6. Lot dimensions should be adequate to allow for the provision of necessary private service and off-street parking facilities needed by the type of use and development allowed.
7. Double frontage lots should be avoided except where essential to provide separation of residential development from expressways, major arterials, or to overcome specific disadvantages of topography and orientation.
8. Landscaping should be provided, especially as a buffer between different types of uses both within and adjacent to the development. Xeriscape should be used instead of traditional landscaping.
9. Side lot lines should be at right angles to, or radial to the center of curvature of the street or road on which the lot fronts. Where lot lines are not at right angles or radial to street lines, this shall be indicated on the final plat.
10. Lots should be arranged to minimize the number of outlots.
11. Lots should use natural and man made divisions, such as fences and easements, as their boundaries.
12. All lots should have reasonable access to open space, trails, park land or recreation facilities that are set aside for either development use or use by the general public.
13. Recreation facilities should be centrally located to all residents of the development.
14. The development design should be coordinated with the storm water drainage and flood control systems.
15. Utility, access, or drainage easements should not divide a lot.
16. Common water and sanitation facilities should be located on separate outlots commonly owned by the users.
17. Residential lots should be located to minimize adverse influences due to airports and airport operations.
18. The newly created residential lots should be located nearest to utilities and roads to minimize the amount of construction of these improvements and the loss of agricultural land.

C. The following applies where phasing of the development is requested.

1. The phasing schedule shall be noted in the development agreement.
2. A single phase shall not divide a block.
3. All phasing shall be approved by the Board of County Commissioners.
4. Modifications to the phasing schedule shall be made only after review and approval by the Board of County Commissioners.
5. The phasing schedule shall recognize the need for proper drainage, secondary access, water and waste systems and open space at all times during the phasing schedule.

7-300 Water Systems

A. The State Engineer and County Engineer shall be considered the County's experts in evaluating the reliability of the water supply source. It shall be the responsibility of the applicant to provide such evidence as may be required by the State and County Engineers.

B. Boulder County Public Health shall be considered as the County's expert in evaluating the quality of the proposed water supply source. It shall be the responsibility of the applicant to provide such evidence as may be required by Boulder County Public Health.

C. Water supplies shall be treated by a method acceptable to Boulder County Public Health to conform to minimum local and State requirements. Public Health may require test wells.

7-301 Water Reliability Requirements

A. In addition to the requirements of the State Engineer and Public Health, the following provisions shall be used to evaluate the adequacy of the water source intended to serve the proposed development:

1. Sufficient water supply

a. The average daily demand of the entire service area and the proposed development will be based upon 300 gpd (gallons per day) per residential unit or 75 gpd per capita, whichever is greater.

b. The average daily demand for commercial and industrial uses will be reviewed based on the anticipated demand of the proposed development. Appropriate multipliers may be utilized in calculating this amount.

c. Each residential lot shall have adequate water to meet required landscaping.

2. Irrigation Water

a. The irrigation demand shall be based on information submitted by the Soil Conservation Service. Such material shall take into account the type of vegetation to be maintained, the soil characteristics, the historic yield of the property, and available water rights.

b. All areas shall be evaluated for water demand.

c. The development agreement shall include any requirements for water.

7-302 Water Service

A. Every effort should be made to secure public water system extension; however, where water service is not physically or economically feasible, a central well and distribution system is preferred over individual wells.

B. The applicant must submit a letter of intent for service from the water supplier at the time of sketch plan application with a contract for service prior to final plat recordation.

C. For proposed developments within 2,000 feet of an existing water system, or within a community service area, the Board may require the subdivider to make provisions for the extension of service. This includes escrow funds for the installation of water mains and house connections in addition to the installation of domestic wells.

D. If a private water supply system is proposed, the applicant shall submit engineering plans to the County to be reviewed by the Land Use Department, County Engineer, and County Public Health.

1. If a private central water supply system is proposed, evidence must be submitted regarding the ability of the system to meet the minimum requirements of State and County Public Health regulations and this Section. Evidence regarding the means to repair and maintain the water system is also required.

2. Special review may be required for use of a central water system.

7-303 Wells

A. The following provisions shall apply for the use of wells.

1. Individual on-site wells will not be permitted for developments with densities greater than one residential unit per acre.

2. The well shall have adequate water quality, quantity, and dependability for the proposed density prior to preliminary plan approval.

a. The well should be continuously pumped or bailed at a minimum rate of three gallons per minute per domestic unit for a minimum of five hours. After five hours of pumping or bailing at such a rate, recorded data should show that the well is producing at a minimum rate of three gallons per minute per domestic unit and that the quality of water recovered from the well after five such hours of pumping or bailing, meets public health standards for potability.

b. Water samples from the well tests shall comply with Primary Drinking Water Regulations for the State of Colorado issued by the State Department of Health.

7-304 Water Distribution System

A. The water distribution system internal to the development shall be sized to meet both the initial and future demands of the proposed development. Oversizing for likely extensions may be required, with that oversizing to be paid for by future development.

B. In constructing the internal water distribution system, the following design provisions shall apply:

1. The system shall be sized for maximum day demand plus fire or peak hour demand, whichever is greater.

a. Maximum day demand may be assumed as 3.0 times average day demand, and maximum hour demand may be assumed to be 6.0 times average day demand unless calculations indicate otherwise. Designs using standards other than these must be approved by the County Engineer.

b. Minimum residual pressures shall be 40 psi under maximum hour demands; 20 psi if direct flow is used.

c. The actual pressure in the supply system under the conditions specified shall be used in designing the distribution system.

(i) If future connection to a different supply system is anticipated, critical pressure in that system may be used as the starting design pressure.

(ii) Assumed future supply pressures and points of connection for designing the system in all other cases shall be subject to the approval of the County Engineer.

d. Minimum main sizes shall be six inches except for short culs-de-sac. Where the external supply or pressure is not adequate to meet requirements, additional pipe diameter, parallel or looping lines, or additional storage or pumping shall be provided to meet the requirements.

2. Standards for fire flows shall be as follows:

a. The distribution system shall be designed for the following fire flows in addition to the maximum day rate:

Table 7-304-B-2-a

Population on System	gpm	Duration Hours
0 - 250	500	2
251 - 1,000	1000	4
1,001 - 2,000	1500	6
2,001 - 4,000	2000	8
4,001 - 6,000	2500	10
6,001 - 10,000	3000	10

b. Each fire hydrant shall be assumed to flow 500 gpm in low density areas and 1000 gpm in high density or commercial/industrial areas. Fire flows shall be assumed to flow from hydrants or groups of hydrants which will produce the critical pressure on the system.

(i) The minimum size of the main on which fire hydrants are located shall be 6 inches in diameter.

(ii) All hydrants shall be fitted with National Standard threads unless other agreements are reached with the agency providing fire protection.

3. The quality and materials specifications for all water systems must be submitted for review and are subject to the approval of the County Engineer. Proposed specifications should include the following:

a. The strength rating for distribution piping and fittings with fire flow demand is to have a minimum safety factor of four times the anticipated internal operating pressure.

b. The system is to be designed for a minimum service life of 50 years.

c. Sufficient cover to prevent freezing.

d. Dead-end mains are to be provided with a suitable means for flushing.

C. New water systems shall be designed with sufficient treatment and storage capacity to serve the specified maximum hour demands for a period of 6 hours or a maximum day demand plus the required fire demand of the specified duration.

7-400 Sewage Treatment

A. Boulder County Public Health shall be considered Boulder County's expert concerning the adequacy of the proposed sewage treatment system.

B. In addition to the requirements of Boulder County Public Health the provisions of this article shall be used to evaluate the adequacy of the sewage treatment system intended to serve the proposed development.

7-401 Public Systems

A. Every effort should be made to secure public sewer extension; however, where connections to an existing public sewer are not physically or economically feasible, a central collection system and treatment plant is preferred.

B. The applicant must submit a letter of intent for service from the sanitation service at the time of sketch plan application with a contract for service prior to final plat recordation.

C. For proposed developments within 2,000 feet of an existing sanitary sewer main, or in a community service area, the Board may require the subdivider to make provisions for the extension of service. This includes escrow funds for the installation of sewer mains and house connections in addition to the installation of temporary individual on-site sanitary disposal systems.

D. Where the proposed development is within a community service area, individual on-site wastewater systems will not be permitted. Where sewer service is not available, a central treatment plant and collection system in accordance with appropriate municipal standards may be used.

7-402 Private Systems

A. For private systems, the applicant will be required to submit formal plans to the County which will be reviewed by the Land Use Department, County Engineer, and County Public Health. The recommendations of these referral agencies will be given to the Planning Commission and the Board of County Commissioners.

B. On-site Systems

Where individual or central on-site treatment systems are proposed, lots shall be laid out to provide a suitable treatment area for each lot or grouping of lots based upon criteria established by Boulder County Public Health.

1. Where leach fields are proposed, evaluation of suitable treatment area shall include soil suitability, well slopes, surface hydrology, and water table depth, including anticipated variation with time.
   - **a.** Percolation tests shall be sufficiently representative to reasonably assure that each lot will have a suitable treatment area.
   - **b.** Larger lots may be required due to the capacity of the proposed treatment system.
2. The applicant must contact Boulder County Public Health to determine specific problems in the general vicinity which might affect the proposed on-site wastewater systems.
3. For central systems, the applicant must submit engineering data to prove that each site in the development is capable of accommodating an on-site wastewater system or accommodating an alternative engineered system in accordance with Boulder County Public Health requirements.

7-403 Sewage Collection

A. Collection systems shall be designed and sized in accordance with guidelines and requirements furnished by the sewage agency providing the service and Boulder County Public Health.

1. Collection systems shall be sized to meet present and future demands of the proposed development.
2. Oversizing for likely extensions may be required, with that oversizing to be paid for by future development.
3. For situations where guidelines and standards are not available, those designs intended for use shall be submitted for review and are subject to approval by the County Engineer.
4. Approval of the proposed system by the service agency is required where applicable as a condition of approval by the County Engineer.
5. The constructed systems shall not permit infiltration rates in excess of 200 gallons per inch of diameter per mile of pipe per day, unless otherwise specified by the service agency.

7-500 Solid Wastes

Where suitable public or private solid waste storage and collection systems are not available to serve the proposed development, individual unit or group storage containers and/or container sites and periodic collection of containers may be required. Volume generation rates to be used in determining the size, number, and type of containers and frequency of pickup shall be subject to approval by the County Engineer.

7-600 Subdivision Roads

7-601 Continuation of Roads and Dead End Roads

A. The following shall apply to dead end roads and roads which will be continued.

1. The arrangement of roads shall provide for the continuation of major roads between adjacent properties when the continuation is necessary for the convenient movement of traffic, effective fire protection, or for efficient provision of utilities.

a. If the adjacent property is undeveloped and the road must be temporarily dead-ended, right-of-way shall be extended to the property line, and the construction and maintenance of a turnaround of approximately 80 feet in diameter may be required for temporary use, with plat notation that land outside the normal road right-of-way shall revert to abutting property owners whenever the road is continued.

2. Where a road does not extend to the boundary of the development, and its continuation is not required for access to adjoining property, its terminus should be no closer than 50 feet to the boundary.

7-602 Reserve Strips

A. Reserve strips in the form of one foot outlots may be required to control or restrict access to perimeter or stub roads.

B. Such strips shall be utilized only where their ownership and control is accepted by the public agency having jurisdiction.

C. The outlots should be deeded to the public agency at the time of recordation of the final plat.

7-603 Private Roads

A. The use of private roads, which meet the specifications contained in the Transportation Standards, is encouraged and is permitted upon review by the Planning Commission and approval by the Board of County Commissioners.

B. Private roads shall be designed to discourage use by the general public.

7-700 Reserved

7-800 Reserved

7-900 Drainage

A. The 2016 Storm Drainage Criteria Manual (SDCM), available from the County Engineer, shall be the authoritative reference for drainage and is incorporated into the Land Use Code by this reference. The Urban Storm Drainage Criteria Manual, available through the Urban Drainage and Flood Control District, may be used as an authoritative supplement. The Transportation Standards shall be used for design standards and specifications.

B. Complete drainage systems for the entire development area shall be designed by a professional engineer, licensed in the State of Colorado.

C. All drainage plans required to be submitted as part of a land use application under this Code must comply with the SDCM. The drainage system plan shall be depicted graphically identifying all existing drainage features which are to be used; all proposed surface drainage structures; and all appropriate designs, details, and dimensions necessary to clearly explain proposed construction materials and elevations.

D. Development proposed within a Floodplain Overlay District, shall be capable of receiving a floodplain development permit from the County Engineer prior to receiving final approval.

E. Land which is subject to a possible upstream dam failure shall not be developed unless the potential flooding condition is alleviated according to plans approved by the County Engineer, unless otherwise approved by the State Engineer.

F. Storm drainage systems shall be separate and independent of any sanitary sewer system and shall be designed in compliance with the following requirements:

1. The drainage system shall be designed to consider the drainage basin as a whole and shall accommodate not only runoff from the development area but also, where applicable, the system shall be designed to accommodate the runoff from those areas adjacent and upstream from the development itself, as well as its effects on lands downstream.
2. If a development is proposed in phases, a general drainage plan for the entire area shall be presented with the first phase and appropriate development stages for the drainage system for each section shall be indicated.

7-901 Drainage Easements

A. Dedication to the County of a storm water or drainage easement or right-of-way may be required if a proposed development is traversed by a watercourse, drainageway, channel, stream, water supply ditch, or canal. This right-of-way shall conform to the lines of such watercourse, and be of such width and construction as will be adequate for the purpose of maintenance, and the exclusion of improvements of the type which would interfere with runoff.

1. Where possible, the drainage shall be maintained by an open channel with rip-rap or grass lined banks, or such channel design that is in accordance with the SDCM. This channel shall be of adequate width for maximum potential volume off flow.
2. The minimum requirements for such easements or rights-of-way shall be based on a base flood, but shall not be less than 20 feet in width.
3. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual unobstructed easements at least 20 feet in width for such drainage facilities shall be provided across property outside the road lines and with satisfactory access to the road. Drainage easements shall be carried from the road to a natural watercourse or to other drainage facilities.
4. When a proposed drainage system will carry water across private land outside the development, appropriate drainage rights must be secured and indicated on the plat or the site plan.
5. Low-lying lands along watercourses subject to flooding or overflowing during storm periods, whether or not included in areas for easement dedication, shall be preserved and retained in their natural state as drainage ways.
6. Provision for the maintenance of such drainage areas shall be included as part of the development approval.

7-902 Water Table

A. The following provisions shall apply to areas of high ground water. Stipulation may be required as part of the development agreement to mitigate problems associated with ground water.

1. In cases where the water table is proposed to be artificially lowered, the design water table must be determined prior to the completion of the subdrain system. Confirmation of the lowering of the water table must be made after construction. Also, provisions must be made for maintenance of the subdrain system, including funds for maintenance, as well as individual or group responsibility for on-going maintenance.

2. The following shall apply to buildings with basements:

a. the finished basement floor elevation shall be six inches or more above the design water table; and

b. where the finished basement floor elevation ranges from six inches to two feet above the design water table, the basement shall be equipped with a peripheral subdrain which flows to a sump or sumps, daylight, or other approved point.

c. In each case the ultimate discharge point for peripheral Subdrain shall be reviewed and approved in conjunction with subdivision approval.

d. Acceptable ultimate discharge points include:

(i) at-grade on lots larger than one acre provided that water will not flow onto adjacent property;

(ii) buried storm drainage systems provided that freezing will not be a problem; and

(iii) major natural waterways.

e. Unacceptable discharge points include:

(i) roadside ditches

(ii) street gutters

(iii) at-grade on lots one acre or smaller and adjacent property

f. Where the finished basement floor elevation is more than two feet above the design water table, no special requirements for subdrainage shall be imposed.

3. In relevant cases as described above, where the elevation of the design water table is within 10 feet of the pre-construction grade at the building site then the development agreement shall provide for the following:

a. the elevation of the design water table shall be shown on structural plans submitted with the building permit application

b. the elevation of the finished basement floor shall be shown on the structural plans submitted with the building permit application

c. a licensed surveyor shall certify that the basement floor was constructed at the elevation specified on the approved structural plans as a precondition for issuance of the certificate of occupancy.

4. Crawl spaces shall be permitted only where the design water table is a minimum of three feet below the interior finished crawl space grade.

5. In cases where the artificial lowering of the water table may interfere with established water supplies, water rights, and/or aquatic environments, the County may prohibit such lowering.

7-903 Erosion and Sediment Control

A. If the plans for development entail the potential to cause erosion, a soil erosion and sedimentation plan shall be submitted for the County's review and acceptance.

B. The plan shall include good engineering, hydrologic, soil restoration and revegetation and pollution control practices as outlined in the County's Storm Drainage Criteria Manual, Urban Storm Drainage Criteria Manual, Volume 3 – Best Management Practices, or the Colorado Department of Transportation's Water Quality Control standards.

C. Installation of erosion and sediment control measures is required prior to beginning construction, and may be required to be maintained post-construction, as necessary.

D. Financial guarantees may be required if deemed necessary to secure performance and may include provisions for enforcement of both the permanent and temporary erosion and sediment control facilities.

7-904 Stormwater Quality Management Permit Requirements

A. Purpose/Intent The intent of this section is to protect and enhance the water quality of Boulder County's watercourses and waters of the state; comply with and implement the Clean Water Act, the Colorado Water Quality Control Act including the state Water Quality Control Division's ("WQCD") Colorado Discharge Permit System ("CDPS") Stormwater Management Program, and related County water quality and land use authority; and provide for the health, safety, and welfare of Boulder County citizens by controlling the discharge of construction activity-generated stormwater to the municipal/county separate storm sewer system (MS4) from within the County's unincorporated Urbanized Area (or such other permit area as may be as authorized under the County's CDPS General Permit issued by the state WQCD), and to state waters located within or flowing from the unincorporated County generally. The objectives of this section are therefore to:

1. Regulate the contribution of stormwater-conveyed pollutants to the MS4 (under the County's CDPS General permit), and more broadly to state waters located within or flowing from the unincorporated County, generated from construction activity and development;

2. Reduce pollutants in stormwater discharges from construction activity by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth or land;

3. Require the installation of temporary and permanent stormwater runoff controls and best management practices ("BMPs") to prevent the deterioration of water quality related to stormwater discharges from construction activities and sites;

4. Provide reliable mechanisms to assure the effective, ongoing maintenance of required permanent BMPs;

5. Maintain structural stormwater control facilities and nonstructural stormwater management practices so that they continue to function as designed and do not threaten public safety;

6. Establish procedures for monitoring, inspection, and enforcement as necessary to ensure compliance with County stormwater regulations; and

7. Facilitate compliance with water quality-related state and federal standards and permits.

B. Applicability

1. This section applies to all stormwater entering the County's MS4 storm drainage system, and other waters of the state located within or flowing from unincorporated Boulder County, generated from construction activity on any developed or undeveloped lands within the unincorporated County, as provided by this section, unless exempted.

C. Responsibility for Administration

1. The County Engineer shall administer, implement, and enforce the provisions of this section.

D. Requirements for Stormwater Quality Permit; Limited Permit Exemptions

1. A stormwater quality permit from the County Engineer is required for construction activity resulting in the following total disturbed area:

a. One acre or more; or

b. Less than one acre if construction activity is part of a larger common plan of development, even if multiple, separate and distinct land development activities may take place at different times on different schedules, so long as the common plan will ultimately disturb one acre or more.

2. The County Engineer may require a stormwater quality permit regardless of the size of the total disturbed area, in conjunction with approval of a final subdivision plat, special use permit, or other site specific development plan under this Code, or if the construction activity is adjacent to a watercourse or wetlands.

3. Agricultural land management activities, except point source discharges subject to National Pollutant Discharge Elimination System ("NPDES") or CDPS stormwater permitting requirements, are exempt from this section.

4. A Development Plan Review ("DPR") permit authorizing oil and gas operations subject to a stormwater control plan approved under Article 12-800 of this Code (conditions of approval applicable to all county oil and gas operations DPR permits), shall be considered the equivalent of a County Engineer stormwater quality under this Article 7-904, and a separate permit application under this Article 7-904 for such operations shall not be required.

E. Application Requirements

1. Applications for stormwater quality permits shall be filed on a form prescribed by the County Engineer. A complete application shall include:

a. Signature by the landowner or the owner's authorized representative, and identification of the operator and other persons responsible for compliance with the permit. The County Engineer shall have the discretion to require that persons identified as operators, or other persons who are known at the time of application as being responsible for implementation of any approved permit, sign the application as applicants.

b. Documentation of an application for a Colorado Department of Public Health and Environment ("CDPHE") stormwater general permit for construction.

c. A Stormwater Management Plan ("SWMP") including but not limited to the following:

(i) Best Management Practices ("BMPs") to be installed on a temporary basis as necessary to control stormwater discharges from the construction site both prior to and during construction;

(ii) A site plan or plans depicting the affected site in sufficient detail to show significant site features (natural and manmade), areas proposed to be disturbed and developed, existing easement areas and restricted development areas, and locations of proposed temporary BMPs; and

(iii) Identification of any affected MS4 or waters of the state anticipated to receive stormwater discharge from the site.

d. For construction activity within the Urbanized Area, a final drainage plan including a narrative describing proposed permanent BMPs and methods for their perpetual maintenance, identification of the parties responsible for perpetual maintenance of proposed permanent BMPs, a site plan showing locations of the proposed permanent BMPs, and, as required by the County Engineer, engineered drawings or design schematics for proposed permanent BMPs.

e. All BMPs designed to meet the requirements of this section shall generally comply with the Urban Drainage and Flood Control District's Urban Storm Drainage Criteria Manual, Volume 3 – Best Management Practices; the Colorado Department of Transportation's ("CDOT") "Erosion Control and Stormwater Quality Guide," or any other alternative methodology, which is demonstrated to be effective and approved by the County.

f. All other information deemed necessary for the adequate processing of the application, as required in the discretion of the County Engineer.

g. Payment of a permit fee in an amount determined by the County Engineer as reasonably necessary to defray the costs of administering the County's stormwater quality program under this section.

F. Application Approval and Permit Requirements

1. Within thirty (30) working days after receipt of a complete stormwater quality permit application, the County Engineer shall make a decision on the submitted application. The County Engineer may extend the 30 days for a reasonable period of time if, during the review process of the complete application, the County Engineer discovers problems or deficiencies requiring additional information to be provided or a response from the applicant or related agencies or interested parties. The County Engineer shall notify the applicant in writing of any such extension and the problems or deficiencies involved, and shall attempt to make a decision as soon as reasonably possible after the initial 30 days. Failure of the County Engineer to issue a decision within the specified time period shall not result in the application being automatically approved as submitted, and the County Engineer shall retain jurisdiction to make a decision on the application at the soonest possible time.

2. If the County Engineer determines that insufficient information has been provided to make a decision on the application, or that the application as submitted cannot adequately reduce the discharge of pollutants to the maximum extent practicable and protect water quality, the County Engineer shall deny the application. If a permit is denied, the County Engineer shall notify the applicant in writing of the grounds for denial, and if appropriate shall suggest corrective actions that may be taken to obtain a permit.

3. If the County Engineer determines that the application is adequate to reduce the discharge of pollutants to the maximum extent practicable and protect water quality, the County Engineer shall approve the application, and issue the stormwater quality permit, including any reasonable conditions to mitigate conditions specific to the site, provide for the adequate installation and maintenance of temporary and permanent BMPs, and allow for reasonable adjustments in required BMPs in response to changing or unanticipated conditions in the field. Any approved permit shall also contain the following standard operating requirements:

a. The permittee must keep the accepted SWMP on site at all times and shall make the SWMP available for County Engineer inspection upon request.

b. The permittee shall provide timely installation and maintenance of all required temporary BMPs required in the SWMP. Nonfunctioning, damaged, or destroyed BMPs shall be repaired or restored immediately. All BMP maintenance, repair, and restoration work shall be documented on the accepted SWMP required to be kept on site and available for County Engineer inspection.

c. The responsibility to maintain and reconstruct or repair all BMPs, both temporary and permanent, shall run with the land and be binding on subsequent owners. Permanent BMPS, which shall be required for construction activity in the Urbanized Area, shall be maintained in perpetuity.

d. The permittee shall inspect all temporary BMPs at least every 14 days and within 24 hours after any precipitation or snowmelt event that causes surface runoff. An erosion control supervisor ("ECS") must conduct all BMP inspections and keep a detailed record of same, as part of the SWMP required to be kept on site and available for County Engineer inspection.

e. When the County Engineer deems it necessary for the reasonable implementation of this section, the County Engineer may require the provision of a financial guarantee to assure required performance under the permit.

(i) The financial guarantee shall be in the form of an acceptable letter of credit with a banking institution in the State of Colorado, or a cash deposit.

(ii) The amount of the financial guarantee may include warranty collateral to assure the performance of the required improvement for an appropriate period after completion or acceptance.

(iii) The amount and term of the guarantee and provisions for its release shall be in the reasonable discretion of the County Engineer.

f. By accepting the issued permit, the permittee consents, both for itself and its successors in interest, to allow the County Engineer and associated County agents access to the property which is the subject of the permit, for purposes of inspecting compliance with the permit including its approved SWMP, approved final drainage plan, and all required BMPs, both temporary and permanent. County access may occur at any time for this purpose and without prior notice to the permittee, including the landowner, operator or any responsible party under the approved permit, so long as the permit is active or BMPs or other requirements under the permit are required to be met or maintained.

g. In instances where the County Engineer has reason to believe that an unannounced inspection is not necessary to assessing compliance, the County Engineer may provide prior notice of a forthcoming inspection to the permittee.

h. The County Engineer shall record any approved permit in the real property records of Boulder County, to provide notice to subsequent owners or persons in interest of the requirements of the permit, of the ongoing obligation to maintain permanent BMPs, and of the County Engineer's right of entry for inspection and enforcement purposes under the permit without prior consent of the permittee (including the landowner, operator, or other responsible party under the approved permit). Recordation of a permit cover sheet or of the permit itself, without all approved plans or attachments, shall be considered adequate notice of the full contents of the permit, so long as the material recorded indicates that the full permit file can be located in the official records of the County Engineer.

G. Changes to Issued Permit; Required Permit Amendments

1. Upon receipt of a stormwater quality permit, the permittee may make minor modifications to the SWMP and its approved temporary BMPs. To qualify as a minor change, the permittee must document that the change is necessary to provide equivalent water quality protection while still fulfilling the purposes of this section and not increasing adverse water quality impacts. The permittee shall promptly record all minor modifications on the SWMP required to be kept on site and available for County Engineer inspection.

2. Whenever there is a change to the accepted SWMP or any other aspect of an approved permit involving design, construction, operation, or maintenance which has the potential to cause a reduction in water quality protection or have a significant effect on hydrology or stormwater discharge from the project or site, this shall be considered a substantial modification to the approved permit, and may not proceed unless the County Engineer first approves an amendment to the permit filed and processed in accordance with the permit application procedures specified in this section, above. In the alternative, the permittee may request that the County Engineer determine whether a proposed change is minor or substantial in accordance with the considerations specified in this section. The County Engineer may impose reasonable terms and conditions on any approval of the proposed change as minor, to assure that the change is not substantial and otherwise complies with the issued permit and this section, which terms and conditions shall become part of the issued permit.

H. County Confirmation of Compliance with Issued Permits; Ongoing Requirements To Maintain Permanent BMPS

1. Upon completion of the construction or development covered by a stormwater quality permit, the permittee shall request that the County Engineer perform a final inspection to confirm compliance with the accepted SWMP and all other requirements of the permit related to controlling stormwater and other construction site discharges prior to and during construction.

2. If the approved permit requires the construction and maintenance of permanent BMPs, those BMPs must be installed at the time of final inspection, or an additional financial guarantee meeting the terms of subsection 7-904.F.3.e, above, must be provided, as required by the County Engineer, to assure such performance. The permittee must provide "as built" plans, certified by a Colorado licensed Professional Engineer, for any required permanent BMP within 30 days after BMP construction is completed or such other time period specified in the permit by the County Engineer.

a. As a condition of approval of the permit and its required permanent BMPs, the permittee shall agree to maintain the BMPs to their design capacity in perpetuity, unless the BMP facility is dedicated to and accepted by the County for ownership and maintenance.

b. The obligation to maintain permanent BMPs shall be memorialized on the subdivision plat, annexation plat, development agreement, or other binding agreement or instrument in a form acceptable to the County Engineer, that shall be binding on all subsequent owners of the permanent BMPS and recorded in the office of the County Clerk and Recorder. Permanent BMPs included in a final drainage plan and as depicted in the submitted as-built plans must undergo ongoing inspections to document maintenance and repair needs and to ensure compliance with the requirements of the ongoing BMP maintenance agreement. Continuing permittee and owner (or other responsible party) consent for the County Engineer to enter the property or site to inspect permanent BMPs for required operation and maintenance, shall be considered to be provided as part of the stormwater quality permit issuance, as provided in subsection F.3., above.

c. Any person who transfers ownership of land on which BMPs are located or will be located, or who otherwise transfers ownership of BMPs or responsibility for the maintenance of BMPs to another person or entity, shall provide written notice to the County Engineer within 30 days after such transfer and shall also provide clear written notice of the maintenance obligations associated with the BMPs to the new or additional owner prior to that transfer. Failure to provide proper notice will not absolve any person from meeting the requirements of this section.

I. Enforcement and Penalties

1. Violation: It is unlawful for any person to violate any provision of a stormwater quality permit or fail to comply with any of the requirements of this section. Any person who violates any of the provisions of this section may be subject to one or more of the enforcement actions outlined below.

2. Enforcement: All personnel authorized by the County Engineer shall have the power to conduct inspections, give verbal direction, issue notices of violations, perform abatement actions, seek judicial permission and relief, and implement other enforcement actions under this section or as otherwise authorized by law.

3. Right of Entry To Investigate Suspected or Known Violations: Whenever the County Engineer has reason to believe that there exists or is likely to exist any condition which constitutes a violation of this section, the County Engineer shall have the right to enter the subject property at any reasonable time to inspect and determine whether a violation exists.

a. Consent for Entry, or Administrative Search Warrant, Required: Before entering any property, the County Engineer shall make a reasonable effort to locate the owner and obtain consent to enter. If such consent cannot be obtained, the County Engineer may seek entry by submitting a sworn affidavit to the proper court of jurisdiction, setting forth facts sufficient to support a reasonable belief that a violation exists or is likely to exist and that further investigation of the property is thus warranted. Such request for entry may include the right for the County Engineer or its designees to set up devices on the property, conduct sampling, take photographs, or perform other investigations deemed reasonably necessary to investigate the alleged violation or assess the effect of any unauthorized erosion or discharges.

b. Consent for Entry, or Administrative Search Warrant, Not Required: Consent to enter or an administrative search (inspection) warrant shall not be required if entry is authorized under an existing stormwater quality permit or other prior authorization of the owner or permittee; to make observations from public property, other private property, or portions of the subject property that are open or accessible to the public or in which the owner otherwise lacks a reasonable expectation of privacy; or where the County Engineer deems an emergency situation to exist which imminently threatens the public health or safety.

4. Notice of Violation: If the County Engineer determines that a violation of this section exists and exercises discretion to pursue enforcement, the County Engineer shall provide written notice, in letter or electronic form, to the property owner of record, and to any known permittee or operator if different from the owner. The notice shall describe the alleged violation, the steps required to abate the violation, and a reasonable timetable for compliance.

5. Stop Work Order: The County Engineer may also, in writing sent to or served on the property owner and/or permittee or operator, order that the activity constituting a violation be stopped until further notice from the County Engineer. If the owner and/or operator or permittee cannot be located, the notice to stop shall be posted in a conspicuous place upon the area where the activity is occurring and shall state the nature of the violation. It shall be unlawful for any owner and/or operator or permittee to fail to comply with a stop work order.

6. Judicial Enforcement Remedies Generally: If compliance is not timely achieved, the County Engineer or County Sheriff, as applicable, may enforce this section in any court of competent jurisdiction, seeking civil or criminal remedies, as appropriate, and relying on any applicable legal enforcement authority, including but not necessarily limited to county zoning regulatory enforcement under C.R.S. Sections 30-28-124 and 30-28-124.5; county building code enforcement under C.R.S. Section 30-28-209; and county ordinance enforcement under Part 4 of Article 15 of Title 30, C.R.S. In addition, any condition caused or permitted to exist in violation of this section is a threat to public health, safety, and welfare, and is declared and deemed a public nuisance, with any court of competent jurisdiction empowered to enjoin such violations upon proof thereof .In any such action the County may recover its costs and attorneys' fees, and collect applicable penalty assessments, as authorized by law.

7. Judicial and Penalty Assessment Enforcement Remedies under County Ordinance Powers (C.R.S. Sections 30-15-402-410, including the simplified county court procedures of Part 1 of Article 2 of Title 16, C.R.S., and the penalty assessment provisions of C.R.S. Sections 16-2-201 and 18-1.3-503): Any person who violates a county ordinance adopted pursuant to Part 4 of Article 15 of Title 30, C.R.S., commits a class 2 petty offense under state law which shall be punished by a fine of not more than one thousand dollars for each separate violation. Each day that a violation is proven to exist may be considered a separate offense. Under this authority, the Board of County Commissioners adopts the following graduated fine schedule: $500 for the first violation, and $1,000 for the second or repeat violations. Pursuant to C.R.S. Section 16-2-201, the arresting officer may give the violator a penalty assessment notice, or a summons and complaint may be issued pursuant to the simplified county court procedures of Part 1 of Article 2 of Title 16, C.R.S. The County Engineer and official designees are hereby designated to enforce the ordinance provisions of this section as authorized in C.R.S. Section 30-15-402.5, and the County Sheriff is empowered to enforce county ordinance provisions under C.R.S. Section 30-15-410.

8. Administrative Remedy of Abatement of County Ordinance Violation under C.R.S. Section 30-15-401(11): Any violation that the County Engineer determines is part of the County's stormwater quality management program required by the County's Municipal Separate Storm Sewer System (MS4) CDPS General Permit issued by the state WQCD, and that the owner, operator or permittee fails to abate following notice of violation provided as required under this section, may be administratively abated by the County in accordance with C.R.S. Section 30-15-401(11), as incorporated herein. The following provisions shall govern such proceeding:

   a. The County Engineer shall seek an administrative entry and abatement (seizure) warrant from the county or district court having jurisdiction over the property from which the violation is to be abated, which the court shall issue upon the County Engineer's presentation of this section (which has been adopted as a C.R.S. Section 30-15-401(11) ordinance); a sworn or affirmed affidavit stating the factual basis for the warrant; evidence that the property owner has received notice of the alleged violation and has failed to abate the condition within the reasonable prescribed period; a general description of the location of the subject property; and a general list of corrective action needed.

   b. Within ten (10) days after the date of issuance of the administrative entry and abatement (seizure) warrant, the County Engineer shall execute the warrant in accordance with the directions by the issuing court; provide or mail a copy of the warrant to the property owner; and submit proof to the court of execution of the warrant, including a written inventory of any property impounded by the County Engineer.

   c. Upon completion of these requirements, the County Engineer may assess the reasonable cost of the abatement, including five percent for inspection and other incidental costs in connection with the abatement, upon the subject property, by recording a notice of such assessment with the County Clerk and Recorder. The notice shall specify the basis for and amount of the assessment, and a reasonable time within which the assessment must be paid to the County, which generally shall be within thirty (30) days unless the County Engineer determines a longer or shorter payment period is reasonable.

   d. Once recorded, the assessment notice shall be a lien against the subject property until paid, and shall have priority based upon the date of recording. If the assessment is not paid within the time specified in the notice, the County Clerk and Recorder, upon request of the County Engineer or other responsible County official, may certify that fact to the County Treasurer, who shall collect the assessment, together with a ten (10) percent penalty for the cost of collection, in the same manner as taxes are collected. State law for assessment and collection of general taxes, including the laws for the sale and redemption of property for taxes, shall apply to the collection of the assessment authorized in this section.

9. Remedies Not Exclusive: The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law, and the exercise of any remedy specified herein shall not necessarily prejudice the pursuit of other listed remedies. It is within the discretion of the County Engineer to seek cumulative remedies.

J. Administrative Appeals

1. Any person aggrieved by the inability to obtain a stormwater quality permit under this section, or by the County Engineer's final decision on an issued permit or interpretation of the provisions of this section, may file an administrative appeal with the Board of County Commissioners. An appeal must be filed in writing with and received by the County Engineer no later thirty (30) days after the final action or decision being appealed. Upon receipt of an appeal authorized in this section, the County Engineer shall schedule a public hearing before the Board of County Commissioners on the appeal at the soonest time practicable, considering the Board's schedule, staff time needed to prepare a presentation on the appeal, the issues presented in the appeal, and timing concerns of the appellant.

2. Notice of a Board of County Commissioners' hearing on the appeal shall be published in a newspaper of general circulation within the County, and provided to the appellant, no later than fourteen (14) days prior to the hearing.

3. At the hearing, the Board shall consider the documents and testimony presented by the appellant and its representatives, the County Engineer, any other involved County staff, and any interested members of the public. The Board shall make a decision based on the entire record before it, either affirming in whole or in part, or overturning, the decision of the County Engineer. The Board's decision shall be considered final upon the Board's adoption of a written resolution memorializing its decision at the public hearing.

K. Related Provisions

1. In addition to requirements in this section, stormwater quality and discharge of pollutants into the municipal separate storm sewer system (MS4, or County storm drain system) are subject to regulation under Boulder County Public Health's Ordinance 2012-4, "An Ordinance Concerning Illicit Discharge and Stormwater Quality."
2. Other permits or approvals under this Code, and related regulations of the County, such as those of the Transportation Department and County Public Health, may be necessary before construction or development can commence.

7-1000 Water Supply Ditches

A. An easement must be platted for any existing ditch or lateral.

B. The following provisions shall be required for the handling of irrigation ditches traversing areas proposed to be subdivided for development.

1. Existing ditches must be accurately located on the plat by appropriate survey data. The preliminary plan must show the top of ditch banks relative to easement limits proposed.

2. The written approval of the ditch owner or representative may be required for any proposed modifications of a ditch at the sketch plan and preliminary plan phases of the subdivision process. Written approval of final plans for such uses shall be required for final plat approval.

3. Where the County Engineer determines that extraordinary requirements are proposed by a ditch company as conditions of subdivision approval, the County Engineer may recommend that the Board of County Commissioners approve other requirements.

4. Irrigation ditches are not to be realigned unless expressly approved by the Division Engineer and then the realignment is to be in a manner approved by the ditch owner and the County Engineer.

a. Ditch realignments shall be referred to the Soil Conservation Service for review and comment during review of the preliminary plan.

5. Prior to county acceptance of any public improvement located within the ditch easement, the applicant shall provide a certificate of clearance from the appropriate official of the ditch company to the effect that all work required as a condition of plat approval has been satisfactorily performed.

6. Road crossings over a public water course or ditch shall be bridged or culverted in a manner consistent with the County's requirements, standards, and specifications and in accordance with the hydraulic requirements of the ditch company.

a. The ditch company shall be consulted regarding all proposed ditch crossings and written consent of the ditch company may be required by the County Engineer for such crossings.

7. The ditch easement shall extend the length of the ditch through the subject property and the size of the ditch easement shall be based on the following:

a. The minimum ditch easement shall be the area between the ditch banks, as measured between the top of each ditch bank plus 15 feet on one side of the ditch and five feet on the other side of the ditch to provide for vehicular access and maintenance activities.

(i) The side with 15 feet is to be such that continuous vehicular access along the length of the ditch can be provided.

(ii) The top of the ditch is considered to be the lowest point, as measured at any cross-section, at which water could not overflow.

b. Additional easement width may be required where the ditch company can demonstrate the legal right for the additional width in order to continue the historic maintenance and/or use of the ditch.

c. Additional easement width may be required where there is a dedication of land paralleling the ditch easement for a needed public purpose.

d. Except where otherwise provided, the ditch easement shall be an exclusive easement for the use of the ditch company. Exceptions to an exclusive easement will be at road rights-of-way, along trails or bikeways and where drainage and other utility easements are overlapping.

8. Not withstanding the width of the ditch easement proposed by the developer, within the specifications of this Section, or approved by the Board of County Commissioners, the ditch company may have rights to an easement or right-of-way which is larger in size either under the rules of adverse possession and prescription, or under applicable state or federal law existing at the time the ditch was constructed. Activities of the County or subdivider are not intended to annul or abridge these rights.

9. Unless otherwise approved by the County Engineer and the applicable ditch company, ditches are not intended to be used as drainage facilities.

10. If the Board determines the existence of a ditch through a proposed development may result in improper use of that ditch for recreational purposes by residents of the development, then the developer may be required by the Board to take protective measures.

7-1100 Fire Protection

A. It is the intent of Boulder County to work with the Fire Protection Districts and Fire Departments in the County to assure the highest level of fire protection service that is available and reasonable.

B. To work towards a reasonable level of fire protection the following requirements apply:

1. Where a central water system is provided, fire hydrants shall be provided in all developments and shall be separated by no more than 600 feet. No dwelling shall be more than 300 feet from the nearest hydrant.

2. Fire fighting water sources for the proposed development shall meet the requirements set forth in the National Fire Protection Association, National Fire Code, Standard 1231 'Standard On Water Supplies For Suburban And Rural Fire Fighting' or the specific fire code regulations as jointly adopted by Fire Protection Districts and the Board.

3. In areas that cannot meet the distance and time requirements a local water source shall be provided. The source may be either a lake or pond with an all weather access or a cistern. Cisterns shall be connected to a water source in such a manner that they will be constantly maintained at full available capacity.

4. Capacity of cisterns shall be based on the requirements set forth in the National Fire Code, as cited in Section 7-1100(B)(2), above.

5. Cisterns or other similar systems will not be allowed without an adequate backup water supply source.

6. Storage systems that require recharging by hauling of water will not be permitted unless there is no suitable alternative and binding provisions are made for recharging.

7. Written approval from the applicable fire agency is required if on-site storage is to be waived.

8. When fire protection facilities are to be installed by the developer, such facilities including all surface access roads shall be installed and made serviceable prior to and during the time of construction.

9. Subdivision agreements or other documents shall provide for continued maintenance of fire protection systems and means of enforcement by Boulder County.

C. Fire Hazard Areas

1. Additional fire precaution measures may be required because of fire hazard in the following areas:

a. areas rated as fire hazards by the State of Colorado Forest Service;

b. where slopes in or adjacent to proposed developments are in excess of 20%; or

c. where the local fire protection agency identifies a specific fire danger.

2. In these areas all slash (fallen trees, shrubs, pulled stumps, and other combustible materials) may be required to be disposed of from an area extending to at least 150 feet from the road centerline prior to the acceptance of any roads.

3. All slash must also be removed from the vicinity of the home sites prior to final building inspection.

4. A forest management program for the reduction of wildfire danger may be required, including provisions for continuous proper forest management to maintain a low wildfire danger.

5. The Board may require other mitigation efforts as conditions of final approval where there is the determination that these efforts will reduce the recognized fire hazard.

6. A development proposal shall be referred to the appropriate fire protection experts as part of the development review process.

7-1200 Utility Location

A. Utilities include, but are not limited to water, sewer, gas, electric power, telephone and cable television.

B. The following shall apply to the location of utility services.

1. All utility facilities shall be located underground throughout the development except in situations or locations where undue hardship result from compliance with this requirement and the overriding intent of this Code has been demonstrated. All utility lines, including appurtenances, shall be placed either within public road rights-of-way or within the subdivision easements or rights-of-way provided for the particular facilities in accordance with the approved utility service plan.

2. Easements shall be free from conflicting legal encumbrances, avoid unnecessary removal of trees or excessive excavations, and be reasonably free from physical obstructions.

a. Easements centered on common rear lot lines shall be at least 16 feet wide.

b. Where an easement abuts a rear lot line which is not the rear lot line of another lot, or which is on the perimeter of the development, the easement width shall be 10 feet or more.

c. Where easements are combined with a water course, drainage way, channel, or stream, an additional utility easement of at least 10 feet in width shall be provided if the use would be in conflict with drainage requirements or wetlands.

d. Multiple use of a given easement is encouraged to minimize easements.

e. Where topographical or other conditions are such as to make impractical the inclusion of utilities within the rear lot lines, perpetual unobstructed easements at least 10 feet in width shall be provided along side lot lines with satisfactory access to the road or rear lot lines. Easements shall be indicated on the plat.

3. In all cases, the applicant shall work with the utility companies to provide reasonably sized easements in appropriate locations.

C. The final plat shall note all easements.

1. Ditch easements shall, in general, be dedicated to the ditch company.

2. Public utility easements, drainage easements, etc., including all easements that are for the benefit of the public, unless otherwise indicated on the plat, shall be dedicated to Boulder County.

a. These easements are the property of Boulder County.

b. The County shall act as custodian of the easements and may limit the use of such easements to the purposes indicated on the plat.

c. The use or uses for each easement shall be designated on the plat to avoid use conflicts.

3. Permits for construction within the easements may be required by the Board of County Commissioners.

4. After review by public utilities, or other service providers, providing designated services to the area in and around the development, the Board of County Commissioners may vacate platted easements after review of the vacation by the Planning Commission.

7-1300 Dedication Requirements

A. The Board of County Commissioners, after review by the Planning Commission, may require the dedication of sites and land areas within a development which are deemed necessary to serve the residents of that proposed subdivision or development.

B. In lieu of a dedication of sites and land areas, the Board of County Commissioners, after review by the Planning Commission and with advice from the potential receiving body, may require payment of a sum of money not exceeding the full market value of such sites and land areas or combination of such land dedication and such payment.

7-1301 Dedicated Land

A. All dedicated lands shall be designated on the final plat as outlots.

1. Outlots shall be deeded to Boulder County or other appropriate agency at the time of recordation of the final plat.

2. Disposition of the outlots shall be shown on the face of the final plat.

B. Title insurance, acceptable to Boulder County, which is provided by a title insurance company authorized to do business in the State of Colorado, and a certificate of representations and warranties concerning title and usability of the property on a form provided by Boulder County shall be required at the time of recordation of the final plat.

7-1302 Required Transportation Dedications

A. The following shall be required for development.

1. All transportation facilities, including but not limited to roads, streets, alleys, shared use pathways, or other public transportation ways located within the subject property, the benefit of which is to the current or future residents of the subject property, shall be dedicated as public rights-of-way unless specifically approved as private rights-of-way and so designated on the plat or exemption documents.

2. In addition to any other dedication requirements of this Article, land shall be dedicated to Boulder County for rights-of-way for perimeter transportation facilities.

3. Where, in the opinion of the County Engineer, a development will have an adverse impact on the Boulder County transportation system, the applicant may be required by the Board to make necessary improvements to the impacted facilities as a condition of plat approval.

a. The Board may establish a special area road improvement fund applicable to impacted areas requiring improvement.

b. Any land being subdivided in one of these areas shall be required to make appropriate payment to the fund or establish the means for such payment through the development agreement.

B. The following shall pertain to road dedications and reservations.

1. New perimeter street systems in new subdivisions shall be laid out so as to eliminate or avoid new perimeter half-streets. Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivision developer. The Board of County Commissioners may authorize a new perimeter street where the subdivision developer improves and dedicates the entire required street right-of-way width entirely within the subdivision boundaries.

2. When, due to topography, hazards or other design constraints, additional road width is necessary to provide for the public safety by cut and/or fill area, drainage area or other road appurtenances along roads, then dedication or right-or-way in excess of the minimum standards shall be required.

C. Refer to the Transportation Standards for dedication details.

7-1303 Required Park Dedications

A. The following shall be required for subdivisions and exemptions.

1. The standard for required park dedications is 25 acres per 1000 occupants for residential areas and/or up to three percent of the total land utilized for commercial, industrial, or other nonresidential areas.

2. Where a trail alignment is required as a condition of approval, and where the total land set aside for such trail exceeds the required dedication amount, then the land designated as trail land shall be reserved for future acquisition by Boulder County.

B. Criteria for Park Dedications

1. In determining which land areas are appropriate for dedication as parks, the Planning Commission and Board of County Commissioners shall consider the following criteria in requiring park dedications:

a. The assurance of the continuity of open space links, trails, and other major components of the recreation system.

b. The assurance that areas set aside for parklands have been examined for compliance with all regional plans, particularly the Boulder County policies and development statement for parks and recreation and the Boulder County Parks Department capital development schedule.

c. The assessment of the suitability of proposed land dedications for park, recreation and open space needs.

d. The examination of the size, shape, topography, geology, presence and condition of ground cover and timber; condition of soil; drainage; location; access; and availability of water to lands proposed for park, and recreation uses.

e. The assurance of the protection of natural and historical features, scenic vistas, watersheds, air quality, timber, and wildlife.

f. Parklands that are intended to be used for trail rights-of-way shall conform to the following additional criteria:

(i) The land may be either set aside as a dedicated easement or as a deeded outlot.

(ii) The minimum width for such trail easement or outlot shall be based on the particular reasonable needs of the trail, its location, the surrounding terrain, and the projected usage. In no instance shall the width be less then 12 feet, and in all cases the easement shall be adequate width to handle the proposed uses.

(iii) User safety shall be a primary consideration in locating a trail easement adjacent to collectors or arterial streets.

(iv) There shall be provisions for public access to the trail easement within the subject property.

(v) The trail easement may overlap and include property previously included in other easements such as ditch, canal, utility, or conservation easements; public or private open space; or other easement. However, no easement may compromise the functional use of any other easement.

g. Park land shall not be considered as part of the land set aside for open space or agricultural preservation as provided for PUD's or NUPUD's.

7-1304 Required School Dedications

A. The following shall be required for subdivisions and exemptions.

1. Dedication requirements shall be 750 square feet of land per dwelling unit for single family residences and 500 square feet per dwelling unit for multifamily residences or other reasonable criteria approved by the specific school district and passed by Resolution of the Board of County Commissioners.

2. When, after recommendation of the appropriate school district, dedication of all or portions of required school lands is not deemed feasible or in the public interest, the school district may recommend to the Board of County Commissioners one of the following options:

a. Guarantee of future land dedication may be requested by the school district when dedication of all or portions of required school lands is not deemed feasible or in the public interest in a particular phase of development. In this case, the developer must submit a letter guaranteeing future dedication of land for school sites to the appropriate school district.

b. Cash-in-lieu of land in accordance with this article.

B. Such dedication shall be a condition of approval by both the Planning Commission and the Board of County Commissioners.

7-1305 Other Required Dedications

A. The following shall be required for subdivisions and exemptions.

1. The applicant shall dedicate drainage ways, drainage basins, floodway areas, etc. as drainage easements as required by the Board.

2. Utility easements shall be set aside so as to provide areas for the provision of those utilities.

3. The applicant may be required to dedicate or reserve suitable lands for sites for fire stations or other public safety facilities as may be reasonably required by the Board to protect the health, safety and welfare of the future residents of the proposal.

B. Such dedication shall be a condition of approval by both the Planning Commission and the Board of County Commissioner.

7-1306 Reservations

A. In addition to other public dedication requirements, the Board reserves the option to require that certain lands be reserved for schools or other public purposes listed in Article 7.

B. These lands are reserved for acquisition by Boulder County on a payment schedule established by the Board of County Commissioners which shall be based on the fair market value at the time of purchase, as determined by the County Assessor, or another designated appraiser and accepted by the Board of County Commissioners.

C. Unless the Board approves some other time period, these lands shall be reserved for a period not to exceed five years.

7-1307 Cash-in-lieu

A. The applicant, at the option of the Board after advice from the potential receiving body, may pay Boulder County cash-in-lieu of land dedication in those cases where the dedication of land is unacceptable.

1. Payment shall be based on the market value, to be determined after completion of the platting process, of the entire property as it is valued after platting.

2. A proportionate amount of this value shall be assigned to any parcels or properties requested by Boulder County for public use.

3. If required, property values shall be established by appraisal, provided in the first instance by the applicant, and accepted by the Board of County Commissioners.

4. Minimum payment for cash-in-lieu of land dedication shall be $500 for any required dedication.

5. Any payments shall be placed in designated Boulder County maintained interest bearing escrow accounts.

B. Combination of Dedication and Cash-in-lieu

1. The applicant, at the option of the Board after advice from the potential receiving body, may meet the dedication requirements of this Article 7 through a combination of cash-in-lieu and land dedication in those cases where a portion of the dedication of land is unacceptable.

2. The value of the combination of both the land dedication and the cash-in-lieu of land shall not exceed the full market value of the total required dedication of sites and land areas.

3. Full market value shall be established in accordance with the provisions of Section 7-1307(A)(1), above.

7-1308 Release of Land or Cash

A. After final approval of a subdivision plat and receipt of dedications, the Board shall give written notification to the appropriate school districts and local government entities.

1. Following such notice, a school district or local government entity may request the dedication for a use authorized by this section.

2. After review by the Board the land or funds will be transferred to the appropriate school district or local government entity.

B. In the case of school and park sites: after completion of the platting it is determined the receiving body no longer finds a need for such land they may request that the Board sell the land.

1. Prior to a sale, both the Planning Commission and the Parks and Open Space Advisory Board shall review the action.

2. Any moneys paid to the Board from the sale of such dedicated sites and land areas shall be held by the Board to be used for any of the following:

a. the acquisition of reasonably necessary sites and land areas or for other capital outlay purposes for schools;

b. the development of sites and land areas for park purposes; or

c. growth-related planning functions by school districts for educational purposes.

3. Such moneys shall be held and released in accordance with the processes established by Section 7-1307 of this Code.

C. Funds may be released to the appropriate school district or local government entity if the Board finds that the proposed use of the fund is compatible with the intent of the cash-in-lieu payment or sale of the land. At the time of release of funds, Boulder County shall retain a reasonable management fee for the holding and maintenance of such escrow accounts, provided that the management fee does not exceed the amount of interest generated by the account.

7-1400 Supplementary Requirements for Lots and Yards

7-1401 Supplementary Requirements for Lots

A. In measuring the minimum lot area one-half of the area of adjacent public rights-of-way may be included provided the measured public rights-of-way do not exceed ten percent of the total lot area.

B. In those instances where the right of way has increased by acquisition of property on only one side of the original right-of-way, the original centerline should be used to measure the original size of the property.

7-1402 Supplementary Requirements for Yards

A. Cornices, canopies, eaves or similar architectural features may extend two feet into a required yard.

B. Fire escapes may extend six feet into a required rear yard.

7-1403 Supplemental Requirements for Yards Along Major Roads

A. Existing Freeways, Expressways, Principal Arterials, Minor Arterials, and Collectors shall be designated on the Boulder County zoning maps.

B. Along these designated roads, the minimum yard requirements for all structures, with the exception of signs, shall be not less than either:

1. the normal zoning district requirement,

2. the zoning district front yard requirement, or

3. the following distance from the centerline of the existing roadway

a. freeways, expressways 160 feet

b. principal arterials 110 feet

c. minor arterials 110 feet

d. minor arterials in mountainous terrain 55 feet

e. collectors not in mountainous terrain 90 feet

7-1500 Survey Monuments

A. All survey work shall, at a minimum, comply with the standards contained in C.R.S. 38-51-101 and 102 and this Code. All horizontal and vertical monuments shall be established by a Land Surveyor registered in the State of Colorado.

B. Permanent plat boundary monuments shall be set at locations approved by the County Engineer. In general these include:

1. Survey monuments for external boundaries of all platted subdivisions shall be set not more than fourteen hundred feet apart along any straight boundary line; at all angle points; at the beginning, end, and points of change of direction or change of radius of any curved boundaries defined by circular arcs; and at the beginning and end of any spiral curve; and at all public land corners.
2. Internal subdivision survey monuments shall be established at all road centerline intersections; the center of radius for culs-de-sac; the road centerline Point of Curvature's and Point of Tangent's of curves, or the Point of Intersection's of curves; and at the end of the centerline for dead-end streets.
3. All monuments shall be solidly embedded in the ground. Affixed securely to the top of each monument shall be a durable cap bearing the Colorado registration number of the land surveyor responsible for the establishment of said monument.
4. State plane coordinates are required to be furnished to the County Engineer for all subdivision boundary monuments that are within one mile of a first or second order monument.

C. At least one permanent benchmark shall be established in a new or replatted subdivision.

1. The benchmark shall be a domed brass cap firmly affixed to a permanent structure, i.e., a concrete bridge headwall, concrete irrigation structures, or other sizeable concrete masses. The cap can also be set in a solid rock formation or in the ground in a 6 inch diameter, 36 inch deep concrete monument. The cap is not to be set in sidewalks, curbs, driveways, streets, utility poles or trees.
2. The benchmark shall be located with at least 3 horizontal ties shown on the plat.
3. The elevation and the datum used to establish the benchmark shall be recorded on the plat and submitted to the County Engineer.
4. The elevation datum of the benchmark shall be surveyed from United States Geological Survey, Bureau of Land Management, or Boulder County Floodplain monuments.

7-1600 Outdoor Lighting

A. Purpose and Intent

It is the intent of this Section to define practical and effective measures by which the obtrusive aspects of outdoor light use can be minimized while preserving safety, security, and the nighttime use and enjoyment of property. These measures will curtail the degradation of the nighttime visual environment by encouraging lighting practices that direct appropriate amounts of light where and when it is needed, increasing the use of energy-efficient sources, and decreasing the waste of light and the generation of glare resulting from poorly shielded or inappropriately directed lighting fixtures.

B. Applicability

1. New Uses, Buildings and Major Additions or Modifications. For all proposed new land uses, developments, buildings, and structures that require a building permit, or site plan review, all outdoor lighting fixtures shall meet the requirements of this Code.

2. Any new lighting shall meet the requirements of this Section with regard to shielding.

3. If a property or use with nonconforming lighting is abandoned as defined in Section 4-1000, then all outdoor lighting shall be reviewed and brought into compliance with this Code before a new use is approved.

4. Exemptions

a. Lighting for public roadways is exempt from the provisions of this Code.

b. Lighting in historic districts may be exempted from these regulations

c. Seasonal decorations using typical unshielded low-wattage incandescent lamps shall be permitted.

C. Shielding

1. Any lamp installed must be shielded such that the light is projected below the horizontal plane created by the shield.

2. Effective Shielding Standard. All light fixtures shall be installed and maintained in such a manner that the shielding is effective as described in the definition in Article 18 –162A for fully shielded fixtures.

3. Light Trespass Standard. Beyond the shielding requirements of Section C.1, all light fixtures shall be located, aimed or shielded so as to minimize stray light trespassing across property boundaries.

D. Specific Uses.

1. Outdoor Display Lots and Parking Lots.

a. Lighting sources shall be mounted no more than 12 feet above finished grade.

b. Fully shielded lighting is required.

2. Service Station Canopies.

a. All luminaries mounted on or recessed into the lower surface of service station canopies shall be fully shielded and utilize flat lenses.

b. Total Under-Canopy Output: The total light output used for illuminating service station canopies, defined as the sum of all under-canopy initial bare-lamp outputs in lumens, shall not exceed 20 lumens per square foot of canopy. All lighting mounted under the canopy, including but not limited to luminaries mounted on the lower surface or recessed into the lower surface of the canopy and any lighting within signage or illuminated panels over the pumps, is to be included toward the total at full initial lumen output.

E. Submission of Plans and Evidence of Compliance

1. The applicant shall submit, as part of the application for a building permit, evidence that the proposed work will comply with this Code. The submission shall contain but shall not necessarily be limited to the following:

a. plans indicating the location on the premises of all lighting fixtures, both proposed and any already existing on the site;

b. description of all lighting fixtures, both proposed and existing. The description may include, but is not limited to, catalog cut sheets and illustrations by manufacturers;

c. photometric data, such as that furnished by manufacturers, or similar showing the angle of cut off of light emissions.

F. Approved Materials and Methods of Construction or Installation/Operation

1. The provisions of this Code are not intended to prevent the use of any design, material, or method of installation or operation not specifically prescribed by this Code, provided any such alternate has been approved by the Land Use Department. The alternative may be approved with a finding that it:

a. provides at least approximate equivalence to those applicable specific requirements of this Code

b. is otherwise satisfactory and complies with the intent of this Code.

G. Prohibitions.

1. The use of laser source light or any similar high intensity light for outdoor advertising or entertainment, when projected above the horizontal, is prohibited.

2. The private operation of searchlights is prohibited.

H. Temporary Exemption.

1. Any person may submit a request to the Land Use Department for a temporary exemption. The request shall contain the following information:

a. specific Code exemption(s) requested;

b. duration of requested exemption(s);

c. proposed location on premises of the proposed light fixture(s);

d. purpose of proposed lighting;

e. information for each fixture as required in Section E.1;

f. previous temporary exemptions, if any, and addresses of premises thereunder;

I. Other Exemptions

1. Nonconformance

a. All other outdoor light fixtures lawfully installed prior to and operable on (effective date), 2003 of this amendment are exempt from the requirements of Article 7-1600. There shall be no change requiring the issuance of a building permit without conforming to all applicable requirements of this Code.

b. Emergency lighting used by police, firefighting, or medical personnel, or at their direction, is exempt from all requirements of this code for as long as the emergency exists.

c. Swimming Pool and Fountain Lighting. Underwater lighting used for the illumination of swimming pools and fountains is exempt from the lamp type and shielding standards of Section C, though it must conform to all other provisions of this code.

7-1700 Wildlife Impacts

A. Unless exempted pursuant to Subsection (I), below, all land use development applications which require a development report under Article 3-203(F) of this Code (subdivisions, PUDs, special review and limited impact special review approvals, rezonings, and exemptions), shall be required to include a wildlife impact report as provided herein, prepared by a wildlife expert approved by the County Parks and Open Space Department, and retained by the applicant, whenever the property which is the subject of the application meets any one of the following criteria:

1. Is located within a Critical Wildlife Habitat, a Significant Natural Community, or a Riparian Corridor, as designated on the adopted Environmental Resources maps of the Boulder County Comprehensive Plan.
2. Is located within a Natural Area or Natural Landmark listed in the Environmental Resources Element of the Boulder County Comprehensive Plan and mapped in the Boulder County Zoning Maps.
3. Is located within a Boulder Valley Natural Ecosystem as designated on the adopted Boulder Valley Natural Ecosystems Map of the Boulder Valley Comprehensive Plan.
4. Is located within a Critical Parcel Candidate Land as designated in the official records of the Front Range Backdrop Project as maintained in the Boulder County Land Use Department.
5. Is located within any critical habitat for state- or federally-designated threatened or endangered species as shown on any maps adopted under the critical wildlife habitat provisions of Article 8 of this Code.
6. Is determined by the Boulder County Parks and Open Space Department to serve as significant habitat for any of the listed "Species of Special Concern in Boulder County" (1994 adopted list, as it may be duly updated from time to time).
7. Is determined by the Boulder County Parks and Open Space Department to serve as significant habitat for any of the species on the Colorado Division of Wildlife's "Colorado Listing of Endangered and Threatened Wildlife Species and Species of Special Concern" (May 15, 1998 adopted list, as it may be duly updated from time to time).
8. Is determined by the Boulder County Parks and Open Space Department to serve as significant habitat for the black-tailed prairie dog (Cynomys ludovicianus), with reference to any published maps of Boulder County Public Health, the Colorado Division of Wildlife, or other such competent information source.
9. The wildlife species listed in subsections (6), (7), and (8) directly above shall hereafter be referred to as "Species of Special County Concern" with respect to the subject land development proposals.

B. The required wildlife impact report shall include an inventory of any Species of Special County Concern that are found on the subject property; an assessment of the property's status as significant habitat for any Species of Special County Concern; an assessment of the proposed development's impact on any Species of Special County Concern found on the subject property, and on the property's status as significant habitat for any Species of Special County Concern; a review of possible mitigation measures to reduce or alleviate any material negative impact on such Species of Special County Concern or on the property's status as significant habitat for any Species of Special County Concern; and a recommendation regarding whether the proposal can proceed without causing material adverse impact on a Species of Special County Concern or its significant habitat, and, if so, on what basis the proposal can avoid such impact.

C. The Board, in reviewing development proposals required to submit a wildlife impact report hereunder, shall have the discretion to deny proposals which the Board determines will have a material adverse impact on a Species of Special County Concern, or may materially and adversely impact habitat which is determined to be significant for such Species. In the alternative, if the Board determines it to be reasonable under the facts of the particular application, the Board may require mitigation measures to protect the Species of Special County Concern or its significant habitat on the subject property.

D. Mitigation measures may include, but shall not necessarily be limited to: avoidance of the area of Species of Special County Concern's significant habitat; construction of berms, landscaping, or other physical devices to protect the Species of Special County Concern or its significant habitat from material harm by the proposed development; relocation of all or part of the Species of Special County Concern to another suitable property; acquisition of other property to provide replacement habitat of a comparable quantity and quality to that being impaired; donation of a conservation easement to the County if warranted to assure adequate preservation and management of a Species of Special County Concern or its significant habitat; or a combination of these or other reasonable measures.

E. The Board may determine the appropriate mitigation measures considering the required wildlife impact report, the advice of other professionals or consultants in the field, and the advice of the County Parks and Open Space Department, all based on accepted biological knowledge and the particular circumstances and impacts of the proposed development. These circumstances may include but are not limited to the prevalence of the Species of Special County Concern in the general area of the development and in the County as a whole; the prevalence of predator species in the general area of the development; the relationship of the affected property to Environmental Conservation Areas identified on the Boulder County Comprehensive Plan and similar ecological areas identified in other Comprehensive Plan or in intergovernmental agreements to which the County is a party; and other relevant ecological and biological factors.

F. As used in this Article 7-1700, "significant habitat" means an area or property which contains a Species of Special County Concern, or which has a high potential to serve as significant habitat for such Species based on the ecological, biological, or physical characteristics of the property as well as on the property's proximity or relationship to other known locations of the Species or to other significant habitat for the Species.

G. Unless the Land Use Director determines that a longer period is necessary due to such factors as seasonal considerations, scope of the required report, or work demands of an approved wildlife expert, an applicant can generally expect that a required wildlife impact report will be completed within 45 days after a request for such report.

H. Existing expert wildlife impact reports may be used to satisfy, in whole or in part, the wildlife impact report requirement of this Article 7-1700, provided the County Parks and Open Space Department determines that such existing report is adequate for this purpose, considering such factors as the existing report's date and scope and the nature of the development proposed in the application.

I. The Land Use Director may exempt any of the following, otherwise covered applications from the foregoing wildlife impact report requirement:

1. Subdivision exemption applications proposing a change or development which can be reasonably determined at the pre-application stage to have no material impact on a Species of Special County Concern or significant habitat for such Species (such as a minor boundary line adjustment to resolve an existing structural encroachment).

2. Applications where the subject property is encumbered by a conservation easement or other form of binding land management or preservation plan which adequately protects any Species of Special County Concern or significant habitat for such Species found on the property.

Article 8

Location & Extent Areas & Activities of State Interest (1041)

Article 8 • Location & Extent Areas & Activities of State Interest (1041)

8-100 Location and Extent Review

A. The purpose of the location and extent review is to determine whether public or quasi-public utilities or uses proposed to be located in the unincorporated area of the County are in conformance with the Comprehensive Plan.

B. Proposals Requiring Review

1. The following projects, whether public or private, shall be subject to location and extent review:

a. roads;

b. parks;

c. public ways, grounds, and spaces;

d. public buildings and structures; and

e. public utilities.

2. The location and extent review of a proposal, as defined in Article 3, may be done concurrently with other discretionary County review processes.

3. No initial County hearing on any location and extent review application which Section 3-202.A. of this Code identifies as requiring compliance with Article 65.5 of Title 24, C.R.S. may be held until the applicant provides a certification of compliance with Article 65.5 of Title 24, C.R.S. signed by the applicant, confirming that the applicant or its agent has examined the records of the Boulder County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist. If any such mineral estate owners or lessees exist, the Applicant must sign an additional certification confirming that the applicant has, at least 30 days prior to the initial public hearing on the location and extent review, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.

4. In any case where information becomes known to the Land Use Director or the Board that an applicant has failed to provide notice of the initial public hearing on a location and extent review as required by Article 65.5 of Title 24, C.R.S., the Board or the Director on behalf of the Board may continue, may reschedule, or may vacate the initial public hearing to allow proper notice to be provided under Article 65.5 of Title 24, C.R.S.

8-200 Regulations for Areas and Activities of State Interest

8-201 Short Title

These regulations may be cited as the "Boulder County Regulations for Areas and Activities of State Interest" or the "Boulder County 1041 Regulations" or "these Regulations."

8-202 Purposes and Intent

A. The general purpose of these regulations is to facilitate the identification, designation and regulation of areas or activities of state interest consistent with applicable statutory requirements.

B. The specific purposes and intent are as follows:

1. To encourage planned and orderly, efficient, economical land use development;

2. Provide for the needs of agriculture, forestry, industry, business, residential communities, and recreation in future growth;

3. Encourage uses of land and natural resources per their character and adaptability;

4. Conserve soil, water and forest resources;

5. Protect the beauty of the landscape;

6. Promote efficient and economical use of public resources;

7. Regulate projects that would otherwise cause excessive noise, water, and/or air pollution, or which would otherwise degrade or threaten the existing environmental quality within the County.

8. Ensure that new domestic water and sewage treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities.

9. Ensure that major extensions of domestic water and sewage treatment systems shall be permitted only in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.

10. Require that municipal and industrial water projects shall emphasize the most efficient use of water, including, to the extent permissible under existing law, the recycling and reuse of water.

11. Ensure that urban development, population densities, and site layout and design of storm water and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas.

12. Ensure that major facilities of public utilities are located to avoid direct conflict with adopted County land use plans, and otherwise serve the stated purposes of these regulations.

13. Ensure that site selection of arterial highways and interchanges and collector highways occurs so that community traffic needs are met, desirable community patterns are not disrupted, and direct conflict with adopted local government, regional, and state master plans is avoided.

14. Provide that areas containing, or having a significant impact on, historical, natural, or archaeological resources of statewide importance are developed so as to be compatible with and not destructive to the historical, natural, and archaeological value of such resources.

15. Ensure that areas around interchanges involving arterial highways are developed to discourage traffic congestion, encourage the smooth flow of motorized and nonmotorized traffic, discourage incompatible land uses, and the expansion of the demand for government services beyond the reasonable capacity of the community or region to provide such services as determined by the County, and preserve desirable existing community patterns.

16. Ensure that the site selection and development of new communities will not overload the facilities or services of existing communities of the region and will conform to the Boulder County Comprehensive Plan and any duly adopted intergovernmental agreements or comprehensive development plans between the County and another governmental entity.

17. Ensure that development in natural hazard areas minimizes significant hazards to public health or safety or to property or the environment.

18. Ensure that development involving all areas and activities designated hereunder is consistent with these regulations, the Boulder County Comprehensive Plan, and any duly adopted intergovernmental agreements or comprehensive development plans between the County and another governmental entity.

19. Protect the public health, safety, welfare and the environment.

8-203 Findings

The Board of County Commissioners finds that:

A. All applicable notice and public hearing requirements have been followed;

B. Based on duly noticed public hearings the Board has considered the current and foreseeable development pressures, and the applicable guidelines for designation issued by applicable state agencies; and

C. These regulations are necessary because of the current and foreseeable development pressures on and within the County; and

D. These regulations are necessary to fulfill the purposes and intentions specified in Section 8-202, above.

8-204 Authority

These regulations are authorized by C.R.S. 24-65.1-101, et seq., and by additional applicable authority as enumerated in Article 1 of this Code.

8-205 Applicability

These regulations shall apply to all proceedings concerning the identification and designation of areas and activities of state interest, and the control of development in any area of state interest or the conduct of any activity of state interest which has been or may hereafter be designated by the Board of County Commissioners in the unincorporated areas of Boulder County, whether on public or private land.

8-206 Relationship with Other Requirements

A. Where these regulations overlap with the County's requirements for zoning special use approval, Subdivision Regulations or subdivision exemption or exemption plat review, or for Comprehensive Plan location and extent review pursuant to C.R.S. 30-28-110(1) and Section 8-100 of this Code, these regulations shall control, and a separate review process under special use review, zoning, Subdivision Regulations or subdivision exemption or exemption plat review, or location and extent review shall not be required, unless expressly stated to the contrary in these regulations. Where these regulations overlap with other applicable County requirements, including but not necessarily limited to County grading and floodplain regulations, all applicable regulations shall be followed and all required County permits or approvals shall be obtained.

B. Review or approval of a project by a federal or state agency does not obviate, and will not substitute for, the need to obtain a permit for that project under these regulations. However, where in the opinion of the Board, federal or state review and approval processes adequately address the impacts that these regulations are designed to address, the County may agree to rely on that review and approval.

8-207 Maps

The following maps are hereby incorporated into this Article 8-200 by this reference, for the purpose of specifying or aiding in the identification of the boundaries of the adopted area of state interest with which each map is associated. To the extent any map identified below has not otherwise been officially adopted, it shall be considered to be officially adopted for purposes of administering these regulations by virtue of its inclusion in this Section 8-207.

A. The adopted County Floodplain Overlay District maps identified in Article 4-402 of this Code, as they have been officially adopted and may be duly amended pursuant to the County's zoning regulations from time to time, which shall constitute the basis for designation of the County's designated flood natural hazard areas, the boundaries of which are further specified in Section 8-405.E. of these regulations.

B. The "Major/Extensive Problems Geologic Hazard Areas" and the "Moderate/Significant Problems Geologic Hazard Areas" identified on the official Boulder County Comprehensive Plan Map entitled "Geologic Hazard and Constraint Areas," as it currently exists and may be duly amended pursuant to the County's Comprehensive Plan from time to time, which shall constitute and govern the County's designated geologic natural hazard areas.

C. The following map shall constitute and govern the County's designated natural resources of statewide importance that are significant wildlife habitats as defined in Section 8-210OO of this Article:

1. The Threatened and Endangered Species Map approved as part of adopted amendments to this Article, as it currently exists and may be amended from time to time.

8-208 Duties of the Board of County Commissioners

Unless otherwise specifically provided, it shall be the duty of the Board of County Commissioners to perform all functions set forth in these regulations. The Board shall also be generally empowered to hear appeals from any person aggrieved by any decision of the Director made in the course of administering these regulations.

8-209 Severability

If any section, clause, provision, or portion of these regulations should be found unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of this regulation shall not be affected thereby and is hereby declared to be necessary for the public health, safety, and welfare.

8-210 Definitions

A. "Applicant" means any person or entity applying for a permit under these regulations.

B. "Approved Service Area" means an area which either is:

1. A community service area as defined in Section 18-126 of this Code; or

2. If not included in the definition in Section 18-126, is specifically approved by the Board pursuant to a public hearing convened for this purpose in which the Board shall consider whether the proposed service area:

a. Is a logical extension of a community service area as defined in Section 18-126 of this Code;

b. Is capable of being reasonably served within a reasonable period of time;

c. Will not cause significant adverse environmental impacts on the unincorporated County; and

d. Will not overburden the infrastructure of the unincorporated County in areas surrounding the proposed service area.

3. No service area approved under Subsection 2. of this Section shall be considered to constitute approval of community or municipal service areas for any other County land use planning or regulatory purpose.

4. To discourage the inefficient proliferation of service providers in the unincorporated County, and to assure the provision of urban services in accordance with the Boulder County Comprehensive Plan and associated intergovernmental planning agreements, the term "approved service area" shall be applied with respect to development proposed by recognized providers of community or urban services within the unincorporated County, which providers are municipalities, special districts, and public utilities with service plans or service areas approved by the County.

C. "Area Around A Key Facility" means an area immediately and directly affected by a key facility.

D. "Arterial Highway" means any limited-access highway which is part of the federal-aid interstate system or any limited-access highway constructed under the supervision of the Colorado Department of Transportation.

E. "Aspect" means the cardinal direction the land surface faces, characterized by north-facing slopes generally having heavier vegetation cover.

F. "Avalanche" means a mass of snow or ice and other material that may become incorporated therein as such mass moves rapidly down a mountain slope.

G. "Board of County Commissioners" or "the Board" means the Board of County Commissioners of the County of Boulder, State of Colorado.

H. "Collector Highway" means a major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers or recreation areas, or industrial centers, and constructed under guidelines and standards established by, or under the supervision of, the Colorado Department of Transportation. "Collector highway" does not include a city street or local service road or a county road constructed under the supervision of local government.

I. "Corrosive soil" means soil that contains soluble salts that may produce serious detrimental effects in concrete, metal, or other substances that are in contact with such soil.

J. "Debris-fan floodplain" means a floodplain that is located at the mouth of a mountain valley tributary stream as such stream enters the valley floor.

K. "Designation" means that legal procedure for designating areas or activities of state interest specified by 24-65.1-101, et seq., C.R.S.. It is carried out by the Board of County Commissioners.

L. "Developer" means any person engaging or proposing to engage in development in an area of state interest or in conduct of an activity of state interest designated or proposed to be designated under these regulations.

M. "Development" means any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs but excludes any construction, activity or use exempted from the permit process pursuant to this Article.

N. "Director" means the Boulder County Land Use Director.

O. "Domestic water or sewage treatment system" or "system" means a major domestic water or sewage treatment system, and includes wastewater treatment plants, water supply systems, and water treatment plants, more specifically defined as follows:

1. "Wastewater treatment plant" is the facility or group of units used for the treatment of industrial or domestic wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units is discharging into state waters. "Wastewater treatment plant" specifically excludes any facility or group of units used for pretreatment, treatment, or handling of industrial water, wastewaters, reuse waters, and wastes which are not discharged into state waters.
2. "Water supply system" means the system of pipes, structures, and facilities through which a water supply is obtained, treated, and sold or distributed for human consumption or household use, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals.
3. "Water treatment plant" means the facility or facilities within the water supply system which can alter the physical, chemical, or bacteriological quality of the water.

P. "Dry wash channel and dry wash floodplain" means a small watershed with a very high percentage of runoff after torrential rainfall.

Q. "Efficient use of water" means the employment of methods, procedures, controls and techniques to ensure the amount of water and the purpose for which water is used in the County will yield the greatest benefit to the greatest number of people. Such benefits will include but are not limited to economic, social, aesthetic, environmental and recreational.

R. "Enclave" means an unincorporated area of land entirely contained within the outer boundaries of a municipality, provided that not more than 30 percent of the enclave is surrounded solely by annexed right-of-way.

S. "Expansive soil and rock" means soil and rock which contains clay and which expands to a significant degree upon wetting and shrinks upon drying.

T. "Extension" means a major extension and is an increase in hydraulic capacity, an upgrade in treatment or transmission capability, an increase in facility size, or a replacement of an existing facility in a new or altered location.

U. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. the overflow of water from channels and reservoir spillways;
2. the unusual and rapid accumulation of runoff or surface waters from any source; or
3. mudslides (i.e. mudflows) which are proximately caused by flooding as defined in Subsection (b) of this definition and which are sufficiently fluid so as to flow on and over the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

V. "Flood hazard area" means an area containing or directly affected by a flood.

W. "Floodplain" means an area adjacent to a stream, which area is subject to flooding as the result of the occurrence of an intermediate regional flood and which area thus is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

1. Mainstream floodplains;
2. Debris-fan floodplains; and
3. Dry wash channels and dry wash floodplains.

X. "Geologic hazard" means a geologic phenomenon which is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

1. Avalanches, landslides, rock falls, mudflows, and unstable or potentially unstable slopes;
2. Seismic effects;
3. Radioactivity; and
4. Ground subsidence.

Y. "Geologic hazard area" means an area containing or directly affected by a geologic hazard.

Z. "Ground subsidence" means a process characterized by the downward displacement of surface material caused by natural phenomena such as removal of underground fluids, natural consolidation, or dissolution of underground minerals or by man-made phenomena such as underground mining.

AA. "Historical or archaeological resources of statewide importance" means those resources officially included in the national register of historic places, designated by statute or included in an established list of places compiled by the state historical society, including but not limited to those designated by the Board in accordance with C.R.S. 30-11-107(1)(bb) as amended.

AB. "Interchange" means the intersection of two or more highways, roads, or streets at least one of which is an arterial highway. At such intersection there must be direct access to and from the arterial highway.

AC. "Key facilities" means interchanges involving arterial highways, whether existing or proposed.

AD. "Layman's description" means a general, nonlegal description and the popular name, if any, of the tract of land on which the activity or development is to be conducted. The term "general description" means "layman's description."

AE. "Legal Description" means any description from which it is possible to locate accurately on the ground the boundaries of the land being described.

AF. "Mainstream floodplain" means an area adjacent to a perennial stream, which area is subject to periodic flooding.

AG. "Major facility of a public utility" means:

1. Central office buildings of telephone utilities;
2. Transmission lines, power plants, and substations of electrical utilities; and
3. Pipelines and storage areas of utilities providing natural gas or other petroleum derivatives and includes extensions to those facilities.

AH. "Major publicly owned reservoir" means any body of water formed by an embankment or structure 10 feet in vertical height or having a surface area at high water line, in excess of 20 acres, for which public funds have been used in the construction of all or any part of the dam or where a public entity or agency owns or administers the described property. The ownership of stock in a mutual ditch or reservoir company does not constitute ownership or administration. Furthermore, any loan of funds for construction, operation, maintenance, repair or replacement of all or any part of a dam does not constitute the use of public funds.

AI. "Matter of state interest" means an area of state interest or an activity of state interest or both as defined under 24-65.1-101, et seq., C.R.S.

AJ. "Mudflow" means the downward movement of mud in a mountain watershed because of peculiar characteristics of extremely high sediment yield and occasional high runoff.

AK. "Municipal and industrial water project" or "project" means a system and all components thereof through which a municipality or industry derives its water supply from either surface or subsurface sources, or which otherwise serves municipal or industrial users.

AL. "Municipality" means a home rule or statutory city, town, or a city and county or a territorial charter city.

AM. "Natural hazard" means a geologic hazard or a flood.

AN. "Natural hazard area" means an area containing or directly affected by a natural hazard.

AO. "Natural resources of statewide importance" means and is limited to shorelands of major publicly owned reservoirs and significant wildlife habitats in which the wildlife species, as identified by the Colorado Division of Wildlife in a proposed area could be endangered, including species listed or being considered for listing under state or federal guidelines.

AP. "New communities" means the major revitalization of existing municipalities or the establishment of urbanized growth centers in unincorporated areas. New communities shall not include those established through the municipal annexation of unincorporated territory.

AQ. "Person" means any individual, limited liability company, partnership, corporation, association, company, or other public or corporate body, and includes without limitation any political subdivision, agency, instrumentality, or corporation of the State or the United States government.

AR. "Planning Commission" means the Boulder County Planning Commission.

AS. "Public Utility" means, a public utility as defined by state law, with the exception of utilities owned and operated by a municipality located within Boulder County.

AT. "Radioactivity" means a condition related to various types of radiation emitted by natural or man-made radioactive minerals that occur in deposits of rock, soil, and water.

AU. "Regulations" means these regulations as finally enacted and approved.

AV. "Reservoir" (except in the context of the separately defined term "major publicly owned reservoir") means an area of land where water is retained or an area intended for water retention, and which is used or proposed for use in whole or in part for the storage of municipal water supplies or of water which is part of a domestic water treatment system.

AW. "Seismic effects" means direct and indirect effects caused by an earthquake or an underground nuclear detonation.

AX. "Siltation" means a process that results in an excessive rate of removal of soil and rock materials from one location and rapid deposit thereof in adjacent areas.

AY. "Shorelands" means all lands extending a minimum of 200 feet shoreward of the high water line, and all wetlands associated with a major publicly owned reservoir.

AZ. "Slope" means the gradient of the ground surface that is definable by degree or percent.

BA. "Unstable or potentially unstable slope" means an area susceptible to a landslide, a mudflow, a rock fall, or accelerated creep of slope-forming materials.

BB. "Urbanized growth center" means an establishment of any use requiring urban services and not otherwise allowed under the Boulder County Land Use Code, the Boulder County Comprehensive Plan, or associated intergovernmental planning agreements.

8-300 Designation of Matters of State Interest

8-301 Board of County Commissioners To Make Designations

Designations and amendments of designations may be initiated in the following ways:

A. The Board of County Commissioners may in its discretion designate and adopt regulations for the administration of any matter of state interest.

B. The Planning Commission may on its own motion or upon request by the Board of County Commissioners, recommend the designation of matters of state interest following public hearing before the Planning Commission. The Board of County Commissioners shall decide, in its sole discretion, and pursuant to the requirements of 24-65.1-101, et seq., C.R.S., whether or not to designate any or all of the requested matters of state interest.

8-302 Moratorium

A. Whenever the Board of County Commissioners designates a matter of state interest pursuant to 24-65.1-404, C.R.S., no person shall engage in any development in such area, and no activity shall be conducted, until the designation and guidelines or regulations for such an area or activity are finally determined and a permit has been issued thereunder.

8-303 Public Hearing Required

A. The Board of County Commissioners shall hold a public hearing before designating any matter of state interest and adopting regulations for the administration thereof. Said hearing shall be noticed and held pursuant to 24-65.1-404 through -407, C.R.S.

B. The Board in its discretion may request that the Planning Commission hold a hearing and provide a recommendation to the Board on the proposed designation prior to the Board's hearing. Notice of any hearing before the Planning Commission shall be published no less than seven days before the Planning Commission hearing date in a newspaper of general circulation in the County.

8-304 Factors To Be Considered at Designation Hearings

At the public hearing, the Planning Commission and Board of County Commissioners shall consider such evidence as they deem appropriate, including, but not necessarily limited to testimony and documents addressing the following considerations:

A. The intensity of current and foreseeable development pressures;

B. The matters and considerations set forth in any applicable guidelines for identification and designation issued by the applicable state agency ;

C. The boundaries of any area proposed for designation;

D. Reasons why the particular area or activity is of state interest, the adverse impacts that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantage of development of such area or conduct of such activity in a coordinated manner;

E. The extent to which other governmental entities regulate the area or activity proposed to be designated;

F. The applicable criteria for administration of the proposed area or activity as set forth in these regulations and 24-65.1-201, et seq., C.R.S.;

G. The legislative declarations stated in 24-65-102, 24-65.1-101, and 29-20-102, C.R.S.; and

H. The Boulder County Comprehensive Plan or any duly adopted intergovernmental agreements or comprehensive development plans adopted as part of, pertaining to, or affected by the area or activity under consideration.

8-305 Record of Designation Hearing

The Board will collect and preserve the following record of the designation process, at minimum:

A. Notice of the hearing;

B. Certificate of publication of the notice;

C. Written testimony presented by any persons at the public hearing;

D. An audio recording of the hearing; and

E. The written resolution or order making appropriate findings supporting any designation and adopting the accompanying guidelines or regulations pursuant to Section 8-306, below.

8-306 Adoption of Designation and Regulations

A. At the conclusion of the hearing, or within 30 days thereafter, the Board of County Commissioners may, by resolution, adopt, adopt with modification, or reject the proposed designation and accompanying guidelines or regulations.

B. Each designation order adopted by the Board shall, at a minimum:

1. Specify the boundaries of the designated area of state interest;

2. State reasons why the designation is appropriate in light of the factors considered at the public hearings pursuant to Section 8-304, above; and

3. Specify the regulations applicable to the designated matter of state interest.

8-307 Combined Designation and Permit Hearing

If a person proposes to engage in development in an area of state interest or to conduct an activity of state interest not previously designated and for which regulations have not been adopted, the Board of County Commissioners may hold one hearing for determination of designation and regulations as well as for granting or denying the permit.

8-308 Specific Designations

A. Activities of State Interest

The Board of County Commissioners, having considered the intensity of current and foreseeable development pressures and applicable guidelines for identification and designation adopted and issued by applicable state agencies, as well as the other relevant factors set forth in Section 8-304, above, at a duly noticed public hearing held in accordance with Part 4 of Article 65.1, C.R.S., does hereby find and declare the following activities to be matters of state interest and does hereby adopt the accompanying regulations requiring permits for these designated activities as further set forth herein:

1. Site selection and construction of major new domestic water and sewage treatment systems;

2. Major extensions of existing domestic water and sewage treatment systems;

3. Efficient utilization of municipal and industrial water projects;

4. Site selection and construction of major facilities of a public utility;

5. Site selection of arterial highways and interchanges;

6. Site selection of collector highways; and

7. Site selection and development of new communities.

The conduct of any of these activities within the boundaries of unincorporated Boulder County shall be subject to the foregoing designations, as further set forth in these Regulations.

B. Areas of State Interest

1. Areas around key facilities in which development may have a material effect upon the key facility or the surrounding community;

2. Areas containing or having significant impact upon historical or archaeological resources of statewide importance;

3. Areas containing or having significant impact upon natural resources of statewide importance; and

4. Natural Hazard areas, which are flood hazard areas and geologic hazard areas.

Development in any of these areas within the boundaries of unincorporated Boulder County shall be subject to the foregoing designations, as further set forth in these Regulations.

8-400 Permits Required for Areas and Activities Designated in Section 8-309

8-401 Specific Water and Sewage Treatment Activities Requiring Permits

A permit shall be required for any major new domestic water or sewage treatment system, major extension to an existing major domestic water or sewage treatment system, or municipal and industrial water project, which is proposed to be located in whole or in part in the unincorporated portions of Boulder County, and which meets any of the following criteria:

A. New water supply systems (excluding reservoirs which are separately covered under (C), below), or new water treatment plants, or extensions of those systems or plants (excluding line extensions which are separately covered under (E), below), that serve more than 25 year round residents or provide the equivalent amount of water service and are not located entirely within an approved service area.

B. New wastewater treatment plants, or extensions to existing plants (excluding line extensions which are separately covered under (E), below), that have an average flow of more than 2,000 gallons a day and are not located entirely within an approved service area.

C. Construction of any new reservoir where:

1. 30 percent or more of the capacity is owned, controlled, used, or intended to be used for the storage of municipal or industrial water supplies or of water which is part of a domestic water treatment system; or

2. less than 30 percent but more than one percent of the capacity is owned, controlled, used, or intended to be used for the storage of municipal or industrial water supplies or of water which is part of a domestic water treatment system, and the reservoir has not been permitted pursuant to the special use review provisions of the Boulder County Land Use Code; or

3. the reservoir is lined.

D. Expansion of any existing reservoir for a municipal or industrial or domestic treated water use.

E. Extensions to water supply and wastewater systems which:

1. use 12" or larger distribution or transmission lines; or

2. use two or more lines of any size which are parallel to and located within 100 feet of one another, and have a total cross section equal to or greater than 120 square inches; and

3. are not located entirely within an approved service area.

F. Systems, extensions, or projects located partly or entirely on land which is owned or managed for open space, recreation, environmental protection, or other land preservation purposes, except land which is owned by the entity proposing the system, extension, or project.

G. Systems, extensions, or projects located partly or entirely on land that has been designated as an area of state interest.

H. Systems, extensions, or projects partly or entirely on land which is designated in accordance with the Boulder County Comprehensive Plan as any one of the following: a historic site, archaeologically sensitive area, natural hazard area, critical wildlife habitat, critical plant association, or wetland.

I. Any system, extension, or project which relies upon or uses water decreed to agricultural land in the unincorporated County, and which:

1. is proposed to be converted to industrial use, municipal use, or domestic treated water use as part of a water supply system, pursuant to an application filed with the Water Court after January 25, 1994;

2. requires total or partial dry up of the above-referenced agricultural land; and

3. serves primarily a municipality or other group of users located in a county other than Boulder County.

This provision shall not apply to any agricultural water conversion which occurs as part of a use allowed under the County's Land Use Code (with the exception of uses reviewed under the County's location and extent process under 30-28-110(1), C.R.S. and Section 8-100 of this Code).

8-402 Specific Water and Sewage Treatment Activities Exempted from the Permit Process

A permit shall not be required for any major new domestic water or sewage treatment system, major extension to an existing major domestic water or sewage treatment system, or municipal and industrial water project, which is proposed to be located in whole or in part in the unincorporated portions of Boulder County, and which meets any of the following criteria:

A. Any system, extension, or project not covered under Section 8-401, above.

B. Systems, extensions, or projects which are located on unincorporated land that is an enclave within the municipality proposing the activity.

C. Upgrades to existing facilities that are required maintenance or otherwise required by federal, state or County regulations, including repairing and/or replacing old or outdated equipment, or installing new equipment, provided the improvements do not expand levels of service beyond design capacity, and provided further that the upgrade does not alter the location of the existing facility.

D. Any system, extension, or project proposed as part of a County exemption plat application (i.e., a replat of an existing platted subdivision where no new density is proposed).

E. Any system, extension, or project necessary to serve any platted subdivision or other use approved under the County's Land Use Code (with the exception of uses reviewed under the County's location and extent process under 30-28-110(1), C.R.S. and Section 8-100 of this Code), provided that the service provider obtains a specific exemption from the Board, based upon a public meeting of which the service provider shall receive reasonable prior notice, that review of the proposed service facilities falls outside the purposes of these regulations, or provided that the Board specifies in its approval of the platted subdivision or other use that separate review of the system, extension, or proposal is not necessary under these regulations.

8-403 Specific Public Utility Activities Requiring Permits

A permit shall be required for any major facility of a public utility, which is proposed to be located in whole or in part in the unincorporated portions of Boulder County, and which meets any of the following criteria:

A. New natural gas or other petroleum derivative transmission lines that serve more than 25 year round residents and are not located entirely within an approved service area.

B. Extensions to natural gas or other petroleum derivative transmission lines which:

1. use 12" or larger distribution or transmission lines; or
2. use two or more lines of any size which are parallel to and located within 100 feet of one another, and have a total cross section equal to or greater than 120 square inches; and
3. are not located entirely within an approved service area.

C. Natural gas or other petroleum derivative storage areas.

D. New electric transmission lines or extensions that are 115,000 volts or greater.

E. Power plants generating 50 megawatts or more.

F. Substations of electrical utilities which control electricity in amounts of 115,000 volts or more.

G. Central office buildings of telephone utilities.

8-404 Specific Public Utility Activities Exempted from the Permit Process

A permit shall not be required for any major facility of a public utility, which is proposed to be located in whole or in part in the unincorporated portions of Boulder County, and which meets any of the following criteria:

A. Any facility not covered under Section 8-403, above.

B. Facilities which are located on unincorporated land that is an enclave within the municipality proposing the activity.

C. Upgrades to existing facilities that are required maintenance or otherwise required by federal, state or County regulations, including repairing and/or replacing old or outdated equipment, or installing new equipment, provided the improvements do not expand levels of service beyond design capacity, and provided further that the upgrade does not alter the location of the existing facility.

D. Any facility proposed as part of a County exemption plat application (i.e., a replat of an existing platted subdivision where no new density is proposed).

E. Any facility necessary to serve any platted subdivision or other use approved under the County's Land Use Code (with the exception of uses reviewed under the County's location and extent process under 30-28-110(1), C.R.S. and Section 8-100 of this Code), provided that the service provider obtains a specific exemption from the Board, based upon a public meeting of which the service provider shall receive reasonable prior notice, that review of the proposed service facilities falls outside the purposes of these regulations, or provided that the Board specifies in its approval of the platted subdivision or other use that separate review of the system, extension, or proposal is not necessary under these regulations.

8-405 Other Designated Areas and Activities Requiring a Permit

A. Site selection of arterial highways and interchanges and collector highways.

B. Site selection and development of new communities.

C. Development located in areas around arterial highway interchanges, unless the development is regulated with full and binding effect under other Articles of this Code. The boundaries for these areas shall be an area within a radius of one mile from the center of the interchange.

D. Development located in areas containing or having a significant impact upon historical, archaeological or natural resources of statewide importance, unless the development is otherwise regulated with full and binding effect under other Articles of this Code. The boundary of the areas regulated hereunder shall be the area which physically contains the designated historical, archaeological or natural resource, or in the specific case of significant wildlife habitats the areas shown on the maps identified in Section 8-207.C. of this Article, and an area within a radius of 1,500 feet from the area containing the resource. However, the Director may determine that development within a larger area (up to one mile in radius) may be regulated, provided that the Director identifies specific land use impacts by which the larger area will be immediately and directly affected within the stated purposes of this Article.

E. Development located in flood hazard areas, unless the development is otherwise regulated with full and binding effect under other Articles of this Code. The boundaries of the flood hazard areas regulated hereunder shall be as follows:

1. The boundaries of the Floodplain Overlay Zoning District as stated in Article 4-402 of this Code as amended.

F. Development located in geologic hazard areas, unless the development is otherwise regulated with full and binding effect under other Articles of this Code. The boundary of the geologic hazard areas regulated hereunder shall be those specified in the maps identified in Section 8-207.B. of these regulations. In accordance with C.R.S. Section 24-65.1-202(2)(a)(I), an area of corrosive soil, expansive rock and soil, or siltation shall not in an of itself be included within this geologic hazard area designation unless the Colorado Water Conservation Board, through the local soil conservation district, identifies such area for designation, or unless an activity of state interest designated hereunder is to be conducted in such an area of corrosive soil, expansive rock and soil, or siltation.

G. If any proposed development is located partly within and partly without the boundary of an area of state interest as designated in these Regulations, the impacts of the entire development will be subject to review under these Regulations. All construction or uses which compose or are directly associated with the development shall be considered to be part of the development, including but not necessarily limited to buildings, other associated structures, access roads or drives, utility lines, and parking areas.

8-406 Determination of Whether a Proposed Activity or Development Must go Through the Permit Process

A. The Director shall determine the applicability of Section 8-400 to the conduct of any proposed activity or development. The Director shall make this determination within 10 calendar days after the Director receives a written request from the applicant stating the reasons why the proposed activity or development is not subject to Section 8-400.

B. If any person is aggrieved by the decision of the Director to include an activity within or exempt it from these regulations, that person may file an appeal to the Board with the Director, no later than ten days after the date of the Director's written decision (with three days added for mailing if the decision is mailed). The appeal shall be accompanied by a statement why the Director's decision is incorrect.

C. The Board shall schedule a public hearing on the appeal to be held no more than 30 days after the appeal is filed.

D. For the purpose of deciding the appeal, the Board may require the developer to provide a description and declaration of the scope of the activity or development, including, but not necessarily limited to;

1. The site of the proposed activity or development.
2. The size, if proposed, of any transmission lines, storage tanks, dams and or reservoirs.
3. The number of residents to be served by the activity, or in the case of wastewater treatment plants, the average flow, in gallons, of wastewater a day.
4. The increase in the County population that is projected as a result of the activity.
5. The water rights on which the activity relies.
6. Any geologic hazards areas or flood hazard areas mapped within one mile of the site.

E. At the appeal hearing, the appellant will have the burden of proving that the Director erred in the decision to include or exclude the activity or development from these regulations.

8-407 Specific Uses Exempted from the Permit Process in Areas of State Interest

A. Open agriculture and single family dwellings built or maintained on legal building lots.

B. Operation, maintenance, repair and replacement of existing water and sewage collection, treatment, storage and delivery facilities and associated works, provided that improvements or replacements of existing facilities do not expand the level of service beyond existing design capacity and do not materially alter the location of the existing facility.

C. Projects addressed by an Intergovernmental Agreement which the County has approved will be subject to these regulations unless otherwise provided by the terms of the Intergovernmental Agreement.

8-500 Application Procedures

8-501 Permits Required after Designation; Receipt of Application Form

A. Any person desiring to engage in a development in a designated area of state interest or to conduct a designated activity of state interest in whole or in part within the unincorporated area of Boulder County must first obtain a permit pursuant to these regulations.

B. An application shall not be accepted unless the Director determines that it is complete pursuant to the application submittal requirements of this Section and of Section 8-507, below. If the application is considered incomplete by the Director, the Director shall specify what additional information is required. When a submitted application is considered to be complete by the Director, the Director shall note upon the application the date and hour of its receipt.

C. When an applicant seeks a permit to engage in development involving more than one area or activity of state interest regulated hereunder, the Director shall require that a single application be completed including all affected areas and activities.

D. For any application to be considered complete under these Regulations, in addition to meeting the requirements of Section 8-507, below, the application shall include the entire development as contemplated or reasonably foreseeable for the subject property in question for at least a five-year period. For purposes of this Subsection, the subject property is the property on which the development is located, and any other contiguous property which is under the developer's ownership or control and is otherwise subject to regulatory jurisdiction under this Article 8-200, et seq. At a minimum, the application shall include all development which has been planned for the subject property as shown in any capital improvements plan, facilities master plan, or other acceptable master planning document which the applicant has approved as of the time of application or anticipates approving at any time while the application is in process. If the Applicant has not approved such a master plan covering at least a five-year period, it shall approve such a plan before the application will be accepted as complete. The purpose of these requirements is to assure that development for a subject property is reviewed in a rational context of reasonably foreseeable development for the property, to avoid piecemeal analysis of applications, and to allow for a comprehensive consideration of the cumulative impacts of development under these Regulations.

E. For any application submitted after the effective date of Subsection 8-501.D., immediately above (February 27, 2003) which is approved by the Board, the following requirements shall apply to any amendment to that approval which is submitted within a five-year period after the date of the approval. Any such amendment shall be presumed to constitute piecemeal development which cannot be rationally or adequately reviewed under the applicable standards of Section 8-511 of this Article, unless the Applicant demonstrates one of the following circumstances:

1. The Board approved less than the complete development pursuant to Section 8-511.B.15. of this Article, and the subject amendment includes development reflected in the applicable master plan but not previously approved.
2. The additional application addresses or corrects a matter of health or safety presented by the approved development.
3. The amendment clearly equals or reduces the impact or scope of the approved development, in the context of the applicable criteria under Section 8-511 of this Article.
4. The amendment implements an amendment to the Boulder County Comprehensive Plan or a land use intergovernmental agreement to which the County is a party, and which was adopted after the County's approval of the development.

   Any amendment for which the Applicant cannot demonstrate that one of the foregoing circumstances exists, shall not be approved, unless the Applicant clearly overcomes the presumption that the amendment constitutes piecemeal development which cannot be rationally or adequately reviewed under the applicable standards of Section 8-511 of this Article.

F. The Director's determination regarding whether a permit application is complete under Subsections 8-501.B. and 8-501.D. and Section 8-507 may be appealed to the Board by any person aggrieved by the determination, provided that an appeal is filed with the Board no later than 30 days after the date of the Director's written determination (with three days added for mailing if the determination is mailed). The appeal shall be accompanied by a statement describing the specific reasons why the appellant alleges the determination was in error, based on the criteria listed in Subsections 8-501.B. and 8-501.D. and Section 8-507. The Board shall convene a duly noticed public hearing on the appeal, at which hearing the appellant shall have the burden of proving that the Director erred in the determination regarding the completeness of the application.

8-502 Application Fee

No application fee shall be required of local political subdivisions located wholly or partly within Boulder County. For all other applicants, a nonrefundable deposit of $500.00 shall be required with each application. Thereafter, the applicant shall be responsible for paying the County's costs of processing the application which exceed $500.00, on a monthly basis, pursuant to the County Land Use Department's approved policy for charging for the processing of land use applications.

8-503 Waiver of Submission Requirements

The Director may waive any part of the submission requirements which are not relevant to a decision on the application or which the applicant convinces the Director are unreasonably burdensome for the applicant. The Director may not waive any requirements which are otherwise required by law, such as by Article 65.5 of Title 24, C.R.S.

8-504 Intergovernmental Agreements

Upon request of the State of Colorado or a political subdivision of the state as defined by 29-1-202(1), C.R.S., proposing to develop in an area of state interest or to engage in an activity of state interest, the requirements of these regulations may be met by the approval of an intergovernmental agreement in lieu of a permit application and review as provided by these regulations. In the event such an agreement is approved by the Board, no permit application to develop in the area or to conduct the activity of state interest shall be required, provided that all of the following conditions are met:

A. The state or political subdivision/developer and the County must both be authorized to enter into the intergovernmental agreement.

B. The purpose and intent of these regulations must be satisfied by the terms of the intergovernmental agreement.

C. A public hearing must be conducted by the Board to publicly review and approve of the proposed intergovernmental agreement. Notice of the public hearing shall be published once at least 30 and not more than 60 days prior to the hearing in a newspaper of general circulation in the County.

D. Both the Board and the governing body of the state or political subdivision/developer must approve the agreement in the manner required of each of them by the Colorado Constitution, state statutes and any applicable charter, ordinance or resolution.

E. Exercise of the provisions of this section by the state or political subdivision/ developer will not prevent that entity from electing at any time to proceed under the permit provisions of these regulations. Additionally, any entity which has previously proceeded under the permit provisions of these regulations may at any time elect to proceed instead under this Section.

8-505 General Process Outline

The following is a general outline of the steps required for any permit decision under these regulations. Specific information regarding each of the referenced steps follows this section.

A. Pre-application conference

B. Application

C. Referral to adjacent and/or nearby property owners and affected agencies

D. Staff review

E. Public review before the Planning Commission and Board of County Commissioners

F. Post-approval requirements

8-506 Pre-application Conference

A. A pre-application conference is required of all applicants.

1. The pre-application conference shall be held between the applicant and a planner with the Land Use Department.

a. This meeting is intended to provide an understanding of the applicable review procedures, requirements, and standards, and provide information pertinent to the application and the geographical area affected by the application.

b. The planner will explain the application procedures and the materials required for submittal.

c. The applicant shall bring a conceptual site plan to the conference.

2. If the planner feels that the proposal raises any of the following issues, the applicant shall also meet with members of the appropriate County department to discuss the proposal.

a. For flood or floodplain, road, access, traffic concerns, parking design and engineering, and all vehicular movement patterns and volumes, the applicant will meet with a member of the staff of the Engineering Division of the Boulder County Transportation Department.

b. For water supply, sanitation, water quality or other public health concerns, the applicant will meet with members of the Environmental Health Section of Boulder County Public Health. Boulder County Public Health Staff will also review the location of the property affected by the application in relation to the identified radiation hazard sites as shown on Boulder County Public Health maps.

c. For open space or environmental concerns, the applicant will meet with a member of the staff of the Parks and Open Space Department to discuss any potential effects of the application on open space and environmental resources in the County.

B. Any comments or commitments made by any member of the County's Staffs during this pre-application conference are only preliminary in nature and should not be relied upon by the applicant. All prospective applicants should be informed that formal comments cannot be made by staff until after the application is submitted and adjacent and/or nearby property owners and referral agencies have had an opportunity to respond.

C. Pre-application conferences may be held individually with each department, or a joint conference for all, or some, of the departments may be scheduled.

D. County staff will make available to the applicant any public information regarding the application which is in the County's possession.

8-507 Application Submittal Requirements

A. Application

1. Before any request for County approval under these regulations may be processed, a complete application, meeting the requirements of this Section 8-507, must be filed with the Land Use Department.

a. The application must include an application form designating all agents for the applicant and exhibiting the applicant's or agent's signature, and has all necessary information completed. The form shall be accompanied by all fees, maps, plans, and reports required by these regulations.

b. The signature on an application form will be assumed to indicate the applicant's concurrence with all submissions and commitments made by their designated agent.

c. A written description of the proposal.

d. Any application which Section 3-202.A. of this Code identifies as requiring compliance with Article 65.5 of Title 24, C.R.S. shall not be considered to have been submitted as complete until the applicant has provided a certification signed by the applicant confirming that the applicant or its agent has examined the records of the Boulder County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist.

e. In addition, for purposes of the County convening its initial public hearing on any application involving property for which mineral estate owners or lessees owning less than full fee title in the property have been certified by the applicant to exist, the application shall not be considered to have been submitted as complete until the applicant has provided an additional signed certification confirming that the applicant has, at least 30 days prior to the initial public hearing, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.

B. Professional Qualifications

1. A professional consultant may not be necessary for all applications. Only the following will require professional assistance.

a. Improvement plans and reports for water supply, sanitation, drainage, utilities, soils, grading, roads, structures, transportation modeling, transportation planning, transit planning, air quality planning or modeling, floods and floodplains, and other civil engineering work must be certified by a registered Colorado Professional Engineer, or other qualified professional engineer exempted from licensing requirements by state statute.

b. All documents containing land survey descriptions must be certified by a registered Colorado Professional Land Surveyor, or other qualified professional surveyor exempted from licensing requirements by state statute.

c. Geology reports shall be prepared by either a member of the American Institute of Professional Geologists, a member of the Association of Engineering Geologists, an individual registered as a geologist by a state, or other qualified professional geologist exempted from licensing requirements by state statute.

2. All data and plans submitted for review must show the qualifications of the individual in charge of the work.

C. Consultants

1. If the County does not have qualified staff to review certain elements of an application or referral agencies are not able to adequately advise the County regarding certain elements of an application, the Board of County Commissioners may authorize the review be performed by a consultant engaged or approved by the Director. Consultants' fees shall not be required to be paid by local political subdivisions located wholly or partly within Boulder County. For all other applicants, the Board shall have the discretion to decide whether the applicant shall pay all, part of, or none of the consultants' fees, based upon the nature and extent of consulting expertise required.

2. A referral agency may impose a fee for the review of the application. No hearings will be held if any such referral agency's fee has not been paid.

D. Application requirements

1. The following are general requirements for any map or plan required as part of the application for a County approval. Minimum requirements include:

a. The name of the proposed development or use and total number of acres under consideration.

b. Since all maps and plans may be used for public presentation, the map scale and size should be large enough for effective presentation and should accurately illustrate the application.

c. Name, address, and telephone number of the applicant, designer, engineer, surveyor, and any other consultants of the applicant.

d. Date of preparation, revision box, written scale, graphic scale, and north arrow for each map.

e. A copy of the capital improvements plan, facilities master plan, or other applicable master planning document covering the subject development and property, as required in Subsection 8-501.D., above.

2. The following requirements shall apply only to applications for the water and sewage treatment activities designated in Section 8-308(A)(1)-(3) above.

a. Detailed plans for the activity or development including the proposed system capacity and service area plans and maps.

b. A description of all existing or approved proposed domestic water or sewage treatment systems within the jurisdiction of the applicant as well as adjacent communities (incorporated and unincorporated).

c. The design capacity of each domestic water or sewage treatment system and the distribution or collection network identified in (3) above.

d. A detailed inventory of total commitments already made for current water or sewage services in terms of taps or other appropriate measurement.

e. The source of the existing or new water supply for the proposed activity including applicable decreed water rights or plans, and information on any agricultural water rights decreed to land in unincorporated Boulder County and converted to provide the supply.

3. The following requirements shall apply only to applications for major facilities of a public utility.

a. Detailed plans for the facility including, but not limited to, the associated system capacity and proposed service area plans and maps.

b. A description of existing and proposed service in the area to be served.

c. A description of the distribution network for the area proposed to be served.

4. The following requirements apply only to development located in Historical and Archeological Resource Areas of statewide importance.

a. A state historical site survey form completed by a qualified professional acceptable to the State Historic Preservation Officer for all resources affected by the development.

b. A description of the mitigating efforts to be taken to preserve the designated resource.

c. Plans and procedures for notification to the State Historical Society and State Archaeologist upon discovery of historical or archaeological resources.

5. The following requirements apply only to development located in Natural Resource Areas of statewide importance.

a. A survey of habitat of applicable species by a qualified professional.

b. A plan of construction and operations, which shall contain an analysis of the effects of the proposed development upon wildlife species within the designated wildlife habitat.

6. The following requirements apply only to development located in Natural Hazard Areas.

a. For development in a natural hazard area as set forth in Section 8-405 (E)(1):

(i) Application for a Floodplain Development Permit containing the information required in Article 4-407(B) of this Code.

(ii) A flood hazard impact report that addresses the criteria for developing in a flood hazard area, certified by a registered Colorado Professional Engineer.

(iii) Maps or reports addressing flood hazard areas must be prepared by a registered Colorado Professional Engineer, a hydrologist or other professional with appropriate expertise in the issues addressed in the map or report as determined by the Land Use Director.

b. For developments located within a natural hazard area which is a geologic hazard area:

(i) A geology report documenting and assessing the nature and extent of the applicable geologic hazard, its impact on the proposed development, and proposed mitigation measures if any, prepared by either a member of the American Institute of Professional Geologists, a member of the Association of Engineering Geologists, or an individual registered as a geologist by a state.

7. Requirements applicable to all applications

a. Detailed description of the need for the proposed development or activity, including but not limited to:

(i) The present population of the area to be served and the population to be served.

(ii) The predominant types of users or communities to be served by the proposal.

(iii) The percentage of the design capacity at which the current system is now operating.

(iv) If the proposal is a new water or wastewater treatment system or public utility facility and that system exceeds a ten year projected increase in demand, a detailed explanation of the excess service capacity and the cost of the excess capacity.

(v) The relationship of the proposal to the applicant's long-range planning and capital improvements programs, including specific reference to the master plan(s) required to be submitted under Subsections 8-501.D. and 8-507.D.1.e., above.

b. Environmental impact analysis.

(i) Land use:

(A) Specify whether the proposal conforms to local governments planning policies and master plans.

(B) Detail the agricultural productivity capability of the land affected by the proposal (SCS classification).

(C) Specify how the proposed development will utilize existing easements or rights-of-way for any associated transmission, distribution or collector networks.

(D) Specify any additional right-of-way or easements for new or expanded transportation facilities.

(ii) Water resources:

(A) On the same, or another appropriate map, indicate any flood hazard area associated with the proposal. Documentation of historical flooding activity on the parcel where the activity or development will be located, and on other property affected by the activity or development, should be included. Detail potential, adverse impacts related to the associated flood hazard area.

(B) Map and describe all surface waters, including applicable state water quality standards, to be affected by the project.

(C) Describe the immediate and long-term impact and net effects that the activity would have on the quantity and quality of surface water under both average and worst case conditions.

(D) Map and describe all groundwater, including any aquifers. Describe the impacts and net effect of the activity on groundwater. At a minimum, the description should include:

(1) Seasonal water levels in each platted subdivision of the aquifer affected by the activity.

(2) Artesian pressure in aquifers.

(3) Groundwater flow directions and levels.

(4) Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.

(5) For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of aquifer to impound groundwater and aquifer storage capacity.

(6) Seepage losses expected at any subsurface dam and at stream-aquifer interfaces and methodology used to calculate seepage losses in the affected streams, including description and location of measuring devices.

(7) Existing groundwater quality and classification.

(8) Location of all water wells and their uses.

(E) Describe the impacts and net effect of the activity on wetlands and riparian areas.

(1) Map and describe wetlands, and riparian areas to be affected by the activity, including a description of each type of wetlands, species composition, and biomass.

(2) Describe the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).

(3) Describe impacts and the net effect that the project would have on the wetlands and riparian areas.

(iii) Terrestrial and Aquatic Animals and Habitat.

(A) Map and describe terrestrial and aquatic animals including the status and relative importance of game and non-game wildlife, livestock and other animals; a description of streamflows and lake levels needed to protect the aquatic environment; description of threatened or endangered animal species and their habitat.

(B) Map and describe critical wildlife habitat and livestock range to be affected by the activity including migration routes, calving areas, summer and winter range, and spawning beds.

(C) Describe the impacts and net effect that the activity would have on terrestrial and aquatic animals, habitat and food chain.

(iv) Terrestrial and Aquatic Plant Life

(A) Map and describe terrestrial and aquatic plant life including the type and density, and threatened or endangered plant species and habitat.

(B) Describe the impacts and net effect that the activity would have on terrestrial and aquatic plant life.

(v) Air quality:

(A) Detail how many average daily trips will be generated by the proposal.

(B) Explain any other adverse impacts on air quality anticipated from the proposal.

(C) Describe how any state or federal air quality standards will be impacted and if the proposed transportation facility has been included in the region's air quality models to verify conformity with the air quality plan.

(D) Describe the airsheds to be affected by the activity, including the seasonal pattern of air circulation and microclimates.

(E) Describe the impacts and net effect that the activity would have on air quality during both construction and operation under both average and worst case conditions.

(vi) Significant environmentally sensitive factors:

(A) Identify and locate on a map of appropriate scale the juxtaposition of any of the following features present in the proposed development or activity and its environs, and detail the potential impact of the proposal upon each feature.

(1) Potential natural hazards

(2) Public outdoor recreation and open space areas.

(3) Unique areas of geologic, historic and archaeologic importance.

(vii) Visual aesthetics and nuisance factors:

(A) Identify viewsheds, scenic vistas, unique landscapes or land formations.

(B) Identify any significant deterioration of existing natural aesthetics, creation of visual blight, noise pollution or obnoxious odors which may stem from the proposal.

(C) Identify and describe any structures, excavations and embankments that will be visible as a result of this project.

(viii) Transportation impacts:

(A) Describe what impacts the proposal will have upon transportation patterns in the area intended to be served or affected by the proposal through the submittal of a traffic impact analysis of the proposed transportation facilities. The traffic impact analysis should include but not be limited to the following:

(1) Identify the facilities required to support the existing and future land uses being served by the proposed transportation facility.

(2) Furnish the traffic model data verifying consistency with the DRCOG regional plan, the Colorado Department of Transportation (CDOT) Statewide Transportation Improvement Program (STIP) and the DRCOG Transportation Improvement Program (TIP).

(3) Provide the existing and proposed traffic volume impacts to the adjacent road system, including local roads.

(4) Provide the existing and future Level of Service (LOS) and capacity of the transportation facilities before and after the proposed transportation project is completed.

(5) All transportation access information as required by the CDOT State Highway Access Code, 1998 revisions or the most current edition thereof.

(6) Submittal of a benefit/cost analysis of the proposed transportation improvements and identify the distribution of the burden of the cost for the proposed improvements to the project as well as the adjacent state or local road system.

(ix) Less damaging alternatives:

(A) If the Director determines that the nature or extent of the proposal involves the potential for significant environmental damage and warrants examination of specific, less environmentally damaging alternatives, the Director may request that the Board require that the applicant evaluate and present information on such alternatives as part of the application.

(B) Required information on alternatives may include, but shall not necessarily be limited to, information on the environmental impacts and cost-effectiveness of the alternatives in relationship to the proposal presented.

c. For any application which Section 3-202.A. of this Code identifies as requiring compliance with Article 65.5 of Title 24, C.R.S., certification of compliance with Article 65.5 of Title 24, C.R.S., signed by the applicant confirming that the applicant or its agent has examined the records of the Boulder County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist.

8-508 Referral Requirements

A. Referral of Applications

1. When an application meeting the requirements of Section 8-507 is filed with the Land Use Department, the application materials shall be referred to interest holders in any property proposed to be physically disturbed by the activity or development, property owners within 1,500 feet of any property proposed to be physically disturbed, and appropriate referral agencies. Based on the specifics of the application, the Director may waive referral requirements if those requirements are unnecessary.

a. The applicant is responsible for preparing the referral packets in the manner prescribed by the Director. An error made either intentionally or unintentionally by the applicant in the preparation of referral packets may result in a delay in processing of the application so that the proper referrals can be accomplished.

b. All mailings shall be by U. S. Mail, first-class postage prepaid, with the exception of referrals to offices and agencies in the Boulder County interoffice mail delivery route.

B. Referral Packets

1. Each referral packet shall contain one copy of the site plan (full size or reduced to letter size) and application, and other materials as deemed appropriate by the Land Use Director. The number of referral packets required shall be determined by the Director.

2. Referral notices shall be mailed to agencies specified in this Section of 8-508 and to each owner of an interest in any property proposed to be physically disturbed by the proposal, and to property owners within 1,500 feet of any property proposed to be physically disturbed. Referral notifications may be distributed via e-mail.

3. Referral notices shall also include the name of the proposal, name of owners of the affected property, docket number, general location, number of acres, proposed use, and any other information deemed appropriate by the Director. The notice shall also include information on where to access referral packets on the County's website, and provide staff contact information in case the person receiving the notice wishes to request a hard copy of the referral packet. The complete application referral packet shall be available for public review in hard copy form at the County Land Use Department during business hours.

C. Review of Applications by Agencies and Individuals

1. Referral responses from agencies and individuals.

a. Referral responses must be received by the Director within 14 days of transmittal in order to insure that recommendations and findings are considered.

b. Failure of any office, agency district or individual to respond within the above-mentioned time period, or within the period of an extension which may be expressly granted by the Director, will be regarded as a response with no conflict.

2. The State Engineer shall review the application to insure conformity with all applicable regulations of the Colorado Division of Water Resources and for comment on applicable water rights administration and determination concerns.

3. The Colorado and County Public Health Departments shall review the application for conformity with all applicable State and County Public Health related regulations.

4. The Colorado Geological Survey may evaluate those geologic factors which would have a significant impact on the proposed use of the land.

5. The Colorado Public Utilities Commission shall review all applications for major facilities of a public utility, and provide information on any decisions, orders, or findings which the Commission has made or proposes to make with respect to the facility, and any other pertinent information.

6. CDOT shall review the application for conformity to the State Highway Access Code, STIP and the regulations relative to the administration of state and federal transportation systems.

7. The Regional Transportation District (RTD) shall review the proposed transportation facility and provide information relative to the impacts to the District's transit facilities.

8. The Denver Regional Council of Governments (DRCOG) will review the proposed transportation facility and provide information relative to the impacts to the region's Five Year and the 2020 Transportation Improvement Program (TIP).

9. The Colorado Division of Wildlife and the Colorado Natural Areas Council shall review all applications in areas affecting natural resources of statewide importance.

10. The County Engineer shall review all engineering aspects of the proposal including referral responses and other relevant evidence, and shall transmit findings and preliminary recommendations to the Director.

11. The County Parks and Open Space Department shall review the application for open space and environmental impacts. Staff will schedule applications with such impacts for discussion before the Parks and Open Space Advisory Committee.

12. The County Land Use Department shall evaluate the application for conformance with the Comprehensive Plan, these regulations, sound planning, and comments from the referral agencies and individuals.
13. The Urban Drainage and Flood Control District and the Colorado Water Conservation Board shall review the application for flood hazard impacts.

D. Post Referral Action If there are referral comments received by the Land Use Department which require a response from the applicant, the following actions shall occur:

1. The Land Use staff will transmit by first class mail, or hand delivery, the comments from referral agencies and individuals as soon as possible following the required referral response period.
2. Within 14 days after transmittal of those comments, or by a later date specified by the Director, the applicant shall respond in writing to all issues raised during the referral process.
   - **a.** Such response shall be considered an amendment to the application, and shall be made part of the application to be used as a basis for a final Land Use Staff recommendation.
   - **b.** If the Director finds that this new information results in a substantial change in the proposal, the Director may re-refer the amended application and supporting materials to those referral agencies and individuals outlined in Section 8-508, above. The processing schedule will be amended accordingly.
   - **c.** If the applicant is unable to supply responses within the 14 days allowed, then the applicant may request, in writing, a delay in processing the application for up to 95 days.
   - **d.** If the applicant fails to supply satisfactory responses within the specified time, the Director may either base the Land Use Staff recommendation on review of the file as it exists, or reject the application as a result of the failure to provide information necessary to its proper review. In the case of the latter, the Director shall inform the applicant in writing.
3. The Land Use Staff shall make a recommendation based on its analysis of the record on the application, the referral comments and the applicant's responses to the referral comments.

8-509 Notice of Permit Hearing

A. Not later than 30 days after receipt of a completed application for a permit, the Director shall set and publish notice of a date, time and place for a hearing before the Board. The notice shall be published once in a newspaper of general circulation in Boulder County, not less than 30 nor more than 60 days before the date set for the hearing. Notice shall also be mailed to the applicant and to the property owners identified in Section 8-508(B)(2), above, and to any other persons or agencies requesting notice of the hearing, at the same time the notice is published. Inadvertent failure to notify every such property owner, person or agency shall not affect the validity of any hearing or any determination of the BOCC.

B. The application shall be considered complete and therefore received by the Land Use Department for purposes of this Section 8- 509, once the applicant supplies satisfactory responses to the referral comments as required by Section 8-508(D)(2), above, or, if no responses are required, within 14 days after the Director transmits information on the application to the referral agencies and individuals pursuant to Section 8-508(C), or at such later date as the Director may have approved under Section 8-508 (c), above. Completeness of the application shall also be determined based upon the applicant's compliance with any applicable requirements of Article 65.5 of Title 24, C.R.S., as set forth in Section 8-507A.1.d., above.

C. Within the time constraints of Section 8-509(A) and (B), above, the Director shall schedule the application for a hearing before the Planning Commission. Notice of the Planning Commission hearing shall be published in a newspaper of general circulation in the County at least seven days before the hearing date, and shall be mailed to the applicant and to the property owners identified in Section 8-508(B)(2), above, and to any other persons or agencies requesting notice of the hearing, at the same time the notice is published.

D. Notwithstanding any other provision of this Article 8-200, the Applicant shall be solely responsible for complying with any applicable requirements of Article 65.5 of Title 24, C.R.S.. Therefore, if the application is one which Section 3-202.A. of this Code identifies as requiring compliance with Article 65.5 of Title 24, C.R.S., and if the applicant has certified as part of its application submittal that mineral estate owners or lessees owning less than full fee title in the property which is the subject of the application exist, the County's initial public hearing on the application (before the Planning Commission or the Board, as applicable) shall not be held unless the applicant provides a further signed certification confirming that the applicant has, at least 30 days prior to the initial public hearing, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.

E. In any case where information becomes known to the Planning Commission, Board, or Land Use Director that an applicant has failed to provide notice of an initial public hearing on an application as required Article 65.5 of Title 24, C.R.S. at least 30 days prior to the initial County public hearing on the application, as required by Article 65.5 of Title 24, C.R.S., the Planning Commission, the Board, or the Director on behalf of the Planning Commission or Board may continue, may reschedule, or may vacate the initial public hearing to allow proper notice to be provided under Article 65.5 of Title 24, C.R.S..

8-510 Conduct of the Permit Hearings

A. The Planning Commission shall conduct its public hearing in such a manner so as to solicit all relevant testimony from the applicant and members of the public.

1. The Planning Commission shall hear testimony and receive evidence, including, but not limited to:

a. The recommendations of the Director, and

b. Relevant testimony and documents presented at the public hearing.

2. The Director shall conduct and preserve the following record of the public hearing before the Planning Commission:

a. The permit application.

b. Any written statements or documents presented in support of or in opposition to the permit application.

c. The names and addresses (as available) of all persons making oral or written statements, appearing as witnesses, or offering documentary evidence.

d. Any tape recording of the hearing.

e. The Planning Commission's recommendation.

B. The Board shall conduct its public hearing in such a manner so as to solicit all relevant testimony from the applicant and members of the public.

1. The Board shall hear testimony and receive evidence, including, but not limited to:

a. The recommendations of the Planning Commission,

b. The recommendation of the Director, and

c. Relevant testimony and documents presented at the public hearing.

2. The Director shall conduct and preserve the following record of a public hearing:

a. The permit application.

b. Any written statements or documents presented in support of or in opposition to the permit application.

c. The names and addresses (as available) of all persons making oral or written statements, appearing as witnesses, or offering documentary evidence.

d. Any tape recording of the hearing.

e. The resolution of the Board granting or denying the permit application.

f. A copy of the permit, if issued.

C. Any application submitted by a public utility or a power authority providing electric or natural gas service, which relates to the location, construction, or improvement of a major electrical or natural gas facility as contemplated by Section 29-20-108, C.R.S., as amended, and which is presented to the Planning Commission for review, shall be considered to be a "preliminary application" under Section 29-20-108. Final County action on any such application shall thus be required to be taken within 120 days after submission of the application, or the application under Section 29-20-108 is deemed approved. Any such application for a major electrical or natural gas facility which is presented to only the Board, shall be considered to be a "final application" under Section 29-20-108, on which final County action shall be required to be taken within 90 days after submission of the application, or the application under Section 29-20-108 is deemed approved. For purposes of this Subsection C., "submission" shall be considered to be the submission of a complete application as required by this Article 8, including but not limited with respect to compliance with any applicable notice requirements to the mineral estate owners and lessees constituting less than full fee title in the subject property as required by Article 65.5 of Title 24, C.R.S.

8-511 Standards for Approval of a Permit Application

A. General Approval Requirements

1. A permit application for development of a matter of state interest may not be approved unless the applicant satisfactorily demonstrates that the proposal, including all mitigation measures proposed by the applicant, complies with all of the applicable criteria set forth in this Article. If the proposal does not comply with all of the applicable criteria, the permit shall be denied, unless the Board determines that reasonable conditions can be imposed on the permit which will enable the permit to comply with the criteria.

2. If the Board determines at the public hearing that sufficient information has not been provided to it to allow it to determine if the applicable criteria have been met, the Board may continue the hearing until the specified additional information has been received. The Board shall adopt a written decision on a permit application as soon as practicable after the completion of the permit hearing.

B. Standards for approval of all permit applications.

1. The applicant has obtained or will obtain all property rights, permits, and approvals necessary for the proposal, including surface, mineral, and water rights. The Board may, in its discretion, defer making a final decision on the application until necessary property rights, permits and approvals for the proposal are obtained.

2. The applicant has the necessary expertise and financial capability to develop and operate the proposal consistent with all requirements and conditions.

3. Adequate water supplies, as determined by the Colorado State Engineer, are available for the proposal if applicable.

4. The proposal will not cause unreasonable loss of significant agricultural lands as identified in the Comprehensive Plan, or identifiable on or near the site.

5. The proposal shall not significantly degrade or pose a significant hazard to any aspect of the environment, including environmental resources and open space areas as identified in the Comprehensive Plan, and other features or elements that are deemed to be significant components of the natural environment worthy of preservation. For purposes of this section, the following aspects of the environment shall be considered:

a. Air quality: The proposal shall not significantly deteriorate air quality. In determining impacts to air quality, these considerations shall apply.

(i) Changes to seasonal ambient air quality.

(ii) Changes in visibility and microclimates.

(iii) Applicable air quality standards.

b. Visual quality. The proposal shall not significantly degrade visual quality. In determining impacts to visual quality, these considerations shall apply.

(i) Visual changes to ground cover and vegetation, waterfalls and streams, or other natural features.

(ii) Interference with viewsheds and scenic vistas.

(iii) Changes in appearances of forest canopies.

(iv) Changes in landscape character types or unique land formations.

(v) Compatibility of building and structure design and materials with surrounding land uses.

c. Surface water quality. The proposal shall not significantly degrade surface water quality. In determining impacts to surface water quality, these considerations shall apply.

(i) Changes to existing water quality, including patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color or taste of water.

(ii) Applicable narrative and numeric water quality standards.

(iii) Increases in point and non-point source pollution loads.

(iv) Increase in erosion.

(v) Increases in sediment loading to waterbodies.

(vi) Changes in stream channel or shoreline stability.

(vii) Changes in stormwater runoff flows.

(viii) Changes in trophic status or in eutrophication rates in lakes and reservoirs.

(ix) Changes in the capacity or functioning of streams, lakes or reservoirs.

(x) Changes in flushing flows.

(xi) Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.

d. Groundwater quality. The proposal shall not significantly degrade groundwater quality. In determining impacts to groundwater quality, these considerations shall apply.

- **(i)** Changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
- **(ii)** Changes in capacity and function of wells within the impact area.
- **(iii)** Changes in quality of well water within the impact area.

e. Wetlands and riparian areas. The proposal shall not significantly degrade the quality of wetlands and riparian areas. In determining impacts to wetlands and riparian areas, these considerations shall apply.

- **(i)** Changes in the structure and function of wetlands.
- **(ii)** Changes to the filtering and pollutant uptake capacities of wetlands and riparian areas.
- **(iii)** Changes to aerial extent of wetlands.
- **(iv)** Changes in species' characteristics and diversity.
- **(v)** Transition from wetland to upland species.
- **(vi)** Changes in function and aerial extent of floodplains.

f. Terrestrial and aquatic animal life. The proposal shall not significantly degrade the quality of terrestrial and aquatic animal life. In determining impacts to terrestrial and aquatic animal life, these considerations shall apply.

- **(i)** Changes that result in loss of oxygen for aquatic life.
- **(ii)** Changes in flushing flows.
- **(iii)** Changes in species composition or density.
- **(iv)** Changes in number of threatened or endangered species.
- **(v)** Changes to habitat and critical habitat, including calving grounds, mating grounds, nesting grounds, summer or winter range, migration routes, or any other habitat features necessary for the protection and propagation of any terrestrial animals.
- **(vi)** Changes to habitat and critical habitat, including stream bed and banks, spawning grounds, riffle and side pool areas, flushing flows, nutrient accumulation and cycling, water temperature, depth and circulation, stratification and any other conditions necessary for the protection and propagation of aquatic species.
- **(vii)** Changes to the aquatic and terrestrial food webs.

g. Terrestrial and aquatic plant life. The proposal shall not significantly degrade the quality of terrestrial and aquatic plant life. In determining impacts to terrestrial and aquatic animal life, these considerations shall apply.

- **(i)** Changes to habitat of threatened or endangered plant species.
- **(ii)** Changes to the structure and function of vegetation, including species composition, diversity, biomass, and productivity.
- **(iii)** Changes in advancement or succession of desirable and less desirable species, including noxious weeds.
- **(iv)** Changes in threatened or endangered species.

h. Soils and geologic conditions. The proposal shall not significantly degrade soils and geologic conditions. In determining impacts on soils and geologic conditions, these considerations shall apply.

- **(i)** Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and flood hazard areas.
- **(ii)** Changes to stream sedimentation, geomorphology, and channel stability.
- **(iii)** Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs.
- **(iv)** Changes to avalanche areas, mudflows and debris fans, and other unstable and potentially unstable slopes.
- **(v)** Exacerbation of seismic concerns and subsidence.

6. The proposal will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience.
7. The proposal will not cause unreasonable loss of significant cultural resources, including but not necessarily limited to historical structures or sites and archaeological artifacts or sites, as identified in the Comprehensive Plan or identifiable on or near the site.
8. The proposal or its associated transmission collector or distribution system will not create blight, or cause other nuisance factors such as excessive noise or obnoxious odors.
9. The proposal will not be subject to significant risk from floods, fires, earthquakes or other disasters or natural hazards.
10. The proposal or its associated transmission collector or distribution system will not create an undue financial burden on existing or future residents of the County.
11. The proposal will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.
12. The planning, design and operation of the proposal will reflect appropriate principles of resource conservation, energy efficiency and recycling or reuse.
13. For those applications for which the Director has required information on the environmental impacts and costs of alternatives under Section 8-507(D)(7)(b), above, the proposal represents the least damaging alternative of reasonable cost among the alternatives analyzed.
14. The proposal is in accordance with the Boulder County Comprehensive Plan and any applicable intergovernmental agreement affecting land use and development, including but not limited to any applicable land use designations. In cases where a person who is not a service provider with a County-approved service plan or service area, proposes a development within an approved service area, the Board shall not be compelled to consider the development be in compliance with the applicable adopted comprehensive plan or intergovernmental planning agreement simply by virtue of the fact that the development is located within, or is proposed to serve, an approved service area.
15. The proposal represents the complete, reasonably foreseeable development for the subject property as required under Section 8-501.D., above, except that the Board may approve development constituting less than the complete development provided that the Applicant clearly demonstrates that a lesser proposal constitutes a discrete phase of the complete development as supported by the applicable master planning document required under Subsection 8-501.D. , which can be logically and adequately reviewed as a separate project under the applicable criteria of these Regulations. Amendments to approvals of applications submitted after the effective date of Subsection 8-501.D. (February 27, 2003), shall be subject to the further requirements of Subsection 8-501.E., above.

C. Additional standards for approval of municipal and industrial water projects.

1. The proposal shall emphasize the most efficient use of water, including, to the extent permissible under existing law, the recycling and reuse of water. Urban development, population densities, and site layout and design of storm water and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas.
2. To promote the efficient utilization of municipal and industrial water projects, utilization of the following water sources shall be favored:
   a. Utilization of existing municipal and industrial water supplies, for example, by lease, exchange, sale, or other disposition between persons or entities within Boulder County, or between persons or entities within Boulder County and those outside Boulder County.
   b. Water supplies from sources which do not involve the removal of water from irrigated agriculture or open space or preserved lands in Boulder County, or which do not involve increased use of native flows of water in the streams of Boulder County.

D. Additional standards for approval of site selection and construction of major new domestic water and sewage treatment systems and major extensions of existing domestic water and sewage treatment systems.

1. New domestic water and sewage treatment systems and major extensions of existing domestic water and sewage treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants within the County and will ensure the orderly development of domestic water and sewage treatment systems of adjacent communities within the County.
2. Major extensions of domestic water and sewage treatment systems shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.
3. Existing water and sewage treatment systems servicing the area must be at or near operational capacity.
4. The scope and nature of the proposal will not compete with existing water and sewage services or create duplicate services.
5. The age of existing domestic water and sewage treatment systems, operational efficiency, state of repair or level of service is such that replacement is warranted.
6. Existing facilities cannot be upgraded or expanded to meet waste discharge permit conditions of the Colorado Water Control Division.

E. Additional standards for major facilities of a public utility.

1. Facilities shall be sited and constructed in areas which will result in the proper utilization of existing facilities and associated systems within or serving the County.
2. Facilities shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such facility can be accommodated within the financial and environmental capacity of the area to sustain such growth and development and are in accordance with the applicable County land use plans.
3. Existing facilities and associated systems servicing the area must be at or near operational capacity.
4. If a facility extension or replacement is proposed, the age of existing facilities and associated systems, their operational efficiency, and their state of repair or level of service are such that extension or replacement is warranted.
5. If a new facility is proposed, existing facilities cannot be feasibly upgraded or expanded.

F. Additional standards for site selection of arterial highways and interchanges and collector highways.

1. Community traffic needs shall be met.
2. Desirable community patterns shall not be disrupted.
3. Direct conflicts with adopted local, regional and state master plans shall be avoided.

G. Additional standards for site selection of new communities.

1. The design shall, at a minimum, provide for transportation, waste disposal, schools, and other governmental services in a manner that will not overload facilities of existing communities of the region.

H. Additional standards for development in historical or archaeological resource areas of statewide importance.

1. Development shall be designed to preserve the integrity of the resource.
2. Development shall be conducted in a manner which will be compatible with the preservation of the resource and minimize damage to the resource.

I. Additional standards for development in natural resource areas of statewide importance.

1. Development shall be designed to preserve the integrity of the resource.
2. Development shall be conducted in a manner which will be compatible with the preservation of the resource and minimize damage to the resource.
3. The proposed development will not adversely affect either surface or subsurface water rights.
4. The proposed development will not significantly deteriorate significant wildlife habitat.
5. The proposed development will not significantly degrade existing natural scenic characteristics, create blight, or cause other nuisance factors such as excessive noise or obnoxious odors.

J. Additional standards for development in areas around key facilities (interchanges involving arterial highways).

1. The proposed development shall not pose a danger to public health or safety or to property (including the subject property, other impacted properties, and the environment).
2. The volume of traffic to be generated by the proposed development shall be compatible with the traffic-handling characteristics of the interchange and the access road and existing, affected traffic roads.
3. The proposed development shall be compatible with existing developments and with the character of the neighborhood, and shall not significantly impair an area or resource of special scenic, historical, or cultural significance.
4. The proposed development shall preserve desirable existing community patterns.
5. A development that proposes burdens or deprivations on the communities of a region shall not be justified on the basis of local benefit alone.

K. Additional standards for development in flood hazard areas.

1. Development shall preserve the integrity of the flood hazard area by not altering or impacting it in any way which is likely to pose a significant threat to public health or safety or to property (including the subject property, other impacted properties, or the environment).
2. Development which, in time of flooding, will likely pose a significant threat to public health or safety or to property (including the subject property, other impacted properties, or the environment) shall be prohibited. In determining whether there will likely be a significant threat, the following factors shall be considered:
   - **a.** creation of obstructions from the proposed development during times of flooding, and vulnerability of the proposed development to flooding;
   - **b.** use of flood protection devices or floodproofing methods;
   - **c.** nature or intensity of the proposed development;
   - **d.** increases in impervious surface area caused by the proposed development;
   - **e.** increases in surface runoff flow rate and amount caused by the proposed development;
   - **f.** increases in flood water flow rate and amount caused by the proposed development;
   - **g.** proximity and nature of adjacent or nearby land uses;
   - **h.** impacts to downstream properties or communities; and
   - **i.** impacts on shallow wells, waste disposal sites, water supply systems, and sewage disposal or on-site wastewater systems.
3. Development shall comply with the Floodplain Overlay District Regulations of Article 4-400 of the Land Use Code, as amended.
4. Open space activities such as agriculture, passive recreation (recreation not requiring the development of playing fields, spectator stands or other significant structures), and mineral extraction, shall be presumed to be the favored form of development in the flood hazard area and shall be encouraged. Applications proposing other forms of development, which make a more intensive use of the land such as by increasing the structural coverage or impervious surface on the land, shall be presumed to generate adverse impacts on the flood hazard area and shall not be approved unless the applicant clearly demonstrates that the criteria of this Section 8-511K. and of Section 8-511B.have been met.

L. Additional standards for development in geologic hazard areas.

1. Development shall not aggravate the hazardous condition or otherwise pose a significant risk to public health and safety or to property.
2. Open space activities such as agriculture, passive recreation not requiring the development of playing fields, spectator stands or other significant structures, and mineral extraction, shall be encouraged provided they can be conducted in a manner which does not aggravate the hazardous condition or otherwise pose a significant risk to public health and safety or to property.
3. Any approved development shall be designed in a manner that mitigates any significant risk posed by the geologic hazard, as confirmed by a registered professional engineer or other qualified expert in the field.
4. Shallow wells, solid waste disposal sites, water supply systems, and on-site wastewater systems and sewage disposal systems shall be protected.
5. Development shall comply with all applicable County Building Code and Public Health Department regulations.

8-512 Issuance of Permits

A. The permit shall be issued on the form adopted by the Board of County Commissioners, which may be the Board's written resolution of decision on the application.

B. The permit may be issued for an indefinite term or a specified number of years.

8-513 Financial Security

A. Before any permit is issued, the Board may, in its discretion, require the applicant to file a guarantee of financial security deemed adequate by and made payable to the Board.

B. The purpose of this financial guarantee shall be to assure that the applicant or permittee shall faithfully perform all requirements of the permit.

C. Any requirement for a financial guarantee shall be specified in the written decision of the Board on the permit application.

8-600 Post Approval Requirements

8-601 Enforcement of Permit Requirements

A. When it comes to the attention of the Board that the provisions of any permit have been violated by the permittee, the Board, if it determines that enforcement action is appropriate, shall give the permittee written notice of the specific violation and of a hearing on the proposed violation which the Board shall schedule no sooner than 30 days after the date of the written notice. If the Board determines that an emergency situation exists the Board may schedule the hearing sooner than 30 days, provided that the permittee receives at least five working days' prior notice of the hearing.

B. If the permittee fails to correct the violation by the public hearing date, and the Board determines at the public hearing that the violation exists, the Board, in its discretion, may impose an appropriate sanction, including but not necessarily limited to temporary suspension of the permit for a reasonable time certain; an order to correct the violation within a reasonable time certain; the requirement for additional financial guarantees; or revocation of the permit.

C. The Board shall have the authority to seek an injunction or other appropriate relief in the appropriate state or federal district court if the permittee fails to correct the violation or to comply with any sanction imposed at the public hearing.

D. Any permit issued under these regulations shall be deemed to include the granting of the permittee's consent to entry and inspections by the Board and its authorized representatives as may be necessary at any time during regular County business hours, without prior notice to the permittee, to determine compliance with the terms of the permit.

E. Any person engaging in a development in a designated area of state interest or conducting a designated activity of state interest who does not obtain a permit pursuant to these regulations may be enjoined by the Board from engaging in such development or conducting such activity, and may be subject to such other criminal or civil liability as may be prescribed by law.

Article 9

Subdivision Exemptions & Exemption Plats

Article 9 • Subdivision Exemptions & Exemption Plats

9-100 Subdivision Exemptions

A. The Board of County Commissioners may grant exemptions from the application of the Subdivision Regulations for any subdivision of unsubdivided land which the Board determines, pursuant to this Article 9, is not within the purposes of the Subdivision Regulations, as evidenced in Section 1-300 and Article 5 of this Code, and Part 1 of Article 28, Title 30 of the Colorado Revised Statutes.

B. This subdivision exemption process requires public hearings before the Board of County Commissioners. Subdivision exemptions may be granted only on the basis of the exemption criteria enumerated in Section 9-102, below.

9-101 Types of Subdivision Exemptions

A. Boundary Line Adjustment

B. Community Facility Lot Split for land not owned by the County

C. Townsite Lot Recognition

D. Other subdivisions of unsubdivided land which the Board in its discretion, based on the applicable criteria of this Article 9, determines do not fall within the purposes of the Subdivision Regulations.

9-102 General Exemption Criteria

A. Criteria for all Exemptions

1. Any new parcel created shall not increase the degree of nonconformity of an existing structure.

2. No exemption shall be approved if development will occur on a topographic or geologic hazard.

3. No exemption shall be approved by the Board within a Floodplain Overlay District, unless it is determined by the County Engineer that all proposed uses are capable of receiving a floodplain development permit.

4. All proposals for the development of parcels created shall conform to the provisions of Article 7 of this Code and the Transportation Standards, including but not limited to access.

5. Proposed parcel boundaries and development shall be suitably located and sized with respect to the physical characteristics of the land, the character of the neighborhood, and the County's goals of preserving agricultural and forestry lands.

6. Proposed subdivisions involving subdivided land shall go through an exemption plat process if applicable under Section 9-200, below, or subdivision review pursuant to the Subdivision Regulations of Article 5 of this code.

7. The proposal shall be in accordance with the Comprehensive Plan, any applicable intergovernmental agreement affecting land use or development, and this Code.

B. Additional Criteria for Boundary Line Adjustments

1. Divisions which create any number of parcels equal to or less than the number of original unsubdivided parcels are subject to the following conditions:

a. Where the original building lot is in conformance with the lot requirements of the zoning district in which the parcel is located, any parcels created shall also conform to those requirements.

b. Where original building lots are nonconforming with respect to the lot requirements of the zoning district in which located, any parcels created should not increase the degree of nonconformity.

c. A boundary line adjustment shall not be approved primarily for convenience of construction and shall substantially advance a legitimate land use purpose under this Code.

C. Additional Criteria for Community Facility Lot Splits

1. Divisions which create parcels for use as community facilities, including utility land acquisition, are subject to the following conditions:

a. An exemption may be approved for the placement of a community facility where the size and location of the lot and available services are reasonable, appropriate, and customary for the proposed use.

b. Community facilities are public parking areas, public or private educational facilities, public parks and open spaces purchased by a public entity, and utility substations without any dwelling units.

c. No exemption is necessary in those cases where the community facility lot split involves land which is, or through the split will be, owned by the County;

D. Additional Criteria for Divisions within Townsites and Formerly Incorporated Towns

1. Such exemptions shall contain unsubdivided lands situated within an area of Boulder County which was mapped and recorded in the Office of the County Clerk and Recorder in full compliance with all provisions of Chapter 84, Article 11 of the Colorado Revised Statutes of 1868 or any succeeding Colorado statute providing for the mapping or incorporation of townsites, townplats, towns or settlements; or which has discontinued its former incorporation as a city or town pursuant to C.R.S. 31-3-101.

2. Such exemptions shall be limited to divisions of land effected by deed(s)executed and recorded in the Office of the County Clerk and Recorder prior to December 13, 1983.

3. The applicant shall submit adequate evidence that the division was made in substantial reliance upon the map or plat of the townsite area, and that within such townsite area:

a. Buildings have been constructed, lawful at the time, based upon the townsite map or plat, buildings have been continuously occupied, and buildings have been maintained in reasonable reliance on the continued utilization of such structures; and

b. Roadways providing access into and travel within the townsite have been constructed prior to December 13, 1983, and maintained.

E. The Board of County Commissioners may exempt from the definition of the term 'subdivision' other divisions of land if the Board determines that such division is not within the purposes of these Subdivision Regulations.

9-200 Exemption Plats

A. The Board of County Commissioners may grant exemptions from the application of the Subdivision Regulations, pursuant to the exemption plat requirements of this Section 9-200, in cases where the proposed subdivision involves subdivided land.

B. Land which is not subdivided land may not go through an exemption plat process. The sole exception to this prohibition shall be where unsubdivided land is proposed to be added to the subdivided land, such that any resulting subdivided lot is 35 acres or more in area.

C. This exemption plat process requires public hearings before the Board of County Commissioners. Exemption plats may be approved only on the basis of the exemption plat standards enumerated in Section 9-202.

9-201 Density

A. The exemption plat process shall not require a reduction in the number of subdivided lots as delineated in the original plat. In addition, no exemption plat approval shall permit an increase in the number of subdivided lots, unless any additional resulting subdivided lot is 35 acres or more in area

9-202 Exemption Plat Standards

A. Standards for Exemption Plats

1. Where structures on existing subdivided lots are in conformance with the building and structure requirements of the zoning district in which the lot is located, any structure on a subdivided lot approved through the exemption plat process, should also conform to these requirements.

2. The design of proposed subdivided lots and the location, size, height, and design of proposed structures approved through the exemption plat process shall minimize adverse impacts on streams, areas subject to flooding, drainage, geologic hazards, lakes, high ground water areas, topography, scenic views, vegetative cover, climatology, and other environmental features as identified in the Comprehensive Plan, or identifiable on or near the site.

a. No exemption plat shall be approved by the Board, unless it is determined that the development will not have a significant adverse impact on plant or wildlife habitat, migration corridors, or sensitive and unique plant or wildlife ecosystems as identified in the Comprehensive Plan, or identifiable on or near the site.

b. No exemption plat shall be approved by the Board, unless it is determined that the development will not have a significant adverse impact on wetland areas as identified in the Comprehensive Plan, or identifiable on or near the site, or alter drainage patterns from historic levels, and that runoff and erosion from this development will not have a significant adverse impact on the character of the wetland.

3. Proposed subdivided lots and structures approved through the exemption plat process shall be suitably sized and located with respect to the character of the neighborhood, and shall be appropriately landscaped and screened to minimize the obtrusiveness of structures, and to maximize visual blending with the surrounding topography.

4. Subdivided lots approved through the exemption plat process must be greater than one acre in size, unless served by public water and/or sewer.

5. Confirmation from service providers that the proposed subdivided lots approved through the exemption plat process do not affect the provision of water, sewer, telephone, and emergency access, shall be required.

6. No exemption plat shall be approved in a Flood Plain Overlay District, unless the County Engineer determines that all proposed subdivided lots are capable of receiving a floodplain development permit.

7. If necessary to meet the standards, building envelopes on reconfigured lots may be required. In addition, certain portions of the subject property may be replatted through the exemption plat process into common outlots for the use and enjoyment of the residents of the platted subdivision, or to protect environmentally or visually sensitive features on the site.

8. The proposal shall be in accordance with the Comprehensive Plan, any applicable intergovernmental agreement affecting land use or development, and this Code.

9-203 Vacations

A. Road and utility easement vacations, resulting from subdivided lot reconfigurations through this process, may be heard and acted upon by the Board, in conjunction with the exemption plat hearing, following review of the vacation by Planning Commission.

9-300 Expiration of Subdivision Exemption and Exemption Plat Approvals

A. The Board of County Commissioners' decision to approve or conditionally approve an exemption plat or subdivision exemption shall, unless otherwise stated in such action, be effective for a period of one calendar year from the date of approval to the date of recordation of all exemption documents.

B. The Board of County Commissioners may grant up to two extensions of deadlines of no more than one year each for those dates specified in this Section, if it finds that there has been no change in this Code, the Comprehensive Plan, or the surrounding neighborhood which would substantially affect the approved exemption.

1. The new application will be reviewed using criteria in effect at the time of the reapplication.

2. The Director may modify the application process defined in Article 3 of this Code if it is determined that adequate public notice and input on the reapplication can be attained through a shortened process.

C. On an annual basis, the Director may present to the Board of County Commissioners all those applications that will expire in the coming year and may need extensions of processing time.

Article 10

Vacations of Public Roads, Alleys, & Easements

Article 10 • Vacations of Public Roads, Alleys, & Easements

10-100 Vacations

A. Public roads, alleys, and easements may be vacated after consideration at a public hearing by both the Planning Commission and the Board of County Commissioners.

B. The vacation becomes effective upon recordation of the Board's resolution of approval with the Boulder County Clerk and Recorder's office. Prior to recordation, the applicant must complete all conditions of approval.

C. Unless otherwise noted, the portions of the road or alley vacated will be divided down the centerline and added to the respective adjacent property

D. Application and processing requirements for vacations are included in Article 3.

E. Following approval or conditional approval of a vacation, the applicant shall submit to the Land Use Department all necessary documents required by the conditional approval showing compliance with the conditional approval.

F. The Land Use Department staff shall record the Commissioner's resolution of approval with the Clerk and Recorder's office within 45 days of the Commissioners' approval unless otherwise specified.

10-101 Vacations of Mapped Roads and Rights-of-Way in the Eldora Townsite

A. For purposes of this Section 10-101, the Eldora Townsite is the mapped Townsite recognized in Section 4-806.A.1. of this Code, as shown on the corresponding adopted zoning map.

B. The purpose of Section 10-101 is to provide opportunities for property owners to come into compliance with county regulations, facilitating access and clear title to properties, and fostering flexibility for potential development, while preserving the rural and historic character and environmental resources of the Eldora Townsite, all in accordance with the Land Use Code and Comprehensive Plan.

C. The Board shall consider the following factors as favoring a vacation request:

1. Is necessary for access or to clear title to land.
2. Resolves long-standing structural encroachment into the rights-of-way.
3. Allows the applicant to apply for a compliant onsite wastewater system and/or a well to serve an existing development if there is no reasonable alternative location.
4. Facilitates road and rights-of-way exchange if the applicant is requesting vacation of mapped rights-of-way, and the actual constructed road is located elsewhere on the applicant's property; in that case the County may require dedication of the property under the traveled way to the County as a condition of vacating the mapped rights-of-way. Alternatively, if the applicant is requesting vacation of mapped rights-of-way, and the actual constructed road is located elsewhere off of applicant's property, the County may vacate the mapped rights-of-way so long as the traveled way is kept in public use.
5. Creates an opportunity to provide for development that is more consistent with the Comprehensive Plan and Land Use Code.

D. The Board shall consider the following factors as disfavoring a vacation request:

1. Facilitates new development contrary to the Comprehensive Plan or Land Use Code.
2. Facilitates new development that has a negative impact on historic, archaeological, cultural, scenic, or environmental resources such as wetlands, riparian areas, and plant or wildlife habitat.
3. Facilitates unsafe development in a natural hazard area.
4. Prevents access to County-owned lands.

E. The Board shall not approve a vacation within the Eldora Townsite if:

1. The vacation will leave any adjoining land without access to an established public road. Colorado State Statute 43-2-303(2)(a)
2. There is a current or foreseeable public need for the property. The evaluation of whether there is a current or foreseeable public need for the property should be made with reference to the stated purpose of preserving the rural and historic character and environmental resources of the Eldora Townsite.
3. The rights-of-way have been identified as facilitating access to Middle Boulder Creek, public lands or private properties, and are among the following rights-of-way: the section of unimproved road between the west end of Eldorado Avenue where it turns north to, and including, Middle Boulder Creek; the alley between Eldorado Avenue and Spencer Avenue west of 11th Street; 11th Street north of Klondyke Avenue; 10th Street south of Spencer Avenue; 8th Street south of Eldorado Avenue to, and including, the portion that intersects with Spencer Avenue; 7th Street north of Klondyke Avenue; 6th Street north of Washington Avenue including all of Pearl Street; 6th Street south of Bryan Avenue; 5th Street south of Eldorado Avenue; 4th Street north of Huron Avenue; 3rd Street south of Eldorado Avenue; and 1st Street south of Eldorado Avenue. However, partial vacations of these rights-of-way may be considered if they meet any of the factors in Subsection C.
4. The rights-of-way are necessary for the ongoing maintenance of existing accepted roads.

F. In any vacation approval, the Board may impose reasonable terms and conditions to address the purpose and factors stated in Subsections B. through E. above, including but not necessarily limited to preserving a public interest in the vacated land through reservation or grant for utilities, access, or other legitimate public purposes; specifying how title to the vacated area is to vest in accordance with Part 3 of Article 2, Title 43, C.R.S., as amended; approving partial vacations, or the vacation of less area than proposed in a vacation request; and limiting use of the vacated area for setback, building, fencing, or other land development or land use purposes. No additional rights-of-way will be maintained by the Transportation Department as a result of any action on a vacation request under this Section 10-101.

Article 11

Special District Review

Article 11 • Special District Review

11-100 General Provisions and Procedures

11-101 Purposes

A. The purpose of this Article is to implement the Commissioners' authority to review and approve service plans for proposed special districts under Part 2 of Article 1 of Title 32, C.R.S., as amended through the 1993 Colorado Legislative Session ('Control Act'). All provisions of this Article are intended to be in compliance with the authority and procedures specified in the Control Act and related statutes. To the extent that this Article does not expressly incorporate all applicable provisions of the Control Act and related statutes, those provisions shall still govern as stated in the Control Act or related statutes.

B. The procedures recognized in the Control Act and set forth in this Article are necessary for the orderly creation of special districts and for the logical extension of special district services throughout the County. The Control Act as implemented herein serves the purposes of preventing unnecessary proliferation and fragmentation of local government and avoiding excessive diffusion of local tax sources. (See C.R.S. 32-1-102.)

11-102 Service Plan Application Requirements

(see C.R.S. 32-1-202)

A. Any person proposing the organization of a special district which includes property in the unincorporated County shall submit a service plan to the Commissioners prior to filing a petition for the organization of the proposed special district in any district court.

B. Filing of Service Plan with Clerk and Recorder

1. The service plan shall be filed with the County Clerk and Recorder at least ten days prior to a regular meeting of the Commissioners.

2. Within five days after the filing of any service plan, the County Clerk and Recorder, on behalf of the Commissioners, shall report to the Division of Local Government in the Colorado Department of Local Affairs, on forms furnished by the Division, the name and type of the proposed special district for which the service plan has been filed.

3. Within five days after the filing of any service plan, the Clerk and Recorder shall deliver the service plan to the Director, for review by the Planning Commission pursuant to Section 11-103, below.

C. Required Contents of Service Plan

1. A description of the proposed services;
2. A financial plan showing how the proposed services are to be financed, including the proposed operating revenue derived from property taxes for the first budget year of the district, which shall not be materially exceeded except as authorized pursuant to C.R.S. 32-1-207 or 29-1-302 (see 32-1-202(2)(b)). All proposed indebtedness for the district shall be displayed together with a schedule indicating the year or years in which the debt is scheduled to be issued. The board of directors of the district shall notify the Commissioners of any alteration or revision of the proposed schedule of debt issuance set forth in the financial plan;
3. A preliminary engineering or architectural survey showing how the proposed services are to be provided;
4. A map of the proposed special district boundaries and an estimate of the population and valuation for assessment of the proposed special district;
5. A general description of the facilities to be constructed and the standards of such construction, including a statement of how the facility and service standards of the proposed special district are compatible with facility and service standards of any county within which all or any portion of the proposed special district is to be located, and of the municipalities and special districts which are interested parties pursuant to Section 11-104(B)(2), below (see C.R.S. 32-1-204(1));
6. A general description of the estimated cost of acquiring land, engineering services, legal services, administrative services, initial proposed indebtedness and estimated proposed maximum interest rates and discounts, and other major expenses related to the organization and initial operation of the district;
7. A description of any arrangement or proposed agreement with any political subdivision for the performance of any services between the proposed special district and such other political subdivision, and, if the form contract to be used is available, it shall be attached to the service plan;
8. Information which, along with other evidence presented at the public hearing on the service plan, is satisfactory to establish that each of the applicable criteria required for the Commissioners' service plan approval set forth in Sections 11-203 and 11-204, below (see C.R.S. 32-1-203) is met; and
9. Such additional information as the Commissioners may require by resolution on which to base their findings pursuant to Sections 11-203 and 11-204, below (see C.R.S. 32-1-203).

D. Service Plan Processing Fee

1. Each service plan filed shall be accompanied by a processing fee set by the Commissioners not to exceed $500.00, which shall be deposited into the County's General Fund. The Commissioners may waive the fee for good cause shown. The processing fee shall be used to reimburse the County for the reasonable direct costs related to processing the service plan and conducting the public hearings on the plan, including but not limited to the costs of notice, publication, and recording of testimony.
2. If the Commissioners determine that more in-depth review of a particular service plan is required, the Commissioners may impose an additional service fee to reimburse the County for the reasonable direct costs related to the in-depth review. If the Commissioners impose an additional fee, it shall not be less than $500.00, and shall not exceed the lesser of one one-hundredth of one percent of the total amount of debt to be issued by the district as indicated on the service plan or the amended service plan, or $10,000.00. The Commissioners may waive all or any portion of the additional fee for good cause shown.

11-103 Planning Commission Review of Service Plan

(adopted pursuant to the procedure provided in C.R.S. 30-28-112, as required by C.R.S. 32-1-202(1)).

A. The Planning Commission shall study and make a recommendation on the service plan to the Commissioners within thirty days after the plan was filed with the County Clerk and Recorder.

B. The Planning Commission shall review the service plan at a public hearing of which the proponent of the service plan shall receive prior notice. The Director shall publish notice of the Planning Commission hearing in a newspaper of general circulation in the County at least seven days prior to the hearing.

C. To the extent time allows prior to the hearing, the Director shall refer information concerning the service plan to the interested governmental units specified in Section 11-104(B)(2), below, and to any other relevant agencies in the discretion of the Director.

11-104 Commissioners' Review of and Action on Service Plan

(see C.R.S. 32-1-202 and 32-1-204)

A. Setting and Notice of Public Hearing on Service Plan

1. At the next regular meeting of the Commissioners which is held at least ten days after the final Planning Commission action on the service plan, the Commissioners shall set a date within 30 days after the regular meeting for a public hearing on the service plan of the proposed special district.

2. The Commissioners shall provide written notice of the date, time, and location of the public hearing to the Colorado Division of Local Government.

3. The Commissioners shall provide written notice of the date, time, and location of the public hearing to the proponent of the special district and to the governing body of any existing municipality or special district which has levied an ad valorem tax within the next preceding tax year and which has boundaries within a radius of three miles of the proposed special district boundaries, which governmental units shall be interested parties in the public hearing process.

4. The Commissioners shall publish notice of the public hearing in a newspaper of general circulation in the County, the first publication of which shall be at least 20 days prior to the public hearing date. The publication shall constitute constructive notice to the residents and property owners within the proposed special district, who shall also be interested parties at the public hearing.

5. The published newspaper notice shall contain the following information:

a. The date, time, location, and purpose of the hearing;

b. A general description of the land contained within the boundaries of the proposed special district; and

c. Information outlining the methods and procedures pursuant to Section (C), immediately below (see C.R.S. 32-1-203(3.5)) concerning the filing of a petition for exclusion of territory from the proposed district.

6. Not more than 30 days nor less than 20 days prior to the public hearing, the proponent of the special district shall send postcard or letter notification of the hearing to the property owners within the proposed special district, all as further required by C.R.S. 32-1-204(1.5).

7. The Commissioners may continue the hearing for a period not to exceed 30 days, unless the proponent of the special district and the Commissioners agree to continue the hearing for a longer period.

8. If the boundaries of the proposed special district include territory within the County and another county or counties, the Commissioners of each of the respective counties, in their discretion, may hold a joint hearing on the proposed special district in accordance with the procedural requirements applicable to Commissioners' hearings on proposed service plans stated in this Section (see C.R.S. 32-1-205(1), referencing the hearing requirements of 32-1-204).

B. Required Public Hearing Procedures

1. The hearing held by the Commissioners shall be open to the public, and a record of the proceedings shall be made.

2. Interested parties at the hearing shall be the following:

a. The governing bodies of any existing municipality or special district which has levied an ad valorem tax within the next preceding tax year and which has boundaries within a radius of three miles of the proposed special district; and

b. The residents and property owners within the proposed special district.

3. All interested parties shall be afforded an opportunity to be heard under such rules of procedure as may be established by the Commissioners. Any testimony or evidence which in the Commissioners' discretion is relevant to the organization of the proposed special district shall be considered.

C. Exclusions of Property from Proposed District

1. The Commissioners may exclude territory from a proposed special district prior to approval of any service plan.

2. Any person owning property in the proposed district who requests that his or her property be excluded from the special district prior to approval of the service plan shall submit the request to the Commissioners no later than 10 days prior to the Commissioners' public hearing on the service plan, but the Commissioners shall not be limited in their action with respect to exclusion of territory based upon such request.

3. The proponent of the special district shall have the burden of proving that the exclusion of any property requested to be excluded is not in the best interests of the proposed special district.

4. The Commissioners shall act on all requests for exclusion before they take final action issuing a resolution of approval for the proposed special district.

D. Commissioners' Authority To Act on Service Plan; Required Form and Timing of Decision on Plan

1. The findings of the Commissioners on the service plan shall be based solely upon the service plan and the evidence or recommendations presented at the Commissioners' public hearing by the proponent of the special district, the Planning Commission, and any interested party as defined in Section (B)(2), immediately above.

2. The Commissioners have the following authority in the review of any proposed service plan:

a. To approve the service plan as submitted without condition or modification.

b. To disapprove the service plan as submitted.

c. To conditionally approve the service plan subject to the submission of additional information relating to, or the modification of, the proposed service plan. The Commissioners may exercise this power of conditional approval if they have satisfactory evidence, based on the public hearing, that the proposed service plan does not comply with the required criteria of Section 11-203, below (see C.R.S. 32-1-203(2)). The Commissioners' final approval shall then be contingent upon the proponent modifying the service plan to include the changes, or providing the additional information, as the Commissioners shall specifically state in their findings on the service plan. The proceedings shall be continued until such changes, modifications, or additional information are incorporated into the service plan.

3. Within 20 days after the completion of the public hearing, the Commissioners shall advise the proponent of the special district in writing of their action on the service plan.

a. If the plan is approved as submitted, a resolution of approval shall be issued to the proponent.

b. If the plan is disapproved as submitted, the specific detailed reasons for the disapproval shall be set forth in writing.

c. If the service plan is conditionally approved, the Commissioners shall set forth in writing the changes or modifications to be made in, or the additional information relating to, the service plan, together with the reasons for the changes, modifications, or additional information. Upon incorporation of the specified changes, modifications, or additional information into the service plan, the Commissioners shall issue a resolution of approval to the proponent of the special district.

11-200 Criteria for Approval of Service Plan

11-201 Territory which District May Cover

(see C.R.S. 32-1-107(1))

A. A special district may be entirely within or entirely without, or partly within and partly without, one or more municipalities or counties, and may consist of noncontiguous tracts or parcels of property.

11-202 Mandatory Criteria for Disapproval of a Service Plan

(see C.R.S. 32-1-107(2) & 32-1-202(2.1))

A. No special district may be organized wholly or partly within an existing special district providing the same service. Nothing in this provision, however, shall prevent a special district providing different services from organizing wholly or partly within an existing special district.

B. No service plan shall be approved if a petition objecting to the service plan and signed by the owners of taxable real and personal property, which property equals more than 50 percent of the total valuation for assessment of all taxable real and personal property to be included in the proposed district, is filed with the Commissioners no later than 10 days prior to the Commissioners' public hearing on the service plan, unless such property has been excluded by the Commissioners pursuant to Section 11-104(c), above (see C.R.S. 32-1-203(3.5)).

11-203 Mandatory Criteria for Disapproval

(see C.R.S. 32-1-203(2))

A. The Commissioners shall disapprove a service plan unless evidence satisfactory to them of each of the following is presented (or, in the Commissioners' discretion, they may conditionally approve the service plan pursuant to Section 11-104(D)(2)(c), above, to cause compliance with these criteria):

1. There is sufficient existing and projected need for organized service in the area to be served by the proposed special district;
2. The existing service in the area to be served by the proposed special district is inadequate for present and projected needs;
3. The proposed special district is capable of providing economical and sufficient service to the area within its proposed boundaries;
4. The area to be included in the proposed special district has, or will have, the financial ability to discharge the proposed indebtedness on a reasonable basis.

11-204 Discretionary Criteria for Disapproval

(see C.R.S. 32-1-203(2.5))

A. The Commissioners may disapprove the service plan if evidence satisfactory to them of the following, at the Commissioners' discretion, is not presented:

1. Adequate service is not, or will not be, available to the area through the County or other existing municipal or quasi-municipal corporations, including existing special districts, within a reasonable time and on a comparable basis;
2. The facility and service standards of the proposed special district are compatible with the facility and service standards of each county within which the proposed special district is to be located and each municipality which is an interested party as defined in Section 11-104(B)(2), above;
3. The proposal is in substantial compliance with the Boulder County Comprehensive Plan (or the Boulder Valley Comprehensive Plan or other approved comprehensive plan, as applicable);
4. The proposal is in compliance with any duly adopted county, regional, or state long-range water quality management plan for the area;
5. The creation of the proposed special district will be in the best interests of the area proposed to be served.

11-300 Material Modifications to County-Approved Service Plans

(see C.R.S. 32-1-207(1)-(3), as amended)

11-301 County Approval of Substantial Modifications to Special District Service Plans; Processing Fee

A. Once a special district with territory in the unincorporated County has been organized pursuant to the terms of this Article and the Control Act, the governing body of the special district may make material modifications to the approved service plan only by petition to and approval by the Commissioners (including Planning Commission review) pursuant to the procedures governing the County's review and approval of original service plan submittals as stated in Sections 11-102 through 11-104 and 11-200, above.

B. The processing fee for County review of a petition for approval of a material modification to an approved service plan shall not exceed $250.00.

C. A material modification of an approved service plan shall be a change of a basic or essential nature, including but not limited to the following:

1. Any addition to the types of services provided by the special district;

2. A decrease in the level of services provided by the special district;

3. A decrease in the financial ability of the district to discharge the existing or proposed indebtedness; or

4. A decrease in the existing or projected need for organized service in the area.

D. A material modification may be found to exist if an approved special district changes its boundaries to include territory in the unincorporated County when the district previously included no territory in the unincorporated County. If the district changes its boundaries in this fashion, it shall notify the Commissioners, who may review the inclusion of territory. If the Commissioners determine based on this review that the inclusion constitutes a material modification to the district's service plan, the governing body of the special district shall file a petition for approval of a material modification of the service plan in accordance with Sections (A)-(C), immediately above.

E. Approval for modifications of an approved service plan shall not be required for changes necessary only for the execution of the original service plan, or for changes in the boundaries of the special district other than the type of change covered by Section (D), immediately above.

11-302 Judicial Enforcement against Material Departures or Modifications to Approved Service Plans

A. The Commissioners may seek an injunction in the district court which approved the service plan of any material departure from the service plan as approved, or, if the plan has been modified, from the service plan as modified, which constitutes a material modification of the approved service plan as defined in Section 11-301, above.

B. No action may be brought to enjoin the construction of any facility, the issuance of bonds or other financial obligations, the levy of taxes, the imposition of rates, fees, tolls and charges, or any other proposed activity of the special district unless such action is commenced within 45 days after the special district has published notice of its intention to undertake such activity.

1. Such notice shall describe the activity proposed to be undertaken by the special district and provide that any action to enjoin such activity as a material departure from the service plan must be brought within 45 days from publication of the notice.

2. The notice shall be published one time in a newspaper of general circulation in the district, and shall be provided to the district court, as well as mailed to the Commissioners on or before the date of publication of the notice.

11-400 Annual Reporting Requirements

(see C.R.S. 32-1-104(2) and 32-1-207(3)(c)-(d))

11-401 Request for Required Reports from Any Special District

A. The Commissioners may request any special district located wholly or partly within the unincorporated County to file, not more than once a year, a special district annual report.

1. The annual report shall be filed with the Commissioners, the Colorado Division of Local Government, and the State Auditor, and shall be deposited with the County Clerk and Recorder for public inspection. A copy of the report shall also be made available to any interested party as defined under Section 11-104(B)(2), above.

2. The annual report shall include but shall not be limited to information on the progress of the special district in the implementation of its service plan.

3. The Commissioners may review the annual reports in a regularly scheduled public meeting, and such review shall be included as an agenda item in the public notice for such meeting.

B. On or before January 15 of each year, each special district located in the unincorporated County shall notify the Commissioners, the County Assessor, the County Treasurer, and the County Clerk and Recorder (in addition to the other entities specified in C.R.S. 32-1-104(2)), of the name of the chair of the board, the contact person, the telephone number, and the business address of the special district. If such persons and address are not located within the special district, the special district shall notify the County Clerk and Recorder of the name, address, and telephone number of a contact person located within the special district, if such person is available.

C. If a special district fails to file an annual report or provide any information required to be submitted under this Section 11-401, within nine months of the date of the request for such report or information, the Commissioners, after notice to the affected special district, may notify any county treasurer holding moneys of the special district to prohibit release of any such moneys until the special district complies with the applicable requirement.

11-402 Required Reports for Special Districts Created on or after July 1, 1991

A. Any special district created on or after July 1, 1991, which has obtained a resolution of service plan approval from the Commissioners, shall annually file the report specified in Section 11-401(A), above, with the Commissioners. This report shall be filed for five years after the district's organization, and for succeeding annual periods if requested by the Commissioners. The annual report shall also be filed with the Colorado Division of Local Government and with the State Auditor.

B. The State Auditor shall review the annual report and report to the Colorado Division of Local Government any apparent decrease in the financial ability of the district to discharge its existing or proposed indebtedness in accordance with the service plan. In such event, the Division of Local Government shall confer with the board of the special district and with the Commissioners regarding such condition.

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Article 12

Development Plan Review for Oil and Gas Operations

Article 12 • Development Plan Review for Oil and Gas Operations

12-100 Purpose

A. Boulder County acknowledges the existence of oil and gas mineral property rights within its unincorporated areas. It is the County's objective to exercise its fundamental duty to protect public health, safety, welfare, and the environment from potential adverse impacts of oil and gas exploration and development, and to minimize potential land use conflicts between those activities and current, planned or future land uses.

B. Development plan review (DPR) is the permitting procedure for oil and gas operations. This process is in place because these operations involve industrial type activities which may occur in or near residential and rural areas. Traditional zoning would generally separate these types of uses to mitigate impacts but, because this use must occur near the resource, separation of uses is not possible and, thus, this Article has been promulgated to address this incompatibility. The purpose is to provide a framework for the exploration and production of oil and gas resources in a manner that considers current, planned or future land uses and that mitigates adverse impacts to those uses and to the public health, safety, welfare, and the environment of the County.

C. This Article is consistent with the land use authority over oil and gas operations that the Colorado legislature has provided the County and as has been defined and clarified by Colorado courts. Boulder County recognizes that certain Colorado state agencies and the federal government also have authority to regulate certain aspects of oil and gas operations. The regulations of this Article over the land use aspects of oil and gas operations are consistent with this authority. In particular, this Article is not intended to create and is not to be applied so as to cause an operational conflict with the state's exercise of its authority over oil and gas operations, which arises when the effectuation of a local interest materially impedes or destroys the state's interest in its regulation of oil and gas operations.

12-200 Authority of Article

This article is authorized by C.R.S. §§ 25-8-101 et seq., 29-20-101 et seq., 30-28-101 et seq., 34-60-101 et seq., 25-7-101 et seq., and other authority as applicable.

12-300 Effective Date; Pre-Existing Uses

A. This Article shall become effective on the date specified in the adopting resolution of the Board of County Commissioners*. The provisions of this Article shall apply to all oil and gas operations for which a complete application for development plan review has not been accepted by the County as of the effective date.

* As of the date of printing of this version of the Land Use Code (November 1, 2016), Boulder County has a moratorium in place on accepting applications for oil and gas development until November 18, 2016.

B. Boulder County acknowledges that there are oil and gas operations that were legally established prior to the effective date of this Article that do not conform to this Article. These non-conforming operations shall be allowed to continue provided the post-effective date operation remains consistent with the pre-effective date operation. A nonconforming operation shall not be extended, expanded, or altered in a manner that would otherwise be categorized a substantial modification under Section 12-1200(D) of this Article. Any substantial modification to a non-conforming use shall require a new approval under this Article.

C. The County recognizes that proposed new oil and gas operations may have received APD approval from the COGCC during the development of and prior to the effective date of this Article. For these applications, the County encourages the use of the expedited development plan review process. Accordingly, oil and gas operations with APD approval prior to the effective date of this Article that otherwise qualify for expedited development plan review may be processed as expedited development plan review applications.

12-400 General Application Procedure for Expedited DPR and Standard DPR

A. Development Plan Review Required. All oil and gas operations on public and private land within the unincorporated areas of Boulder County shall comply with this Article. Prior to the commencement of any oil and gas operations in the unincorporated County, a development plan review application must be submitted and approved in accordance with this Article. No other form of discretionary land use review under this Code is required for oil and gas operations covered by this Article 12. Development plan review approval is also required prior to the issuance of any County building permits, or associated grading, access, floodplain, or other County permits necessary for the oil and gas operation. Oil and gas operations which may not require a building or other associated County permit must still obtain development plan review approval under this Article.

B. Community Engagement. Boulder County requires Applicants to engage with local communities, residents and other stakeholders at each phase of an oil and gas operation, starting prior to exploration or development activity, in order to provide sufficient opportunity for comment on plans, operations and performance, and to listen to concerns of the community, and to address all reasonable concerns as a result of a proposed operation.

C. Expedited Development Plan Review Process. The expedited development plan review process is the County's process for Applicants who voluntarily choose to meet its objective criteria and to engage in most effective performance technologies and practices in the planning, development and operation of new or substantially modified oil and gas operations. The process identifies specific objective criteria for oil and gas operations. The expedited development plan review process is optional and, while Applicants are encouraged to use it, this Article also offers a standard development plan review process for proposed operations that cannot meet the expedited development plan review criteria or for Applicants who choose the standard development plan review process. The expedited development plan review process is an administrative process that only requires review and decision by the Director.

D. Standard Development Plan Review Process. The standard development plan review process is a regulatory process based primarily upon subjective or content specific criteria for new or substantially modified oil and gas operations. The standard development plan review process is available for Applicants who choose it, for applications that do not qualify for expedited development plan review, or for applications that the Director reclassifies from expedited development plan review to standard development plan review. Such applications shall be classified as standard development plan review applications and shall be reviewed by the County and shall require review, public hearing, and recommendation by the Planning Commission followed by review, public hearing, and decision by the Board of County Commissioners.

E. Pre-Application Conference.

1. **Timing.** A pre-application conference as defined in Article 3-201 of this Code shall be held at least thirty (30) days prior to both the Applicant applying for a COGCC APD and submitting an application for development plan review. The timing provision for the pre-application conference is intended to allow the County to concurrently carry out its regulatory procedures in harmony with those of the COGCC.
2. **Conference.** At the pre-application conference, the Director and the Applicant will discuss the points contained in Article 3-201 of this Code and review the County's development plan review process so that the Applicant can plan its proposed oil and gas operation in a manner that ensures compliance with the development plan regulations and applicable state and federal regulations. The pre-application conference also will inform the Applicant about the benefits of the expedited development plan review process. The pre-application conference also allows the Applicant and Director to explore site-specific concerns and issues that relate to the development plan review process, to discuss project impacts and potential mitigation methods, to discuss coordination of the County process with the state permitting process, and to allow the Applicant to preliminarily raise any potential operational conflict concerns. Based upon the foregoing, Applicants are encouraged to conduct the pre-application conference with the County prior to completing well siting decisions. Completion of the pre-application conference qualifies the Applicant to submit an application for a development plan review provided the application is filed within six (6) months after the pre-application conference.

3. **Site Visit.** At the discretion of the Director after consultation with the surface owner, the Director may require a site visit as part of the pre-application conference with the Applicant to evaluate well locations, compliance with this Article, or mitigation measures that may be required to adequately ensure compliance with this Article.

F. **Application Submission and Completeness Determination.** The application shall include documentation establishing that the proposed operation is in compliance with all applicable requirements of this Article. Boulder County encourages the submission of the application and supporting documentation in an electronic format. If not electronically submitted, then the Applicant shall submit three (3) copies of the proposed development plan with the completed application form to the Land Use Department. The application shall contain a certification from the Applicant that the proposed operation complies with all applicable provisions of this Article, and that the information in the application, as well as in any accompanying documentation, is true and accurate. The application shall be signed by the same person or entity who will sign the corresponding application(s) to be submitted to the COGCC. The Director shall determine whether an expedited development plan review application is complete within ten (10) days after receipt of the application or twenty (20) days if outside consultants or staff other than the Land Use Department assist the Director with the completeness determination. The Director shall determine whether a standard development plan review application is complete within twenty (20) days after receipt of the application or forty (40) days if outside consultants or staff other than the Land Use Department assist the Director with the completeness determination.

1. **Application Deemed Incomplete.** If the application is found to be incomplete, the Director shall inform the Applicant in writing of the deficiencies. No further action shall be taken on an application determined to be incomplete until the specified deficiencies have been addressed to the satisfaction of the Director. If the Applicant fails to address the deficiencies within thirty (30) days after the notice of incompleteness, the application shall be deemed withdrawn, unless the Applicant notifies the Department in writing of the need for additional time. Notwithstanding the foregoing, upon the request of the Applicant, the County will process an application that has been deemed incomplete as a standard development plan review application and the Director shall recommend denial of the standard development plan review application at any hearing before the Board of County Commissioners, unless the Applicant satisfactorily remedies the application's deficiencies.
2. **Application Deemed Complete.** If the application is found to be complete, containing all documentation required by this Article, the Director shall date the application, inform the Applicant of the finding of completeness, classify the application as expedited or standard, and then review the application for compliance with the applicable standards and requirements of this Article. The Section 12-601(B)(1)-(7) and (C) expedited DPR setbacks siting criteria shall be based upon the actual locations of occupied structures, surface water bodies, etc., as of the date the application is deemed complete.

G. **Re-Classification.** At any time prior to administrative action on an expedited development plan review application, the Director may adjust the review process classification for the application. If an application is classified standard development plan review, at any point prior to the time the Department calendars the public hearing before the Board of County Commissioners for the standard development plan review application, the Applicant may tender supplemental information and documentation and request the Director reconsider the classification decision for the application.

H. **Notice.**

1. The Applicant shall mail notice to surface owners, to surrounding landowners, and to residents as identified in this section no less than ten (10) days prior to the application being submitted to the Department. If approved by the Director, the Applicant may provide notice using alternative notice methods.
2. Notice of the application shall be made as follows:
   a. To the surface owners of the parcels of land on which the oil and gas operation is proposed to be located; and
   b. To the owners of the parcels of land within five hundred (500) feet of a proposed gathering line; and
   c. To the owners of the parcels of land within one-half mile (2,640 feet) of the parcel on which the oil and gas operation is proposed to be located; and
   d. To the physical address of all parcels within one-half mile (2,640 feet) of the parcel on which the oil and gas operation is proposed to be located if Boulder County Assessor's records indicate a mailing address for the parcel owner that is different than the physical address.

   The County Land Use Department shall provide the list of addresses of record for property owners within one-half mile (2,640 feet) of the parcel on which the oil and gas operation is proposed to be located to the Applicant at the pre-application conference so the Applicant can provide notice as required by this Section.
3. The notice shall contain the following:

a. A description of the proposed operation site location, including a legal description, as well as a street address for the site, if available from the County's rural addressing system; the identification of the Applicant for the application; the current business address, telephone number, and email address for the Applicant; a vicinity map; and a brief description and overview of the proposed operation including details of the drilling techniques (i.e., a detailed description of the type and extent of any proposed hydraulic fracturing).

b. Information concerning the facilities and equipment proposed to be located at the site when operational, and proposed access roads and gathering lines.

c. The anticipated submittal date of the application to the Department.

d. A statement that public comments on the application may be submitted to the County Land Use Department after the application submittal date.

e. A statement concerning the County's right to enter property that is the subject of the application as follows: "For the purpose of implementing and enforcing the County's development plan review for oil and gas operation regulations, County staff may from time to time need to enter onto the property that is the subject of a development plan review application."

f. A statement that the Applicant will be contacting any entities that maintain any road used for access to the proposed operation to discuss the Applicant's transportation needs and to discuss the Applicant sharing in road improvement and maintenance necessitated by the proposed oil and gas operation through an agreement between the entity and the Applicant.

g. A statement informing the recipients of the notice that they may request written notification by the Applicant of the commencement of construction and commencement of drilling operations, if the application is approved.

h. The current mailing address, website address, and telephone number for the County Land Use Department and the COGCC, as well as a statement that additional information on the application is available from the County Land Use Department.

I. **Posting Sign Onsite.** The Applicant shall post a sign on the site of the proposed operation in a location visible to the public (i.e., visible from a public road) stating that a development plan review application has been applied for and providing the phone number of the County Land Use Department where information regarding the application may be obtained. The sign shall be provided to the Applicant by the County and shall be posted within five (5) days after the application has been deemed complete.

12-500 General Application Submittal Requirements for Expedited DPR and Standard DPR

The following information must be submitted with an expedited development review plan application or a standard development review plan application:

A. **County Application Form.**

B. **Mineral Owner.** Certification of ownership of the mineral estate or of all necessary lease interests in the mineral estate.

C. **Date of APD Filing.** Anticipated or actual date of associated APD filing with the COGCC.

D. **Pre-application Conference Checklist.** Completion of form provided by the Land Use Department at the pre-application conference.

E. **Proof of Notice.** Certification of proper notice as required by Section 12-400(G).

F. **Verification of Legal Access and Use of Private Roads.** Information demonstrating that the Applicant has the right to use private access roads which are necessary for the operation and that the Applicant has entered into an agreement with the private road owner regarding maintenance, improvements necessitated by the proposed oil and gas operation, and reimbursement for damages. Recorded or historically used easements providing access to or across the parcel(s) shall be provided.

G. **Proximity of Other Wells and Other Oil and Gas Operations.** A map showing the location of all producing, closed, abandoned, and shut-in wells and other oil and gas operations within one (1) mile of the site.

H. **Site Plan and Parcel Information.** The scaled drawing required by COGCC Rule 303(c) and forms 2 and 2A may serve as the basis for the Site Plan and Parcel Information, however, the following information must be included:

1. **Well Siting.** The location of wellhead, pumping units, tanks, and treaters. Expedited development plan review applications shall also include information establishing compliance with the well siting criteria of Section 12-601(B) or 12-601(C).

2. **Dimensions of the Site.** Dimensions of the site, indicating area in square feet and acres, and the area of the site to be disturbed for permanent operations and temporary operations.

3. **Easements and Rights-of-Way.** Utility line easements and rights-of-way within 150 feet of the proposed site and access road.

4. **Improvements.** Existing improvements within 1,500 feet of the location on which the operation is proposed.
5. **Existing and Proposed Facilities.** Existing and proposed facilities such as structures, pipelines, tanks, wells, gathering lines, flow lines, staging and storage areas, equipment, temporary use area and permanent well pads.
6. **Existing and Proposed Roads.** Existing and proposed roads within the parcel and on the site as well as ingress and egress from public and private roads.
7. **Parcel and Site Features.** Parcel and site features such as floodplains, water bodies, drainage patterns, ditches, wetlands or aquatic habitat, vegetative cover, wildlife habitat and wildlife migration routes, and geologic features as defined in the Comprehensive Plan or identified onsite and within 1,500 feet of the location on which the operation is proposed.
8. **Topography.** Existing and proposed topography at five-foot intervals to portray the direction and slope of the area within 1,500 feet of the operation.

I. **Agricultural Land Mitigation Plan.** An assessment of any agricultural lands potentially impacted by the proposed operation and a plan for mitigating said impacts in compliance with Section 12-602(D) (for expedited DPR applications) or Section 12-703(A) (for standard DPR applications).

J. **Air Quality Plan.** A plan establishing compliance with the air quality provisions of either Section 12-602(A) (for expedited DPR applications) or Section 12-703(B) (for standard DPR applications).

K. **Emergency Preparedness Plan.** A plan establishing compliance with the Emergency Response provisions of either Section 12-602(B) (for expedited DPR applications) or Section 12-703(D) (for standard DPR applications).

L. **Land Disturbance Mitigation Plan.** An assessment of areas of land disturbance, an analysis of the species, character and density of existing vegetation on the site, a summary of the potential impacts to vegetation as a result of the proposed operation, and a plan, including proposed landscaping, revegetation, and other mitigation measures, demonstrating compliance with the standards of Section 12-602(E) (for expedited DPR applications) or Section 12-703(F) (for standard DPR applications).

M. **Operations Plan.** A plan describing the proposed operations including the method and schedule for drilling, completion, transporting, production and post-operation activities.

N. **Transportation Plan.** The Applicant shall submit a report establishing compliance with the transportation standards in Section 12-602(D) (for expedited DPR applications) or Section 12-703(K) (for standard DPR applications) and which contains the following information:

1. Map indicating proposed trip routes for all traffic serving the oil and gas operation during all phases of well development and operations.
2. For each segment of the proposed route in Boulder County, the types, sizes, weight, number of axles, volumes, and frequencies (daily, weekly, total) and timing (times of day) of all vehicles to be used for the proposed oil and gas operation must be indicated.
3. Operational measures to minimize impacts to the public including, but not limited to, time of day, time of week, vehicle fuel and emissions reduction technology, noise minimization, and traffic control safety measures.
4. Maintenance practices on the proposed route during pad construction, drilling, and completion activities, including without limitation, grading of unpaved roads, dust suppression, vehicle cleaning necessary to minimize re-entrained dust from adjacent roads, snow and ice management, sweeping of paved roads/shoulders, pothole patching, repaving, crack sealing, and chip sealing necessary to maintain an adequate surface of paved roads along the proposed route.
5. Any physical infrastructure improvements the Applicant believes may be necessitated by the proposed oil and gas operation to ensure public safety for all modes of travel along travel routes to and from the site.

O. **Water Quality Plan.** A plan establishing compliance with the water quality provisions of either Section 12-602(C) (for expedited development plan review applications) or Section 12-703(L) (for standard development plan review applications).

12-600 Expedited Development Plan Review

12-601 Expedited DPR Process

A. **Administrative Action.** An application that qualifies for the expedited development plan review process shall be reviewed and acted upon by the Director.

B. **Eligibility for Expedited Development Plan Review For New Well Pads.** A proposed operation to be located on a new well pad will qualify for the administrative expedited development plan review process based upon a determination by the Director that it meets the following siting criteria:

1. The wellhead, pumping units, tanks, and treaters are each at least 1000 feet from any occupied structure.
2. The wellhead, pumping units, tanks, and treaters are each at least 500 feet from any surface water body including, but not limited to, ditches and reservoirs as identified and mapped on the County's Ditch and Reservoir Directory.
3. The wellhead, pumping units, tanks, and treaters are each at least 500 feet from any domestic or commercial water wells or irrigation wells.
4. The wellhead, pumping units, tanks, and treaters are not located within a platted subdivision or a mapped townsite, except outlots in Non-Urban Planned Unit Developments ("NUPUDS").
5. The wellhead, pumping units, tanks, and treaters are not located within a high hazard geologic area as defined in the Comprehensive Plan.
6. The wellhead, pumping units, tanks, and treaters are not located within a floodway as defined in Article 4-400.
7. The wellhead, pumping units, tanks, and treaters are not located within mapped significant natural communities, natural landmarks and natural areas, rare plant areas, significant riparian corridors, or critical wildlife habitat as each is defined in the Comprehensive Plan, in effect as of the effective date of this Article.

C. **Eligibility for Expedited Development Plan Review For Existing Well Pads.** A proposed operation to be located on an existing well pad will qualify for the administrative expedited development plan review process based upon a determination by the Director that it meets the following siting criteria:

1. The wellhead, pumping units, tanks, and treaters are each at least 500 feet from any occupied structure. The wellhead and all new equipment shall be located the furthest away from all occupied structures.
2. The wellhead, pumping units, tanks, and treaters are each at least 300 feet from any surface water body including, but not limited to, ditches and reservoirs as identified and mapped on the County's Ditch and Reservoir Directory.
3. The wellhead, pumping units, tanks, and treaters are each at least 500 feet from any domestic or commercial water wells or irrigation wells.
4. The wellhead, pumping units, tanks, and treaters are not located within a platted subdivision or a mapped townsite, except outlots in NUPUDs.
5. The wellhead, pumping units, tanks, and treaters are not located within a floodway as defined in Article 4-400.

D. **Referral by Director.**

1. Following determination that an application for expedited development plan review is complete, the Director shall promptly forward one copy to: the County Transportation, and Parks and Open Space Departments; Boulder County Public Health; the appropriate fire district or County Sheriff; and any appropriate municipality for comment. The Director may also refer the application to other government agencies or entities for review and comment. Referral comments on the proposed development plan shall be returned to the Director within fifteen (15) days from the date of transmittal of the referral.
2. The Director shall notify the properties as identified in 12-400(G)(2) of the receipt of the complete application. The notice shall also identify the classification of the application. The notice shall indicate that a complete development plan review application has been received, include the phone number of the Land Use Department where information regarding the application may be obtained, and include a link to the County website for access to the complete application.

E. **Consultant Review.** When reasonable and necessary, the Director may submit the application for review and recommendation by consultants retained by the County with the necessary expertise to review technical or other aspects of the application. The Applicant shall be notified if the Director decides to retain a consultant, shall be given the opportunity to provide input concerning consultant selection and scope of work, and shall escrow funds sufficient to cover the anticipated costs of the consultant's review. The Applicant shall be responsible for the actual costs associated with this consultant review and shall be refunded any excess escrowed funds.

F. Review by Director.

1. The Director shall administratively review and make a determination within forty-five (45) days after the application is deemed complete. The Applicant shall have the ability to extend the foregoing time period. The Director may extend the foregoing time period if the Applicant requests an operational conflict waiver hearing pursuant to Section 12-900(B). Failure to make a determination on the application within this time period shall result in the application being approved subject to the general oil and gas facility operation requirements and standard conditions of approval contained within this Article at Section 12-800.
2. As part of the review, the Director may conduct a site visit. Following review of the completed application within the time period in Section 12-601(F)(1), the Director may approve, approve with conditions necessary to ensure compliance with this Article, or deny the application based upon non-compliance with the expedited development plan review standards at Section 12-602. The Director shall provide its determination to the Applicant in writing. The Land Use Department shall also provide public notice of the Director's decision by posting the Director's determination on the Boulder County website. If denied, the Applicant may request the application be re-classified pursuant to the provisions of Section 12-603.
3. After approval of a development plan review application, the Applicant shall comply with the provisions of Section 12-1200(B), Effect of the Approved Development Plan.

12-602 Expedited DPR Approval Standards

All expedited development plan review applications shall be reviewed in accordance with the following standards which the Director has determined to be applicable based on the nature and extent of the proposed development. The Director shall approve expedited DPR applications for oil and gas facilities that demonstrate compliance with the following.

A. Air Quality Standards. Air emissions from wells shall be in compliance with the permit and control provisions of the Colorado Air Quality Control Program, Title 25, Section 7, C.R.S., and the fugitive dust regulations administered by Boulder County Public Health. In addition, proposed oil and gas operations shall implement an air quality mitigation plan which establishes compliance with the following mitigation measures of this Section.

1. **General Duty to Minimize VOC Emissions.** All continuously operated equipment, including but not limited to, storage vessels, tanks, separators, pneumatic pumps, dehydrators, and compressors, shall route natural gas and VOC vapors to a capture or control device with at least a 98% VOC destruction efficiency, to the maximum extent practicable. The Applicant shall submit to the County manufacture test or other data demonstrating a 98% VOC destruction or control efficiency.
   - **a.** Any flare, auto ignition system, recorder, vapor recovery device or other equipment used to meet the 98% VOC destruction or control efficiency requirement shall be installed, calibrated, operated, and maintained in accordance with the manufacturer's recommendations, instructions, and operating manuals.
2. **Flares and Combustion Devices.** All flares shall be designed and operated as follows:
   - **a.** The flare shall be fired with natural gas.
   - **b.** The flare shall be designed and operated in a manner that will ensure no visible emissions except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.
   - **c.** The flare shall be operated with a flame present at all times when emissions may be vented to it).
   - **d.** An automatic flame ignition system shall be installed.
   - **e.** If using a pilot flame ignition system, the presence of a pilot flame shall be monitored using a thermocouple or other equivalent device to detect the presence of a flame. A pilot flame shall be maintained at all times in the flare's pilot light burner. If the pilot flame goes out and does not relight, then if no telemetry alarm system is in place a visible alarm shall be in place on-site and activated.
   - **f.** If using an electric arc ignition system, the arcing of the electric arc ignition system shall pulse continually and a device shall be installed and used to continuously monitor the electric arc ignition system.
3. **Fugitive Emissions.** The Applicant will develop and maintain a leak detection and component repair program, such as a leak detection and repair program, using most effective performance technologies and practices for equipment used on the well site for permanent operations.
4. **Use of Closed Loop Pitless Systems for the Containment and/or Recycling of Drilling and Completion Fluids.** Wells will be drilled, completed and operated using closed loop pitless systems for containment and/or recycling of all drilling, completion, flowback and produced fluids.
5. **Green Completions**. For each well completion operation with hydraulic fracturing, the Applicant must control emissions by the operational procedures set forth below.
   - **a.** For the duration of flowback, route the recovered liquids into one or more storage vessels or re-inject the recovered liquids into the well or another well, and route the recovered gas into a gas flow line or collection system, re-inject the recovered gas into the well or another well, use the recovered gas as an on-site fuel source, or use the recovered gas for another useful purpose that a purchased fuel or raw material would serve, with no direct release to the atmosphere.

b. If compliance with the prior paragraph is infeasible, the Applicant must capture and direct flowback emissions to a completion combustion device equipped with a reliable continuous ignition source over the duration of flowback, except in conditions that may result in a fire hazard or explosion, or where high heat emissions from a completion combustion device may negatively impact waterways or nearby structures. Non-flammable gas may be vented temporarily until flammable gas is encountered where capture or combustion is not feasible.

c. The oil and gas operation must maximize resource recovery and minimize releases to the atmosphere during flowback and subsequent recovery / operation.

d. For wildcat or delineation wells in a location without a pipeline, each well completion operation with hydraulic fracturing at a well must reduce emissions by using a completion combustion device equipped with a reliable continuous ignition source over the duration of flowback.

e. The Applicant must maintain a log for each well completion operation at each gas wellhead affected facility. The log must be completed on a daily basis and must contain the records specified in 40 C.F.R. § 60.5420(c)(1)(iii).

f. The Applicant of a well must notify the Land Use Department at least 2 days prior to the commencement of completion. The notification shall include contact information for the Applicant; the American Petroleum Institute (API) well number, the latitude and longitude coordinates for each well in decimal degrees to an accuracy and precision of five (5) decimals of a degree using the North American Datum of 1983; and the planned date of the beginning of drilling and completion / flowback. The notice may be submitted in writing or in electronic format.

6. Capture of Produced Gas from Wells. Gas produced during production shall be captured and not flared or vented to the maximum extent practicable.

7. Pneumatic controllers. The Applicant shall use only no bleed pneumatic controllers, where such controllers are available for the proposed application.

8. Maintenance During Well Blowdowns. The operational plan shall require technologies or practices which minimize or eliminate natural gas emissions during well maintenance or blowdowns.

9. Maintenance of Gathering Lines and Pipelines. The operational plan shall require technologies or practices which minimize or eliminate emissions or spills during maintenance of pipelines.

10. Certification. The Applicant must submit annual reports to the Director certifying compliance with these air quality requirements and documenting any periods of non-compliance, including the date and duration of each deviation and a compliance plan and schedule to achieve compliance. The reports must contain a certification as to the truth, accuracy and completeness of the reports.

B. Emergency Response Standards.

1. In General. Oil and gas operations shall not cause unreasonable risks of emergency situations such as explosions, fires, gas, oil or water pipeline leaks, ruptures, hydrogen sulfide or other toxic gas or fluid emissions, and hazardous material vehicle accidents or spills.

2. Emergency Preparedness Plan. Each Applicant with an operation in the County is required to implement an emergency preparedness plan for each specific operation site. The plan shall be referred to and approved by the Boulder County Sheriff, the Office of Emergency Management, and the applicable fire district and filed with the County and updated on an annual basis or as conditions change (responsible field personnel change, ownership changes, etc.). The emergency preparedness plan shall consist of at least the following information:

a. Name, address and phone number, including 24-hour emergency numbers for at least two persons located in or near Boulder County who are responsible for emergency field operations.

b. An as-built facilities map in a format suitable for input into the County's GIS system depicting the locations and type of above and below ground facilities including sizes, and depths below grade of all oil and gas gathering and transmission lines and associated equipment, isolation valves, surface operations and their functions, as well as transportation routes to and from exploration and development sites, for emergency response and management purposes. The information concerning pipelines and isolation valves shall be held confidentially by the County's Office of Emergency Management, and shall only be disclosed in the event of an emergency. The County shall deny the right of inspection of the as-built facilities maps to the public pursuant to C.R.S. § 24-72-204.

c. Detailed information addressing each potential emergency that may be associated with the operation. This may include any or all of the following: explosions, fires, gas, oil or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills. For each potential emergency, threshold / trigger levels shall be pre-identified that govern when an emergency state is declared by the Applicant.

d. The plan shall include a provision that any spill outside of the containment area or which has the potential to leave the facility or to threaten a water body shall be reported to the emergency dispatch and the Director immediately.

e. Detailed information identifying access or evacuation routes, and health care facilities anticipated to be used.

f. Project specific emergency preparedness plans are required for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas.

g. The plan shall include a provision that obligates the Applicant to reimburse the appropriate emergency response service providers for costs incurred in connection with any emergency.

h. Detailed information that the Applicant has adequate personnel, supplies, and funding to implement the emergency reponse plan immediately at all times during construction and operations.

i. The plan shall include provisions that obligate the Applicant to keep onsite and make immediately available to any emergency responders the identification and corresponding Material Safety Data Sheets (MSDS) of all products used, stored or transported to the site. The MSDS sheets shall be provided immediately upon request to the Director, a public safety officer, or a health professional. In cases of spills or other emergency events, the plan shall include provisions establishing a notification process to emergency responders of potential products they may encounter, including the products used in the hydraulic fracturing fluids.

j. The plan shall include a provision establishing a process by which the Applicant engages with the surrounding neighbors to educate them on the risks and benefits of the on-site operations and to establish a process for surrounding neighbors to communicate with the Applicant.

C. Water Quality Monitoring and Well Testing. Proposed oil and gas operations shall implement a water quality monitoring and well testing plan which establishes compliance with the criteria of this Section.

1. Abandoned Oil and Gas Well Assessment. Assessment and monitoring of plugged and abandoned and dry and abandoned oil and gas wells (abandoned wells) within one-quarter (¼) mile of the projected track of the borehole of a proposed well is required.

a. Based upon examination of COGCC and other publicly available records, Applicants shall identify all abandoned wells located within one-quarter (¼) mile of the projected track of the borehole of a proposed well. The Applicant shall assess the risk of leaking gas or water to the ground surface or into subsurface water resources, taking into account plugging and cementing procedures described in any recompletion or plugged and abandoned (P&A) report filed with the COGCC. The Applicant shall notify the Director and COGCC of the results of the assessment of the plugging and cementing procedures.

b. The Applicant shall contact each surface owner who has an abandoned well on their property to seek permission to access the property in order to test the abandoned well. If a surface owner has not provided permission to access after thirty (30) days notice from the Applicant, then the Applicant shall not be required to test the abandoned well. For each abandoned well for which access is granted, the Applicant shall conduct a soil gas survey of the abandoned well prior to production from the proposed well and again one (1) year and thereafter every three (3) years after production has commenced. Applicants shall submit the results of the soil gas survey to the Director and the COGCC within three (3) months of conducting the survey or advise the Director that access to the abandoned wells could not be obtained from the surface owner.

2. Water Well Sampling. Based upon records of the Colorado Division of Water Resources, the Applicant will identify and offer to sample all water wells located within one- quarter (¼) mile of the projected track of the borehole of a proposed well as follows. The Applicant shall sample wells on either side of the borehole track and in different aquifers, where applicable. For each water well it offers to sample, the Applicant shall provide each respective surface owner with at least thirty (30) days notice and opportunity to respond to said notice to provide the Applicant permission to sample the water well. Each such test shall occur prior to setting of the conductor casing at the site. The water well testing described in this Section shall include testing for the analytes listed in Table 1.

Field observations such as damaged or unsanitary well conditions, adjacent potential pollution sources, odor, water color, sediment, bubbles, and effervescence shall also be included. The location of the water well shall be surveyed using a GPS with sub-meter resolution.

a. If free gas or a dissolved methane concentration level greater than one (1) milligrams per liter (mg/l) is detected in a water well, gas compositional analysis and stable isotope analysis of the methane (carbon, oxygen, and hydrogen) shall be performed to determine gas type. If the test results indicate biogenic gas, no further isotopic testing shall be done. If the test results indicate thermogenic or a mixture of thermogenic and biogenic gas, then the Applicant shall submit to the Director and COGCC an action plan to determine the source of the gas. If the methane concentration increases by more than five (5) mg/l between sampling periods, or increases to more than ten (10) mg/l, the Applicant shall notify the Director, the COGCC and the owner of the water well immediately.

b. If BTEX and/or TPH are detected as a result of testing the Applicant will notify the Director, the COGCC and the owner of the water well immediately.

c. Applicants shall use reasonable good faith efforts to conduct initial baseline testing of the identified water wells prior to the setting of the conductor casing at the site; however, not conducting baseline testing because access to water wells cannot be obtained shall not be grounds for denial of an application. Within one (1) year after completion of the proposed well, "post-completion" tests shall be performed for the same analytical parameters listed above and repeated three (3) and six (6) years after the completion of the well. If no significant changes from the baseline have been identified after the third test (i.e., the six-year test), no further testing shall be required, although, a final well test shall be conducted at time of final reclamation of oil and gas location. Additional "post-completion" test(s) may be required if changes in water quality are identified during follow-up testing. The Director may require further water well sampling at any time in response to complaints from water well owners.

d. Copies of all test results described above shall be provided to the Director, the COGCC and the water well owner within three (3) months after collecting the samples. The analytical data and surveyed well locations shall also be submitted to the Director and COGCC in an electronic data deliverable format.

3. **Qualified Independent Professional Consultant.** All abandoned well assessments and water well testing required herein shall be conducted either in-house by the Applicant or, if requested by a surface owner, by a qualified independent professional consultant or engineer approved by the Director.

4. **Non-Liability.** This section shall not be interpreted to create, impute to or limit the liability of Applicants for changes in the constituents and concentrations in samples from water sources collected and tested pursuant to this section. The admissibility and probity of the results of tests conducted pursuant to this section in an administrative or legal proceeding shall be subject to existing administrative rules and rules of evidence.

D. Transportation, Roads, Access Standards, and Fees.

1. The Applicant's Transportation Plan must be designed and implemented in its entirety to ensure public safety for all modes of travel along travel routes to and from the site and maintain quality of life for other users of the county transportation system, adjacent residents, and affected property owners.

2. The Transportation Department may require the Applicant use a particular route for some or all of the pad construction, drilling, and completion phases of the oil and gas operation.

3. Operational measures included in the Applicant's transportation plan shall be designed to minimize impacts to the public.

4. Maintenance practices on the proposed route during pad construction, drilling, and completion activities must be designed and implemented to adequately minimize impacts of the oil and gas operation by: ensuring public safety for all modes of travel; maintaining quality of life for other users of the county transportation system, adjacent residents, and affected property owners; minimizing impacts on air quality; and protecting the integrity of county transportation infrastructure.

5. Unless traffic safety, visual or noise concerns, or other adverse surface impacts clearly dictate otherwise, existing private roads on or near the site of the proposed oil and gas operation shall be used in order to minimize land disturbance.

6. Access roads on the site and access points to public roads shall be built and maintained in accordance with the engineering specifications and access road standards defined in the Boulder County Multimodal Transportation Standards. With the exception of Article 4 concerning transportation system impact analysis, all of the Boulder County Multimodal Transportation Standards apply to oil and gas development unless the Transportation Director determines a particular section is inapplicable to oil and gas based on the particular facts and circumstances.

7. Prior to issuance of a Development Plan Review Construction Permit, the Transportation Department shall ensure that:

(i) All applicable permits shall be obtained including without limitation:

(1) access permits

(2) oversize/overweight permits

(3) right of way construction permits

(ii) All applicable fees have been paid including without limitation:

(1) access permit, oversize/overweight permit, and right of way construction permit fees

(2) any impact fees adopted by the Board of County Commissioners via separate resolution intended to mitigate the cumulative impacts of oil and gas truck traffic on the county transportation system.

(iii) The Applicant has updated its Transportation Plan in accordance with any conditions of approval placed on the DPR approval.

8. Oil and gas operations must minimize impacts to the physical infrastructure of the county transportation system. In some cases, the addition of or improvements to physical infrastructure may be necessitated by the proposed oil and gas operation. Taking into account the information submitted by the Applicant under 12-500.N.5, the County Transportation Department will make the final determination of the necessary transportation system infrastructure improvements and associated costs. Any such physical infrastructure improvements required by the County Transportation Department must be (a) necessary to ensure public safety for all modes of travel along travel routes to and from the site; (b) directly attributable to the proposed oil and gas operation; and (c) based upon application of the standards defined in the Boulder County Multimodal Transportation Standards. Any costs to improve county transportation system infrastructure necessitated by the proposed oil and gas operation shall be the responsibility of the Applicant. The County shall perform the work or arrange for it to be performed at the Applicant's expense prior to commencement of the applicable phase of oil and gas operations. No Applicant shall be required to provide any site specific dedication or improvement to meet the same need for capital facilities for which an impact fee or other similar development charge is imposed.
9. The Applicant may request the Director place a DPR application on hold in order to discuss alternate routes, alternate approaches to impact mitigation, or provide additional information to the Transportation Department. The Applicant may also request the Director reclassify an Expedited DPR application as a Standard DPR application in accordance with 12-400.F.
10. Should an Applicant's oil and gas operations result in any damage to the county transportation system that requires immediate repair to ensure public safety, the Applicant must immediately report such damage to the Transportation Department. Necessary repairs and associated costs shall be determined by the Transportation Department, and such repair costs shall be the responsibility of the Applicant. The County shall perform the work or arrange for it to be performed as soon as possible. By way of example only, repairs might include replacing signage or traffic control devices damaged by a large truck attempting to navigate a tight corner, replacing failing culverts, sweeping tracked mud from the road, or fixing potholes.

E. **Agricultural Land Mitigation.** Oil and gas operations are to be located primarily based upon the eligibility criteria of Section 12-601(B) and (C). Where possible, oil and gas operations shall also be located and conducted so as to use only as much of the surface as is reasonably necessary for the operation of the facility and to avoid the unreasonable loss of agricultural land, including farm or ranch land, or any other vegetated land.

F. **Land Disturbance Standards.** The following mitigation measures shall be used to achieve compatibility and reduce land use impacts:
1. Pad dimensions of a minimum size necessary to accommodate operational needs while minimizing surface disturbance.
2. Structures and surface equipment of the minimal size necessary to satisfy present and future operational needs.
3. Oil and gas operations located in a manner to achieve compatibility with the natural topography and existing vegetation.
4. Oil and gas operations located in a manner so that there is no unnecessary or excessive site disturbance and that minimizes the amount of cut and fill.
5. Oil and gas operations located in a manner that minimizes disturbance to wetlands.

G. General Oil and Gas Facility Operational Requirements. The general oil and gas facility operational requirements set forth at Section 12-800 shall apply to each approved development plan in the form of conditions of approval.

H. Pipelines. Any newly constructed or substantially modified pipelines on site must meet the Additional Provisions listed at Article 4-514(E)(5)(a) – (f). Note: Any newly constructed or substantially modified pipelines off site may, at discretion of the Director, need to comply with all of Article 4-514(E).

12-603 Reclassification of Expedited DPR Application to Standard DPR Application Following Administrative Denial or Conditional Approval

Should the Director deny administrative approval or conditionally approve the application in a manner unacceptable to the Applicant, upon written request of the Applicant the Director shall reclassify the application as a standard development plan. The Applicant must pay the additional fees associated with a standard application and file the additional application submittal requirements necessary for standard development plan review with the County. If the Applicant fails to pay the additional fees and file the additional application submittal requirements with the County within ninety (90) days after the Director's determination, the application shall be deemed withdrawn. The Applicant has no right of judicial review of a denied or conditionally approved expedited development plan review and must exhaust the administrative remedy of processing the proposed operation through the standard development plan review process as a condition precedent to judicial review pursuant to Section 12-1100.

Table 1. Water Quality Analytes

General water quality	Alkalinity Conductivity & TDS pH Dissolved Organic Carbon (or Total Organic Carbon) Bacteria Hydrogen Sulphide
Major ions	Calcium Chloride Fluoride Magnesium Potassium Sodium Sulfate Nitrate + Nitrite (total)
Metals	Arsenic Barium Boron Chromium Copper Iron Lead Manganese Selenium Strontium
Volatile organic compounds	Methane BTEX compounds (Benzene, Toluene, Ethylbenzene, Xylene) Total Petroleum Hydrocarbons (TPH)
Other	Water Level Stable isotopes of water (Oxygen, HydrogenCarbon).

12-700 Standard Development Plan Review

12-701 Additional Standard DPR Application Requirements

A standard development plan review application shall contain all the general application requirements for the development plan review application at Section 12-500 plus the following assessment and mitigation plans. The assessment and mitigation plans shall be developed based upon the standards in Section 12-703 below and by reference to the Boulder County Comprehensive Plan.

A. **Cultural and Historic Resources Mitigation Plan.** A cultural, historical and archeological survey of the parcel or parcels to be used for the proposed oil and gas operation which demonstrates compliance with the standards of Section 12-703(C).

B. **Geologic Hazard Area Mitigation Plan.** A geologic hazard mitigation plan identifying hazard types and areas on the parcels demonstrating compliance with the standards of Section 12-703(E).

C. **Natural Resources Mitigation Plan.** Information demonstrating compliance with Section 12-703(G).

D. **Recreational Activity Mitigation Plan.** Information establishing any potential impacts to recreational activities by the proposed oil and gas operation and a plan demonstrating compliance with the standards of Section 12-703(H).

E. **Scenic Attributes and Rural Character Mitigation Plan.** An assessment of scenic attributes and rural character potentially impacted by the proposed oil and gas operation and a plan for mitigating said impacts in compliance with Section 12-703(I).

F. **Surrounding Land Uses Mitigation Plan.** Information establishing surrounding land uses to the proposed oil and gas operation, an assessment of any potential impacts to the adjacent and near land uses, and a plan mitigating said impacts in compliance with Section 12-703(J) herein.

G. **Water Quality Plan.** A plan establishing compliance with the water quality provisions of Section 12-703(L). The plan may include details such as the Applicant's plans for water quality testing, prevention of illicit or inadvertent discharges, stormwater discharge management, containment of pollutants, and spill notification as required by federal and state agencies. The provisions of Article 12-602(C) may also be considered and used in the implementation of the plan.

H. **Wetlands Protection Plan.** Information demonstrating compliance with the standards of Section 12-703(M).

12-702 Standard DPR Process

Upon determination that an application is a standard permit review process and that the application is complete, the Director shall begin review of the application for compliance with this Article.

A. **Applicant Neighborhood Meeting.** The Applicant will be required to conduct a neighborhood meeting at a convenient public location with adjacent and surrounding land owners and other interested parties. The meeting must occur no earlier than 30 days in advance of an application being filed and must be held prior to the scheduling of the Board of County Commissioners' public hearing. The neighborhood meeting shall be noticed to the County and to all individuals entitled to notice pursuant to Section 12-400(G)(2) at least ten days prior to the meeting. At the neighborhood meeting, the Applicant shall provide an overview of its proposed oil and gas operation and allow those in attendance to provide input as to the proposed operation, including, but not limited to, well siting and well locations, issues that arise from application of this Article to the proposed operation, and suggested mitigation to adequately ensure compliance with this Article. A summary of the neighbor comments and any agreed upon mitigation measures shall be provided with the application.

B. **Referral Agency Comments.** Following determination that an application is complete, the Director shall promptly forward one copy to the County Transportation and Parks and Open Space Departments; Boulder County Public Health; the appropriate fire district or County Sheriff; and any appropriate municipality for comment. The Director may also refer the application to other government agencies or entities for review and comment. Referral comments on the proposed development shall be returned to the Director no later than thirty-five (35) days after the date of application.

C. **Consultant Review.** Where reasonable and necessary, the Director may submit the application for review and recommendation by consultants retained by the County with the necessary expertise to review technical or other aspects of the application. The Applicant shall be notified if the Director decides to retain a consultant, shall be given the opportunity to provide input concerning consultant selection and scope of work, and shall escrow funds sufficient to cover the anticipated costs of the consultant's review. The Applicant shall be responsible for the actual costs associated with this consultant review and shall be refunded any excess escrowed funds.

D. **Site Visit.** The Department will conduct a site visit for standard development plan applications to allow the Director to determine compliance with these standards. When possible this site visit will be coordinated with site visits required by other governmental agencies.

E. **Planning Commission Notice and Hearing.** Not less than fourteen (14) days prior to the Planning Commissioner's public hearing on the standard permit review, a legal notice of the public hearing shall be published in a newspaper of general circulation within the County, and written notice to the surface owner and adjacent property owners of the time and place of the Planning Commission's public hearing shall be provided pursuant to Section 12-400(G) herein. The Planning Commission shall hold a public hearing on the application and shall make a recommendation of approval, approval with conditions necessary to ensure compliance with this Article, or denial, which recommendation shall be forwarded to the Board of County Commissioners.

F. **Notice of Board of County Commissioner's Hearing.** Not less than fourteen (14) days prior to the Board of County Commissioner's public hearing on the standard permit review, a legal notice of the public hearing shall be published in a newspaper of general circulation within the County, and written notice to the surface owner and adjacent property owners of the time and place of the Board's public hearing shall be provided pursuant to Section 12-400(G) herein.

G. **Decision by Board of Commissioners.** The Board of Commissioners shall conduct a noticed public hearing(s) for review of a standard development plan review application. Any action taken by the Board of County Commissioners will be based on the entire record of proceedings on the matter, as that record is maintained by the Land Use Department Director and/or the Clerk of the Board of County Commissioners, including but not limited to: tape recordings or true transcripts of public hearings where the proposal was discussed; all written comments of referral agencies; the review and recommendations of the Land Use Department; and all written commitments, statements, or evidence made or submitted by or in behalf of the Applicants, landowners or interest holders or their agents, and interested members of the public. The Applicant shall have the burden of proof to show that the applicable criteria for approval have been met. On the basis of the evidence received at such public hearing(s), the Board shall make its determination to approve, approve with conditions necessary to ensure compliance with this Article, or deny the application. The Board's action shall contain appropriate findings or reasons in support of its decision. The Board shall render its decision on the proposed development plan in writing as soon as practical following conclusion of the public hearing.

12-703 Standard DPR Approval Standards

All standard development plan review applications shall be reviewed in accordance with the following standards which the Board, based upon advice of the Director, has determined to be applicable based on the nature and extent of the proposed development. When two or more of the standards listed below conflict, the Board, based upon advice of the Director, shall evaluate the applicability and importance of each of the conflicting standards under the facts of the specific application and make a reasonable attempt to balance the conflicting standards in reaching a development plan decision. The Board's decision on a standard development plan review application for an oil and gas operation will be based upon its compliance with all development plan standards as determined to be applicable.

A. Agricultural Land Standards

1. **Loss of Agricultural Land.** Oil and gas operations shall be located and conducted so as to use only as much of the surface as is reasonably necessary for the operation of the facility and to avoid the unreasonable loss of agricultural land, including farm or ranch land, or any other vegetated land.
2. **Impact on Agricultural Operations.** Oil and gas operations shall be located and conducted in a manner to minimize the impact to agricultural operations.
3. **Impact on Grazing.** Oil and gas operations shall be located and conducted in a manner so as to not cause significant impact to livestock, grazing permits or leases, or grazing permittees or lessees.

B. Air Quality Standards. The installation and operation of any oil and gas operation shall not cause significant degradation to air quality. Air emissions from the wells shall be in compliance with the permit and control provisions of the Colorado Air Quality Control Program, Title 25, Section 7, C.R.S., and the fugitive dust regulations administered by Boulder County Public Health.

1. **General Duty to Minimize VOC Emissions.** All continuously operated equipment, including but not limited to, storage vessels and tanks, separators, pneumatic pumps, dehydrators, and compressors, shall route natural gas and VOC vapors to a capture or control device with at least a 98% VOC destruction efficiency, to the maximum extent practicable. Applicants shall submit to the County manufacture test or other data demonstrating a 98% VOC destruction or control efficiency.
   - **a.** Any flare, auto ignition system, recorder, vapor recovery device or other equipment used to meet the 98% VOC destruction or control efficiency requirement shall be installed, calibrated, operated, and maintained in accordance with the manufacturer's recommendations, instructions, and operating manuals.
2. **Flares and Combustion Devices.** All flares shall be designed and operated as follows:
   - **a.** The flare shall be fired with natural gas.
   - **b.** The flare shall be designed and operated in a manner that will ensure no visible emissions except for periods not to exceed a total of 5 minutes during any 2 consecutive hours.
   - **c.** The flare shall be operated with a flame present at all times when emissions may be vented to it.
   - **d.** An automatic flame ignition system shall be installed.
   - **e.** If using a pilot flame ignition system, the presence of a pilot flame shall be monitored using a thermocouple or other equivalent device to detect the presence of a flame. A pilot flame shall be maintained at all times in the flare's pilot light burner. If the pilot flame goes out and does not relight, then if no telemetry system is in place a visible alarm shall be in place on-site and activated.
   - **f.** If using an electric arc ignition system, the arcing of the electric arc ignition system shall pulse continually and a device shall be installed and used to continuously monitor the electric arc ignition system.
3. **Fugitive Emissions.** The Applicant will develop and maintain a leak detection and component repair program, such as a leak detection and repair program, using most effective performance technologies and practices for equipment used on the well site for permanent operations.
4. **Certification.** An authorized representative for the Applicant must submit annual reports to the Director certifying compliance with these air quality requirements and documenting any periods of non-compliance, including the date and duration of each deviation and a compliance plan and schedule to achieve compliance. The reports must contain a certification as to the truth, accuracy and completeness of the reports.

C. Cultural and Historic Resources Standards. Oil and gas operations shall not cause significant degradation of cultural or historic or archaeological resources, sites eligible for County landmarking, or the National Historic Register.

D. Emergency Response Standards.

1. **In General.** Oil and gas operations shall not cause unreasonable risks of emergency situations such as explosions, fires, gas, oil or water pipeline leaks, ruptures, hydrogen sulfide or other toxic gas or fluid emissions, and hazardous material vehicle accidents or spills.
2. **Emergency Preparedness Plan.** Each Applicant with an operation in the County is required to implement an emergency preparedness plan for each specific operation site. The plan shall be referred to and approved by the Boulder County Sheriff, the Office of Emergency Management, and the applicable fire district and filed with the County and updated on an annual basis or as conditions change (responsible field personnel change, ownership changes, etc.). The emergency preparedness plan shall consist of at least the following information:

a. Name, address and phone number, including 24-hour emergency numbers for at least two persons located in or near Boulder County who are responsible for emergency field operations.

b. An as-built facilities map in a format suitable for input into the County's GIS system depicting the locations and type of above and below ground facilities including sizes, and depths below grade of all oil and gas gathering and transmission lines and associated equipment, isolation valves, surface operations and their functions, as well as transportation routes to and from exploration and development sites, for emergency response and management purposes. The information concerning pipelines and isolation valves shall be held confidentially by the County's Office of Emergency Management, and shall only be disclosed in the event of an emergency. The County shall deny the right of inspection of the as-built facilities maps to the public pursuant to C.R.S. § 24-72-204.

c. Detailed information addressing each potential emergency that may be associated with the operation. This may include any or all of the following: explosions, fires, gas, oil or water pipeline leaks or ruptures, hydrogen sulfide or other toxic gas emissions, or hazardous material vehicle accidents or spills. For each potential emergency, threshold / trigger levels shall be pre-identified that govern when an emergency state is declared by the Applicant.

d. The plan shall include a provision that any spill outside of the containment area or which has the potential to leave the facility or to threaten a water body shall be reported to the emergency dispatch and the Director immediately.

e. Detailed information identifying access or evacuation routes, and health care facilities anticipated to be used.

f. Project specific emergency preparedness plans are required for any project that involves drilling or penetrating through known zones of hydrogen sulfide gas.

g. The plan shall include a provision that obligates the Applicant to reimburse the appropriate emergency response service providers for costs incurred in connection with any emergency.

h. Detailed information that the Applicant has adequate personnel, supplies, and funding to implement the emergency response plan immediately at all times during construction and operations.

i. The plan shall include provisions that obligate the Applicant to keep onsite and make immediately available to any emergency responders the identification and corresponding Material Safety Data Sheets (MSDS) of all products used, stored or transported to the site. The MSDS sheets shall be provided immediately upon request to the Director, a public safety officer, or a health professional. In cases of spills or other emergency events, the plan shall include provisions establishing a notification process to emergency responders of potential products they may encounter, including the products used in the hydraulic fracturing fluids.

j. The plan shall include a provision establishing a process by which the Applicant engages with the surrounding neighbors to educate them on the risks and benefits of the on-site operations and to establish a process for surrounding neighbors to communicate with the Applicant.

E. Geologic Hazard Area. To the maximum extent practicable, oil and gas operations shall not be located in geologic hazard areas as mapped in the Comprehensive Plan. If an operation is located within a geologic hazard area, the Applicant shall take all reasonable actions to mitigate impacts to the geologic hazard area.

F. Land Disturbance Standards. The installation and operation of any oil and gas operation shall not cause significant degradation to the surface of the property to be used for the oil and gas operation. To the maximum extent practicable, the following mitigation measures shall be used to achieve compatibility and reduce land use impacts:

1. Pad dimensions of a minimum size necessary to accommodate operational needs while minimizing surface disturbance.

2. Structures and surface equipment of the minimal size necessary to satisfy present and future operational needs.

3. Oil and gas operations located in a manner to achieve compatibility with the natural topography and existing vegetation.

4. Oil and gas operations located in a manner so that there is no unnecessary or excessive site disturbance and that minimizes the amount of cut and fill.

5. Oil and gas operations using and sharing existing infrastructure, minimizing the installation of new facilities, and avoiding additional disturbance to lands in a manner that reduces the introduction of significant new land use impacts to the environment, landowners and natural resources.

6. Landscaping plans including drought tolerant species that are native and less desirable to wildlife and suitable for the climate and soil conditions of the area. Where buffering is accomplished with vegetation, an irrigation plan is required.

7. An analysis of the existing vegetation on the site establishing a baseline for re-vegetation upon temporary or final reclamation or abandonment of the operation. The analysis shall include a written description of the species, character and density of existing vegetation on the site and a summary of the potential impacts to vegetation as a result of the proposed operation. The application shall include any COGCC required interim and final reclamation procedures.

G. **Natural Resource Standards.** The installation and operation of any oil and gas operation shall not cause significant degradation to mapped significant natural communities, natural landmarks and natural areas, rare plant areas, significant riparian corridors, or critical wildlife habitat as defined in the Comprehensive Plan or identified on the site. Among other mitigation measures to achieve compliance with this standard, proposed oil and gas operations shall use the compatibility siting criteria of Section 12-703(J) to prevent degradation of these important County attributes.

H. **Recreational Activity Standards.** Oil and gas operations shall not cause significant degradation to the quality and quantity of recreational activities in the County. Methods to achieve compliance with this standard include, but are not limited to, locating operations away from trails and from property used for recreational purposes.

I. **Scenic and Rural Character Standards.** Oil and gas operations shall not cause significant degradation to the scenic attributes and rural character of Boulder County. The following standards are methods to prevent degradation to the scenic attributes and rural character of Boulder County:

1. **Buffering from Sensitive Visual Areas.** The operation should be buffered from sensitive visual areas (i.e., roads, property lines, or residences) by providing landscaping along the perimeter of the site between the surface equipment and the sensitive visual area.
2. **Existing Vegetation.** The operation should be located in areas that maximize the amount of natural screening available for the facility. Natural screening includes, but is not limited to, the use of existing vegetation as a background, the construction of the operation near screening stands of vegetation, or placement in valleys allowing topographic screening. The operation should be constructed in a manner to minimize the removal of and damage to existing trees and vegetation. If the operation requires clearing trees or vegetation, the edges of the cleared vegetation should be feathered and thinned and the vegetation should be mowed or brush-hogged while leaving root structure intact, instead of scraping the surface.
3. **Compatibility Siting Criteria.** Use of the compatibility siting criteria of Section 12-703(J) as necessary to prevent degradation to the scenic attributes and rural character of Boulder County.
4. **Low Profile.** To the maximum extent practicable, oil and gas operations should use low profile tanks or less intrusive equipment.

J. **Surrounding Land Uses Standards.** Oil and gas operations shall be sited and operated in a manner so that the operation is compatible with surrounding land uses to the maximum extent practicable. The following techniques or actions shall be used to achieve compatibility between the proposed oil and gas operation and surrounding land uses. Distance from surrounding land uses is a method deemed most effective to ensure compatibility between proposed oil and gas operations and existing land uses. In addition, locating the operation based upon the following site-specific characteristics will assist in creating a compatible operation:

1. Oil and gas operations shall be located as far as possible from surrounding land uses.
2. Oil and gas operations shall be sited away from prominent natural features such as distinctive rock and land forms, vegetative patterns, river and streams and other landmarks or other identified visual or scenic resources, designated environmental resources, trails, or distinctive vegetative patterns as identified in the Comprehensive Plan, or identifiable on or near the site.
3. Oil and gas operations shall be located with consideration being given to prevailing weather patterns, including wind directions to mitigate compatibility concerns.
4. Oil and gas operations shall avoid being located on or across hilltops and ridges, shall avoid silhouetting, and, where possible, should be located at the base of such slopes.

K. **Transportation, Roads, Access Standards, and Fees.**

1. The Applicant's Transportation Plan must be designed and implemented in its entirety to ensure public safety for all modes of travel along travel routes to and from the site and maintain quality of life for other users of the county transportation system, adjacent residents, and affected property owners.
2. The Transportation Department may require the Applicant use a particular route for some or all of the pad construction, drilling, and completion phases of the oil and gas operation.
3. Operational measures included in the Applicant's transportation plan shall be designed to minimize impacts to the public.
4. Maintenance practices on the proposed route during pad construction, drilling, and completion activities must be designed and implemented to adequately minimize impacts of the oil and gas operation by: ensuring public safety for all modes of travel; maintaining quality of life for other users of the county transportation system, adjacent residents, and affected property owners; minimizing impacts on air quality; and protecting the integrity of county transportation infrastructure.
5. Unless traffic safety, visual or noise concerns, or other adverse surface impacts clearly dictate otherwise, existing private roads on or near the site of the proposed oil and gas operation shall be used in order to minimize land disturbance.

6. Access roads on the site and access points to public roads shall be built and maintained in accordance with the engineering specifications and access road standards defined in the Boulder County Multimodal Transportation Standards. With the exception of Article 4 concerning transportation system impact analysis, all of the Boulder County Multimodal Transportation Standards apply to oil and gas development unless the Transportation Director determines a particular section is inapplicable to oil and gas based on the particular facts and circumstances.
7. Prior to issuance of a Development Plan Review Construction Permit, the Transportation Department shall ensure that:
   - **(i)** All applicable permits shall be obtained including without limitation:
     - **(1)** access permits
     - **(2)** oversize/overweight permits
     - **(3)** right of way construction permits
   - **(ii)** All applicable fees have been paid including without limitation:
     - **(1)** access permit, oversize/overweight permit, and right of way construction permit fees
     - **(2)** any impact fees adopted by the Board of County Commissioners via separate resolution intended to mitigate the cumulative impacts of oil and gas truck traffic on the county transportation system.
   - **(iii)** The Applicant has updated its Transportation Plan in accordance with any conditions of approval placed on the DPR approval.
8. Oil and gas operations must minimize impacts to the physical infrastructure of the county transportation system. In some cases, the addition of or improvements to physical infrastructure may be necessitated by the proposed oil and gas operation. Taking into account the information submitted by the Applicant under 12-500.N.5, the County Transportation Department will make the final determination of the necessary transportation system infrastructure improvements and associated costs. Any such physical infrastructure improvements required by the County Transportation Department must be (a) necessary to ensure public safety for all modes of travel along travel routes to and from the site; (b) directly attributable to the proposed oil and gas operation; and (c) based upon application of the standards defined in the Boulder County Multimodal Transportation Standards. Any costs to improve county transportation system infrastructure necessitated by the proposed oil and gas operation shall be the responsibility of the Applicant. The County shall perform the work or arrange for it to be performed at the Applicant's expense prior to commencement of the applicable phase of oil and gas operations. No Applicant shall be required to provide any site specific dedication or improvement to meet the same need for capital facilities for which an impact fee or other similar development charge is imposed.
9. The Applicant may request the Director place a DPR application on hold in order to discuss alternate routes, alternate approaches to impact mitigation, or provide additional information to the Transportation Department. The Applicant may also request the Director reclassify an Expedited DPR application as a Standard DPR application in accordance with 12-400.F.
10. Should an Applicant's oil and gas operations result in any damage to the county transportation system that requires immediate repair to ensure public safety, the Applicant must immediately report such damage to the Transportation Department. Necessary repairs and associated costs shall be determined by the Transportation Department, and such repair costs shall be the responsibility of the Applicant. The County shall perform the work or arrange for it to be performed as soon as possible. By way of example only, repairs might include replacing signage or traffic control devices damaged by a large truck attempting to navigate a tight corner, replacing failing culverts, sweeping tracked mud from the road, or fixing potholes.

L. Water Quality Standards. Oil and gas operations shall not cause significant degradation to surface or ground waters within Boulder County. Methods to achieve compliance with this standard include, but are not limited to, compliance with the following provisions:

1. The Applicant shall provide the County with the information it provides to the COGCC ensuring compliance with the water quality protection standards contained in Rule 317(B), Rule 910, and any other applicable COGCC rules governing water quality protection.
2. The Applicant shall comply with all COGCC Rules requiring sampling of water wells and shall promptly provide the County with all water well test results.
3. Prior to completing or hydraulic fracturing a well, the Applicant shall identify and provide notice to all water well owners with wells located within one-quarter (¼) mile of the projected track of the borehole of a proposed well. The notice shall contain the following provision: "Boulder County informs owners of water wells near the (name of well) that in order to establish base line water well data, it would be prudent to conduct a water well test, in conformance with Boulder County Land Use Code Section 12-602(C)(2), prior to the anticipated (completion) / (hydraulic fracturing) on (date)."
4. The Applicant shall provide its plans concerning downhole construction details and installation practices, including casing and cementing design, and shall inform the County how the plans establish that the operation does not create significant degradation to surface or drinking water aquifers.

M. Wetlands Protection Standards. Oil and gas operations shall not cause significant degradation to wetlands within Boulder County. Among other methods to achieve compliance with this standard, the proposed oil and gas operation shall not alter historic drainage patterns and/or flow rates or shall include acceptable mitigation measures to compensate for anticipated drainage impacts.

N. General Oil and Gas Facility Operational Requirements. The oil and gas operations Conditions of Approval Applicable to All DPRs set forth at Section 12-800 shall apply to each approved development plan in the form of conditions of approval.

O. Pipelines. Any newly constructed or substantially modified pipelines on site must meet the Additional Provisions listed at Article 4-514(E)(5)(a) – (f). Note: Any newly constructed or substantially modified pipelines off site may need to comply with all of Article 4-514(E).

12-800 Conditions of Approval Applicable to All DPRs

The following oil and gas facility operational requirements shall apply to all oil and gas operations in the form of conditions of approval applicable to each approved expedited or standard development plan review permit:

A. Anchoring. All mechanized equipment associated with oil and gas operations shall be anchored to minimize transmission of vibrations through the ground.

B. Applications and Permits. Copies of local, state and federal applications required for the operation, and permits, when issued, shall be provided to the Land Use Department.

C. Burning of Trash. No burning of trash shall occur in association with an oil and gas operation.

D. Color. Facilities shall be painted in a uniform, non-contrasting, non-reflective color, to blend with the surrounding landscape and with colors that match the land rather than the sky. The color should be slightly darker than the surrounding landscape.

E. Discharge Valves. Open-ended discharge valves on all storage tanks, pipelines and other containers shall be secured where the operation site is unattended or is accessible to the general public. Open-ended discharge valves shall be placed within the interior of the tank secondary containment.

F. Dust Suppression. Dust associated with on-site activities and traffic on access roads shall be minimized throughout construction, drilling and operational activities such that there are no visible dust emissions from access roads or the site to the extent practical given wind conditions. The Applicant shall comply with Boulder County Public Health best management practices for dust suppression.

G. Electrification. All permanent operation equipment with engines or motors which can be electrified shall be electrified from the power grid or from renewable sources. Where the Applicant provides information establishing that electrification is infeasible, or not necessary to mitigate land use impacts,, the Director shall review this information and, if satisfied that electrification is either infeasible or not necessary shall provide a waiver of this requirement. The Director shall also waive this requirement where, in the Director's discretion, electrification would result in significant adverse impacts to visual or environmental resources. This requirement shall also be waived in instances where the Director determines that waiving this requirement would allow for environmentally sensitive and efficient production techniques, such as using natural gas onsite rather than flaring it. All well pads which are not electrically operated should use the following techniques: use of quiet design mufflers (also referred to as hospital grade or dual dissipative) or equivalent; or use of acoustically insulated housing or covers to enclose the motor or engine.

H. Exhaust. The exhaust from all engines, motors, coolers and other mechanized equipment shall be vented up or in a direction away from the closest occupied structures.

I. Fencing. Onsite fencing shall consist of basic, two-rung fence of welded iron pipe around the well heads unless safety or agricultural concerns require additional fencing around the operation and shall meet the color requirements of Section 12-800(D).

J. Flammable Material. Oil and gas operations shall comply with COGCC rules concerning control of fire hazards.

K. Lighting. Except during drilling, completion or other operational activities requiring additional lighting, down-lighting is required, meaning that all bulbs must be fully shielded to prevent light emissions above a horizontal plane drawn from the bottom of the fixture. A lighting plan shall be developed to establish compliance with this provision. The lighting plan must indicate the location of all outdoor lighting on the site and any structures, and must include cut sheets (manufacturer's specifications with picture or diagram) of all proposed fixtures.

L. Maintenance of Machinery. Routine field maintenance of vehicles or mobile machinery shall not be performed within three hundred (300) feet of any water body.

M. Noise. Any equipment used in drilling, completion, or production of an oil and gas operation must comply with the maximum permissible noise levels set forth at C.R.S. § 25-12-103.

N. Reclamation Plan. Any DPR approval shall include any COGCC required interim and final reclamation procedures.

O. Removal of Debris. Oil and gas operations shall comply with COGCC rules concerning removal of debris. Materials shall not be buried on-site.

P. Removal of Equipment. All equipment used for drilling, re-drilling and maintenance of the facility shall be removed from the site within thirty (30) days after completion of the work, unless otherwise agreed to by the surface owner. Permanent storage of equipment on well pad sites shall not be allowed.

Q. Spills. Chemical spills and releases shall be reported in accordance with applicable state and federal laws, including the Emergency Planning and Community Right to Know Act, the Comprehensive Environmental Response, Compensation and Liability Act, the Oil and Pollution Act, and the Clean Water Act, as applicable.

R. Stormwater Control Plan. A stormwater control plan that establishes that all operations shall use most effective performance techniques and practices and best management practices to minimize impacts to surface waters from erosion, sediment, and other sources of nonpoint pollution. The stormwater control plan required by COGCC Rule 1002(f) may be provided to establish compliance with this provision.

S. Temporary Access Roads. Property subject to temporary access roads associated with oil and gas operations shall be reclaimed and re-vegetated to its original state within sixty (60) days after discontinued use of the temporary access roads.

T. Transportation Permits. Applicant shall obtain all applicable transportation permits, including but not limited to County access, driveway, utility construction, and oversize and overweight permits, as well as all appropriate Colorado Department of Transportation (CDOT) access permits pursuant to the CDOT State Highway Access Code.

U. Vehicle Tracking Control Practices. Vehicle tracking control practices should be used to control potential sediment discharges from operational roads, well pads, and other unpaved surfaces. Practices could include road and pad design and maintenance to minimize rutting and tracking, controlling site access, street sweeping or scraping, tracking pads, wash racks, education, or other sediment controls. Traction chains from heavy equipment shall be removed before entering a County road.

V. Weed Control. Oil and gas operations shall comply with COGCC rules concerning weed control which recommend Applicants consult with the Boulder County concerning weed control measures. The Applicant shall be responsible for ongoing weed control at all locations disturbed by oil and gas operations, pipelines, and along access roads during construction and operation, until abandonment and final reclamation is completed per County or other applicable agency regulations. The appropriate weed control methods and species to be controlled shall be determined through review and recommendation by the County Weed Coordinator by reference to the Boulder County Noxious Weed Management Plan and, where appropriate, in coordination with the requirements of the surface owner.

W. Well Abandonment. The Applicant shall comply with any COGCC rules regarding well abandonment. Upon plugging and abandonment of a well, the Applicant shall provide the County with surveyed coordinates of the abandoned well and shall leave onsite a permanent physical marker of the well location.

X. Representations. The approved development plan review application shall be subject to all conditions and commitments of record, including verbal representations made by the Applicant, and in the application file, and without limitation shall encompass compliance with all approved mitigation plans.

12-900 Operational Conflict Waiver

A. Boulder County recognizes that the COGCC regulates oil and gas operations and that Colorado courts have determined that a County regulation must yield to a state regulation where the application of the County regulation to the oil and gas operation would conflict with a state statute, regulation or other requirement and where the conflict results in the material impediment or destruction of the state's interest in the responsible, balanced development, production and utilization of oil and gas consistent with protection of public health, safety, and welfare, including protection of the environment and wildlife resources.

B. The Applicant may make a written request to the Land Use Department for an operational conflict waiver hearing before the Board of County Commissioners at any time during the development plan review process, but no later than ten (10) days following a final decision on the development plan review application. An operational conflict waiver application shall be heard in a noticed public hearing by the Board of County Commissioners. Notice of the hearing shall be in accordance with Section 14-400(G). The Director may extend the forty-five (45) day review process in Section 12-601(D)(1) in order to accommodate the operational conflict hearing. The hearing shall allow the Applicant the opportunity to develop a full evidentiary record concerning the alleged operational conflict between the County regulation and the state regulation. The County shall also provide notice of the hearing to the COGCC and request it to provide information to the Board relative to its position as to the alleged operational conflict. At the hearing, the Applicant shall have the burden of pleading and proving an actual operational conflict between the requirements of these regulations and those of the COGCC in the context of the specific application. If the Board determines that an operational conflict exists, it will waive the County requirement or standard to the extent necessary to negate the operational conflict. The Board may also condition the approval of the operational conflict waiver as necessary to protect the public health, safety and welfare and mitigate any adverse impacts arising from the approval. Any such condition shall be designed and enforced so that the condition itself does not operationally conflict with the requirements of the COGCC. If aggrieved by the decision of the Board on the operational conflict waiver request, the Applicant may seek review of that decision in a court of competent jurisdiction.

12-1000 Other Waivers

A. At any time during the application process, the Director may waive one or more of these regulations if the Applicant demonstrates to the satisfaction of the County one of the following:

1. **No Economical Technology.** There is no technology commercially available at a reasonable cost to conduct the oil and gas operation in compliance with the standard(s);
2. **Protection of Public Health, Safety, Welfare and the Environment.** Waiving the standard will not adversely affect the public health, safety, welfare and the environment; or
3. **Alternate Approach Preferable.** Protection of public health, safety, welfare and the environment will be enhanced by an alternate approach not contemplated by the standard.

12-1100 Judicial Review

A final decision by the Board of County Commissioners on a standard development plan application or a operational conflict waiver request is subject to judicial review in a court of competent jurisdiction.

12-1200 Procedures Following Approval of a DPR Application

A. **Right to Enter.** Any site under an approved development plan may be inspected by the County at any time, to ensure compliance with the requirements of the approved development plan, provided that twenty-four (24) hours prior notice is given to the contact person at the telephone number supplied by the Applicant. The Applicant shall provide the telephone number of a contact person who may be reached twenty-four (24) hours a day for purposes of being notified of any proposed County inspection under this Section. Each approved development plan shall contain the following statement: "Applicant hereby consents to allow the County the right of inspection of this approved operation provided the County contacts the Applicant with twenty-four (24) hours prior notice of such inspection." County inspections shall be coordinated with the Applicant to ensure Applicant presence onsite and to ensure the site visit is conducted in accordance with all applicable Applicant safety requirements.

B. **Effect of the Approved Development Plan.** After approval of a development plan and following compliance with any applicable conditions of approval, the County Land Use Department shall issue a development plan review construction permit for the proposed oil and gas operation. Following receipt of the development plan review construction permit, the Applicant shall be entitled to have processed any necessary building, grading, access, floodplain, or other County permits and is authorized to otherwise proceed with the proposed oil and gas operation. The approval of a development plan review under this Article does not result in the vesting of development rights, nor does authorize the violation of any County or state regulations or preclude the County from refusing to issue any other permit or authorization if the plans and specifications do not comply with applicable County regulations.

C. **Duration of the Approved Development Plan.** An approved development plan shall remain effective for a period of three (3) calendar years following the date of final plan approval. If the operation is not commenced within the effective period of the development plan, the permit shall expire and the Applicant will have to reapply for a new permit prior to undertaking operations.

D. **Amendments to Approved Development Plan.** Any proposal to change an approved development plan shall require an application to the Land Use Department to determine whether the proposed change constitutes a substantial modification to the approved development plan.

1. In determining whether the proposed modification to a development plan approval is substantial, the Director shall consider the record of the development plan approval, including any express conditions, limitations, or agreements governing the approved development plan, in addition to the nature, character, and the extent of additional land use impacts of the proposed modification. The addition of a new well on an existing pad shall be considered a substantial modification to the entire pad and the entire pad shall be required to come into compliance with this Article, to the extent practical. Other changes shall be considered substantial if they significantly alter the nature, character, or extent of the land use impacts of the development plan approval.
2. If the Director determines that the change constitutes a substantial modification, no such change shall be allowed to proceed until an application to amend the approved development plan, which shall be treated as a new application, is filed with the Director and approval granted in accordance with this Article. The Applicant or its successor may appeal the Director's decision to require an amended development plan to the Board of County Commissioners, provided that any such appeal shall be in writing and shall be filed with the Director no later than thirty (30) days following the date of the Director's decision to require a development plan amendment. Any Board of County Commissioner's determination on an appeal shall not be considered a final decision subject to judicial review under Section 12-1100.

12-1300 Enforcement

If the County determines at any time that there is a violation of an approved development plan permit, the Director shall be entitled to commence one or more of the following enforcement measures and remedies.

A. Written Order Suspending Development Plan. The Director may issue a written order to the Applicant (or owner, Applicant, or agent, as applicable) identifying the violation and suspending the approved development plan and all activity otherwise allowed by the development plan. If the violation presents an immediate threat to the health, safety or welfare of the public, the Director may immediately issue the written order to the Applicant in writing and, upon receipt, the Applicant shall cease all activities and operations immediately until the violation is remedied. In all other instances, prior to issuing a written order, the Director shall provide written notice to the Applicant describing the violation, and stating a reasonable time within which the violation must be corrected. If, within that time period, the Applicant has not either corrected the violation or filed a written appeal with the Board of County Commissioners, the written order shall be delivered to the Applicant in writing and, upon receipt, the Applicant shall cease all activities and operations immediately until the violation is remedied. Any appeal to the Board of County Commissioners of the threatened or actual issuance of the written order shall be acted upon pursuant to Section 12-1300(B) below.

B. Appeal Hearing Before Board of County Commissioners. If the Applicant files a timely appeal with the Board of County Commissioners of the Director's determination to issue a written order suspending the development plan, the Board shall schedule a hearing on the appeal at the soonest possible time of which the Applicant shall receive reasonable prior notice. If the Board confirms at the hearing that the violation has occurred and has not been corrected, the Board in its discretion may confirm issuance of a written order suspending the development plan. The Board, in its discretion, may also give the Applicant additional time to correct the violation, or may specify the time at which the Director may take appropriate action to have the violation corrected.

C. Other Enforcement Remedies. In addition to the foregoing enforcement measures, Boulder County has the right to any and all other enforcement measures and remedies provided by law, including but not limited to seeking relief through the courts to enforce an approved development plan review, or to stop or abate any oil and gas operations occurring or about to occur without the requisite development plan or other county approvals.

12-1400 Definitions

Terms used in this Article 12 are defined below. Any terms not specifically defined for purposes of Article 12 may be defined in Article 18.

Abandonment. The permanent abandonment of a well, which shall be determined at the time of the Applicant's filing of the appropriate abandonment form with the COGCC.

Agent. One authorized to make binding representations on behalf of the Applicant.

Adverse Effect or Adverse Impact. The impact of an action, after mitigation, that is considerable or substantial, and unfavorable or harmful, including social, economic, physical, health, aesthetic, historical and/or biological impacts, including but not limited to, effects on natural resources, the structure or function of affected ecosystems, or persons, structures or communities.

Applicant. Person, corporation or other legal entity possessing the legal right to develop the mineral resource who has applied for an oil and gas operation permit.

BTEX and/or TPH. Benzene, Toluene, Ethylbenzene, Xylene and Total Petroleum Hydrocarbons.

Chemical(s). Any element, chemical compound or mixture of elements and/or compounds.

Closed Loop Drilling Process or System. A closed loop mud drilling system typically consists of steel tanks for mud mixing and storage, and the use of solids removal equipment, which normally includes some combination of shale shakers, mud cleaners and centrifuges sitting on top of the mud tanks. This equipment separates drill cutting solids from the mud stream coming out of the wellbore while retaining the water or fluid portion to be reused in the continued drilling of the well bore. The solids are placed in containment provided on the site. The system differs from conventional drilling where a reserve pit is used to allow gravitational settling of the solids from the mud which can then be reused. A Closed Loop Drilling System does not include use of a Conventional Reserve Drilling Pit.

COGCC. The Colorado Oil and Gas Conservation Commission.

Completion combustion device. Any ignition device, installed horizontally or vertically, used in exploration and production operations to combust otherwise vented emissions from completions.

Corridor. Tracts of land within which a pipeline right-of-way is located.

County. Boulder County, Colorado, and its officers, staff, employees and agents.

Degradation. Lowering in grade or desirability; lessening in quality.

Delineation well. A well drilled in order to determine the boundary of a field or producing reservoir.

Department. Boulder County Land Use Department.

Drilling Operation. Any work or actual operation undertaken for the purposes of carrying out any of the rights, privileges or duties of a lessee for drilling of an oil well, gas well, or cathodic protection well, including but not limited to the actual operation of drilling in the ground.

Equipment. Machinery or structures located on well pads, rights-of-way, or other land uses in the oil and gas operation, including, but not limited to, wellheads, separators, dehydration units, heaters, meters, storage tanks, compressors, pumping units, internal combustion engines, and electric motors.

Exploration and Production Waste or "E and P Waste". Wastes associated with oil and gas operations to locate or remove oil or gas from the ground or to remove impurities from such substances and that are uniquely associated with and intrinsic to oil and gas exploration, development or production operations that are exempt from regulation under the Resource Conservation and Recovery Act (RCRA).

Flow Line. Pipeline connecting individual well sites to gathering lines.

Gas Well. Well capable of producing natural gas.

Gathering Line. Pipeline transporting produced gas, oil, or water from multiple well sites to a centralized facility.

Grading Plan. Plan view and cross-section of existing and proposed land contours, cuts and fills, topsoil storage location and stabilization methods, and maximum slopes.

Ground Water. Subsurface waters in a zone of saturation.

Heavy Equipment. Drilling rigs, completion rigs, construction equipment, and individual truck/trailer combination vehicles with a gross vehicle weight exceeding five tons.

Improvement. Any new construction activity, grading or land development, or addition of equipment or materials to a site.

Mitigation. One or more of the following actions which are prioritized in order of preference:

Avoiding Impacts. Avoiding an impact by not taking a certain action or parts of an action; or

Minimizing Impacts. Limiting the degree or magnitude of the action or its implementation, or by changing its location; or

Rectifying or Remediating Impacts. Repairing, rehabilitating, or restoring the impact area, facility or service; or

Reducing or Eliminating Impacts. Decreasing or removing the impact over time by preservation and maintenance operations; and

Other Provisions for Addressing Impacts. Using alternative means not contemplated by this Article to provide equivalent biological, social, environmental and/or physical mitigation effects.

Most Effective Performance Techniques and Practices. The application of proven and emerging techniques, technologies or other Best Management Practices used in conducting oil and gas exploration and development which avoid, neutralize, exclude, eliminate, mitigate or minimize adverse on and off- site impacts to public health and the environment, landowners, and natural resources, and which may reduce conflicts between potentially impacted landowners and the oil and gas industry.

Occupied Structure. Any building or structure that requires a certificate of occupancy or building or structure intended for human occupancy.

Oil and Gas Facilities.

The site and associated equipment used for the production, transportation, treatment, and/or storage of oil and gas and waste products; or

An individual well pad built with one or more wells and operated to produce liquid petroleum and/or natural gas, including associated equipment required for such production; or

Gathering lines, and ancillary equipment including but not limited to drip stations, vent stations, pigging facilities, chemical injection stations and valve boxes; or

Temporary storage and construction staging yards in place for less than six months; or

Any other oil and gas operation which may cause significant degradation.

Oil and Gas Operations. Exploration for oil or gas, including but not limited to conventional oil and gas; the siting, drilling, deepening, recompletion, reworking, refracturing, closure or abandonment of an oil and gas well; oil and gas facilities; construction, site preparation, reclamation and related activities associated with the development of oil and gas resources.

Oil Well. Well capable of producing crude petroleum oil.

Operation. Oil and Gas Operations.

Owner or Applicant. Person who has the right to drill into and produce from a pool and to appropriate the oil or gas produced either for such owner or Applicant or others.

Permanent Equipment. Equipment located onsite for a duration greater than six months effective one year after the drilling and completion of a well.

Person. Any individual, partnership, corporation, association, company, or other public or corporate entity, including but not limited to the State or Federal governments, and any of their political subdivisions, agencies, or instrumentalities.

Pit. Any natural or man-made depression in the ground used for oil or gas exploration or production purposes excluding steel, fiberglass, concrete or other similar vessels which do not release their contents to surrounding soils.

Platted Building Envelope. Area of subdivided land within a buildable lot within which all site structures, buildings and other hardscape elements shall be contained, except driveways.

Regulation(s). Article 12 of the Boulder County Land Use Code.

Referral Agency. An agency, organization, or technical consultant deemed appropriate and necessary, by the County, to review an application and provide professional analysis and recommendations, including without limitation other County offices and departments, municipal, state, or federal agencies having an interest in or authority over all or part of the application or permit, and professional or legal consultants.

Residential. All property within unincorporated Boulder County, Colorado.

Right-Of-Way. The legal right to pass through grounds or property owned by another, or land, property or interest therein, usually in a strip, acquired for or devoted to transportation or conveyance purposes.

Security Fencing. Six-foot chain link fence topped by three strands of barbed wire, or the equivalent, with a gate that can be secured.

Setback. Distance between the following, including but not limited to, a wellhead, intermediate line, gathering line or major facility structure boundary, and the closest projection of a residential, commercial, or industrial building structure, a lot or property line, a permitted facility, or a platted building envelope in a platted subdivision.

Site. Lands, including the surface of a severed mineral estate, on which exploration for, or extraction and removal of, oil or gas is authorized under a lease.

Surface Owner. Owner of the surface property on which the facility will be located or constructed.

Surrounding. Within one-half mile of a proposed oil and gas operation.

Temporary Use Area. Disturbed lands immediately adjacent to the well pad or right of way used by an Applicant during the construction or maintenance of a well, pipeline or other facility that will be reclaimed for permanent operations.

Transmission Line. Pipeline transporting oil, natural gas or any other products derived from oil and gas production, which is defined as a transmission line by the U.S. Department of Transportation regulations under the Natural Gas Pipeline Safety Act of 1968, as amended.

VOC. Volatile organic compounds.

Water or Water Body. Any surface waters which are contained in or flow in or through Boulder County, excluding ephemeral streams, roadway ditches, water in sewage systems, water in treatment works of disposal systems, water in potable water distribution systems, stock ponds or irrigation ditches not discharging to live streams, and all water withdrawn for use until use and treatment have been completed.

Well or Wellhead. Equipment attached to the casing of an oil, gas or injection well above the surface of the ground.

Well Blowdown. Maintenance activity designed to remove unwanted fluids from mature wells during which time gas is often vented to the atmosphere.

Well Completion. The process that perforates well casing, stimulates the reservoir using various techniques including but not limited to acid treatment and hydraulic fracturing, allows for the flowback of petroleum or natural gas from wells to expel drilling and reservoir fluids, and tests the reservoir flow characteristics, which may vent produced hydrocarbons to the atmosphere via an open pit or tank.

Well Pad. Area in which permanent operations for the well take place including, at a minimum, that portion of the pad area occupied by permanent production equipment. Well pads may contain one or more wellheads and associated equipment.

Wildcat or Delineation Well. A well outside known fields or the first well drilled in an oil or gas field where no other oil and gas production exists.

Article 13

Sign

Article 13 • Sign

13-100 Purpose and Intent

A. The purpose and intent of Article 13 are to regulate the number, type, location, physical dimensions, and design of signs to protect the public safety and welfare and preserve the right of free speech and expression. These regulations are intended to achieve the following objectives:

1. Protect public safety by prohibiting signs that are structurally unsafe or poorly maintained; that cause unsafe traffic conditions through distraction of motorists, confusion with traffic signs, or hindrance of vision; and that impede safe movement of pedestrians or safe ingress and egress from buildings or property.
2. Protect aesthetic qualities by preventing visual clutter, protecting scenic views, preserving Boulder County's rural character, preventing intrusion of commercial messages into non-commercial areas in accordance with the Boulder County Comprehensive Plan, curtailing the degradation of the nighttime visual environment, and eliminating abandoned signs on unused commercial properties.
3. Allow adequate signage for business identification, non-commercial speech, and dissemination of public information, including, but not limited to, public safety information and notification as may be required by law.

13-200 General Provisions

A. Signs must be designed, constructed, and maintained in accordance with all applicable safety codes.

B. Signs must not be placed in the right of way of any public street, road or highway, except as specifically provided for in the sign code.

C. Signs located in the vision clearance triangle must comply with the sight triangle specifications of table 13-500(A)(15d).

D. A building permit must be obtained from the County Building Division prior to the erection, relocation or display of a sign unless it is exempt from permit requirements.

E. Any noncommercial sign must be allowed in any location and under any circumstance in which a commercial sign is allowed. Noncommercial signs must conform to applicable height, area and setback regulations of the zone district in which they are located. Noncommercial signs must not be regulated based on the speech content of the sign, except as provided for in 13-500(A)(15d).

F. This Article does not apply to the following:

1. Signs not visible from off-premises or a public right of way.
2. Signs of a duly constituted governmental body such as traffic or similar regulatory devices, legal notices, warnings at railroad crossings, and other instructional or regulatory signs having to do with health, hazard, parking, swimming, dumping, etc., or signs erected by public utilities or construction companies to warn of danger or hazardous conditions in the public right-of-way.
3. Signs required to be posted or maintained by law or governmental order, rule or regulation provided such signs comply with and do not exceed the requirements of such law, order, rule or regulation.
4. Signs mounted on the interior of any fence that encloses a stadium or playing fields that are primarily visible to participants and attendees at the stadium or playing fields.

13-300 Definitions

A. Terms and phrases used in this Article have the following meaning:

1. Commercial Sign: A sign containing a message advertising the manufacture, sale or availability of products, accommodations, services, attractions, or activities, or that is intended to attract attention to a business or to products, property, accommodations, services, attractions, or activities that are offered or exist for sale or for hire. This definition includes Temporary Real Estate signs.
2. Electronic Message Centers: A sign whose alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display screen composed of electrically illuminated segments.
3. External Illumination: Illumination of a sign that is affected by an artificial source of light not contained within the sign itself intended to cast light on the sign to make the sign content visible at night. (Figure 13-7)
4. Freestanding Sign: A sign erected on its own self-supporting permanent structure, detached from any supporting elements of a building.
5. Halo Illumination: A sign using a three dimensional sign copy that is lit in a way that produces a disk or circle of light behind the sign, (also known as back-lit illumination). (Figure 13-8)
6. Illuminated Sign: A sign with electrical equipment installed for illumination, internally illuminated through its sign face by a light source contained inside the sign or externally illuminated by a light source aimed at its surface, or lit by halo illumination.
7. Internal Illumination: A source of illumination entirely within the sign which makes the sign content visible at night by means of the light being transmitted through a translucent material but the source of the illumination is not visible. (Figure 13-6)
8. Multi-Driveway Sign: A sign at the entrance or exit of a premises that has two or more driveways.
9. Neon Sign: A sign containing glass tube lighting in which a gas and phosphors are used in combination to create a color light.
10. Nit (nt): The measure of luminance (brightness) in units of candela per square meter (1 nt = 1cd/1m^2). The unit is based on the candela, a unit of luminous intensity, and the square meter, a unit of area.
11. Noncommercial Sign: A sign that does not contain information or advertising for any business, commodity, service, entertainment, product, or attraction. Noncommercial signs include, but are not limited to, a sign that supports a candidate for public office, urges action for or against a matter on the ballot of a primary, general, or special election, protests against any person, business, organization, property or commercial activity, or promotes or denounces political, ideological, social or religious issues or beliefs of any person or group. This definition also includes signs that identify historic districts, rural community districts, and other historic points of interest.

12. Portable Sign: A sign mounted on a vehicle, trailer or boat, or fixed or attached to a device for the purpose of transporting from site-to-site. This definition includes all vehicles placed or parked for the purpose of drawing attention to a service, product, object, person, organization, institution, business, event, location or message, but not signs or lettering installed on vehicles, trailers or boats operating during the normal course of business.
13. Projecting Sign: A sign that projects at an angle of 10 or more degrees from the wall on which it is mounted.
14. Sign: Any writing, pictorial representation, decoration, emblem, flag, banner or other device used for visual communication that is intended to attract the attention of the public and is visible from the public rights-of-way or other properties. The following are expressly excluded from the definition of 'sign':
    a. Any flag, badge or insignia of any governmental unit.
    b. Works of art that in no way advertise a product or business.
    c. Text or pictorial representations on motor vehicles that are being operated or stored in the normal course of a business, provided the primary purpose of such vehicles is not for the display of signs and provided that such vehicles are parked or stored in areas incidental to their primary use as a commercial or delivery vehicle.
    d. Holiday decorations that are clearly incidental and customary and commonly associated with any national, local or religious holiday.
    e. A sign that is held or otherwise mounted on a person or an animal or a sign on a device attached to a person or animal.
15. Sign Copy: Any graphic, word numeral, symbol, insignia, text, sample, model or device.
16. Temporary Real Estate Sign: A sign erected to advertise the availability for sale or lease of the property or a portion of the property where the sign is located with a surface area that does not exceed 12 square feet and each sign face does not exceed six square feet. Temporary real estate signs must be removed within fifteen (15) days after the sale or occupancy of the property.
17. Wall Sign: A sign painted on or attached to a wall of a structure that meets the setback requirements for a building and is in the same plane as the wall. A wall sign must not project more than eighteen inches from the wall.

13-400 Sign Area and Height and Illumination

A. The area and height of a sign must be measured in conformance with the following regulations:
    1. In computing the area of a sign, standard mathematical formulas for common regular geometric shapes must be used. (Figure 13-1.)

       In the case of an irregularly shaped sign or a sign with letters and/or symbols directly affixed to or painted on a wall, the area of the sign is the area within the perimeter or not more than eight straight lines enclosing the extreme limits of writing, representation, emblem, or any figure of similar character. This area includes any material or color forming an integral part of a background of the display or used to differentiate the sign from the backdrop or wall (Figures 13-2, 13-3.)
    2. Where a sign has two or more display faces, the area of all faces must be included in determining the sign area.
    3. The area of a freestanding sign that is supported by a base or pedestals which is architecturally distinct from the sign face itself must not include the area of the base. (Figures 13-3, 13-4.)
    4. Sign area must include vertical and horizontal spacing between letters, characters, emblems, etc. that convey the sign's message. (Figure 13-5.)
    5. The area of spherical, cylindrical, or other three-dimensional signs must be measured by calculating the area of elevation drawings of the sign.
    6. The height of a sign must be measured per Article 18-120, Building Height (Structure Height), contained in this Code.

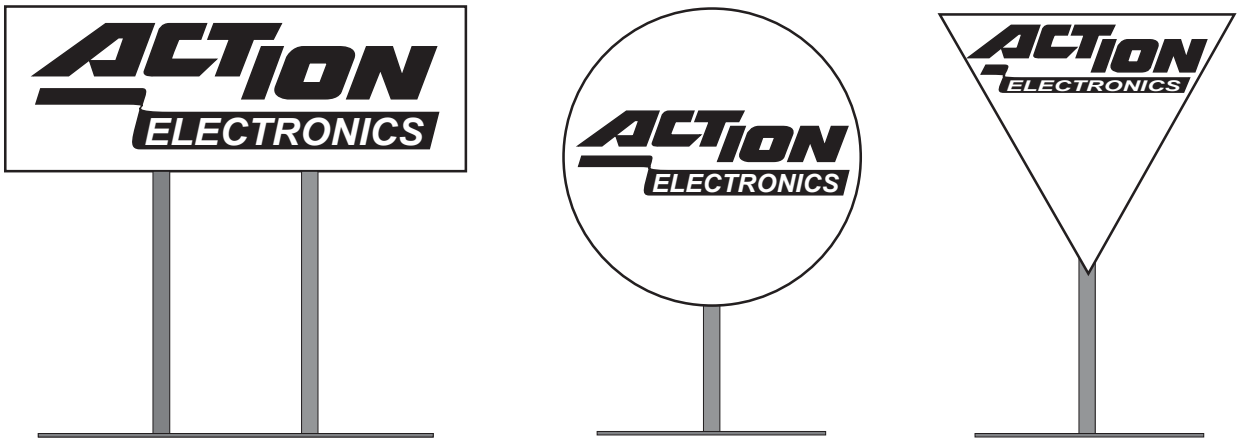

Figure 13-1: Standard Formulas for Common Regular Geometric Shapes Must be Used. All Display Faces of a Sign Must be Included.

Figure 13-2: For irregularly shaped signs, area is measured as enclosed by up to 8 straight intersecting lines.

Figure 13-3: Sign area for a monument sign must not include base,
If the base is architecturally distinct.

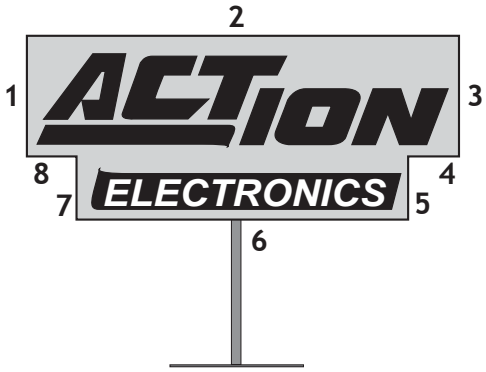

Figure 13-4: Pedestal not counted as part of sign area.

Figure 13-5: Sign area must include vertical and horizontal spacing between letters conveying the sign's message.

B. Illuminated Sign: All sign lighting must be designed, directed, and shielded in so that the light source is not visible beyond the property boundaries where the sign is located. Lighting for signs must be directed such that only the sign face is illuminated. All lighted signs must have stationary and steady lighting.

1. For signs using internal illumination: (Figure 13-6)

a. Only sign copy may be illuminated on an internally illuminated sign.

b. Internally illuminated signs must use semi-opaque or opaque materials for sign copy such that the light emanating from the sign is diffused. Transparent or clear materials are not allowed for sign copy. Non-copy portions of the sign (e.g., background and frame) must be made of completely opaque material.

c. Internally illuminated exterior signage must not exceed a luminance of 150 cd/m2 (nits) during nighttime hours. The applicant must provide written certification from the sign manufacturer that the light intensity has been preset not to exceed the levels specified above, and the intensity level is protected from end-user manipulation by password protected software or other appropriate methods.

2. For signs using external illumination: (Figure 13-7) Lighting for externally illuminated signs must be steady, stationary and mounted at the top of the sign (or within 2 feet above a building mounted sign) and meet Article 7-1600 of the Boulder County Land Use Code. Light fixtures mounted above a sign face must meet the following requirements:

a. The bottom opening of the light fixture must be flat (i.e., it could be covered by a flat board allowing no light to escape);

b. The fixture must tilt toward the sign face; and

c. The uppermost portion of the fixture's opening no higher than the top of the sign face.

3. For signs using halo illumination: (Figure 13-8)

a. The light source must not be visible.

b. The light source must project only against the surface behind the sign.

c. The sign must not be located on a reflective surface.

Figure 13-6 Internally Illuminated Sign

Figure 13-7 Externally Illuminated Sign

Figure 13-8 Halo Illuminated Sign

13-500 Prohibited Signs

A. The following signs are prohibited:

1. Signs containing a commercial message that does not advertise a product, service, activity, event, person, institution, or business located on the premises where the sign is located, or the sale or rental of such premises.

2. Signs, except publicly owned signs, attached to a tree, light pole, utility pole, or sign pole on public property or located in any public right-of-way except where required by law.

3. Signs with visible moving, revolving, rotating parts, or visible mechanical movement of any description or other apparent visible movement achieved by electrical, electronic, or mechanical means.

4. Signs with the optical illusion of movement by means of a design that presents a pattern capable of reversible perspective, giving the illusion of motion or changing of copy.

5. Signs with lights or illuminations that flash, move, rotate, scintillate, blink, flicker, vary in intensity, vary in color, or use intermittent electrical pulsations.

6. Strings of light bulbs used in connection with commercial premises for commercial purposes.

7. Signs that incorporate projected images, or emit any sound except for drive-up menu boards.

8. Signs containing glass tube lighting in which a gas and phosphors are used in combination to create a color light.

9. Signs whose alphabetic, pictographic or symbolic informational content can be changed or altered on a fixed display screen composed of electrically illuminated segments.

10. Freestanding commercial signs, together with their supporting structure, or building mounted signs, that are in place for 6 months or more after the premises have been vacated and advertise an activity, business, product or service no longer produced or conducted upon the premises upon which such sign is located.

a. If the sign or sign structure is covered or the identifying symbols or letters removed, an extension of time may be granted by the County Building Official upon good cause shown.

b. This provision must not apply to permanent signs accessory to businesses that are open only on a seasonal basis, provided there is clear intent to continue operation of the business.

11. Portable commercial signs.

12. Signs mounted on rooftops that project above the highest point of the roof line, parapet or fascia of the building.

13. Pennants, balloons, streamers, whirligigs, or other similar devices, when used for advertising purposes.

14. Signs not allowed in this sign code.

15. Signs or sign structures that:

a. Are structurally unsafe;

b. Constitute a health or safety hazard because of inadequate maintenance or dilapidation;

c. Are capable of causing electrical shocks to persons likely to come into contact with them;

d. May be confused with or purport to be official traffic signs, signals, or devices or any other official signs;

e. Use words, phrases, symbols, or characters implying the existence of danger or the need for stopping or maneuvering of a motor vehicle;

f. Are located in a manner that interferes with pedestrian or vehicular travel or pose a hazard to pedestrians, or that interfere with the free use of any fire escape, exit or standpipe.

16. Signs located in a sight triangle, as such signs may conflict with the clear and open view of devices placed by a public agency for controlling traffic or may obstruct a motorist's or pedestrians clear view of an intersecting road, alley or major driveway. The following criterion is to be used to determine the maximum sight line encroachment for non-traffic signs:

a. Sight Triangles: At the intersection of two (2) or more streets, or a street and any driveway controlled by a stop sign or a requirement to stop, no sign that is higher than thirty (30) inches above curb level shall be permitted in any sight triangle. Such sight triangle must be defined as the area between a fifteen (15) foot setback from the road or driveway yielding to the main road at the subject intersection, and the distance as defined in Table 13-500-A-16-a Sight Triangle:

Table 13-500-A-16-a Sight Triangle

Speed Limit on Thru Road	Distance from Centerline (D)
15 mph	100 feet
20 mph	150 feet
25 mph	175 feet
30 mph	200 feet
35 mph	250 feet
40 mph	300 feet
50 mph	450 feet
60 mph	650 feet

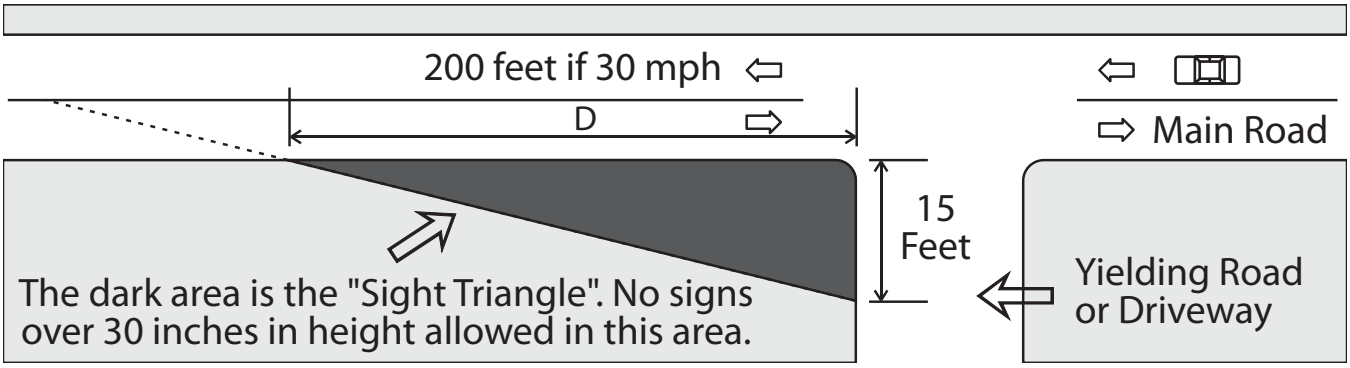

Figure 13-9: Sight Triangle.

13-600 Sign Regulations Governing Specific Zoning Districts

A. All Zone Districts

1. Outdoor lights must meet Article 7-1600.

2. Signs are exempt from the supplemental setback in Article 7-1403.

3. Each platted residential subdivision may maintain two permanent signs at each entry into the subdivision from a public right-of-way subject to the following:

(i) The total area of each sign does not exceed 32 square feet of surface area and six feet in height.

(ii) The signs comply with all applicable Boulder County Multimodal Standards and other requirements of the Transportation Department.

(iii) If entry signs are illuminated they must be externally lit.

B. Forestry, Mountain Institutional and Agricultural Zoning Districts

1. Total sign area per lot must not exceed 88 square feet and an additional 12 square feet for Temporary Real Estate Signs.

2. Total commercial sign area per lot must not exceed 64 square feet with the exception of parcels where the principal use is residential, in which case the total commercial sign area is limited to 2 square feet and an additional 12 square feet for Temporary Real Estate Signs.

3. Any combination of freestanding or wall sign must not exceed the 88 square feet per lot requirement.

Sign Type	Maximum Sign Area	Maximum Sign Height	Illumination	Setback	Additional Information
Freestanding Sign	64 s.f. total area per sign no more than 32 s.f. per sign face	10 ft	Must meet the requirements of Article 7-1600; Internal illumination prohibited	15 ft front 7 ft sides	Noncommercial signs under 6 s.f. per sign face and less than 30 inches in height are exempt from setback requirements Any combination of freestanding or wall sign must not exceed the 88 square feet per lot requirement
Commercial Freestanding Sign where principal use is residential	Not permitted				
Wall Sign	24 s.f.	Must not exceed the height of the wall to which the sign is attached, or 30 ft, whichever is more restrictive	Must meet the requirements of Article 7-1600; Internal illumination prohibited	Zoning District setback requirements; Nonconforming structures may have a wall sign and must be maintained in a proper state of repair	Any combination of freestanding or wall sign must not exceed the 88 square feet per lot requirement
Wall Sign where principal use is residential	2 s.f.; not to exceed one sign per parcel	Must not exceed the height of the wall to which the sign is attached, or 30 ft. whichever is more restrictive	Must meet the requirements of Article 7-1600; Internal Illumination prohibited	Zoning District setback requirements; Nonconforming structures may have a wall sign and must be maintained in a proper state of repair.	
Temporary Real Estate Sign	12 s.f. total with no more than 6 s.f. per sign face	6 ft	Prohibited		

C. Rural Residential, Estate Residential, Suburban Residential, Multi-Family and Manufactured Park Zoning Districts

1. Total sign area per lot must not exceed 64 square feet and an additional 12 square feet for Temporary Real Estate Signs.
2. Total commercial sign area per lot must not exceed 32 square feet, with the exception of parcels where the principal use residential, in which case the total commercial sign area is limited to 2 square feet and an additional 12 square feet for Temporary Real Estate Signs.
3. Any combination of freestanding or wall sign must not exceed the 64 square feet per lot requirement.

Sign Type	Maximum Sign Area	Maximum Sign Height	Illumination	Setback	Additional Information
Freestanding Sign	32 s.f. total area with no more than 16 s.f. per sign face	6 ft	Must meet the requirements of Article 7-1600; Internal illumination prohibited	15 ft front 7 ft sides	Noncommercial signs under 6 sf per sign face and less than 30 inches in height are exempt from setback requirements. Any combination of freestanding or wall sign must not exceed the 88 square feet per lot requirement
Commercial Freestanding Sign where principal use is residential	Not permitted				
Wall Sign	32 s.f.	Signs must not exceed the height of the wall to which the sign is attached or 30 feet whichever is more restrictive	Must meet the requirements of Article 7-1600; Internal illumination prohibited	Zoning District setback requirements; Nonconforming structures may have a wall sign and must be maintained in a proper state of repair	Any combination of freestanding or wall sign must not exceed the 88 square feet per lot requirement
Wall Sign where principal use is residential	2 s.f.; not to exceed one sign per parcel	Signs must not exceed the height of the wall to which the sign is attached or 30 feet whichever is more restrictive	Must meet the requirements of Article 7-1600; Internal illumination prohibited	Zoning District setback requirements; Nonconforming structures may have a wall sign and must be maintained in a proper state of repair	
Temporary Real Estate Sign	12 s.f. total with no more than 6 s.f. per sign face	6 ft	Prohibited		

D. Transitional, Business, Commercial, Light Industrial, Economic Development, and General Industrial

1. Total sign area per lot must adhere to cumulative allowances below, based on street frontages and number of uses on the parcel.
2. Total sign area must not exceed 450 square feet plus an additional 12 square feet for Temporary Real Estate Signs, with the exception of parcels where the principal use is residential, in which case the total commercial sign area is limited to 2 square feet and an additional 12 square feet for Temporary Real Estate Signs.
3. Any combination of freestanding or wall sign must not exceed the 450 square feet per lot requirement.

Sign Type	Maximum Sign Area	Maximum Sign Height	Illumination	Setback	Additional Information
Freestanding Sign	One per lot line abutting a public street, not to exceed 2 s.f. total sign area for each lineal foot of the lot width, provided that: Where a parcel has one use, the total maximum surface area of any one sign face must not exceed 75 s.f. or 150 s.f. total surface area. Where a parcel has more than one use, the total permitted sign area must not exceed 150 s.f. per sign face or 300 s.f. total surface area.	25 ft	External illumination meets Article 7-1600 of Land Use Code. Internally illuminated must meet requirements specified in Article 13-400.	25 ft front 7 ft sides	Noncommercial signs under 6 s.f. per sign face and less than 30 inches in height are exempt from setback requirements. Any combination of freestanding, wall, projecting or multi-driveway sign must not exceed the 450 square feet per lot requirement.
Multi-Driveway Sign	One sign per approved access point not to exceed 4 s.f. per sign and 2 s.f. per sign face.	4 ft	Prohibited	10 ft setback from edge of road .	Any combination of freestanding, wall, projecting or multi-driveway sign must not exceed the 450 square feet per lot requirement.
Projecting Sign	12 s.f. with no more than 6 s.f. per sign face.	Must not exceed the height of the wall to which the sign is attached or 15 ft whichever is more restrictive	Must meet the requirements of Article 7-1600; Internal illumination prohibited	Zoning District setback; Nonconforming structures may have a wall sign and must be maintained in a proper state of repair	Must maintain 8 ft clearance from lowest portion of sign to grade below. Any combination of freestanding, wall, projecting or multi-driveway sign must not exceed the 450 square feet per lot requirement.
Wall Sign	One sign on each street frontage, the total surface area of the sign does not exceed 2 s.f. for each lineal foot, measured horizontally, of the side of the building to which it is attached; and for each street frontage, the sign must not exceed 150 s.f., or 25% of the total surface area of the wall.	Signs must not exceed the height of the wall to which the sign is attached, or 30 ft, whichever is more restrictive	Must meet the requirements of Article 7-1600; Internally illuminated must meet materials requirements specified in Article 13-400	Zoning District setback requirements; Nonconforming structures may have a wall sign and must be maintained in a proper state of repair.	Any combination of freestanding, wall, projecting or multi-driveway sign must not exceed the 450 square feet per lot requirement.
Wall Sign where principal use is residential	2 s.f.; not to exceed one sign per parcel	Signs must not exceed the height of the wall to which the sign is attached or 30 feet whichever is more restrictive	Must meet the requirements of Article 7-1600; Internal illumination prohibited	Zoning District setback requirements; Nonconforming structures may have a wall sign and must be maintained in a proper state of repair	
Temporary Real Estate Sign	12 s.f. total with no more than 6 s.f. per sign face	6 ft	Prohibited		

E. Historic and Rural Community Zoning Districts

1. Each designated Historic or adopted Rural Community District may maintain permanent signs at each entry into the District from a public right-of-way subject to the following:

(i) The total area of each sign does not exceed 32 square feet of surface area and six feet in height.

(ii) The signs comply with all applicable Boulder County Multimodal Standards and any other requirement or permit required by the Transportation Department.

2. Rural Community District Sign regulations adopted as part of the district adoption supercede these regulations.

3. Historic District Total Sign Area per lot not to exceed 56 square feet and an additional 12 square feet for Temporary Real Estate Signs, with the exception of parcels where the principal use is residential, in which case the total commercial sign area is limited to 2 square feet and an additional 12 square feet for Temporary Real Estate Signs.

Sign Type	Maximum Sign Area	Maximum Sign Height	Illumination	Setback	Additional Information
Freestanding Sign	32 s.f. with no more than 16 s.f. per sign face	6 ft	External illumination meets Article 7-1600 of Land Use Code; Internally illuminated prohibited.	15 ft front 7 ft sides	Noncommercial signs under 6 s.f. per sign face and less than 30 inches in height are exempt from setback requirements Any combination of freestanding, wall, or projecting sign must not exceed the 32 square feet per lot requirement
Projecting Sign	12 s.f. with no more than 6 s.f per sign face	Must not exceed the height of the wall to which the sign is attached, or 15 ft, whichever is more restrictive	Must meet the requirements of Article 7-1600; Internal illumination prohibited	Zoning District setback; Nonconforming structures may have a wall sign and must be maintained in a proper state of repair.	Must maintain 8 ft clearance from lowest portion of sign to grade below Any combination of freestanding, wall, or projecting sign must not exceed the 32 square feet per lot requirement
Wall Sign	24 s.f.	Signs must not exceed the height of the wall to which the sign is attached or 30 ft, whichever is more restrictive	Must meet the requirements of Article 7-1600; Internally illuminated prohibited	Zoning District setback requirements; Nonconforming structures may have a wall sign and must be maintained in a proper state of repair	Any combination of freestanding, wall, or projecting sign must not exceed the 32 square feet per lot requirement
Wall Sign where principal use is residential	2 s.f.; not to exceed one sign per parcel	Signs must not exceed the height of the wall to which the sign is attached or 30 ft, whichever is more restrictive	Must meet the requirements of Article 7-1600; Internally illuminated prohibited	Zoning District setback requirements; Nonconforming structures may have a wall sign and must be maintained in a proper state of repair	
Temporary Real Estate Sign	12 s.f. total with no more than 6 s.f. per sign face	6 ft	Prohibited		

F. The standards in this Article must be the maximum allowed signage in all discretionary review processes. Refer to the district development plan for established Rural Community Districts and the approval resolution for other uses allowed by discretionary review for specific provisions.

13-700 Permits Required

A. No person must display, erect, relocate, or alter the physical characteristics of any sign without first filing a permit application with the County Building Official obtaining a sign permit, except the following:

1. Lettering and numerals no larger than 16 square inches affixed to a mailbox used by the United States Postal Service for mail delivery to the occupants of the property where the mailbox is located;
2. Wall signs no larger than two square feet;
3. Temporary Real Estate Signs;
4. Noncommercial signs in all zoning districts.;

B. An application for a sign permit must include the following:

1. The name, address, and telephone number of the owner or persons entitled to possession of the sign and of the sign contractor or installer;
2. The street address location of the proposed sign;
3. Complete information required in the application form provided by the Building Official, including a sign plan and elevation drawings of the proposed sign, caption or the proposed sign and other data pertinent to the application;
4. A complete application for an electrical permit for all signs requiring electrical hook-up;
5. Construction plans;
6. Verification of all existing signs and sign areas in existence on the property;
7. A statement of valuation or cost; and
8. A fee established by the Board of County Commissioners in an amount sufficient to offset the cost of processing sign applications, inspecting signs and enforcing this article.

C. The Building Official must grant a sign permit within twenty (20) days after a complete application and fee are received for any sign that complies with all of the requirements in this Article.

1. If the Building Official determines the application is incomplete or the proposed sign(s) is not allowed under these or other pertinent regulations, the Building Official must notify the applicant. The notice must identify with specificity the deficiency in the application or the provision under which the proposed sign is not allowed.
2. An applicant for a sign permit may seek immediate review of a decision denying a sign permit. Decisions based on matters subject to the Building Code must be appealed to the Board of Review. Decisions based on the provisions of the Land Use Code must be appealed to the Board of Adjustment. All appeals must be subject to the time limits and other requirements of the appropriate reviewing body.

D. When a sign permit has been issued by the Building Official, it must be unlawful to change, modify, alter the structural characteristics of the sign, or otherwise deviate from the terms or conditions of said permit without prior approval of the Building Official. A written record of such approval must be entered upon the original permit application and maintained in the files of the Land use Department.

E. If the Building Official finds that the sign erected under any permit is not in accordance with the information supplied in the permit application or is in violation of this or any other pertinent regulations, or should the Building Official find that there has been any misrepresentation in connection with the application for the permit, the sign owner or erector must be notified of such findings by first class mail to the address on the sign permit application. The notice must identify the violation and must state the permit will be revoked if the violation is not corrected within thirty (30) days.

1. If such correction is not made within the thirty (30) day period, the Building Official must revoke the permit and must serve written notice to the sign owner or erector. The Building Official must proceed pursuant to the Building Code provisions or the Zoning Enforcement provisions of this Code as applicable.
2. No person shall proceed with the erection, relocation, alteration, or modification of the sign after such notice has been given.

13-800 Maintenance and Construction of Signs

A. All allowed signs must meet the following requirements:

1. Signs and sign structures must be maintained at all times in a state of safe repair, with all braces, bolts, clips, supporting frame, and fastenings free from deterioration, insect infestation, rot, rust, or loosening.

2. Construction plans for all signs that require a permit must be submitted to the Building Official for review and approval.

3. All signs must meet Boulder County wind-load specifications.

B. Electrical Signs

1. All electric signs installed or erected in Boulder County must bear the label of Underwriters Laboratories, Inc.

2. Electric signs must be rain-tight, except that service holes fitted with waterproof covers must be provided to each compartment of such signs.

3. All electrical signs erected must comply with the Electrical Code of Boulder County.

C. Illuminated Signs

1. Any light used for the illumination of a sign must be shielded so that the light will not shine directly on surrounding areas or create a traffic hazard or distraction to operators of motor vehicles on public thoroughfares.

2. The Building Official may order a change in the illumination of any sign that becomes a hazard or nuisance.

D. The Building Official must have the authority to inspect and order the painting, repair, alteration, or removal, at the owner's expense, of a sign that constitutes a hazard to safety, health or public welfare by reason of inadequate maintenance, dilapidation or obsolescence.

13-900 Nonconforming Signs

A. Nonconforming signs must be governed by the provisions of 4-1000 Nonconforming Structures and Uses.

13-1000 Variances

A. The Board of Adjustment must have the power to hear appeals and grant variances to the provisions of this Article per Article 4 of this Code.

Article 14

Rubbish, Weeds & Brush, & Unsafe Structure

Article 14 • Rubbish, Weeds & Brush, & Unsafe Structure

14-100 Purpose

A. To protect the health, safety, and welfare of the citizens of Boulder County through the removal of rubbish (including trash, junk, and garbage); weeds and brush; and unsafe or abandoned buildings and structures from land in the unincorporated areas of the County. This includes removal by the County upon notice to and failure of the property owner to remove such rubbish, weeds, or unsafe structures, and the provision for criminal penalties in the event of failure to comply.

14-200 Authority

A. Section 30-15-401, C.R.S., as amended, authorizes the Board of County Commissioners to adopt ordinances for the control of matters of local concern, including providing for and compelling the removal of the following:

1. 'Rubbish': rubbish, including trash, junk, and garbage, from land within the unincorporated County and from alleys behind and sidewalk areas in front of such land, with the exception of:

a. industrial parcels of ten acres or greater; and

b. agricultural land, as defined by 39-1-102(1.6), C.R.S., as amended, currently in agricultural use.

2. 'Weeds and Brush': weeds and brush from residential lots of two and one-half acres or less and from alleys behind and sidewalk areas in front of such lots; and

3. 'Unsafe Structures:' any building or structure, as further defined below, with the exception of any building or structure on

a. affected land subject to the 'Colorado Mined Land Reclamation Act' as defined in 34-32-103(1.5), C.R.S., as amended, or (b) lands subject to the 'Colorado Surface Coal Mining Reclamation Act' pursuant to Article 33 of Title 34, C.R.S., as amended.

14-300 Applicability

A. This Article shall apply throughout the unincorporated area of the County, with the exception of (see 30-15-401(8) & (9), C.R.S., as amended):

1. Any municipal service, function, facility, or property whether owned by or leased to the incorporated municipality, unless the municipality consents pursuant to 30-15-401(8), C.R.S., as amended.

B. This Article shall not duplicate or interfere with any service or facility authorized and provided by a special district, or contravene any power authorized and exercised by a special district, unless the County is specifically empowered by law to exercise authority with respect thereto, or the County and the special district agree pursuant to Part 2 of Article 1 of Title 29, C.R.S., as amended.

14-400 Definitions

A. Abatement: To remove the rubbish, weeds and brush, or unsafe structure as prescribed in the notice of violation.

B. Agricultural land is land which, regardless of the uses for which such land is zoned, the County Assessor has determined meets the definition of "agricultural land" in 39-1-102(1.6), C.R.S., as amended.

C. Rubbish: Garbage, trash, and junk including, but not limited to, unwanted or discarded household items; waste from building construction, remodeling, and repair; tree branches, grass and shrub clippings, leaves, or other general yard and garden waste; motor vehicle parts or tires, or abandoned, unlicensed, or inoperable motor vehicles including without limitation mobile or manufactured homes; newspapers, magazines, packaging materials, waste paper or cardboard; dead animal carcasses; and any other unsightly or discarded material which causes or is likely to cause a public hazard or nuisance, or is unacceptably offensive in light of community standards of cleanliness or generally accepted neighborhood aesthetics.

D. Special District: Any special district established pursuant to Article 1 of Title 32, C.R.S., as amended; the Three Lakes Water and Sanitation District established pursuant to Article 10 of Title 32, C.R.S., as amended; the urban drainage and flood control district established pursuant to Article 11 of Title 32, C.R.S., as amended; any metropolitan sewage disposal district established pursuant to Part 4 of Article 4 of Title 32, C.R.S., as amended; any drainage district established pursuant to Article 20 of Title 37, C.R.S., as amended; the Cherry Creek basin water quality authority established pursuant to Article 8.5 of Title 25, C.R.S., as amended; any regional service authority established pursuant to Article 7 of Title 32, C.R.S., as amended; and the Regional Transportation District established pursuant to Article 9 of Title 32, C.R.S., as amended. (See 30-15-401(9)(b), C.R.S., as amended.)

E. Unsafe Structure: A structure or building which, in the determination of the Chief Building Official: (1) is in a condition presenting a substantial danger or hazard to public health, safety, or welfare; or (2) is a dilapidated building which is unused by the owner or uninhabited because of deterioration or decay, and constitutes a fire hazard or subjects adjoining properties to a danger of damage by storm, soil erosion, or rodent infestation, or is a place frequented by trespassers and transients seeking a temporary hideout.

F. Violation: The presence of rubbish, weeds and brush, or an unsafe structure, contrary to the provisions of this Article.

G. Weeds and Brush: Any underbrush, bush, shrub, or plant material greater than nine inches in height which:

1. ordinarily grows without cultivation; not in planting beds or otherwise in a controlled manner; or not for the purpose of food production; and

2. is allowed to grow in such a manner or extent that it causes or is likely to cause a public hazard or nuisance, or is unacceptably offensive in light of community standards of cleanliness or generally accepted neighborhood aesthetics; and

3. is not a noxious weed designated under the County's Noxious Weed Management Plan, the removal of which shall be governed by that Plan and not this Article.

14-500 Process for Removal of Rubbish, Weeds and Brush, or Unsafe Structures

A. Complaint and Verification of Violation

1. Upon complaint made or filed by a member of the public or by a County official or employee, the Director will take reasonable steps to verify the complaint as a violation.

2. The Director's authority to enter and inspect land, a building or structure for a violation, shall be governed by the same procedures for obtaining consent or an administrative search warrant as are set forth under Article 17-300(E)(1)-(2).

B. Notification of Violation and Provision for Appeal

1. If the Director verifies a complaint as a violation, the Director will, as soon as practicable, provide written notice of the violation and the requirements for abatement to the property owner of record as identified on the Boulder County tax records (both to the address in the tax records and the property address, if different), and to any other responsible party whose identity and whereabouts are known to the Director.

2. The notification will include a description of the violation; the requirements for abatement including the time period in which abatement must occur; a proposed reinspection date to verify abatement; a statement of the right to appeal the determination of violation; and the time within which a written appeal must be filed. Ordinarily the Director will provide 30 days for abatement, unless the Director determines that a shorter or longer time is justified.

3. The property owner or other noticed person may appeal the Director's determination that a violation exists to the Board of County Commissioners.

a. Unless the notice of violation specifies a reasonable shorter time, the request for an appeal must be made to the Land Use Department in writing no later than 30 days after the date of the violation notice (with an additional three days allowed if the notice is mailed). The Director may specify a reasonable shorter time for filing an appeal in the notice, if the Director determines that an abatement time of less than 30 days is necessary.

b. If a timely appeal is filed, the Director will schedule a hearing before the Board to consider the appeal at the earliest available time for which adequate notice of the appeal may be given.

c. The Director will notify the party requesting the appeal of the hearing date and time as soon as possible after the hearing is scheduled. The Director also will notify adjacent property owners and any other known interested members of the public in advance of the hearing.

d. At the appeal hearing the Board will take testimony from the Director, the alleged violator, and any members of the public present. Based on the hearing the Board may affirm, reverse, or modify the determination of the Director as set forth in the notice of violation.

C. Board of County Commissioners' Authorization for Abatement by County

1. If the alleged violator fails to comply with the County's requirements for abatement, the Director may request that the Board of County Commissioners, at a public meeting, authorize the County to arrange for abatement of the violation. The Director shall provide reasonable prior notice of the meeting to the alleged violator in the same manner as required for the initial notice of violation under Subsection (B)(1), above.

D. Administrative Entry and Seizure Warrant for County Abatement

1. Upon authorization by the Board for County abatement of the violation, the Director shall seek an administrative entry and seizure warrant from the county or district court having jurisdiction over the property.

2. Such warrant shall be issued upon presentation of these regulations; an affidavit stating the factual basis for the warrant; evidence that the property owner has received notice of the violation and has failed to abate the violation within the prescribed time; a general description of the location of the subject property; a general description of the violation; and the proposed method and extent of abatement by the County (including a general list or description of the rubbish, weeds or brush, or unsafe structure to be removed).

E. County Abatement

1. Within 10 days following the date of issuance of an administrative warrant, the County shall abate the violation in accordance with the direction of the issuing court; a copy of the issued warrant shall be provided to the property owner; and proof of the execution of the warrant, including a written inventory of any property impounded by the County, shall be submitted to the court.
2. The proposed method of abatement by the County may be accomplished through the use of County staff or by contract with a private party, and may include the impoundment of rubbish or other property removed as part of the abatement.
3. A bill for the reasonable costs of abatement shall be mailed to the property owner of record at the addresses specified in Section (B)(1), above. The bill may include a separate charge for the reasonable costs of inspection and other incidental costs incurred by the County in abating the violation, which charge may not exceed five percent of the total abatement costs for rubbish and unsafe structure violations, and may not exceed ten percent of the total abatement costs for weeds and brush violations. Payment of the bill shall be due within 60 days of the date of the bill.
4. If the bill is unpaid after 60 days, the Director through the County Clerk shall certify the bill to the County Treasurer, who shall collect the assessment together with a ten percent penalty for the cost of collection, in the same manner as other taxes are collected. (See 30-15-401(1)(a)(I)(A) and -(I.5)(B), C.R.S., as amended.)

14-600 Preservation of Remedies

A. Unless otherwise specified in this article, the remedies as provided in this Article, and as may be available under other applicable regulations of the County or pursuant to state or federal law, are not exclusive in any way, and may be pursued by the County singly or in combination to achieve the most expeditious abatement of violations involving the presence of rubbish, weeds and brush, and unsafe structures.

Article 15

Historic Preservation

Article 15 • Historic Preservation

15-100 Definitions

A. For purposes of this regulation the following words are to be defined as follows.

1. Alteration: Any act or process that changes either (a) one or more of the exterior architectural features of a structure, or (b) one or more of the physical features of a site or district.
2. Board: The Boulder County Board of County Commissioners
3. Boulder County Historic Preservation Advisory Board: A committee appointed by the Board of County Commissioners to make recommendations on the designation of historic landmarks and to administer the County's historic preservation program. Also referred to as HPAB.
4. Boulder County Historical Site Survey: The inventory of historic resources completed by Boulder County in accordance with the guidelines of the Colorado State Historic Preservation Office. The Historical Site Survey includes only those resources located in the unincorporated area of the county and does not include archaeological sites.
5. Certificate of Appropriateness: A certificate issued by the Historic Preservation Advisory Board showing approval of plans for construction, alteration, demolition, or relocation of structures which would affect a designated historic landmark. Also referred to as a CA.
6. Contributing Structures or Features: Those structures or features within a site or district which help to define the historic significance of that site or district.
7. County Staff: Staff persons from the County Parks and Open Space and Land Use Departments.
8. District: A group of structures or site which make a coherent whole due to their similar historic significance. This would include things such as neighborhoods; mining, agricultural, or commercial districts; and town sites.
9. Exterior Architectural Features: The exterior architectural features of a structure, including but not limited to the color, kind, and texture of building materials, and the type, design, and character of windows, doors, and appurtenances.
10. Hardship Relief: A finding by the Historic Preservation Advisory Board or the Board of County Commissioners that the denial of a Certificate of Appropriateness has imposed a hardship on a property owner.
11. Historic Landmark: A structure, site, or district which as been designated by the Board because of its historic significance and importance to the county.

12. Historic Review Process: Review of building permit applications for nondesignated structures greater than 50 years in age by the Historic Preservation Advisory Board. This review is to determine if the structure would be eligible for designation as a historic landmark, and if the proposed action would adversely affect the historic significance of that structure.
13. Historic Significance: Having importance in the history, architecture, archaeology, or culture of either Boulder County, the State of Colorado, or the United States.
14. Listed: Properties officially included in the Local, State of Colorado, or National Register of Historic Places.
15. Noncontributing Structures or Features: Structures or features which may be within a site or district, but are not of historic significance per se; however, the relationship of these structures with the contributing structures may be important in the preservation of the site or district.
16. Nondesignated Structures: Structures which have not been designated as a historic landmark.
17. Owner of Record: The person or persons listed on the records of the Boulder County Clerk and Recorder as the owner of the subject property. Also referred to as the owner.
18. Physical Features: The features of a landmark which help to define its historic significance. For example archaeological resources, structure foundations, gravestones, or tailings piles.
19. Preservation: The protection, enhancement, and maintenance of historic properties.
20. Property: The cultural resources, including buildings, structures, objects, sites, and districts, which are of historic significance.
21. Resolution of Approval: The resolution recording the official action of the Board of County Commissioners in designating a historic landmark.
22. Site: The scene of an activity which has a historic significance to the county. A site may or may not include structures, for example parks, abandoned mining or agricultural areas, and archaeological sites.

15-200 Boulder County Historic Preservation Advisory Board

A. Selection

1. The Boulder County Historic Preservation Advisory Board (HPAB) shall consist of no less than seven and no more than nine members who are appointed by the Boulder County Board of County Commissioners.

2. All members shall be residents of Boulder County.

B. Citizen Advisory Committees and subcommittees

1. As necessary, HPAB may convene citizen advisory committees to represent the interests of a specific geographic or thematic community.

2. HPAB may also convene subcommittees of its membership as necessary to carry out its duties and responsibilities. The following shall be standing subcommittees:

a. The Historic Resource Subcommittee: This subcommittee shall be available to the public for consultations prior to the submission of a nomination for designation of a landmark. This subcommittee shall also provide direction on staff research efforts as necessary for the update and review of the Boulder County Historical Site Survey.

b. The Design Review Subcommittee: This subcommittee shall be available to the public for consultations prior to the submission of an application for a Certificate of Appropriateness.

c. The Application Review Subcommittee: This subcommittee shall meet, as needed, to determine if applications for building permit review and Certificate of Appropriateness Review require a hearing before the HPAB.

3. The selection, number, meeting schedule, and duration of these committees and subcommittees will be determined by HPAB.

C. Term and Vacancies

1. The term of office for the members of HPAB shall be three years, and shall be staggered by making the appointments so that approximately one third expire each year.

2. In the case of a vacancy on HPAB, the Board of County Commissioners shall make an appointment to fill the term of the vacating member.

D. Duties and Responsibilities

1. HPAB shall adopt by-laws governing procedural matters including such things as meeting schedule and organization, officers, use of citizen advisory committees, and attendance policies.

2. Review and set priorities for updates to the Boulder County Historical Site Survey

3. Review building permit applications for nondesignated structures greater than 50 years in age to determine whether the structure has historic significance and if the proposed action would adversely affect that significance.

4. Make recommendations to the Board of County Commissioners as to the designation of historic landmarks.

5. Review applications for Certificates of Appropriateness (CA) affecting designated historic landmarks.

6. Consider applications for hardship relief which would allow the completion of action for which a CA has been denied.

7. Serve as a referral body to review and comment on proposed land use regulation amendments and amendments to the Boulder County Comprehensive Plan, as well as development proposals which would affect historic properties eligible for landmark designation as determined by HPAB.

8. Function as an educational resource for citizens wishing information on historic preservation, including the assistance to property owners on the physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and designation procedures at the state and federal levels.

9. Carry out other functions as directed by the State Historic Preservation Officer, including review of nominations for the State and National Historic Registers.

10. Review and assist in the administration of fiscal programs such as grant monies and money from the state historical fund, and other incentive programs to increase preservation options for property owners.

11. Pursue intergovernmental agreements with communities in the county interested in participating in the historic preservation program.

12. Assist, as necessary, in the long term management of historic resources or easements acquired by or donated to the county.

15-300 Boulder County Historical Site Survey

A. Purpose

1. The Boulder County Historical Site Survey is intended to identify resources which have historic significance.

2. Because the Survey is intended to be educational in nature, HPAB will review and evaluate the contents of the Survey in an attempt to make it as complete as possible, and shall compile appropriate descriptions, facts, and photographs for all identified resources.

B. Review and Update

1. HPAB shall review and update the Boulder County Historical Site Survey, including the following:

a. An ongoing effort to identify resources not included in the Survey which have importance to the county.

b. An assessment of the resources included in the Survey which may no longer be of importance.

c. The update of information on sites already included in the Survey.

d. The addition or removal of resources identified in the Survey may be initiated by property owners, staff, HPAB members, or interested parties.

2. Owners of property being considered for addition or removal from the Survey shall be notified in writing.

15-400 Review of Building Permits for Nondesignated Structures Greater Than 50 Years in Age

A. Applicability and Scope of the Historic Review Process

1. Historic review of building permit applications for alteration of nondesignated structures greater than 50 years of age shall be required.

2. Permits excepted from these regulations include permits for alterations that do not affect the exterior of the structure under consideration; reroofing; electrical, plumbing, or mechanical upgrades or repair; and permits for alteration to a structure required by another governmental entity having lawful jurisdiction over that structure.

B. Procedure for Historic Review

1. Preliminary Staff Review

a. Upon building permit application for alteration of nondesignated structures 50 years of age and older, staff shall determine:

(i) if the proposed alteration is excepted from historic review; and

(ii) if the structure has been identified in the Historical Sites Survey or other historic review process after September 29, 1992 as ineligible for landmark designation.

b. If preliminary staff review finds that the proposed action is excepted from historic review, or that the structure proposed for alteration would not qualify for landmark designation, further historic review will not be required.

2. Application Review Subcommittee

a. The Application Review Subcommittee shall be available, as necessary, to aid county staff in determining if HPAB review of a building permit application or Certificate of Appropriateness is warranted.

b. If the Application Review Subcommittee unanimously agrees on the following, review by the HPAB shall not be required:

(i) The structure proposed for alteration would not qualify for historic landmark designation; or

(ii) The structure proposed for alteration would be eligible for historic landmark designation, but the proposed alteration would not have an adverse impact on the historic significance of the property; or

c. If the Application Review Subcommittee cannot unanimously agree upon the items listed in (b) above, HPAB review shall be required

3. HPAB Review

a. Upon determination by the Application Review Subcommittee that historic review by the HPAB is required (including in the event the Subcommittee cannot unanimously agree that historic review is not required), county staff will place consideration of that application on the agenda for HPAB's next regularly scheduled hearing and shall notify the permit applicant of the hearing.

b. At this hearing HPAB shall determine if the structure in question would be eligible for designation as a historic landmark, and if the proposed action will have an adverse impact on the historic significance of that structure.

c. The determination shall be based on the criteria for landmark designation included in Section 15-501, below, any relevant public information available, and information submitted by the applicant with the building permit application.

d. Upon a finding that a structure is not eligible as a historic landmark, then no historic review shall be required for the subject structure for any future permit applications.

e. If the structure proposed for alteration is listed, the HPAB shall review the building permit application to determine if the proposed alteration would have an adverse impact on the historic significance of the structure or the district including the structure

C. Stay from the Issuance of a Building Permit

1. If HPAB determines that the structure in question has historic significance and would be eligible for designation as a historic landmark, and that the proposed action will have an adverse impact on that historic significance, the issuance of the permit will be stayed for up to 180 days from the date a complete building permit application is received by the County Building Division. A copy of this determination, including the reasons for determining the structure is eligible for designation, shall be provided to the applicant by regular mail within seven days of the determination being made.

2. The 180 day time period during which the permit is stayed shall be used to discuss the nomination of the structure for landmark status, and to look for alternatives to the proposed action which will not have an adverse impact on the historic significance of the structure. As part of this process, HPAB may require the applicant to allow the County staff or its agent on the subject property to provide historic photo-documentation of the structure.

3. If HPAB determines that the proposed action will have an adverse impact on the historic significance of a property listed in the State or National Register of Historic Places, the issuance of the permit will be stayed up to 180 days. As part of this process, HPAB may require the applicant to allow the County staff or its agent on to the subject property to provide historic photo-documentation of the structure. If, at the conclusion of the stay, an alternative to the proposed detrimental action has not been implemented, the County shall notify the Colorado Historical Society of the proposed action and may make a recommendation that the Register listing be amended.

D. If the structure proposed to be demolished or altered under a building permit is determined to be a risk to the health, safety, or welfare of the citizens of Boulder County, the Building Official may issue a permit without regard to the historic significance of that structure.

E. Appeal of a Permit Stay

1. An applicant may appeal the determination of HPAB that the structure is eligible for landmark designation or that the proposed action will have an adverse impact on the historic significance of the structure to the Board of County Commissioners no later than 30 days after the date of HPAB's determination.

a. County staff shall schedule the appeal for review at a public hearing before the Board, and shall provide the applicant prior notice of the Board's hearing.

b. At this hearing the Board shall consider the entire record from HPAB's consideration of the permit application, the reasons given by HPAB for the stay of the permit, and testimony from the applicant and other members of the public.

c. After due consideration, the Board shall either uphold the findings of HPAB, and find that the permit should be stayed, or reverse the findings of HPAB. In the case of the latter, the building permit for demolition, remodel, or addition work shall be processed through the usual building permit processing procedures.

F. Board of County Commissioners Review of Claimed Hardship Posed by the Stay of a Building Permit.

1. If an applicant for a demolition, remodel, or addition permit feels that the waiting period imposed by HPAB causes a hardship to the applicant, the applicant may request a review of the stay by the Board of County Commissioners no later than 30 days after the date of HPAB's determination.

a. County staff shall schedule the hardship request for review at a public hearing before the Board, and shall provide the applicant prior notice of the Board's hearing.

b. At this hearing the Board shall consider the entire record from HPAB's consideration of the permit application, the reasons given by HPAB for the stay of the permit, any alternatives to the proposed action available to the applicant, and testimony from the applicant and other members of the public.

c. After due consideration, the Board shall either find no hardship exists and uphold the permit stay, or determine, based upon the record at the appeal hearing, that such a hardship exists, and either shorten or eliminate the time period.

15-500 Nomination and Designation of Historic Landmarks

A. Procedure for Designating Historic Landmarks

1. Nominations may be submitted by the owner of the nominated property, a member of HPAB, or the Board of County Commissioners. Any interested person or organization may request that the Historic Resource Subcommittee review a structure, site, or district for the possible nomination by HPAB.

2. Nominations shall be made to HPAB on application forms available from either the Boulder County Parks and Open Space or Land Use Departments.

a. A complete application shall include the names of all owners of property proposed for designation and the property owners adjacent to the site, a description of the proposed landmark including its locations, and an explanation of how the structure, site, or district meets the criteria for designation specified in Section 15-501, below.

b. If the application is submitted by someone other than the property owner, a copy of the application shall be immediately forwarded to the owner of record.

(i) In the case of a nominated structure, the Historic Resource Subcommittee will meet with the property owner to discuss the designation. The processing of the nomination application may proceed, but designation of the site or district will not be done without the consent of the owner.

(ii) In the case of a site or district, the Historic Resource Subcommittee will meet with the property owners to discuss the designation. The processing of the nomination application may proceed, but designation of the site or district will not be done without the consent of the owners of 67% of the parcels.

3. County staff shall schedule a completed application for advisory review at a public hearing before HPAB. At least 14 days prior to the hearing, notice of the hearing shall be published in a newspaper of general circulation in Boulder County. At least 7 days prior to the hearing, notice of the hearing shall be mailed to all property owners of record within 500 feet of the proposed landmark. Also at least 7 days prior to the hearing, staff shall mail to the nominating party and the landmark owner of record a notice of the hearing, and a copy of the staff recommendation to HPAB on the landmark request.

4. At this hearing, HPAB will take testimony from the owner, the nominating party, and other members of the public regarding whether the structure, site, or district meets the criteria for designation.

a. After consideration of the information of record and public testimony, HPAB may find that the proposed landmark meets the designation criteria and recommend to the Board that they designate the property.

b. If the nominated landmark does not meet the criteria, HPAB shall recommend denial of the designation.

c. If the owner does not consent to the designation, HPAB will recommend denial of the nomination, and no hearing will be scheduled before the Board.

d. If the HPAB finds that the nomination lacks information or has deficiencies, the HPAB may table the decision for a reasonable period of time in order to provide the applicant time to correct the nomination.

5. If HPAB recommends designation, HPAB shall make a report of advisory findings to forward to the Board.

a. For the designation of structures as historic landmarks, HPAB shall include the following information in its report to the Board.

(i) Identification of the significant exterior architectural features of the nominated structure which should be protected.

(ii) A definition of the types of construction, alteration, and demolition which would require review under a CA prior to undertaking such action.

(iii) Guidelines for the review of CA applications specific to the structure being designated.

b. For the designation of sites or districts as historic landmarks, HPAB shall include the following information in its report to the Board.

(i) identification of the contributing and noncontributing structures within the site or district.

(ii) Identification of the significant exterior architectural features of the contributing structures which should be protected.

(iii) Identification of the significant physical and spatial characteristics and features of a site or district which should be protected.

(iv) A definition of the types of construction, alteration, and demolition for both contributing and noncontributing structures which would require review under a CA prior to undertaking such action.

(v) A definition of the types of alteration of a site or district which would require a CA prior to undertaking such action.

(vi) Recommendations as to appropriate permitted uses, height and setback regulations, sign regulations, floor area restrictions, and parking regulations as necessary for the preservation of the character of the historic landmark.

(vii) Guidelines for the review of CA applications specific to the site or district being designated.

6. If HPAB recommends approval of the landmark application, and if the owner of the proposed landmark consents to the application, County staff shall schedule the application for review and a decision at a public hearing before the Board. At least 14 days prior to the hearing, notice of the hearing shall be published in a newspaper of general circulation in Boulder County. At least 7 days prior to the hearing, notice of the hearing shall be mailed to all property owners of record within 500 feet of the proposed landmark. Also at least 7 days prior to the hearing, staff shall mail to the nominating party and the landmark owner of record a notice of the hearing, and a copy of the staff recommendation to the Board on the landmark request, including but not necessarily limited to the landmark application and HPAB's report on the application.

7. At this hearing, the Board will take testimony from the property owner and nominating party, as well as other members of the public regarding whether the nominated landmark meets the criteria for designation.

a. After consideration of the information of record and public testimony, the Board may find that the structure meets the designation criteria and designate the property a historic landmark.

b. If the nominated landmark does not meet the criteria, the Board shall deny the designation.

c. In the case that more information is needed before a decision can be made, the Board may table consideration of the application for a reasonable period of time.

8. If the Board determines that designation is appropriate, the Resolution of Approval shall include the following information, either by express incorporation or reference to specific documents which are part of the official landmarking file.

a. For the designation of structures as historic landmarks:

(i) identification of the significant exterior architectural features of the nominated structure which should be protected.

(ii) A definition of the types of construction, alteration, and demolition which would require review under a CA prior to undertaking such action.

(iii) Guidelines for the review of CA applications specific to the structure being designated.

b. For the designation of site or districts as historic landmarks:

(i) Identification of the contributing and noncontributing structures within the site or district.

(ii) Identification of the significant exterior architectural features of the contributing structures which should be protected.

(iii) Identification of the significant physical and spatial characteristics and features of a site or district which should be protected.

(iv) A definition of the types of construction, alteration, and demolition for both contributing and noncontributing structures which would require review under a CA prior to undertaking such action.

(v) A definition of the types of alternation of a site or district which would require a CA prior to undertaking such action.

(vi) Recommendations as to appropriate permitted uses, height and setback regulations, sign regulations, floor area restrictions, and parking regulations as necessary for the preservation of the character of the historic landmark.

(vii) Guidelines for the review of CA applications specific to the site or district being designated.

9. Once approved, a notice of the designation shall be recorded with the Boulder County Clerk and Recorder's Office, and information regarding each designation, including the Resolution of Approval, shall be kept in the files of the Land Use Department.

15-501 Criteria for Landmark Designation

A. In determining whether a structure, site, or district is appropriate for designation as a historic landmark, HPAB and the Board shall consider whether the landmark proposed for designation meets one or more of the following criteria:

1. the character, interest, or value of the proposed landmark as part of the development, heritage, or cultural characteristics of the county;

2. the proposed landmark as a location of a significant local, county, state, or national event;

3. the identification of the proposed landmark with a person or persons significantly contributing to the local, county, state, or national history;

4. the proposed landmark as an embodiment of the distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or the use of indigenous materials;

5. the proposed landmark as identification of the work of an architect, landscape architect, or master builder whose work has influenced development in the county, state, or nation;

6. the proposed landmark's archaeological significance;

7. the proposed landmark as an example of either architectural or structural innovation; and

8. the relationship of the proposed landmark to other distinctive structures, districts, or sites which would also be determined to be of historic significance.

15-502 Rescission or Amendment of a Landmark Designation

A. Change in the Historic Significance of a Landmark

1. If the property owner, HPAB, or the Board believes that the character of the landmark has changed in such a manner to remove the historic significance of the landmark, the landmark designation may be rescinded through the procedure outlines in Section 15-502(B), below.

2. If the property owners, HPAB, or the Board believes that the character of the landmark has changed in such a manner to affect the historic significance of the landmark, the landmark designation may be amended through the procedure outlined in Section 15-502(B), below.

B. Procedure for Rescinding or Amending Landmark Designations

1. Applications to consider a change in the designation of a landmark may be submitted by the owner of the property, a member of HPAB, or the Board of County Commissioners.

a. If an application to alter the landmark designation is made by someone other than the property owner, a copy of the application shall be immediately forwarded to the property owner.

b. Applications shall be made to HPAB on forms available from either the Boulder County Parks and Open Space or Land Use Departments.

2. County staff shall schedule a completed application for advisory review at a public hearing before HPAB. At least 14 days prior to the hearing, notice of the hearing shall be published in a newspaper of general circulation in Boulder County. At least 7 days prior to the hearing, notice of the hearing shall be mailed to all property owners of record within 500 feet of the proposed landmark. Also at least 7 days prior to the hearing, staff shall mail to the applicant and the landmark owner of record a notice of the hearing, and copy of the staff recommendation to HPAB on the landmark designation change request.

3. At the public hearing, HPAB will consider the information of record, including the Resolution of Approval for the specific landmark, and public testimony regarding the change to the structure, site, or district which has affected its historic significance.

a. After consideration of the information of record, HPAB may find that the landmark no longer has historic significance and recommend to the Board that they rescind the landmark designation.

b. If HPAB finds that the landmark has been changed in such a manner as to affect the historic significance, HPAB shall recommend to the Board that the Resolution of Approval be amended to reflect that change.

c. In the case that more information is needed before a decision can be made, HPAB may table consideration of the amendment or rescission for a reasonable period of time.

4. After consideration by HPAB, County staff shall schedule the application for review and decision at a public hearing before the Board. At least 14 days prior the hearing, notice of the hearing shall be published in a newspaper of general circulation in Boulder County. At least 7 days prior to the hearing, notice of the hearing shall be mailed to all property owners of record within 500 feet of the subject landmark. Also at least 7 days prior to the hearing, staff shall mail to the applicant and the landmark owner of record a notice of the hearing, and a copy of the staff recommendation to the Board on the landmark change request, including but not necessarily limited to the application and a summary of HPAB's recommendation.
5. At the public hearing, the Board will consider the information of record, including the Resolution of Approval for the specific landmark, and public testimony regarding the change to the landmark which has affected its historic significance.
   a. After consideration of the information of record, the Board may find that the landmark no longer has historic significance and rescind the landmark designation.
   b. If the Board finds that the landmark has been changed in such a manner as to affect the historic significance, the Board shall amend the Resolution of Approval to reflect that change.
   c. In the case that more information is needed before a decision can be made, the Board may table consideration for the amendment or rescission for up to 95 days.
6. Any rescission or amendment made to the original designation shall be included in a Resolution of Approval for that action and shall be included in the file on that specific landmark. A notice of the rescission of a designation shall be recorded with the Boulder County Clerk and Recorder's Office.

15-600 Certificate of Appropriateness for Historic Landmarks

A. Prior to undertaking the following actions, a Certificate of Appropriateness ("CA") is required for historic landmarks.

1. Any construction, alteration, or demolition requiring a building permit from the Boulder County Land Use Department that affects the exterior appearance or structural stability of the landmark.

2. Any construction, alteration, demolition, or removal affecting an exterior architectural or physical feature as defined in the Resolution of Approval for the designation.

B. A CA shall not be required for alterations required by the Chief Building Official or any other governmental entity with lawful jurisdiction over the designated landmark to rectify a health or safety situation.

C. Prior to the submission of an application for a CA, any applicant may request consultation with the Design Review Subcommittee to discuss the proposed construction, alteration, or demolition.

D. Applications for a CA

1. If the proposed action requires a building permit, the application for a CA may be processed as part of the building permit application. No building permit for a landmark shall be issued without a CA.

2. A complete application shall include the names of all owners of the property, a description of the proposed action, and accompanying plans and specifications.

E. Procedure for Certificate of Appropriateness Review

1. Application Review Subcommittee

a. For all alterations to Boulder County Landmarks which require a Certificate of Appropriateness, the application review subcommittee shall review the application to determine if the request for a CA should be approved. The criteria as described in 15-600(E), below, shall be used to make the determination.

b. If the Application Review Subcommittee unanimously agrees to approve the CA, review by the HPAB shall not be required and the CA shall be issued.

c. If the Application Review Subcommittee does not unanimously agree to approve the CA, review by the HPAB shall be required.

d. Applications for new primary structures within a Boulder County Historic District shall require HPAB review.

2. HPAB Review

a. Upon determination that HPAB review of a CA is required, County staff shall schedule the application for historic review at a public hearing before HPAB. At least 14 days prior to the hearing, notice of this hearing shall be published in a newspaper of general circulation in Boulder County. At least 7 days prior to the hearing, notice of the hearing shall be mailed to all property owners within 500 feet of the landmark. Also at least 7 days prior to the hearing, staff shall mail to the applicant and the landmark owner of record a notice of the hearing, and a copy of the staff recommendation to HPAB on the CA request.

F. Criteria for Approval of Alterations Requested Under a CA

1. In considering the application for a CA, HPAB shall use the following general criteria as well as any specific criteria included in the Resolution designating the historic landmark.

a. The proposed alterations do not destroy or substantially impair the historic significance of a structure, site, or district.

b. Every reasonable effort shall be made to ensure that the proposed alteration preserves, enhances, or restores the significant architectural features which are important to the designated historic landmark.

c. The proposed architectural style, arrangement, texture, color, and materials are compatible with the character of the historic landmark.

G. Determination by HPAB

1. After consideration of the proposal outlines in the application for the CA, HPAB shall either approve or deny the application. HPAB can table consideration of the application for a reasonable period of time if more information is required to determine if the proposed action meets the criteria for approval.

a. If HPAB finds that the proposed alteration meets the criteria for approval, a CA shall be issued. In the case of alterations requiring a building permit, the building permit will be processed through the usual processing procedure.

b. If HPAB finds that the proposed action does not meet the criteria for approval, the applicant shall be notified of that finding by regular mail within seven days of the determination.

H. Denial of a CA

1. The denial of a CA shall be accompanied by a statement of the reasons for the denial, and the recommendations of HPAB as to changes, if any, which could be made in the proposed action which would cause HPAB to reconsider the denial.

2. HPAB shall attempt to offer suggestions which would allow for alterations to be made to the designated landmark which would meet the criteria for approval of the CA.

3. The applicant may resubmit an amended application that takes into consideration the recommendations of HPAB.

4. If the applicant feels that the denial of the CA has created hardship, the applicant may pursue hardship relief.

5. In the case of denial by HPAB, an applicant may appeal hat denial to the Board of County Commissioners as provided for in Section 15-800(A).

15-700 Hardship Relief

A. Application

1. A completed application shall include any information the applicant feels is relevant to the consideration of the hardship imposed by denial of the CA.

2. County staff shall schedule a completed application for hardship review at a public hearing before HPAB. At least 14 days prior to the hearing, notice of the hearing shall be published in a newspaper of general circulation in Boulder County. At least 7 days prior to the hearing, notice of the hearing shall be mailed to all property owners of record within 500 feet of the proposed landmark. Also at least 7 days prior to the hearing, staff shall mail to the applicant and the landmark owner of record a notice of the hearing, and a copy of the staff recommendation to HPAB on the hardship request.

B. Information Considered in Determining a Hardship

1. The following list includes the type of information necessary for HPAB to determine if the denial of a CA has imposed a hardship on the property owners. The applicant may submit any or all of this information, plus any other information the applicant feels is necessary, to HPAB as part of the application for hardship relief.

a. Estimate of the cost of the alteration proposed under the denied CA application, and an estimate of any additional costs which would be incurred to comply with the alterations recommended by HPAB.

b. Estimates of the value of the property in its current state, with the denied alterations, and with the alterations proposed by HPAB.

c. Information regarding the soundness of the structure or structures, and the feasibility for rehabilitation which would preserve the character and qualities of the designation.

d. In the case of income-producing properties, the annual gross income from the property, the operating and maintenance expenses associated with the property, and the affect of the proposed and HPAB recommended alterations on these figures.

e. Any information concerning the mortgage or other financial obligations on the property which are affected by the denial of the proposed alterations.

f. The appraised value of the property.

g. Any past listing of the property for sale or lease, the price asked, and any offers received on that property.

h. Information relating to any nonfinancial hardship resulting from the denial of a CA.

C. Determination of Hardship

1. At a public hearing, HPAB shall review the information presented by the applicant and any other information deemed necessary to determine if the denial of a CA imposed a hardship on the property owners.

a. If it is determined that the denial of the CA did cause a hardship on the property owners, then relief shall be granted. A CA noting the hardship relief shall be issued, and the property owners may make the alterations outlined in the application for the CA.

b. If it is determined that the denial of the CA did not cause a hardship on the property owners, then notice of that determination, with the reasons for denial, shall be provided to the property owner by regular mail within seven days of the determination.

15-800 Appeals

A. Appeal of the Denial of a CA

1. If a property owner whose application for a CA was denied, feels that HPAB unreasonably denied that application, an appeal to the Board of County Commissioners may be filed within 30 days of HPAB's determination.

a. County staff shall schedule the appeal for review at a public hearing before the Board. At least 14 days prior to the hearing, notice of the hearing shall be published in a newspaper of general circulation in Boulder County. At least 7 days prior to the hearing, notice of the hearing shall be mailed to all property owners within 500 feet of the subject landmark. Also at least 7 days prior to the hearing, staff shall mail to the applicant a notice of the hearing, and copy of the staff recommendation to the Board on the appeal, including but not necessarily limited to a summary of the basis for HPAB's denial.

b. At this hearing the Board shall consider the entire record from HPAB's consideration of the application, the reasons given by HPAB for denial of the CA application, and testimony from the applicant and other members of the public.

c. After due consideration, the Board shall either uphold the findings of HPAB, and deny the CA, or reverse the findings of HPAB. In the case of the latter, the CA shall be issued.

B. Appeal of the Denial of Hardship Relief

1. If a property owner whose application for hardship relief was denied, feels that HPAB unreasonably denied that application, an appeal to the Board of County Commissioners may be filed within 30 days of HPAB's determination.

a. County staff shall schedule the appeal for review at a public hearing before the Board. At least 14 days prior to the hearing, notice of the hearing shall be published in a newspaper of general circulation in Boulder County. At least 7 days prior to the hearing, notice of the hearing shall be mailed to all property owners within 500 feet of the subject landmark. Also at least 7 days prior to the hearing, staff shall mail to the applicant a notice of the hearing, and a copy of the staff recommendation to the Board on the appeal, including but not necessarily limited to a summary of the basis for HPAB's denial.

b. At this hearing the Board shall consider the entire record from HPAB's consideration of hardship relief, the reasons given by HPAB for denial of hardship, and testimony from the applicant and other members of the public.

c. After due consideration, the Board shall either uphold the findings of HPAB, and find that the denial of the CA does not impose a hardship on the property owner, or reverse the findings of HPAB. In the case of the latter, hardship relief shall be given, and the CA shall be issued.

Article 16

Text Amendments

Article 16 • Text Amendments

16-100 Text Amendments

A. Text amendments may be initiated by the Planning Commission or the Board of County Commissioners through the Land Use Department. Text amendments shall be reviewed and acted upon in accordance with the procedural provisions contained in Article 3 of this Code.

B. No text amendment shall be adopted by the Board of County Commissioners unless the Board has determined that:

1. the existing text is in need of the amendment;
2. the amendment is not contrary to the intent and purpose of this Code; and
3. the amendment is in accordance with the Boulder County Comprehensive Plan

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Article 17

Enforcement

Article 17 • Enforcement

17-100 Enforcement Remedies Generally

A. All provisions of the Code have been adopted in accordance with the procedures required by C.R.S. 30-28-112 and -116, as amended, and may be enforced as a violation of the County's zoning regulations (see Section 17-300, below, and C.R.S. 30-28-124, and C.R.S. 30-28-124.5), with the following additions or exceptions:

1. Article 3 (Processes), Article 7 (Development Standards), and Article 16 (Text Amendments) shall be enforced in accordance with the remedies applicable to the type of process or application at issue (zoning, application for approval under the Subdivision Regulations, planned unit development, etc.).
2. Article 5 (Subdivision Regulations) and Article 9 (Exemptions) shall be enforced in accordance with the remedies specified for county subdivision regulations (see Section 17-400, below, and C.R.S. 30-28-110(3)-(4) and 30-28-137, as amended).
3. Article 6 (Planned Unit Development) shall be enforced in accordance with Article 67 of Title 24, C.R.S., as amended (Planned Unit Development Act of 1972), in addition to and applicable zoning or Subdivision Regulations remedies.
4. Article 8 (Location and Extent Review) and Article 10 (Vacation of Public Roads) shall be enforced through any appropriate legal or equitable remedies allowed under the Colorado State Statutes or Colorado Court Rules, as amended. (See, e.g., 30-28-110(1), and Part 3 of Article 2 of Title 43, C.R.S., as amended, respectively.).
5. Article 11 (Special District Review) shall be enforced in accordance with Part 2 of Article 1 of Title 32, C.R.S., as amended (Special District Control Act).
6. Article 14 (Rubbish) shall be enforced in accordance with the provisions specified in that Article.

B. In addition to the remedies specified above, all provisions of the Code may be enforced by any legal or equitable means recognized by the Colorado State Statutes and Colorado Court Rules, as amended.

17-200 Non-liability of County

A. This Code shall not be construed to hold Boulder County or any of its employees or officials acting within the scope of their employment in any manner responsible or liable for any damages to persons or property resulting from any inspection or enforcement as herein authorized or resulting from any failure to so inspect or enforce, or resulting from the issuance or denial of any building permit or the institution of or failure to institute any court action as herein required or authorized. In enacting this Code the Commissioners intend to preserve all rights of the County, its agencies and departments, and its elected and appointed officials and employees, to immunity from liability as set forth in the Colorado Governmental Immunity Act, C.R.S. 24-10,101, et seq.

17-300 Zoning Regulation Enforcement

A. Building Permit Requirements

1. No person shall erect, construct, reconstruct, alter, or change the use of any building or other structure within the unincorporated territory covered by this code without the property owner or his authorized representative first obtaining a building permit from the Building Official or his authorized representative. A building permit shall not be required for the following:

a. One-story detached accessory structures used as a storage shed, playhouse, greenhouse, chicken coop, agricultural loafing shed, or similar uses, provided:

(i) the floor area of any structure does not exceed 120 square feet except agricultural loafing sheds which may not exceed 200 square feet,

(ii) the structure height does not exceed 12 feet,

(iii) the structure does not have any utilities, and

(iv) the structure does not violate the conditions of any existing land use approval or conservation easement.

(v) The number of allowed detached accessory structures which may be constructed without a building permit shall be determined by the size of the subject parcel:

(A) One detached accessory structure may be constructed without a building permit on parcels 0.5 acres or less in size.

(B) Two detached accessory structures may be constructed without a building permit on parcels greater than 0.5 acre and less than ten acres.

(C) Three detached accessory structures may be constructed without a building permit on parcels 10 acres and larger.

b. Fences not over six feet high;

c. Movable cases, counters, and partitions not over five feet high;

d. Retaining walls which are not over four feet in height measured from the bottom of the footing to the top of the wall, unless supporting a surcharge or impounding flammable liquids;

e. Water tanks supported directly upon grade if the capacity does not exceed 5,000 gallons and the ratio of height to diameter or width does not exceed two to one;

f. Walks and driveways not more than 30 inches above grade and not over any basement or story below;

g. Painting, papering, and similar finish work;

h. Temporary motion picture, television, an theater stage sets and scenery;

i. Prefabricated swimming pools in which the pool walls are entirely above the adjacent grade and if the capacity does not exceed 5,000 gallons;

j. Antennas and / or their supporting structures other than buildings, accessory to residential use less than ten feet in height and lower than the structure height limit in the zoning district in which located, or which were constructed or erected prior to July 1, 1988;

k. Temporary emergency noncommercial telecommunication sites operated by a governmental agency, or by a volunteer public safety agency officially sanctioned by a governmental agency for that purpose, for public safety communication uses, for a period not to exceed six months.

The above exceptions to the building permit requirements do not exempt structures from meeting the other applicable provisions of this Code, including but not limited to the applicable zoning district setback and height requirements and the provisions of the Floodplain Overlay District.

2. The Building Official shall not issue any building or grading permit unless the following requirements are met:
   a. The plans for the proposed erection, construction, reconstruction, alteration, or use fully conform to all applicable provisions of this Code, including but not limited to any existing approval granted under this Code. A zoning affidavit may be required prior to issuance of a building permit or Land Use approval to ensure the structure or use conforms to the planning or building review and approval of the proposal. The approved use may not change without approval from the Director, and a revised affidavit reflecting any changes may be required. Zoning affidavits shall be recorded with the Boulder County Clerk and Recorder and shall apply to subsequent owners of the property;
   b. Boulder County Public Health has issued a permit for or has otherwise approved the sanitation system to serve the proposed structure or use, if applicable;
   c. The County Engineer has approved the access for the proposed structure or use pursuant to this Code and the Transportation Standards and Specifications; and
   d. The proposed plans comply with all applicable provisions of the Building Code.
3. A building permit shall be valid for the period specified on the permit, and as provided in the Building Code.
4. The Building Official shall not issue any occupancy permit or issue any final inspection approval until Boulder County Public Health has completed a final inspection and approval of any required sanitation system to serve the proposed structure or use.
5. In addition to any other enforcement remedy specified in this Code, the Building Official, the Director, or the County Engineer may withhold or demand the withholding of the issuance of any building permit or other permit under this Code, or may refuse to accept or process any application or authorization for a structure, activity, or use, involving for any property on which a violation of this Code has been determined to exist.

B. Temporary Cessation on Issuance of Building Permits when Zoning Amendments Pending

1. Provided that the Commissioners have specifically determined that conditions require such action and have so authorized in a public meeting, the Building Official shall not issue any building permit for the proposed erection, construction, reconstruction, alteration, or use which would be in violation of the proposed amendments to this Code (text or maps) pending before the Planning Commission or Commissioners, from time of first public notice of such consideration until final disposition by the Commissioners, but in no event longer than six (6) months from the time of first public notice.
2. In accordance with the County's authority to propose and consider meaningful zoning regulation amendments without risking the establishment of contrary structures or uses through the issuance of building permits during the limited period when regulations are considered, no public hearing or prior notice shall be required for the Commissioners to authorize a temporary building permit cessation pursuant to the preceding paragraph.
3. Upon any incorporated land becoming unincorporated due to disconnection from a municipality, discontinuance or abandonment of a city or town, or other means, the temporary cessation of building permits in Section 17-300.B.1. shall be in effect. Unless the law governing the disincorporation dictates a different date, the cessation will become effective when the final document effectuating the disincorporation is recorded with the Boulder County Clerk and Recorder. The cessation period shall last for six months, unless a shorter time period is specified by the Board. The purpose of this cessation period is to allow time for the Board to enact amendments to this Code to zone the disincorporated land. This Section 17-300.B.3. shall be considered to be an ongoing resolution of the Board authorizing the cessation of building permits upon the disincorporation of any land within the County in accordance with C.R.S. Section 30-28-121.

C. Vested Rights

1. The issuance of any building permit for particular property under this code shall in no way prevent the application of subsequently enacted zoning amendments (text or map) to that property except where rights have fully vested under the law and such subsequent enactment conflicts with such vested rights.
2. For property where rights have vested solely pursuant to the provisions of Article 68 of Title 24, C.R.S., as amended, subsequently enacted zoning amendments (text or map) shall not preclude the issuance of a building permit for which an application conforming to all approvals and regulations applicable at the time of vesting of such right has been properly filed, except for the following:
   a. Regulatory enactments and actions to which the affected landowner consents; or
   b. Regulatory enactments and actions designed to remedy or mitigate the impacts of natural or man-made hazards on or in the immediate vicinity of the subject property, which hazards could not reasonably have been discovered at the time of site specific development plan approval, and which hazards, if uncorrected, would pose a serious threat to the public health, safety, and welfare; or
   c. Regulatory enactments and actions for which appropriate compensation has been paid the landowner; or
   d. Regulatory enactments and actions which are general in nature and are applicable to all property subject to land use regulation by Boulder County including, but not limited to building, fire, plumbing, electrical, and mechanical codes.

D. Building Lot Determination

1. No person shall use any parcel for a use which is required by this code to comply with the minimum lot area requirements of the zoning district in which it is located, nor shall any building permit for such parcel be issued, unless the parcel is determined to be a building lot by the Director.

2. The Director shall not determine a parcel to be a building lot for a principal use if that parcel has been occupied as or designated as a building lot for any other principal use, unless such parcel has been expressly approved for multiple principal uses as part of a use permitted by Special Review (Article 4-600) or Planned Unit Development (Article 6).

3. The Director shall not designate a portion of a parcel as a building lot unless the Director determines that the remainder of the parcel also meets all requirements necessary for designation as a building lot.

E. Inspection and Administrative Action against Violations

1. The Director, Building Official, County Engineer or their authorized representatives are empowered, in conformity with the requirements of this subsection (E), to inspect and examine any building, other structure, or parcel or other area of land (collectively, 'premises'), concerning which they have reasonable cause to believe that a use exists or construction or alteration work is being performed, or has been performed, in violation of the applicable provisions of this code. When the Director, Building Official, or authorized representative (collectively, 'the enforcing official') has reasonable cause to believe that a violation of this code is likely to exist on a premises, and that entry onto the premises is necessary to verify the violation, the enforcing official shall first make a reasonable effort to locate the owner or other person having charge or control of the premises, or portion thereof desired to be inspected, and request consent to enter and inspect the premises. If the owner or other person in charge or control of the premises cannot be located or if entry is refused, the enforcing official may seek entry by submitting a sworn affidavit to the proper court of jurisdiction, setting forth facts sufficient to support a reasonable belief that the violation is likely to exist, and that further investigation of the premises is warranted. Any subsequent entry and inspection shall be conducted in accordance with an administrative search warrant issued by the court.

2. Consent to enter or an administrative search warrant shall not be required in the following circumstances:

a. To conduct inspections during regular county business hours under an applied for or issued building permit, for work authorized under that permit prior to the issuance of a final Certificate of Occupancy;

b. To conduct inspections within the scope of another official document, such as a duly executed zoning compliance affidavit, which grants express or clearly implied consent to enter and inspect;

c. To make observations of the premises in plain view from public property or from portions of the premises which are open or accessible to the public, or in which the owner or occupant otherwise lacks a reasonable expectation of privacy;

d. To make observations of the premises from private property when the owner of the private property gives consent to do so; or

e. In emergency situations in which the enforcing official has reason to believe that the public health or safety is in imminent danger and could be jeopardized by any delay in securing entry.

3. If a violation is found to exist, the enforcing official shall by written order direct that such remedial action be taken forthwith as will result in full compliance with the applicable provisions of this code; provided, however, that the issuance of such order shall in no way or manner be deemed a prerequisite to the institution of such enforcement proceedings as are set forth in this Article 17; and provided further that compliance with such order shall not necessarily be deemed to be a defense to any alleged violation of this code in any court action instituted seeking full compliance therewith.

4. In addition to any other enforcement remedy specified in this Code, the Building Official, the Director, or the County Engineer may withhold or demand the withholding of the issuance of any building permit or other permit under this Code, or may refuse to accept or process any application or authorization for a structure, activity, or use, involving any property on which a violation of this Code has been determined to exist.

F. Judicial Action against Violations

1. Upon a finding of a violation by the Director, the Building Official, the County Engineer, or a County Commissioner the County Attorney is authorized to file lawsuits in county or district court to enforce the provisions of this code.

2. Criminal violations of this code shall be punished by a fine in an amount not to exceed one hundred dollars ($100.00) for each violation, such fine to inure to the County of Boulder, or by imprisonment in the County jail for not more than ten (10) days, or by both such fine and imprisonment, or by such other remedy as may be specified by amendment to C.R.S. 30-28-124. Each day during which such illegal erection, construction, reconstruction, alteration, maintenance, or use continues shall be deemed a separate offense.

3. Civil remedies against violations of this code may include civil penalties, injunction, mandamus, abatement or any other appropriate action to prevent, enjoin, abate, or remove the violation. Civil fines may be recovered in the same civil action where injunction, mandamus and/or abatement is sought, or separate proceedings may be instituted seeking varying forms of relief, as C.R.S. 30-28-124, 30-28-124.5 or any other applicable provision of law may allow.

4. Unless the Director, Building Official, County Engineer, or the Board determines that immediate legal action is necessary to prevent imminent harm to the health safety, or welfare of the public or to prevent a violation from occurring, the enforcing official shall provide written notice of the alleged violation to the alleged violator at least ten days prior to requesting that the County Attorney proceed with judicial enforcement action.

G. Stay of Judicial Enforcement

1. Appeals to the Board of Adjustment

a. A determination by the Director that a zoning violation exists may be appealed to the Board of Adjustment as set forth in Article 4-1200 of this Code.

b. Unless the Director, Building Official, or County Engineer determines that immediate legal action is necessary to prevent imminent harm to the health, safety, or welfare of the public or to prevent a violation from occurring, judicial enforcement action against the violator will be stayed in the event of a timely appeal to the Board of Adjustment until a final decision is rendered by the Board of Adjustment, and, if applicable, any reviewing court.

2. Permit Applications. Unless the Director, Building Official, or County Engineer determines that immediate legal action is necessary to prevent imminent harm to the health, safety, or welfare of the public or to prevent a violation from occurring, the County Attorney shall stay, or request that the court stay, any judicial enforcement action if:

a. a complete application for a permit or other approval is submitted to the Land Use Department that, if approved, would fully resolve all violations; and

b. the application is for a use or activity that may be approved under the current provisions of the Code; and

c. the application is for a use or activity that is not the same or similar to an application or permit that was previously denied; and

d. in the opinion of the Director, Building Official, County Engineer, or the Board, the application is being pursued diligently and in good faith; and

e. in the opinion of the County Attorney, the application was filed in good faith and not for the purpose of causing unreasonable delay or confusion in an ongoing enforcement action.

Unless otherwise ordered by the court, the stay shall remain in effect until a final decision is reached on the application or permit.

17-400 Subdivision Regulation Enforcement

A. Authority for Enforcement

1. The Commissioners and their duly appointed representatives shall have the authority to enforce the provisions of Article 5, Subdivision Regulations in accordance with this Section and the governing statutes (C.R.S 30-28-110(3)-(4), 30-28-133(1), and 30-28-137(3)-(4), as amended.)

B. Requirement for County Subdivision Approval

1. No division of land constituting a subdivision under applicable state law shall occur unless it is exempt by terms of C.R.S. 30-28-101(10), has been approved under the Subdivision Regulations, or has received approval from the Board of County Commissioners for a subdivision exemption or exemption plat.

2. Any person or person's agent who creates a subdivision and transfers legal or equitable title or sells any land thereby divided before a final plat, as required, for such land has been approved and recorded pursuant to this Code or applicable state law, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars ($1000.00) nor less than five hundred dollars ($500.00) for each parcel of or interest in such land which is sold or where the legal or equitable title to the land is transferred. All fines collected under this provision shall be credited to the General Fund of the County. No person shall be prosecuted, tried, or punished under this provision unless the indictment, information, complaint, or action for the same is instituted prior to the expiration of eighteen months after the recordation or filing in the Office of the County Clerk and Recorder of the instrument transferring or selling such illegally divided land. (C.R.S. 30-28-110(4)(a))

3. The Commissioners shall have the power to bring an action to enjoin any person creating an illegal subdivision as stated in Subsection 2., immediately above, from selling proposed divided land before a final plat for such land has been approved and recorded pursuant to this Code or applicable state law. (C.R.S. 30-28-110(4)(b))

4. In addition to any other enforcement remedy specified in this Code, the Building Official, the Director, or the County Engineer may withhold or demand the withholding of the issuance of any building permit or other permit under this Code, or may refuse to accept or process any application or authorization for a structure, activity, or use, involving any property which is determined to have been divided without the required County approval. (C.R.S. 30-28-110(4)(a))

5. Properties that were divided in violation of regulations or resolutions in effect at the time of such division shall be further subdivided only if the proposal includes provisions which bring the entire original parcel, including the area previously divided in violation of the Regulations or Resolution into compliance with current zoning or subdivision requirements.

C. Enforcement of Subdivision Regulations Process and Platting Requirements

1. No sketch plan, preliminary plan or final plat for proposed subdivided land shall be recommended for approval or conditional approval by the Planning Commission and approved or conditionally approved by the Commissioners, unless it conforms to the provisions of Article 5, Subdivision Regulations, or, as applicable, the exemption plat provisions of Article 9.

2. The Commissioners or the Planning Commission may take appropriate action to deny or to suspend or withdraw any approval of a plan or plat, or to require certain corrective measures to be taken, following a determination that the information provided by the applicant or developer upon which such approval was based is materially false or inaccurate or that new significant information has been brought to the Planning Commission's or Commissioners' attention. Such action may occur at any step in the platting or exemption plat process up to the approval of the final plat by the Commissioners, and shall take place at a regular public hearing. The Planning Commission or Commissioners shall determine at the hearing the nature and extent of the alleged false or inaccurate information, shall consider any new significant information that has been brought to its attention, and shall have power, upon good cause being shown, to deny the plat or plan or suspend or withdraw any approval or require corrective measures to be taken. No action to deny or to suspend or withdraw an approval or require corrective measures shall be taken unless the applicant or developer is present at the hearing at which action is taken and has a fair opportunity to respond to the proposed denial, suspension, withdrawal, or corrective action.

3. If it is determined after any final plat is approved or filed for recording that the plat approval was based on inaccurate, false, or misleading information of a material nature, the Commissioners may take appropriate action to withdraw or reconsider the approval, to require corrective measures, or to void the plat, after a public hearing where adequate notice and opportunity to be heard are given to the applicant or developer, any successor property owners, and any affected adjacent property owners, referral agencies, or service providers.

4. The Commissioners or any purchaser of any subdivided lot, outlot, or other subdivided land subject to a plat restriction which is the security portion of a subdivision improvements agreement shall have the authority to bring an action in any district court to compel the enforcement of any subdivision improvements agreement on the sale, conveyance, or transfer of any such lot, outlot, or other subdivided land or of any other provision of Part 1, Article 28, Title 30, C.R.S., as amended. Such authority shall include the right to compel rescission of any sale, conveyance, or transfer of title of any subdivided lot, outlot, or other subdivided land contrary to the provisions of any such restriction set forth on the plat or in any separate recorded instrument, but any such action shall be commenced prior to the issuance of a building permit by any county where so required or otherwise prior to commencement of construction on any such lot, outlot, or other subdivided land. (C.R.S. 30-28-137(3), as amended.)

5. In addition to any other remedy set forth in Part 1, Article 28, Title 30, C.R.S., as amended, the Commissioners or any purchaser of any subdivided lot, outlot, or other subdivided land shall have the authority to bring an action for injunctive relief to enforce any plat restriction (including all obligations contained in documents required to be executed and recorded as part of the final plat approval and all commitments of record of the applicant or developer related to the County's approval of the final plat), plat note, plat map, or provision of a subdivision improvements agreement, and for damages arising out of failure to adhere to any such plat restriction, plat note, plat map, or provision of a subdivision improvements agreement. Nothing in Part 1, Article 28, Title 30, C.R.S., as amended, shall require the Commissioners to bring any action authorized in this provision. (C.R.S. 30-28-137(4), as amended.)

6. In addition to any other enforcement remedy specified in this Code, the Building Official, the Director, or the County Engineer may withhold or demand the withholding of the issuance of any building permit or other permit under this Code, or may refuse to accept or process any application or authorization for a structure, activity, or use, involving any property for which a final plat has not been approved or recorded, or which is the subject of a violation of the final plat approval, including any plat note or restriction or any commitment of record in the County's final plat approval file.

D. Temporary Cessation on Acceptance of Applications for Approval of Subdivided Land while Planning Studies or Regulatory Amendments in Process

1. If the Commissioners determine at a public meeting that changes in the Article 5, Subdivision Regulations, related land use regulations, or the Comprehensive Plan (including but not limited to a proposed or existing comprehensive development plan under 29-20-105, C.R.S., as amended), that are under active consideration by the Planning Commission, the Commissioners, or the County staff, are such that owners of property will attempt to circumvent the provisions under consideration by applying for approvals of Sketch Plan, Preliminary Plan and/or Final Plat prior to the effective date of the proposed change, then the Commissioners may, by resolution, order the Director to not accept applications for proposals that violate the provisions under consideration and order the Planning Commission and Commissioners not to approve or conditionally approve any application that violates the provisions under consideration. Such resolution may be passed as an emergency measure without public notice. The resolution shall be effective for no more than six months, unless a reasonable longer time is specified in the resolution as necessary to complete actively pursued studies or is expressly authorized by intergovernmental agreement.

Article 18

Definitions

Article 18 • Definitions

18-100 Above Grade

Amended into and replaced by Article 18-162. See Article 18-162.

18-101 Active Area

The area a use occupies. This is for purposes of parking calculations.

18-102 Adjacent

Meeting or touching at some point, or across a street, alley or other ROW.

18-103 Adjacent Property Owner

An owner of record of any estate, right, or interest in real property which is adjacent to the subject land.

18-103A Affordable Housing

Housing which is restricted in sale and/or lease to meet the BOCC's adopted standards based upon the recommendation and policies of the Boulder County Housing Authority for affordable housing.

18-104 Agriculture

Uses involving the cultivation of land, production of crops, raising, breeding, and keeping of livestock, and the buying and selling of crops, products or livestock associated with the agricultural operation. Agriculture specifically does not include commercial, institutional, lodging, or recreational uses such as petting zoos, day-care centers, or summer camps.

18-105 Agricultural Products

Products intended for direct human or animal consumption such as vegetables, fruits, dairy products, eggs, grains, meat, poultry, fish, honey, hay, bedding plants and wool.

18-106 Airport Hazard

Any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport, or is otherwise hazardous to such landing or takeoff of aircraft.

18-107 Airport Protection Surfaces

Imaginary surfaces in an airport vicinity as established by the Federal Aviation Administration Regulation, part 77, 'Objects Affecting Navigable Airspace,' U.S. Department of Transportation, FAA, January 1975, as amended, for the purpose of controlling heights of objects in an airport vicinity, as codified under Subchapter E, 'Airspace,' of Title 14 of the Code of Federal Regulations, incorporated herein by this reference (Colorado Statute reference Airports, C.R.S. 1973 #41-4-101 et seq.), or by other means accepted by the Board of County Commissioners and as shown on the Airport Protection Surface maps adopted and incorporated into this Resolution for purposes of regulating the height of structures.

18-108 Animal Unit

A term used to establish an equivalent density for various species of livestock. The following animals shall have the following animal unit equivalents:

Table 18-108 Animal Units

Animal Type	Animal Units
Cattle/Buffalo/Horse	1/animal unit
Horse (34 inches or less at withers)	5/animal unit
Swine/Ostrich	5/animal unit
Goat/Sheep/Llama	5/animal unit
Poultry	50/animal unit
Mink and similar fur bearing animals	50/animal unit
Other Livestock	1/animal unit

Young animals shall not be counted until they are weaned. Horses include mules and donkeys.

18-109 Applicant

The owner of land, or the owner's authorized representative.

18-110 Appurtenances

The visible, functional, or ornamental objects accessory to and part of a building.

18-110A Arena, Equestrian

An improved area, generally fenced, of at least 30 feet in width or length within which equestrian activities involving horse riding or driving occurs.

18-111 Asbuilt Profile

A map or drawing which depicts a vertical section of a road, street, curb, conduit, or other physical feature as it has been actually constructed.

18-112 Average Daily Trips (ADT)

The average 24-hour volume, of all lanes in both directions being further defined as the total number during a stated period, divided by the number of days in that period. Unless otherwise stated, the period is a year. The term is commonly abbreviated as ADT.

18-113 Base Flood

A flood having a one percent chance of being equaled or exceeded in any given year. The term is used interchangeably with intermediate regional flood, one hundred year flood, and one percent chance flood.

18-113A Base Flood Elevation

The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-30, AR, AR/A, AR/AE, AR/A1-30, AR/AH, AR/AO, V1-30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

18-114 Basement

Amended into and replaced by Article 18-162. See Article 18-162

18-115 Bedrock

Solid rock underlying surface materials.

18-115A Best Management Practices (BMPs, as used in Article 7-904)

BMPs may be structural or nonstructural or both, as well as temporary or permanent or both, and include schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to maintain or improve stormwater quality by preventing or reducing the discharge of pollutants directly or indirectly to stormwater, stormwater conveyance systems, or waters of the state. BMPs also include treatment practices, operating procedures, and waste control practices to control site runoff, spillage or leaks, sludge or water disposal, and drainage from raw materials storage.

Nonstructural BMPs (source controls) include practices that prevent pollution by reducing potential pollutants at their source before they come into contact with stormwater. Examples of nonstructural BMPs are site planning and project operations.

Structural BMPs (treatment controls) are engineered or constructed facilities designed to remove pollutants already in stormwater, with examples including detention and retention ponds, infiltration basins, sedimentation controls, and pollutant removal devices.

Temporary BMPs, such as silt fencing, are installed to control stormwater discharges and protect water quality while construction activity is taking place and until final inspection or approval of construction occurs. Temporary BMPs for a particular site are typically addressed as part of a Stormwater Management Plan accepted as part of an approved stormwater quality permit.

Permanent BMPs, such as detention facilities, are installed to control stormwater discharges and protect water quality after construction activity has been completed or final inspection has occurred, that must be maintained in good working order by the landowner, permittee, operator, or other responsible party on a perpetual basis or for so long as the County Engineer requires. Permanent BMPs are typically addressed as part of a final drainage plan, and depicted through submitted as-built plans, that are accepted as part of an approved stormwater quality permit.

Accepted and recommended sources of BMPs include but are not limited to: Urban Drainage and Flood Control District's Urban Storm Drainage Criteria Manual, Volume 3 – Best Management Practices; and the Colorado Department of Transportation's ("CDOT") "Erosion Control and Stormwater Quality Guide."

18-116 Block

A designated portion of subdivided land which, unless otherwise indicated on the plat, is land intended for future development in accordance with the applicable Subdivision Regulations.

18-117 Boulder County Comprehensive Plan

That document, including all amendments, adopted by the Planning Commission, which provides policy direction to the County and the public about how existing and proposed land uses ought to be evaluated, how the various governmental and land management entities in the County should coordinate their activities, and how environmental resources should be preserved. The Boulder Valley Comprehensive Plan and any similar subarea plans are considered part of the Boulder County Comprehensive Plan.

18-118 Building

Any permanent structure built for the support or shelter of any use or occupancy.

18-119 Building Footprint

The outline of the total area which is covered by a building's perimeter at ground level.

18-120 Building Height (Structure Height)

The vertical distance from any part of the structure, excluding appurtenances, to the existing or natural grade below. In a platted subdivision for which overlot grading was permitted prior to October 18, 1994, the overlot grading shall be the existing grade.

18-121 Building Lot

A parcel occupied by, or designated by the Director pursuant to this Code to be occupied by, a use which is required by the Zoning District provisions of this Code to comply with the minimum lot area requirements of the zoning district in which it is located. Except as provided in subsection (A) below, the parcel shall be of sufficient size and shape to conform to all requirements of the zoning district within which it is located.

A. A substandard parcel shall be considered a building lot only if it meets one of the following criteria:

1. A parcel upon which a use, which is required to comply with the minimum lot area requirements of the zoning district in which it is located, lawfully exists or, if none exists, has lawfully existed prior to the effective date of this Code.

2. A parcel which the Board of County Commissioners has exempted from the definition of 'subdivision' with the specific intent, as stated in the exemption Resolution, of allowing the parcel to be designated as a building lot; provided however that said parcel shall remain subject to any use and building requirements imposed pursuant to Article 9 as well as all other provisions and requirements of this Code.

3. A lot, tract, undivided block, or other plot of land, other than an outlot or right-of-way, within an area of subdivided land, which met the lot area and lot frontage requirements of this Code in effect at the time of the approval of the subdivided land, such land shall be designated as a building lot in accordance with those area and/or frontage requirements in effect at the time of its approval, subject, however, to all other provisions and requirements of this Code, as amended.

4. A parcel which conformed to the lot area and lot frontage requirements of the zoning district in which it was located at the time it was created, and which has continued to be held as a separate parcel, shall be designated a building lot in accordance with those area and frontage requirements in effect at the time of its creation, and with all other provisions and requirements of this Code, as amended; provided, however, if such parcel was at any time owned by a governmental entity, it may be occupied only in accordance with the area and frontage requirements in effect at the time legal title was transferred from the governmental entity to a person, unless it was acquired by the governmental entity after December 13, 1983, and was a building lot at the time of acquisition.

B. For any merger of parcels of land or lots under the provisions of this Code, which merger is not requested in writing by each owner of an affected parcel, and which merger occurs for the first time on or after October 1, 2003 (the effective date of Senate Bill 03-067 as codified in C.R.S. Section 30-28-139), the following provisions shall govern, as expressly required in C.R.S. Section 30-28-139:

1. Prior to the completion of the merger, the County shall send notice of the County's intent to complete the merger to each owner of the affected parcels by certified mail, at the address shown on the records of the County Assessor. The notice shall also specify that each such owner may request a hearing on the proposed merger pursuant to Subsection 2., immediately below, and shall specify action to be taken by such owner to request such hearing, including, without limitation, the requirement that said owner shall request the hearing no later than 120 days after the date on which the owner receives the notice.

2. Prior to the completion of the merger, where each owner of an affected parcel has timely requested a hearing on the proposed merger satisfying the requirements of Subsection 1., immediately above, a public hearing on said merger shall be held before the Board of County Commissioners. The hearing shall be conducted for the purpose of allowing the Board to discuss with the owner of each affected parcels the Board's reasons for proceeding with the merger, and to give each owner the opportunity to submit any basis provided under law for challenging the merger. In the case of a timely hearing request, the County shall provide notice of the time, place, and manner of the hearing to each owner of the affected parcels and shall also publish the notice in a newspaper of general circulation in the County in a manner sufficient to notify the public of the time, place, and nature of said hearing. In order to give each such owner of an affected parcel the opportunity to take whatever remedial action is allowed under the law prior to the hearing before the Board, the County shall not hold the hearing any sooner than 90 days after the date on which the owner received the County's initial mailed notice as provided in Subsection 1, above.

3. Where the owner of each affected parcel fails to timely request a hearing on the proposed merger satisfying the requirements of Subsection 1., above, no such hearing is required, and the affected parcels shall be merged in accordance with the requirements of this Subsection C.

4. No merger of parcels that is the subject of a hearing pursuant to Subsections 1. and 2., above, shall be effective unless:

a. The owner of the parcels has given his, her, or its consent to the merger of said parcels; and

b. The merger has been approved by a majority of the Board of County Commissioners.

5. Nothing in this Subsection C. shall be construed to abrogate or otherwise diminish or expand any rights a landowner may have under Article 68 of Title 24, C.R.S., pertaining to vested property rights.

18-122 Bulk

The total volume of the structure, found by multiplying the square footage by the height.

18-123 Camper Trailer

A wheeled vehicle without motive power which is designed to be drawn by a motor vehicle over the public highways and which is generally and commonly used for temporary living or sleeping accommodations.

18-123A Colorado Discharge Permit System (CDPS)

CDPS, which the Colorado Department of Public Health and Environment ("CDPHE") through its Water Quality Control Division ("WQCD") is authorized to administer as part of the Clean Water Act's National Permit Discharge Elimination System ("NPDES") program in Colorado. The CDPS Stormwater Management Program is designed to reduce the discharge of pollutants from the Municipal Separate Storm Sewer System (MS4) to the maximum extent practicable to protect water quality, through the implementation of BMPs consistent with the provisions of the program.

18-124 Certificate of Occupancy

A certificate issued by the County after final inspection and upon a finding that the building, structure, or development complies with all provisions of the applicable county codes, permits, requirements and approved plans.

18-124A Clean Water Act

The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.) as amended.

18-124B Clearing and Grubbing

Any activity that removes the surface cover to expose bare ground.

18-125 Common Open Space

A parcel of land, an area of water, or a combination of land and water within a site designed and intended primarily for the use or enjoyment of residents, occupants, and owners within that development.

18-126 Community Service Area (CSA)

A. **Municipal CSA** — A boundary line drawn around a municipality within which a city expects to accommodate future urban growth. Community Service Area plans provide, when jointly adopted by both municipal and county governments, a mutually binding comprehensive plan for county lands adjacent to each municipality. It is expected that land within municipal Community Service Areas will be developed in an urban pattern, urban services will be provided by the municipalities, and the area will eventually be annexed. The following are terms used by the various Plains municipalities that fit with the Community Service Area definition, and each area has been mapped.

   Boulder — Boulder Service Area (Area I and II of the Boulder Valley Comprehensive Plan);

   Broomfield — Southeast Boulder County Area Comprehensive Development Plan Intergovernmental Agreement or IGA, and the areas described within the southeast Boulder County, South 96th Street, Dillon Road and U.S. 287 Area Comprehensive Development Plan IGA (commonly referred to as the Northwest Parkway IGA);

   Erie — Influence Area (East Central Boulder County Comprehensive Development Plan IGA;

   Lafayette — Influence Area (East Central Boulder County Comprehensive Development Plan IGA;

   Longmont — Longmont Planning Area or LPA (Longmont Planning Area Comprehensive Development Plan IGA);

   Louisville — Influence Zone (Lafayette/Louisville Buffer Comprehensive Development Plan IGA) and areas described within the Northwest Parkway IGA;

   Lyons — Potential Service Area (Docket BCCP-86-01), Lyons Comprehensive Plan adopted by Boulder County on April 5, 1988): and,

   Superior —Influence and Study Areas (Superior Area Comprehensive Development Plan IGA).

B. **Limited CSA** — A boundary line drawn around an unincorporated area as designated in the Boulder County Comprehensive Plan within which it is expected that land may be developed and provided with a limited range of urban services, including:

   Niwot — an adopted Community Service Area (Niwot, Lefthand, Boulder Creek Subregion Goals, Policies and Maps Element, Boulder County Comprehensive Plan.)

18-127 Condominium Ownership

A building, or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on an undivided basis.

18-128 Conservation Easement

The grant of a property right stipulating that the described land will remain in a certain state and precluding future or additional development.

18-128A Construction Activity (as used in Article 7-904)

Ground surface disturbing activities which include, but are not limited to, clearing, vegetation removal, grading, excavation, removal or deposit of any rock, soil, or other materials, demolition, installation of new or improved haul roads and access roads, staging areas, stockpiling of soil, fill, or other materials, utilization of borrow areas, or other activities that expose soil. Construction activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of a facility.

18-129 Construction Plan

The maps or drawings accompanying an application which show the specific location and design specifications of improvements to be installed in accordance with the requirements of approval by the Planning Commission and Board of County Commissioners.

18-130 Contiguous

A. Touching along a common boundary for at least 15 feet.

B. The contiguity of land areas shall not be affected by the existence between them of a road or alley; a public or private right-of-way; a public or private transportation or utility right-of-way; a river, creek, stream, or other natural or artificial waterway; or an intersecting mining claim.

C. The contiguity of land areas shall be assumed to be disrupted by the existence of a freeway, expressway, principal arterial, and minor arterial, and by lands contained within the legal boundaries of any municipality.

18-131 Correction Plat

A rerecording of a previously approved plat which is intended to correct a technical error in the plat.

18-131A Covered Porch

Covered areas that are attached to the principal structure. Covered porch may not be enclosed with solid walls, glass, or screens.

18-132 Deed

A legal document conveying ownership of real property recorded in the real property records of the Boulder County Clerk and Recorder.

18-133 Design Water Table

The elevation of the water table at the location of the proposed building site either (a) as measured between May 1 and July 15 in any year; or (b) the predicted May 1 July 15 elevation of the water table where the prediction is based on a comprehensive geohydrologic study directed by a professional engineer.

18-134 Development Agreement

The agreement between the owner and county which specifies the terms and conditions of the approval. This agreement implements the site specific development plan which establishes vested rights under Article 68 of Title 24, C.R.S. (See Section 3-207)

18-135 Development Report

A report which addresses issues and reports facts concerning activities, utilities, circulation and traffic, surrounding land uses, community facilities, environment, and other factors for a given development proposal.

18-135A Directly Visible

Allowing a direct line-of-sight to the light source or lamp.

18-136 Disposition

A contract of sale resulting in the transfer of equitable title to an interest in subdivided land; an option to purchase an interest in subdivided land; a lease or an assignment of an interest in subdivided land; or any conveyance of an interest in subdivided land which is not made pursuant to one of the foregoing. (C.R.S 30-28-101(1))

18-136A Disturbed Area (as used in Article 7-904)

That area of the land's surface disturbed or in any way changed construction activity.

18-137 Dwelling

A. A building or portion thereof used exclusively for residential occupancy, including one-family dwellings and multiple-family dwellings, but not including hotels, motels, tents, seasonal vacation cabins, camper trailers, or other structures designed or used primarily for temporary occupancy.

B. A dwelling shall also include the following types of residential buildings which are factory made and not constructed on site:

1. Manufactured homes which are not less than 24 feet in width and 35 feet in length, which are installed on an engineered permanent foundation in accordance with all applicable County requirements, and which have a brick, wood, or cosmetically equivalent exterior siding and a pitched roof, pursuant to C.R.S. 30-28-115(3)(a), as amended; and
2. Factory built modular housing which is certified by the State of Colorado to meet Uniform Building Code requirements pursuant to the Colorado Housing Act of 1970, C.R.S. 24-32-701, et seq., as amended.

18-138 Dwelling Unit

One or more rooms designed to accommodate one family and containing only one kitchen plus living, sanitary, and sleeping facilities.

18-139 Earth Material

Any mineral, rock, natural soil, overburden, or fill, or combination of such materials.

18-140 Easement

A right granted by a property owner permitting a designated part or interest of the property to be used by others for a specific use or purpose.

18-141 Electrical Distribution Line

Structures and appurtenant facilities used for the distribution of electric energy in voltages less than 115,000 volts.

18-142 Electric Substation

An assemblage of equipment and appurtenant facilities designed for voltage transformation, or voltage control of electricity in amounts of 115,000 volts or more.

18-143 Electric Transmission Line

A series of three or more structures and appurtenant facilities erected above ground, supporting one or more conductors emanating from a power plant or a substation, designed to transmit electric energy in voltages of 115,000 volts or more.

18-143A Exemption Plat

An amendment or change to a plat which is exempt from the requirements of Article 5 of this Code (Subdivision Regulations), and which falls within the scope of and must instead meet the requirements of Sections 9-200 through 9-202 of this Code. Exemption plats for certain subdivisions with a sketch plan approved prior to March 22, 1978, which affect significant natural resources, are separately addressed under Article 4-300 of this Code.

18-144 Existing Manufactured Home Park

Manufactured home park for which the construction of facilities including utilities, final grading, or pouring of pads and the construction of streets is completed before the effective date of Section 4-400, Floodplain Overlay District.

18-144A Expansion To An Existing Manufactured Home Park

Additions to an existing manufactured home park beyond those that had been completed prior to the effective date of Section 4-400, Floodplain Overlay District.

18-145 Expansive Soil

Rock or soil that shrinks or expands excessively with changes in moisture content.

18-146 Extraction

The removal of any earth materials from places of natural occurrence to surface location. 'Extraction' shall not include 'prospecting' activities involved in the act of searching for or investigating a mineral deposit as defined under the State Mined Land Reclamation Act. However, it shall include activities involved in the development of a mineral deposit once found as defined under the State Mined Land Reclamation Act, including but not necessarily limited to preparing the site for mining, defining further the mineral deposit by drilling or other means, conducting pilot plant operations, and constructing roads and other facilities accessory to mining (See 34-32-103, C.R.S., as amended.)

18-147 Facility

A structure or place which is built, installed, or established to serve a particular purpose. For purposes of Section 7-904, a facility may also be any building, including a private home, structure, installation, process, or activity from which there is or may be a discharge of a pollutant.

18-148 Family

A. An individual, or two or more individuals related by blood, marriage, or adoption, and not more than two roomers or boarders; or

B. Two adults and any of their lineal descendants; or

C. A group of not more than three unrelated individuals; and who are living together as a single housekeeping unit.

18-149 Farm

A parcel of land used for agricultural purposes.

18-150 Fill

A deposit of earth material placed by artificial means.

18-150A Final Plat

A map of land proposed to become subdivided land, and specified supporting materials, whose purpose is to allow evaluation of the detailed layout and design for the development, including but not necessarily limited to the final engineering plans, subdivision development agreement, letters of credit, conservation easements, homeowners covenants as may be applicable to the terms of the development's approval, any outstanding design issues such as building heights or envelopes and landscaping, and the plat as proposed for recording. The final plat is the last of the three required steps (sketch plan, preliminary plan, and final plat) for obtaining approval of subdivided land, and must be consistent with the approved sketch plan and preliminary plan.

18-150B Fish Farm

The hatching and raising of fish for the purpose of harvesting and sale. Fish farms are exclusive of recreational fishing operations.

18-151 Flood or Flooding

A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of watercourses, or the unusual and rapid accumulation or runoff of surface waters from any source.

18-152 Flood Insurance Rate Map (FIRM)

An official map of the Federal Emergency Management Agency (FEMA), on which the area subject to flooding by the base flood has been delineated either by approximate or detailed engineering study. These maps also delineate flood insurance rate zones and may include the delineation of water surface elevations and floodway boundaries.

18-153 Flood Insurance Study

The official report provided by the Federal Emergency Management Agency (FEMA) that includes flood profiles, the Flood Boundary Floodway Map, and the water surface elevation of the base flood.

18-154 Flood Profile

A graph showing the flood water surface elevations and the elevations of the underlying land as a function of distance along a path of flow.

18-155 Flood Protection Elevation

An elevation two feet above the water surface elevation of the base flood. The two foot freeboard is a factor of safety, attempting to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge and culvert openings, and the hydrological effect of urbanization of the watershed.

18-156 Floodfringe

Those portions of the Floodplain Overlay District that are not in the floodway.

18-157 Floodplain

Areas that are inundated by the base flood.

18-158 Floodplain Development

Under floodplain regulations, any public or private construction or activity that changes the basic character or the topography of the land on which the construction or activity occurs, including but not limited to any manmade change to improved or unimproved real estate, construction or substantial improvement of buildings or other structures. Development includes mining, dredging, filling, grading, paving, excavation, or drilling operations, or storage of equipment or materials; and all dams, reservoirs, walls, embankments, berms, levees, dikes, piles, abutments, projections, channel rectification, roads, bridges, culverts, excavations, and fills.

18-159 Floodplain Encroachment

Any development, stockpile, refuse, or matter in, along, across, or projecting into any floodplain which might impede, retard, or change the direction of a flow of water, either by itself or by catching or collecting debris carried by such water. The term floodplain encroachment shall not include any device or structure reasonably necessary for flood control or prevention.

18-159A Floodplain Violation

The failure of a structure or other development to be fully compliant with Boulder County floodplain management regulations. A structure or other development without the elevation certificate, or other certifications, or other evidence of compliance required in C.F.R. 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

18-162 Floor Area

The area of a building or structure, existing or new, including basements and attached garages calculated without deduction for corridors, stairways, closets, the thickness of interior walls, columns, or other features as measured from the exterior face of the exterior walls. Floor area does not include the area of any covered porch. (For Residential Structures, see also Article 18-189D.)

A. Above Grade Floor Area Any floor area in which the floor is higher than existing grade, plus a portion of basement floor area in cases where any part of the basement story is higher than existing grade. The first two vertical feet of any basement story that are exposed above existing grade are excluded from the above grade floor area calculation. The above grade portion of the basement floor area is calculated by multiplying the total basement floor area by the percentage of the volume of the basement story that is higher than existing grade.

1. If the finished floor surface of the main story of a residence is partially or completely above finished grade, then all floor area in the main story will be considered above grade floor area. All floor area in any stories above the main story will also be considered above grade floor area. The main story is defined as the story that includes, but is not limited to the kitchen, dining room, and living room.

B. **Below Grade Floor Area** Excepting the portion that is defined as above grade floor area, a portion of the basement floor area in which all or part of the floor is below existing grade. The first two vertical feet of any basement story that are exposed above existing grade are included in the below grade floor area calculation. Below grade floor area is calculated by multiplying the total floor area of the basement by the percentage of the volume of the basement that is below existing grade.

18-162A Fully Shielded Light Fixture

A lighting fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizontal as determined by photometric test or certified by the manufacturer. Any structural part of the light fixture providing this shielding must be permanently affixed.

18-163 Gas Distribution Pipeline

Mains, services, equipment and appurtenant facilities which carry or control the supply of gas from the point of local supply to and including the sales meter.

18-165 Gas Regulator Station

An assemblage of equipment which reduces, regulates and meters natural gas pressure in the transmission line, holder, main, pressure vessel or the compressor station piping. This may include auxiliary equipment such as valves, control instruments or control lines as well as piping.

18-166 Gas Transmission Pipeline

Pipelines and appurtenant facilities installed for the purpose of transmitting gas from a source to a distributing center, to a large volume customer, or to interconnect sources of supply.

18-167 Geologic Hazard

A geologic condition which may pose a significant threat to persons or property.

18-167A Glare

The sensation produced by a bright source within the visual field that is sufficiently brighter than the level to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility; blinding light. The magnitude of glare depends on such factors as the size, position, brightness of the source, and on the brightness level to which the eyes are adapted.

18-168 Grading

Any excavating, filling or combination thereof. Grading is regulated by the appendix chapter titled "Excavation And Grading," of the most current edition of the Uniform Building Code, as published by the International Conference of Building Officials, 5360 Workman Mill Road, Whittier, California 90601, with the administration of the excavation and grading provisions otherwise being in accordance with the administrative provisions of the current edition of the Boulder County Building Code.

18-169 Grazing

The feeding of livestock or horses where more than 50% of the feed is produced on the immediate parcel and available to the animals as inplace vegetation to sustain life.

18-169A Hazardous Materials

Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or to the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

18-170 Horticultural

Having to do with the growing of fruits, vegetables, flowers, or ornamental plants.

18-170A Illuminance

The amount of light falling onto a unit area of surface (luminous flux per unit area) - measured in lumens per square meter (lux) or lumens per square foot (footcandles).

18-171 Improvements

Street grading, street surfacing and paving, curb and gutters, street lights, street signs, sidewalks, crosswalks, water mains and lines, water meters, fire hydrants, sanitary sewers, storm drainage facilities, culverts, bridges, public utilities, or other such installations designated by the Planning Commission or Board of County Commissioners.

18-172 Individual Sewage Disposal System

A system or facility for treating, neutralizing, stabilizing, or disposing of sewage which is not a part of or connected to a sewage treatment facility.

18-172A Irrigation Ditch

A long narrow excavation dug in or placed on grade for carrying water which is listed in the Boulder County Ditch and Reservoir Directory.

18-173 Junk Yard

A building, structure, or parcel of land, or portion thereof, used for the collecting, storage or sale of waste paper, rags, scrap metal, or discarded material; or, for the collecting, dismantling, storage, salvaging, or demolition of vehicles, machinery or other materials. Considered a General Industrial use.

18-173AA Light Trespass

Light falling where it is not wanted or needed, typically across property boundaries.

18-173A Livestock

Farm animals kept or raised for pleasure or profit. (See also 18-108)

18-174 Lot Area

The area of the horizontal plane within the lot lines of a lot.

18-175 Lot Line, - Subdivided land in plats recorded prior to October 19, 1994:

A. **FRONT** That part of a property line dividing a lot from a road. On a corner lot, only one property line shall be considered as a front line. The shorter property line shall be considered the front unless the property owner chooses another property line dividing the lot from a road.

B. **REAR** The line opposite and parallel to the front line. In the event no lot line is opposite and parallel to the front lot line, there shall be no rear.

C. **SIDE** All lot lines other than front lot lines or rear lot lines. A triangular lot has two side lot lines and no rear lot line.

18-175A Lot Line, - Unsubdivided land, and subdivided land in plats recorded on or after October 19, 1994:

A. **FRONT** That part of a property line dividing a lot from a road, exempting private thoroughfares which are not in subdivided land. On a corner lot or other lots with multiple frontages, all street frontages shall be governed by front yard regulations.

B. **REAR** The boundary line opposite and parallel to the front line. In the event no lot line is opposite and parallel to the front lot line, there shall be no rear.

C. **SIDE** All lot lines other than front lot lines or rear lot lines. A triangular lot has two side lot lines and no rear lot line.

18-175B Lowest Floor

For purposes of construction in the Floodplain Overlay District, the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Code.

18-175C Luminaire

The complete lighting assembly (including the lamp, housing, reflectors, lenses and shields), less the support assembly (pole or mounting bracket); a light fixture.

18-176 Manufactured Home

A. A structure, transportable in one or more sections, which, when erected on site, is 320 or more square feet, and which is built on a permanent chassis. These homes are designed to be used for residential purposes, with or without a permanent foundation when connected to the required utilities, and contain the necessary plumbing, heating, air-conditioning, and electrical systems. A home which does not meet the minimum size requirements stated above, is a manufactured home if it either (1) is certified as such by HUD pursuant to the federal Manufactured Home Construction and Safety Standards Act, 41 U.S.C. 778 5401, et. seq., as amended, or (2) complies with the NFPA 501B/ANSI A119.1 (1973, 1974 and 1975 editions).

B. A manufactured home also means a residential building which, whether or not a manufactured home as defined above (and which under the County's prior regulations may have been defined as a mobile home), is either:

1. Located in a legally existing manufactured home park in the unincorporated County on the rezoning date; or

2. Proposed to be relocated onto a legal manufactured home space in a manufactured home park; predates the certification requirements of the Federal Manufactured Home Construction and Safety Standards Act and NFPA 501b/ANSI a119.1 (1973 through 1975 editions); and is inspected by the Chief Building Official and determined to be in a safe, sound physical condition and to meet any other requirements for such homes as may be specified in the County's Building Code.

C. The term manufactured home shall not include travel trailers, camper trailers, campers or self-contained motor homes or camper buses.

18-177 Manufactured Home Park

A parcel upon which two or more manufactured homes, occupied or intended to be occupied for dwelling purposes, are located. Also see — Manufactured Home Park — Article 4-507 Lodging Uses

18-178 Manufactured Home Space

A portion of ground within a manufactured home park designated for the permanent location of one manufactured home.

18-178A Market Value

Market value is the price which a willing buyer would pay a willing seller under normal economic conditions, based on a representative body of comparable sales at or about the date for which the market value is sought to be determined, as calculated by an independent appraisal performed by a professional appraiser, or by other accepted authoritative source such as the County Assessor's Office. In lieu of an independent appraisal, the market value of the structure as determined from the records of the County Assessor may be used. For purposes of floodplain regulations, market value may be set according to any method approved by FEMA and explained within FEMA P-758.

18-178B Minor Modification

A change which does not result in increased impacts or a greater intensity of either the uses of the development or in the activity under consideration.

18-178C Mountainous Areas

The area west of Colorado Highway 93 from its intersection with the south county line to the City of Boulder, west of the City of Boulder city limits, west of US 36 from City of Boulder to Colorado Highway 66, and west of the St. Vrain Supply Canal from Colorado Highway 66 to its intersection with the north county line.

18-179 Moveable Objects

Items not anchored to the ground that are subject to being transported by water, including trailers, automobiles, manufactured homes, tanks, trash dumpsters, lumber, or other materials.

18-179A Municipal Separate Storm Sewer System (MS4, as used in Article 7-904)

Publicly-owned facilities by which stormwater is collected or conveyed, or which are designed for the collection or conveyance of stormwater, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, catch basins, inlets, storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage ditches/channels, reservoirs, and other drainage structures.

18-179B National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit or NPDES Permit

A permit issued by the U.S. Environmental Protection Agency (or by a state under authority delegated pursuant to 33 USC Section 1342(b), e.g., the Colorado Discharge Permit System (CDPS) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

18-179C New Floodplain Construction

Structures for which the start of construction commenced on or after February 1,1979 and includes any subsequent improvements to such structures.

18-180 OGCC

Oil and Gas Conservation Commission of the State of Colorado.

18-181 Oil and Gas Operation

Exploration for oil or gas, including but not limited to conventional oil and gas; the siting, drilling, deepening, recompletion, reworking, refracturing, closure or abandonment of an oil and gas well; production facility and operations including the installation of flow lines and gathering lines; construction, site preparation, reclamation and related activities associated with the development of oil and gas resources.

18-181A Opaque

Opaque means that a material does not transmit light from an internal illumination source. Applied to sign backgrounds, means that the area surrounding any letters or symbols on the sign either is not lighted from within, or allows no light from an internal source to shine though it.

18-181B Operator

The individual who has day to day supervision and control of activities. For purposes of Section 7-904, the operator may be considered the stormwater permittee or responsible agent of the permittee.

18-181C Outdoor Light Fixture

An outdoor illuminating device, outdoor lighting or reflective surface, luminous tube, lamp or similar device, permanently installed or portable, used for illumination, decoration, or advertisement. Such devices shall include, but are not limited to lights used for:

A. parking lot lighting;

B. roadway lighting;

C. buildings and structures;

D. recreational areas;

E. landscape lighting;

F. billboards and other signs (advertising or other);

G. product display area lighting;

H. building or structure decoration;

I. building overhangs and open canopies

18-182 Outlot

A designated portion of subdivided land which, unless otherwise noted on the plat, is not a building lot.

18-183 Parcel

All contiguous land held under one deed, except where a portion of the land is designated a building lot pursuant to the provisions of this Code.

18-184 Person

Any individual, corporation, governmental entity, estate, trust, partnership, association, or other legal entity.

18-184A Plat

A map of certain described subdivided land, including supporting materials, which constitutes an instrument for recording real estate interests, is prepared and approved in accordance with the Subdivision Regulations, and is recorded in the office of the County Clerk and Recorder. The term "plat," as used in this Code as a reference to subdivided land, does not include any map, depiction, or document of any kind describing unsubdivided land, even though the term "plat" may be used in such document (for example, a document denominated as a "survey plat" or "subdivision exemption plat" which does not describe divisions of land approved pursuant to the Subdivision Regulations).

(as a verb:) To undertake and accomplish the process of creating subdivided land.

18-184B Platted Land or Platted Subdivision

Equivalent terms for "subdivided land," defined below.

18-184C Pollutant (as used in Article 7-904)

Means anything which causes or contributes to pollution, this is, is harmful to humans, animals, public health, or the environment, or can degrade the quality of waters of the state or cause such waters to violate the stream standards established by the State of Colorado, or affect beneficial uses of water. The term includes, but is not limited to, sediment, dredged spoil, rock, sand, silt, incinerator residue, ash, solid waste, sewage, wastes from industrial, commercial, domestic, or agricultural sources, trash, litter, garbage or food waste, landscaping materials, lawn clippings, leaves, branches or other landscaping and yard debris, medical waste, wrecked or discarded equipment, radioactive materials, wastes that contain bacteria, viruses and other pathogens that pose a threat to human health, pet wastes, heat, surfactants, soaps, and cleaning products and wastes and residues from washing operations, including those that are biodegradable, oil and grease, petroleum hydrocarbons and antifreeze, metals, and toxic or hazardous wastes as defined by federal, state, or local laws and regulations, and including without limitation biocides and pesticides.

18-185 Power Plant

An electrical energy generating facility with generating capacity of more than 50 megawatts and any appurtenant facilities.

18-185A Preliminary Plan

A map of land proposed to become subdivided land, and specified supporting materials, whose purpose is to allow evaluation of the feasibility of and preliminary engineering design for the development, prior to the applicant undertaking more detailed engineering and design work. The preliminary plan is the second of the three required steps (sketch plan, preliminary plan, and final plat) for obtaining approval of subdivided land, and must be consistent with the approved sketch plan.

18-185B Primary Caregiver

A person who meets the definition of primary caregiver under article XVIII, section 14(1)(f) of the Colorado constitution and applicable law.

18-186 Principal Use

The primary purpose or function for which a parcel is used.

18-187 Public Improvement

Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off street parking area, lot improvement, or other facility which benefits the public.

18-188 Public Water and Public Sewer Facilities

Those facilities of a municipality or a sanitation and/or water district which are organized and operated pursuant to State Statute.

18-189 Reach

A term to describe longitudinal segments of a river, creek, or other watercourse.

18-189A Recreational Vehicle

A vehicle which is:

A. Built on a single chassis;

B. 400 square feet or less when measured at the largest horizontal projection;

C. Designed to be self-propelled or permanently towable by a light duty truck; and

D. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

18-189B Recyclable Materials

Reusable materials including, but not limited to, metals, glass, plastic, wood, and paper which are intended for remanufacturing or reconstitution. Recyclable materials do not include junk, rubbish, refuse, or hazardous waste.

18-189C Replat

An amendment or change to a plat which exceeds the scope of a correction plat and is approved according to the applicable provisions of the Subdivision Regulations, or the Exemption Plat provisions of Article 9. In the discretion of the Director, replats which cannot be processed as Exemption Plats may, in accordance with the Subdivision Regulations, require sketch plan, preliminary plan, and final plat review, or preliminary plan and final plat review, or simply final plat review, depending upon the nature of the proposed change with reference to the definitions and purposes of the three required steps for obtaining approval of subdivided land.

(as a verb): To undertake and accomplish the process of amending or changing a plat.

18-189D Residential Floor Area

For the purposes of Site Plan Review and the presumptive size thresholds associated with the Expanded Transfer of Development Rights Program, Residential Floor Area includes all attached and detached floor area (as defined in 18-162) on a parcel including principal and accessory structures used or customarily used for residential purposes, such as garages, studios, pool houses, storage sheds, home offices, and workshops. (Exemptions: Gazebos, carports, detached greenhouses and hoop houses up to a total combined size of 400 square feet.)

18-190 Right-Of-Way

Land occupied or intended to be occupied by a public crosswalk, trail, road or other public transportation use; or railroad, electric transmission line, or other utility uses.

18-191 Road

A public or private thoroughfare which affords a means of access to abutting property.

18-192 Road Profiles

A drawing of an existing or proposed vertical section of a road, street, or alley, which may include curb, gutter, and sidewalk. It may be a true or exaggerated profile, and may reflect either a centerline and/or both flow lines of a road, street or alley.

18-193 Runoff

Precipitation which enters downstream waterways or properties.

18-193A Searchlight

A lighting assembly designed to direct the output of a contained lamp in a specific tightly focused direction (a beam) with a reflector located external to the lamp, and with a swiveled or gimbaled mount to allow the assembly to be easily redirected. Such lights are used commonly to sweep the sky for advertisement purposes.

18-194 Setback

The required minimum distance between the building and the related front, side, or rear lot line. (See Article 7-1403 of this Code - Supplemental Requirements for Yards Along Major Roads)

18-195 Sewage

Refuse liquids or waste matter typically carried off site by a sewer system or treated on site by an on-site wastewater system.

18-196 Site Specific Development Plan

A plan which has been submitted to the County as part of a special use, final plat, or final plat replat approval, to establish a vested right pursuant to Part 1 of Article 68 of Title 24, C.R.S., as amended, describing with reasonable certainty the type and intensity of the proposed land use for a specific parcel or parcels of property (see Section 3-207).

18-196A Sketch Plan

A map of land proposed to become subdivided land, and specified supporting materials, whose purpose is to allow the evaluation of the basic or conceptual feasibility and design characteristics of the development at an early stage in the planning process, in accordance with the Subdivision Regulations. The sketch plan is the first of the three required steps (sketch plan, preliminary plan, and final plat) for obtaining approval of subdivided land.

18-197 Soil Survey

The soil survey conducted by the U.S. Department of Agriculture in cooperation with the State Agricultural Experiment Stations and other Federal and State agencies.

18-198 Solar Access

The ability to receive sunlight across real property for any solar energy device.

18-199 Solar Energy Device

A device which converts the sun's radiant energy into thermal, chemical, mechanical, or electric energy.

18-200 Solid Waste

Any garbage, refuse, rubbish, or other discarded materials, which may be in solid, liquid, or gaseous form.

18-200A Special Flood Hazard Area

An area having special flood, mudslide (i.e. mudflow), or flood-related erosion hazards, and as shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, A99, AH, VO, V1-30, VE, V, M, or E.

18-201 Start of Construction

The first placement of permanent construction of a building or other structure on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation.

18-202 Storm

A storm which produces precipitation of a specified return frequency (i.e., a five year storm).

18-202A Storm Drainage System (as used in Article 9-704)

See definition of Municipal Separate Storm Sewer System (MS4).

18-202B Stormwater

Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

18-202C Stormwater Management Plan (SWMP, as used in Article 9-704)

A plan describing the temporary BMPs and other measures to be implemented prior to and during construction activity to identify pollutants generated and the actions to eliminate or reduce pollutant discharges to stormwater, the MS4, and waters of the state.

18-203 Structure

A. A combination of materials forming an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, but excluding the following:

1. retaining walls;
2. fences not over 6 feet high;
3. platforms or decks not more than 30 inches above grade and not over any basement or story below;
4. utility mains, lines, and underground facilities; and
5. yard and play equipment.

B. A permanent structure is built of materials in a manner which would commonly be expected to remain useful for a substantial period of time.

C. A temporary structure is built of materials in a manner which would commonly be expected to have relatively short useful life, or is built for a purpose that would be expected to be relatively short-term in duration.

18-204 Subdivided Land

Land located within a platted subdivision, as depicted on a plat approved in accordance with the Subdivision Regulations, and recorded in the office of the County Clerk and Recorder.

18-204A Subdivided Lot

A designated portion of subdivided land which is intended to be a building lot.

18-204B Subdivision

Any parcel of land to be used for condominiums, apartments, or any other multiple-dwelling units, or any parcel of land which is divided into two or more parcels, separate interests, or interests of land, as defined pursuant to C.R.S. Section 30-28-101(10). Subdivisions are generally divisions of land into parcels comprising less than 35 acres occurring on or after May 5, 1972, as further set forth in C.R.S. Section 30-28-101(10). Prior to May 5, 1972, what constituted a "subdivision" of land in the unincorporated County is set forth in the applicable Subdivision Regulations, first passed on March 3, 1954. Subdivisions of land as defined under the applicable Subdivision Regulations require approval under the Subdivision Regulations, unless exempted from such requirements under applicable law.

18-204C Subdivision Exemption

Pursuant to the authority granted in C.R.S. Section 30-28-101(10)(d), an approval by the Board of County Commissioners to take certain unsubdivided land or divisions of unsubdivided land out of the definition of "subdivision," with the result that such land or divisions of land do not have to meet the requirements of the Subdivision Regulations. The requirements for Subdivision Exemptions are contained in Sections 9-100 through 9-102 of this Code. Land with approved subdivision exemptions is not platted (subdivided) land, even though it may be described according to a so-called "Subdivision Exemption Plat" as defined in the Colorado surveying statutes in Title 38, C.R.S. Exemptions from the Subdivision Regulations for subdivided land are called "Exemption Plats" and are contained in the Exemption Plat requirements of Sections 9-200 through 9-203 and Section 9-300 of this Code (see also Article 4-300).

18-204D Subdivision Regulations

The regulations contained in Article 5 of this Code and predecessor regulations enacted by the County pursuant to the authority granted in Part 1 of Article 28 of Title 30, C.R.S. and predecessor Colorado county planning statutes, which set forth the process and requirements to plat subdivided land.

18-205 Subject Permits

Building, Grading, Access, or Floodplain Development Permits as required by Boulder County prior to undertaking a development project.

18-205A Substantial Damage

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 damage occurred.

18-206 Substantial Improvement

A. Any cumulative combination of repairs, reconstruction, rehabilitation, expansion, or improvement of a building or other structure, the cost of which equals or exceeds 50 percent of the market value of the structure either before the improvement or repair is started, or if the structure has been damaged and is being restored, before the damage occurred. Substantial improvements are calculated on a cumulative basis, beginning with improvements commenced on or after September 11, 2013.

1. The costs of the improvement shall include, but are not necessarily limited to, all materials, labor, built-in appliances, overhead, profit, and repairs to damaged portions of the building that are done concurrent with the subject improvements.

2. The costs of the improvement shall not include those associated with post-storm debris removal; permitting; fees, preparation of surveys, costs, plans, and or specifications; or improvements outside of the structure, such as landscaping, sidewalks, fences, or detached structures; or work under a minor building permit exempted from floodplain development permit requirements under Article 4-400 of this Code.

B. The term substantial improvement does not include:

1. Any alteration of a structure listed on the National Register of Historic Places or on the Colorado State Historical Society's list of historic places.

2. Any of the following types of improvements necessary to assure safe living conditions or bring a structure into compliance with state or local health, sanitation, safety, or building codes:

a. Electrical repairs;

b. Furnace repairs or replacements;

c. Water heaters, boilers, and evaporative cooler repairs or replacements;

d. Air conditioner repairs or replacements;

e. Repairs or replacements to roof coverings;

f. Insulation or simple weatherization or energy efficiency upgrades.

3. Costs associated with renovations or remodeling projects totaling less than $1,000.00, as increased annually starting January 1, 2018 by the Consumer Price Index inflation factor applicable to Boulder County.

4. Note: even though not substantial improvements, the work described above may still require an Individual Floodplain Development Permit.

18-207 Substantial Modification

A change which significantly alters the impacts and/or character of a structure, development, or activity. Considerations relevant to what constitutes a substantial modification of an approved special use are further detailed in Article 4-603.B., and may be relevant to substantial modification determinations for other categories of approvals under this Code.

18-208 Survey Monument

Iron, brass or aluminum shaft a minimum of 1/2 inch in diameter with a 24 inch minimum length set in concrete at least five inches in diameter and located in the ground at all points on streets, alleys, or boundary lines where there is a change in direction or curvatures.

18-209 Transmit

To transfer information to another party by either hand delivery, First Class U.S. Mail, facsimile, or electronic mail.

18-209A Unsubdivided Land or Unsubdivided Parcels

Land or parcels which do not fall within the definition of subdivided land (i.e., land or parcels which are not within a platted subdivision).

18-209B Urbanized Area (as used in Article 7-904)

For Boulder County, the unincorporated territory shown on the Boulder County Urbanized Area Map that is maintained as an official record of the County Land Use Department. This map is based on the CDPS definition of "Urbanized Area" as contiguous, densely settled census block groups and census blocks that meet minimum population density requirements, along with adjacent densely settled census blocks that together encompass population of at least 50,000 people with boundaries as determined by the latest Decennial Census by the U.S. Bureau of Census.

18-210 Utility Storage Area

Any surface facility designed to store 50 million cubic feet or more of natural gas; or, 35,000 barrels or more of petroleum derivatives.

18-210A Vacant Building Lot

For the purposes of the Expanded Transfer of Development Rights Program under Article 4-1300 of this Code, a vacant building lot is a lot that qualifies as a building lot under this Code, but has no structures on it, except for improvements that are minor in nature and do not compromise the overall open land quality of the lot.

18-211 Vested Property Right

As defined in C.R.S. 24-68-102(5), the right to undertake and complete the development and use of property under the terms and conditions of a County-approved site specific development plan (special use, final plat, or final plat replat approval), as implemented through an executed and recorded development agreement. Unless otherwise specified in the site specific development plan approval, a property right shall remain vested for a period of three years (see Section 3-207).

18-212 Vocational

Related to being trained in a skill or trade to be pursued as a career or occupation.

18-212A Wastewater (as used in Article 7-904)

Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

18-213 Water Surface Elevation

The projected heights in relation to Mean Sea Level (as established by U.S.G.S.. datum) reached by floods of various magnitudes and frequencies.

18-213A Watercourse

A channel, natural depression, slough, artificial channel, gulch, arroyo, stream, creek, pond, reservoir or lake, including major drainageways, in which stormwater runoff and floodwater flow, either regularly or infrequently.

18-213B Waters Of The State Of Colorado (Waters Of The State) (as used in Article 7-904)

Any and all surface waters that are contained in or flow in or through the state of Colorado, but not including waters in sewage systems, water in treatment works of disposal systems, waters in potable water distribution systems, and all water withdrawn for use until use and treatment have been completed. This definition includes all watercourses, even if they are usually dry. For purposes of Section 7-904, waters of the state does not include subsurface waters.

18-214 Yard

The space which lies between the lot line and the nearest point of a structure. The minimum yard required is defined for each zoning district.

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Article 19

Procedures Following Disasters

Article 19 • Procedures Following Disasters

Purpose:

Boulder County is vulnerable to natural and human caused disasters that can damage property and cause injury or death, including wildfires, flood, hail storms, rock slides, blizzards, high winds, and tornadoes. Boulder County's Land Use Code contains provisions for rebuilding structures damaged or destroyed by means outside the control of the property owner; however, specific disaster events may warrant modified permitting and approval procedures to allow property owners to rebuild in a timely, safe, and responsible manner while also encouraging reasonable improvements in redevelopment consistent with current regulations and the Comprehensive Plan.

In addition, to respond appropriately in a disaster emergency, extraordinary actions must be taken quickly and efficiently. Some actions must occur faster than previously established permit processing timelines allow. Some actions require uses not normally allowed in certain zones, or not allowed without discretionary review, or not allowed without certain public process.

This Article addresses disaster emergency response in two ways. First, Section 19-100 grants temporary authority to certain county staff, upon the declaration of a local, state, or federal disaster emergency affecting Boulder County. Second, sections 19-200 and 19-300 include regulations tied to specific disasters, namely the Fourmile Canyon Fire of September 2010 and the Front Range Extreme Flood and Rain Event of September 2013.

19-100 Emergency Procedures and Permitting

A. Duration – Upon the formal declaration of a local, state, or federal disaster emergency affecting Boulder County, the authority granted certain county staff by this section 19-100 is activated for six months, unless and until such authority is terminated, extended, or otherwise amended by the Board of County Commissioners.

B. Damage Assessment

1. If necessary, the County will conduct Damage Assessment pursuant to the Damage Assessment Annex to the Boulder County All Hazards Plan, as reflected by placards placed on structures classifying the nature of the damage to that structure.

2. Once a placard has been attached to a building, it shall not be removed, altered, or covered by anyone other than an authorized representative of the County or, in the alternative, without written consent by the County. Failure to comply with this prohibition may be considered a violation under the Boulder County Building Code or Articles 14 or 17 of the Land Use Code.

C. Development Suspension

1. The Land Use Director, County Engineer, or Chief Building Official shall have the authority to establish a moratorium on the issuance of permits they administer including but not limited to building permits, access permits, and acceptance of land use permit applications or other permit applications related to the use, development, and occupancy of private property authorized under the Land Use Code, adopted building codes, and related ordinances, provided that such action is reasonably justifiable to protect life and property and to conduct recovery activities in a prioritized and orderly fashion.

2. Any temporary cessation of land use permit applications will include applications currently under review governed by codified timeframes for that review (such as Site Plan Review). The review timeframe will be suspended from the date of the declared disaster and resume as soon as possible, but no later than the lifting of the Development Suspension.

3. Any Development Suspension is subject to the following:

a. Notice of the moratorium shall be posted in the usual place for posting Boulder County public notices and shall clearly identify the boundaries of the area in which the moratorium is in effect as well as the exact nature of the development permits temporarily held in abeyance.

b. Any moratorium imposed shall be subject to review by the Board of County Commissioners at the earliest possible time, but no later than 90 days after it begins, at which time the Board shall take action to terminate, extend, or otherwise modify such moratorium.

D. Special Authorization for Temporary Emergency Use

1. Notwithstanding the uses normally allowed within a particular zoning district, the Director, County Engineer, or Chief Building Official may authorize in any zoning district the temporary emergency use of property to aid in the immediate restoration of an area adversely impacted by a disaster, including without limitation:

a. Critical response facilities. Any police, fire, medical, or communications facility that will aid in the emergency recovery.

b. Critical infrastructure facilities. Any road, bridge, or other transportation facility, any water or sewer facility, or any natural gas or electric power or other public utility facility that will aid in emergency recovery.

c. Temporary housing. Any temporary lodging set up for emergency personnel or shelters for disaster victims.

d. Debris collection and sort yards.

2. Any such special authorization must be made in writing and include findings that the proposed temporary use will not be detrimental to the immediate neighborhood, will not adversely affect the Comprehensive Plan, and will aid in the successful recovery of areas adversely impacted by the disaster. In making the determination, the Land Use Director, County Engineer, or Chief Building Official may require such information as they find necessary to determine the impacts of the proposed use, including without limitation the information listed in Land Use Code Section 3-100.D.1. Where necessary, conditions may be imposed on special authorizations to mitigate impacts.

E. Temporary Emergency Repair Permits

1. Immediately following a disaster, temporary emergency repairs to secure structures and protect property damaged in the disaster against further damage or to protect neighboring property may be made without permits. Work which constitutes "temporary emergency repairs" includes, without limitation, temporary roof repairs to prevent further water damage, temporary stabilization to shore up structures, temporary stabilization involving earthwork to avoid imminent collapse of structures or property, and temporary restoration of public recreational facilities such as trails and trailhead parking areas.

2. The Land Use Director must be notified of all such temporary emergency repairs within 10 working days of the commencement of the repair work.

3. Permits may be required for permanent work. In particular, nothing in this section shall be construed to exempt property owners from complying with county floodplain regulations and any state or federal regulatory requirements such as U.S. Army Corps of Engineers permits.

F. Deconstruction/Demolition of Damaged Structures

1. Deconstruction permits are required for disaster recovery work, including deconstruction/demolition of damaged structures and certain debris removal work. The Chief Building Official may waive portions of the permitting requirements for such work, where appropriate in light of the nature of the disaster and the particular circumstances.

2. Where the need to address an immediate health and safety concern makes it unfeasible to obtain a deconstruction permit or a permit related to debris removal, property owners must contact the Chief Building Official to get verbal consent before commencing work. In addition, property owners must apply for the appropriate deconstruction and other permits within 72 hours of the commencement of the deconstruction or demolition.

19-200 Fourmile Canyon Fire (September, 2010)

Description of disaster and County's response: This fire ("the Fire") began in Fourmile Canyon on September 6, 2010, and was not fully contained until a week later. The Fire caused the evacuation of approximately 3,500 area residents and burned approximately 6,181 acres of territory in the Fourmile Canyon, Gold Hill, and Sunshine Canyon areas. It damaged or destroyed numerous structures and utilities and devastated the landscape. In terms of numbers of homes destroyed (at least 169) and value of property affected (at least $217 million), the Fire was the worst in Colorado history.

Adoption of Article 19-200 is part of a community-wide effort to offer emergency services to Fire victims and assist them in their rebuilding efforts. Article 19-200's provisions depart from otherwise applicable Land Use Code, Building Code, and Transportation Standards review processes while serving the essential purposes of the County's land development regulations and the goals and policies of the Comprehensive Plan. Article 19-200 allows sufficient time for property owners to apply for building permits to rebuild Fire-damaged or destroyed structures. It establishes a building permit review process giving owners the option to restore structures as they existed before the Fire, or to rebuild somewhat modified structures with the goals of improving the land use impacts of preexisting development, providing more functional living space, and promoting enhanced fire-resistance and energy-efficiency. Article 19-200 also aims to accommodate reconstruction by providing a building permit process for temporary on-site emergency housing and accessory structures associated with property cleanup and restoration.

A. Structure Deconstruction/Demolition Permitting

1. A deconstruction/demolition permit for the removal of damaged or destroyed structures must be obtained from the Building Division when at least one non-foundation wall of over six feet in height is left standing. The requirements of Building Code Section N1105.2.1 ("Deconstruction") of 2009 IRC Chapter 11 (commonly known as "Boulder County BuildSmart") shall not apply to such permits. However, owners are encouraged to recycle building materials and contents where safe and practicable.

2. The Building Division's deconstruction/demolition permit does not substitute for other applicable permitting requirements, including but not limited to those related to asbestos removal administered by the Colorado Department of Public Health and Environment.

B. Temporary Structures on Fire-Affected Properties

1. Temporary Emergency Housing

a. A Temporary Emergency Housing Unit may be located on affected property provided the Building Official first issues a Temporary Emergency Housing Unit permit for the structure.

b. The Building Official may issue a Temporary Emergency Housing Unit permit only in conjunction with:

(i) a building permit for work on the damaged or destroyed permanent dwelling,

(ii) an acceptable plan and timetable for rebuilding that demonstrates the owner's intent and ability to apply for a building permit for the permanent dwelling by September 30, 2012.

c. Temporary Emergency Housing Units shall be occupied only by the property owner and the owner's family.

d. Only one Temporary Emergency Housing Unit shall be permitted per parcel unless the owner can demonstrate that additional space is necessary.

e. Temporary Emergency Housing Units must be safe structures for temporary occupancy. They must be installed according to manufacturer's specifications, and applicable County safety requirements such as being properly secured/tied down and properly connected to electricity and/or fuel source.

f. Temporary Emergency Housing Units shall be connected to an approved on-site wastewater system unless Boulder County Public Health approves a different sanitation arrangement.

g. Temporary Emergency Housing Units shall comply with zoning setback requirements unless the Director determines that existing site conditions make such location impractical or unnecessary.

h. Temporary Emergency Housing Units shall not be situated in County rights-of-way and shall be safely served by existing access ways.

i. Temporary Emergency Housing Units shall be located in a manner providing safety from natural hazards, including flood, fire, fire damage, unstable soils, and geologic hazards.

j. A Temporary Emergency Housing Unit may remain on affected property only for the time indicated in the permit The Unit may not remain after September 30, 2012, unless a building permit for the permanent dwelling has been issued or applied for by that date, or the Director has granted an extension under Subsection F.1., below. Once a building permit to rebuild the permanent dwelling has been issued, the Unit may remain while a valid County building permit for work on the permanent dwelling is in effect. Within two weeks after the County issues a certificate of occupancy for the permanent dwelling, the Temporary Emergency Housing Unit either must be removed from the property along with the site of its location being fully restored, or must be converted to a legal, permanent accessory structure.

k. The Building Official may impose reasonable conditions on any Temporary Emergency Housing Unit permit to assure compliance with these requirements. The Building Official may order any Temporary Emergency Housing Unit to be vacated or removed if these conditions are violated or the Building Official determines that the Unit has become unsafe for occupancy.

2. Temporary Accessory Structures

a. A temporary accessory structure may be located on affected property to assist with rebuilding on, or cleanup of, the property, provided the Building Official first issues a building permit for the structure.

b. Temporary accessory structures may not exceed 500 square feet of combined total floor area on a parcel, and may not be used for human occupancy.

c. Temporary accessory structures must be safe structures for temporary storage or other legitimate purpose related to property restoration. They must be installed according to manufacturer's specifications, and County safety requirements such as being properly secured/tied down and properly connected to electricity and/or fuel source.

d. Temporary accessory structures shall be located in compliance with zoning setback requirements unless the Director determines that existing site conditions make such location impractical or unnecessary.

e. Temporary accessory structures shall not be situated in County rights-of-way, and shall be safely served by existing access ways as necessary.

f. Temporary accessory structures shall be located in a manner providing safety from natural hazards, including flood, fire, fire damage, unstable soils, and geologic hazards.

g. A temporary accessory structure may remain on affected property only for the period indicated in the permit. A structure may not remain after September 30, 2012, unless a building permit for a principal structure on the property has been issued or applied for by that date, or the Director grants an extension under Subsection F.1., below. Once a building permit to rebuild the principal structure has been issued, the temporary accessory structure may remain while a valid County building permit for work on the principal structure is in effect. Within two weeks after the County issues a certificate of occupancy or final approval for the principal structure, the temporary accessory structure either must be removed from the property along with the site of its location being fully restored, or must be converted to a legal, permanent accessory structure.

h. The Building Official may impose reasonable conditions on any temporary accessory structure permit to assure compliance with these requirements. The Building Official may order any temporary accessory structure to be vacated or removed if these conditions are violated or the Building Official determines that the temporary accessory structure has become unsafe.

i. Where the principal structure on a property has been destroyed but a legal accessory structure remains, the accessory structure may be used on a temporary basis for legal accessory uses while the principal structure is rebuilt under Article 19-200. No building permit is required for such use provided the accessory structure is legal.

C. Fire-Damaged/Destroyed Structures Eligible for Facilitated Rebuilding/Repair

1. Any legal structure that was damaged or destroyed by the Fire, may be rebuilt or repaired if approved through the building permit review process set forth in Sections D. through H. below. Land Use Code site plan review approval (Article 4-800), special use review approval (Article 4-600), and compliance with residential floor area Development Credit acquisition requirements (Article 4-1300), are not required for the rebuilding of such structures, which are hereafter referred to as "eligible structures."

2. Legal structures include:

a. Structures erected according to a valid County building permit; and

b. Structures erected without a valid County building permit, if the owner can demonstrate that the structure preexisted the effective date of County building permit requirements in the mountainous area of the County (January 27, 1966 for subdivided land, and December 22, 1975 for unsubdivided land), or was exempt from applicable building permit requirements. The owner must demonstrate when the structure was established and what its dimensions (floor area and height) and location were. This information can be provided through County Assessor's records, photographs, maps, and surveys, property disaster assessments, property insurance claim submittals, or other documentation deemed acceptable by the Director.

3. Proposed construction not involving eligible structures in the Fire burn area, as well as proposed construction involving eligible structures that is outside the scope of Sections D. through H. below, may be undertaken if approved under the applicable provisions of the other articles of this Code.

D. Legal Building Lot Requirements to Rebuild/Repair Eligible Structures

1. Prior to issuing a building permit to rebuild/repair an eligible structure, the Director must confirm that the subject property is a legal building lot.

2. If the property is not a legal building lot due to a lot creation or boundary line adjustment that did not increase allowable zoning density, the Director may approve the lot subject to the applicable criteria of Section 9-102 of this Code, without a subdivision exemption approval under Article 9-100. The Director may impose reasonable conditions in any such approval to allow the applicable criteria to be met.

3. If the property is not a legal building lot due to a lot creation or boundary line adjustment that did increase allowable zoning density, then a subdivision exemption to recognize the lot under Article 9-100 of this Code is required.

E. Access Requirements to Rebuild/Repair Eligible Structures

1. Prior to issuance of a building permit to rebuild/repair an eligible structure that is to be in the same location as preexisted the Fire, no showing of legal or adequate physical access to the structure is required. However, if an existing driveway does not have acceptable emergency vehicle pullouts and/or turnarounds, these improvements must be constructed to the extent practicable.

2. Prior to issuance of a building permit to rebuild/repair an eligible structure (whether principal or accessory) in a different location from that preexisting the Fire, which will be served by all or most of the preexisting access, no showing of legal access to the structure is required. However, the Transportation Department will review the adequacy of the physical access for the new location, and may require reasonable measures to protect public health and minimize environmental damage related to the access.

3. Prior to issuance of a building permit to rebuild/repair an eligible structure (whether principal or accessory) in a different location from that preexisting the Fire, which will be served by a substantially new access, a showing of both legal and adequate physical access is required. The new access shall conform with the Transportation Standards in effect at the time of building permit application.

4. Any relaxation of County access requirements under this Section E. shall not preclude the County from evaluating the adequacy of legal or physical access for future development on properties rebuilding under this Article 19-200, or from attaching conditions to enable such development to meet the Transportation Standards in effect at the time.

F. Timeline to Rebuild/Repair Eligible Structures

1. Any eligible structure may be rebuilt or repaired pursuant to a building permit reviewed under the procedures specified in Sections G. or H., below, as applicable, provided a complete application for a building permit is submitted to the Land Use Department on or before September 30, 2012. The Director may extend this period for a reasonable period of time, but not beyond March 31, 2014. The owner of any eligible structure located on a parcel where the Fire destroyed more than 8 structures, may have up to September 30, 2018 to submit a complete building application for rebuilding/repair.

2. Once a building permit is issued, work may be pursued so long as a valid building permit for the work is in effect.

3. Any ground-mounted accessory solar energy system that requires a site plan review waiver under this Code, may be approved along with a building permit application submitted for the associated principal structure under Sections G. or H., below, without site plan review, provided the Director determines the system meets the criteria in Subsection H.1.b., below.

G. Process to Rebuild/Repair Eligible Structures to Preexisting Specifications

1. Any eligible structure, whether or not part of a nonconforming use (see Article 4-1003), may be rebuilt/repaired at its same floor area and height, and at its same location, as preexisted the Fire, subject to issuance of a County building permit. A proposed reduction in preexisting floor area and/or height will be considered the same floor area or height under this provision.

2. In addition to the usual building permit requirements, and to address heightened visibility concerns, any building permit issued under this Section G. shall require that the structure's color be an approved medium to dark earth tone color to blend with the natural environment, unless the structure is within an area where other colors may be appropriate to complement or replicate the recognized historic character of the area. The Director also may add reasonable measures for erosion control and Fire debris/damage clean-up affecting the structure and immediate vicinity of the structure. The use of wildlife-safe fencing is encouraged. If the structure was built pursuant to a Land Use Code site plan review approval, the Director will incorporate into the building permit the conditions of site plan approval that continue to apply.

H. Process to Rebuild/Repair Eligible Structures with Modest Size or Height Increase or At Different Location

1. Any eligible structure, whether or not part of a nonconforming use (see Article 4-1003), may be rebuilt/repaired with a larger floor area or at a different location than preexisted the Fire, subject to application for and issuance of a County building permit, provided the following requirements are met:

a. The proposed floor area increase (for all such structures rebuilt/repaired on a parcel) does not exceed 530 square feet per parcel, except that no size increase shall be allowed if the total residential floor area on the parcel will exceed 6,000 square feet; and

b. The Director determines that the size increase, location change, or resulting footprint expansion does not:

(i) occur on a dangerously steep slope, wildfire-prone draw, or other natural hazard area;

(ii) protrude on prominent ridgelines;

(iii) adversely affect riparian areas or wetlands;

(iv) substantially impair a significant historic resource or distinct rural community character;

(v) compromise emergency or safe access;

(vi) interfere with septic field siting or property sanitation service as confirmed by Boulder County Public Health; or

(vii) have a significant negative visual impact on adjacent properties, in cases where a different location is proposed.

c. No size increase or location change shall be approved for a nonconforming structure (see Article 4-1002) unless it is made conforming.

d. Allowable size increases and location changes are especially encouraged if they improve emergency access, solar orientation, structure conformity with zoning setback and height requirements, and structure visibility and safety; lessen driveway length, land disturbance, and environmental impacts; eliminate property line encroachments; and otherwise reduce land use impacts and promote sustainable development.

2. In addition to the usual building permit requirements, and to address heightened visibility concerns, any building permit issued under this Section H. shall require that the structure's color be an approved medium to dark earth tone color to blend with the natural environment, unless the structure is within an area where other colors may be appropriate to complement or replicate the recognized historic character of the area. The Director also may add reasonable measures for erosion control and Fire debris/damage clean-up affecting the structure and immediate vicinity of the structure, and requirements to allow approved structures to meet the provisions of this Section H. such as limitations on structure size, height, and location, and Transportation Department access specifications. The use of wildlife-safe fencing is encouraged. If the structure was built pursuant to a Land Use Code site plan review approval, the Director will incorporate into the building permit the conditions of site plan approval that continue to apply.

I. County Building Code Compliance

1. All building permits must comply with the Building Code provisions in effect at the time of building permit application, except for the deconstruction of Fire-damaged or destroyed structures under Section A., above.

2. The Building Official may apply the basis for granting a modification (creation of practical difficulties or excessive expense in the upgrade of an existing residential structure) contained in Section N.1105.3.1. of 2009 IRC Chapter 11 of the Building Code (commonly known as "Boulder County BuildSmart"), to any residential structure proposed to be restored to its preexisting size under this Article 19-200.

J. Compliance with Other County Permitting Requirements

1. Building permits under this Article 19-200 must comply with any applicable requirements in Article 4 of this Code for limited impact special review for grading in excess of 500 cubic yards; in Article 4-400 for reconstruction in the Floodplain Overlay Zoning District; and in Article 15 (Historic Preservation) if they affect structures over 50 years old or landmarked structures/sites. Any other County permitting requirement or related provision not specifically addressed in this Article 19-200, shall be presumed to apply, unless the Land Use Director determines that strict application is contrary to the intent and purposes of this Article. The Director may grant appropriate relief from the strict application, subject to reasonable mitigating measures.

2. Existing OWS systems may be used if they were not damaged in the Fire and if the restored residence or structure does not contain more bedrooms than preexisted the Fire. Owners should contact Boulder County Public Health for details on applicable OWS requirements. The building permit and any required OWS permit or approval may be reviewed concurrently.

3. In the event of a conflict between this Article 19-200 and any other code provision, this Article shall apply.

K. Enforcement

The County may enforce this Article 19-200 through the provisions of Section 17-300 of this Code. Nothing in this Article shall limit the County's existing enforcement authority under Articles 14 or 17 of this Code, the Building Code, or other applicable law.

19-300 Front Range Extreme Rain and Flood Event (September, 2013)

Boulder County experienced a rain event of historic proportions beginning on September 9, 2013, that dropped a record-breaking 17+ inches of precipitation over a widespread area in just a few days. The unrelenting rain triggered flash floods and landslides in the County's mountain drainages, resulted in massive flooding with associated slides and debris flows throughout the foothills and plains, so overloaded water channels that many substantially changed course, and excessively saturated soils on properties that were not overrun by floodwaters. This extraordinary weather event ("2013 Extreme Rain and Flood Event") led to President Barack Obama declaring the County a federal major disaster area, and prompted emergency disaster declarations at the state and local levels. The 2013 Extreme Rain and Flood Event caused loss of life, catastrophic property damage, and the substantial destruction of key infrastructure including major roads, sewer systems, and trails and park lands. Recovery in the months and years ahead will be challenging, time-consuming, and severely demanding on public and private resources.

In the immediate aftermath, as well as for the longer term, the County is resolved to take all reasonable measures to avoid the catastrophic impacts of another such disaster, help keep the public and their property safe from future extreme rain and flood events, and restore and preserve the community's critical infrastructure to the maximum extent practicable. As a starting point in this effort, Boulder County has reviewed its land use regulations and determined that immediate changes are needed to respond to the unique and widespread nature of the 2013 Extreme Rain and Flood Event, to help guide the recovery effort wisely so that future risks from such hazards can be substantially reduced. The County also recognizes that it must regulate development following this disaster in conformity with the Land Use Code's recently updated floodplain management program, which the Federal Emergency Management Agency has approved under the National Flood Insurance Program to protect the integrity of the floodplain, and provide reasonable flood insurance rates for eligible property owners.

The essential purpose of this Article 19-300, therefore, is to strike an appropriate balance between citizens being able to rebuild their homes and businesses and resume their post-disaster lives, while assuring that the ongoing recovery effort is well planned in anticipation of the possibility of history repeating or exceeding itself. Clearly the County and its affected citizens and communities can and should be in a better position to cope with the widespread manifestations and varied impacts of extreme rain and flood events, including too much water in all the wrong places, excessive soil saturation, and the attendant triggering of debris flows, mudslides, rock falls, channel realignments, uncontrolled terraforming, topographic instability, and other associated destructive forces of nature. Article 19-300 is one of many first steps that the County is taking in that direction. As ongoing studies of, and community response to, the 2013 Extreme Rain and Flood Event proceed, this Article, the Land Use Code overall, and the County's companion regulations affecting land use and post-disaster redevelopment almost certainly will require further adjustment as information is gathered and analyzed. This promises to be a major effort in which the County openly invites its citizens to participate, so that local land use regulations can be sensibly meshed with property owner needs, a possible increased intensity in weather patterns, and the responsibility of county government to protect the public health, safety, and welfare.

A. Amendments to Land Use Code Subsections 4-802.B.3.a. and 4-802.B.3.c. (Six-Month Exemption from Site Plan Review To Restore Disaster-Damaged Structures, and Relationship with Art. 4-400, Floodplain Overlay District), To Require an Interim Hazard Mitigation Review ("HMR") Process Prior to Building Permit Application To Restore Any Legal Structure Damaged or Destroyed by the 2013 Extreme Rain and Flood Event.

Subsection 4-802.B.3.a. of this Code currently exempts from Site Plan Review (Article 4-800), the restoration of any structure damaged or destroyed by causes outside the control of the owner, provided the restoration is commenced within six months after the damage/destruction occurs, and provided the restoration is for the same location, floor area, and height as preexisted the damage or destruction. Subsection 4-802.B.3.c. provides that Subsection 4-802.B.3.a.'s exemption from site plan review does not apply to substantial improvements in the Floodplain Overlay District under Article 4-400.

Subsections 4-802.B.3.a. and 4-802.B.3.c. are hereby amended for purposes of rebuilding or restoring structures damaged or destroyed by the 2013 Extreme Rain and Flood Event (whether by flooding, debris flows, mudslides, topographic changes or instability, drainage channel shifts, area drainage system impairments or failures, soil saturation, or related hazardous events triggered by the disaster), for the interim period under this Article 19-300, as follows:

B. General Duration and Applicability of Article 19-300

1. Subsection 4-802.B.3.a.'s six-month exemption period from Site Plan Review shall be deemed to have commenced on the effective date of these regulations (November 4, 2013), and shall continue until the Board determines the exemption period should be amended or terminated in light of ongoing response to the Extreme Rain and Flood Event ("the Post-Event Rebuilding Period").

2. During the Post-Event Rebuilding Period, this Article 19-300 shall apply to any work for which a County building permit is required to rebuild or restore a legally existing structure damaged or destroyed by the 2013 Extreme Rain and Flood Event and its associated natural forces (unless the work is excluded from this Article 19-300 under Subsection C.2, below), and which the owner wishes to be exempt from Site Plan Review.

3. During the Post-Event Rebuilding Period, this Article 19-300 shall apply to any work for which a County grading permit for earthwork between 50-500 cubic yards, and/or a floodplain development permit, is required to repair or restore property damaged by the 2013 Extreme Rain and Flood Event and its associated natural forces (unless the work is excluded from this Article 19-300 under Subsection C.2, below), and which the owner wishes to be exempt from Site Plan Review.
   a. This Article 19-300 may apply instead of Site Plan Review so long as the proposal is to rebuild or restore no more than the structure's original, legally preexisting floor area.
      (i) The applicability of Article 4-1002.D, which allows rebuilding of Nonconforming Structures, shall be extended through September 30, 2016.
   b. The structure's location may be changed, provided the change in location significantly reduces the potential risks associated with future extreme rain and flood events or other known natural hazard areas or incidents (such as by moving the structure out of the mapped floodway or floodplain, or otherwise to a less hazardous location on the property).The relocation is subject to other provisions of this Code including but not limited to setback and floodplain requirements.
   c. The structure's height must remain the same, unless the Director (under Subsection 9 below) allows a reasonable height increase to accommodate a specific hazard mitigation requirement.
   d. The Director must confirm that the subject property is a legal building lot. If the property is not a legal building lot due to a lot creation or boundary line adjustment that did not increase allowable zoning density, the Director may approve the lot subject to the applicable criteria of Section 9-102 of this Code, without a subdivision exemption approval under Article 9-100. The Director may impose reasonable conditions in any such approval to allow the applicable criteria to be met. If the property is not a legal building lot due to a lot creation or boundary line adjustment that did increase allowable zoning density, then a subdivision exemption to recognize the lot under Article 9-100 of this Code is required.
4. All requirements in Article 4-400 of this Code governing the Floodplain Overlay District shall continue to apply under this Article 19-300, though Site Plan Review for a floodplain development permit (as otherwise required under Subsection 4-802.A.8. of this Code) shall not be necessary, so long as the proposed work falls within the specifications of Subsection 2 and 3, above.
5. Legal structures proposed to be restored as provided in Subsection 2, above, are hereafter referred to as "Eligible Structures." Structures proposed for rebuilding or restoration that are not Eligible Structures, shall be subject to the usual provisions of the Land Use Code, including the Nonconforming regulations in Article 4-1000, which allow a damaged structure containing a nonconforming use to be restored, and the nonconforming use to be reestablished within six months after the date on which the nonconforming structure was damaged, unless that deadline is extended by the Board of County Commissioners at a public hearing upon a showing of extraordinary circumstances by the property owner or their agent; however, if the proposed work does not otherwise trigger Site Plan Review, and is not excluded work under Subsection C.2, below, a Hazard Mitigation Review shall be performed under this Article 19-300.

C. Hazard Mitigation Review Process
1. Before a building permit can be applied for to rebuild or restore any Eligible Structure within the Post-Event Rebuilding Period, the Director must first conduct a Hazard Mitigation Review ("HMR").
2. The following building permits are excluded from the HMR requirement:
   a. "Flood Recovery, Restoration, and Repair Permits" issued by the Building Division for disaster-related restoration or clean-up work in the aftermath of the 2013 Extreme Rain and Flood Event, involving minor projects related to basement finishing, interior remodels, electrical repairs, reroofing, siding repairs, gas line repairs, plumbing repairs, and replacement of windows, doors, furnaces, boilers, and water heaters.
   b. A building permit which the Chief Building Official determines is necessary to rectify a hazardous health or safety situation including but not limited to structure stabilization, or to comply with the public health or safety requirements of another governmental entity having lawful jurisdiction over the structure, or to allow for the preservation of a significant historic structure.
   c. Building permits for structures related to the restoration of utilities or infrastructure, or for small agricultural accessory structures such as loafing sheds or ditch head gates, which the Director determines have no potential to pose a hazard under this Article 19-300.
   d. Any excluded building permit under Subsections a. through c. above, may be issued for a temporary period, may require further approval of permanent construction measures meeting other applicable code requirements, and may result in owners doing work on a temporary or emergency basis by their own choice and at their own financial risk.

3. The purposes of the HMR are for the Director (including the Chief Building Official), with the input of the County Engineer and County Public Health, to:
   a. Assess the safety of the proposed restoration/construction in light of the actual damage caused by the 2013 Extreme Rain and Flood Event and related hazardous forces triggered by that disaster (such as flooding, debris flows, rockfalls, mudslides, topographic changes or instability, drainage channel shifts, area drainage system impairments or failures, and soil saturation), to the Eligible Structure, the subject property, surrounding properties, and public and private infrastructure serving the subject property; and
   b. Assure that the proposal complies with the standards of this Article 19-300, so that any such future hazards can be reduced or avoided to the maximum extent practicable.
4. The Director shall administer the HMR process, aided by the County Engineer and County Public Health, with a focus on educating landowners concerning the risks related to extreme rain and flood events, and assisting owners in evaluating reasonable land redevelopment plans and associated hazard mitigation measures, while adequately protecting the public health, safety, and welfare with respect to future storm/water-related hazards.
5. Application for a HMR shall require an application submittal, as set forth in Section 4-804 of this Code. The HMR application shall include information demonstrating that the Eligible Structure to be rebuilt or restored is a legal structure that was damaged or destroyed by the 2013 Extreme Rain and Flood Event or its associated physical forces, and must set forth specific information regarding the extent of the damage which the Event caused to the Eligible Structure, to the subject property, to surrounding properties and drainages, and to infrastructure serving the subject property. The Director may waive application requirements deemed to be not relevant to evaluating the hazards related to any specific proposal, and also may request additional information considered necessary to enable a thorough evaluation of the application.
6. Once a complete application for a HMR is received, the Director shall forward the application to the County Engineer and to County Public Health for an assessment of the Extreme Rain and Flood Event and related hazards associated with the proposal. For any application involving property within the Floodplain Overlay District (Article 4-400 of this Code), the HMR application may be coordinated with the County Engineer's review of any required application for a Floodplain Development Permit.
7. Once the Director receives the referral comments of the County Engineer and County Public Health, and considers any other relevant information of record (including any additional information which the Director discovers through the process is necessary and reasonable to request to complete the review), the Director shall make a decision on the HMR application. The Director shall base the decision on the following standards:
   a. The proposal shall not pose or create a significant potential safety hazard when evaluated against evidence of actual damage caused by the 2013 Extreme Rain and Flood Event (including by the Event's related hazardous forces such as flooding, debris flows, rockfalls, mudslides, topographic changes or instability, drainage channel shifts, area drainage system impairments or failures, and soil saturation) and best available information (including but not limited to hydrologic evaluations to determine peak flows, floodplain mapping studies, Colorado Geologic Survey landslide or earth/debris flow data, updated topographic data, and creek planning studies). Potential safety hazards to on the Eligible Structure being restored, on the subject property, on surrounding properties, and on public and private infrastructure serving the subject property or other affected infrastructure must be identified and avoided or satisfactorily mitigated. In particular, development shall avoid natural hazards, including those on the subject property and those originating off-site with a reasonable likelihood of affecting the subject property. Natural hazards include, without limitation, expansive soils or claystone, subsiding soils, soil creep areas, or questionable soils where the safe-sustaining power of the soils is in doubt; landslides, mudslides, mudfalls, debris fans, unstable slopes, and rockfalls; flash flooding corridors, alluvial fans, floodways, floodplains, and flood-prone areas; and avalanche corridors; all as identified in the Comprehensive Plan Geologic Hazard and Constraint Areas Map or through the HMR process using the best available information.
   b. The proposal shall not alter historic drainage patterns and/or flow rates or shall include acceptable mitigation measures to compensate for anticipated drainage impacts.
   c. If the Eligible Structure's location is proposed or required to be changed, the new location shall significantly reduce the potential risks associated with future extreme rain or flood events as identified by the best available information (including but not limited to hydrologic evaluations to determine peak flows, floodplain mapping studies, Colorado Geologic Survey landslide or earth/debris flow data, updated topographic data, and creek planning studies), or other known natural hazard areas or incidents; shall not create an unreasonable risk with respect to other natural hazards such as wildfire, subsidence, or erosion; and shall not cause unreasonable harm to significant historic structures or sites, or to significant natural ecosystems and environmental resources including but not necessarily limited to natural areas and natural landmarks, prominent topographic features and excessively steep slopes, riparian corridors and wetland areas, and significant plant communities, wildlife habitat, and wildlife migration corridors, as identified on the Comprehensive Plan or through the HMR process.

d. If the Director finds that any of the foregoing standards conflict, the Director shall evaluate the applicability and importance of each of the conflicting standards under the facts of the specific HMR application, and make a reasonable attempt to balance the conflicting standards in reaching a decision, with appropriate priority being given to fulfilling the purposes of this Article 19-300.

8. If the Director determines that the HMR application complies with the foregoing standards, the Director in its discretion may approve the application without conditions. In the alternative, the Director may impose reasonable conditions allowing a determination that the application satisfies the standards.

9. Reasonable conditions may include, but are not limited to, moving the Eligible Structure outside of a mapped floodway or floodplain or known flood-prone area; reorienting the structure or reducing its massing to minimize the effects of hazards on the structure, the subject property, or surrounding properties and infrastructure; installing or arranging appropriate features or improvements to reroute excess waters or protect the Eligible Structure or affected properties from natural hazards; implementing floodproofing or other hazard mitigation measures recommended or required by the Director, the County Engineer, or County Public Health; performing additional hydrologic or technical studies on hazards that may result in additional conditions being added at the building permit stage; requiring reasonable measures in cases where an Eligible Structure's location is changed to significantly reduce the potential risks associated with future natural hazards; and providing that the proposed development comply with any other applicable permitting requirements, including but not limited to those related to access and sanitation. In addition, the Director may allow a reasonable increase in structure height, not to exceed zoning limits, if necessary to accommodate any elevation of the Eligible Structure for floodproofing purposes or to satisfy any other specific hazard mitigation requirement, provided any associated adverse visual impacts of the height increase are appropriately mitigated.

10. If the Director finds that the HMR application cannot comply with the applicable standards, the Director shall deny the application. The Director also may deny an application, or in the Director's discretion delay a decision on the application for further information, if the Director finds that insufficient information has been presented to allow a reasonable evaluation of the hazards associated with the proposed development, or of effective hazard mitigation measures. For applications in the Floodplain Overlay District (Article 4-400 of the Code), the Director may delay a decision until the County Engineer processes any required Floodplain Development Permit.

11. While the Director is not required to make a decision on a HMR application within a specified time, and may delay a decision on a reasonable basis as provided herein, the Director shall make a good-faith effort to process requests as soon as practicable after a complete application has been submitted.

12. The applicant may appeal the Director's final decision on a HMR application using the same process as appeals for Site Plan Review decisions under Article 4-808.

13. Any final HMR approval shall expire one calendar year after its date of issuance, unless within that year the applicant presents the Director with a written request for an extension. If a timely extension request is received, the Director may allow the HMR approval to be extended, upon a showing of good cause, and provided the circumstances surrounding the approval's issuance under this Article 19-300 have not substantially changed.

D. Flood Recovery Access Permit (FRAP)

1. Purpose, Application, and Duration

a. This Subsection 19-300.D. applies to the repair and restoration of accesses to private property that existed prior to the September 2013 flood in Boulder County and that were damaged as a result of that flood. The intent is to allow property owners to construct a temporary but safe access from public roads to private property as quickly as possible in locations where re-construction of a permanent access is not possible due to damaged waterways or public rights-of way. There may be circumstances where it is not possible to issue a FRAP.

b. The FRAP addresses access from maintained and unmaintained public roads, including access across regulated and unregulated waterways. Access from a private road or across a non-public easement is not addressed here, with the exception of crossing a regulated floodplain or major drainage.

c. The issuance of a FRAP is intended to recognize and accommodate the time needed to repair public infrastructure and regulated waterways following the September 2013 flood while enabling property owners to regain access to their property. FRAPs are temporary permits for accesses which are unable to meet the requirements of subsections 3-100.B.1.a, 4-400, and 19-200.D.1 and Multi-Modal Transportation Standards subsections 2.3.3.2, 5.5, and 5.10 due to the unrepaired damage to adjacent waterways and public rights-of-way. All FRAPs shall have an expiration date of six months from issuance, which may be extended at the discretion of the County Engineer if the adjacent public infrastructure has not been repaired such that a permanent access may be constructed.

d. FRAPs shall not be issued beyond September 30, 2016.

2. Eligibility for a New or Extended FRAP

a. An assessment of the access condition shall be performed by the Transportation Department within 10 business days of a new FRAP or FRAP extension request.

b. At least one of the following criteria must be met to apply for a FRAP:

(i) the connecting public road is in need of major repair and reconstruction such that if a permanent private access were constructed, it would not be possible for the County to guarantee that it would physically connect with the final repaired or reconstructed public road; or

(ii) there is an adopted public plan to adjust the course, size, or creek bed elevation for the adjacent waterway with funding available to implement that plan.

c. An expiring FRAP for a temporary structure, built and installed per the issued FRAP, may be extended consistent with 5(g) below, if:

(i) At least one of the conditions in 2(b) above are met, or

(ii) if the County Engineer determines both that the access does not or will not create an immediate hazard and that a temporary solution is preferable because there are unresolved issues such as waterway restoration and location, availability of funding assistance, or other outstanding issues which may impact the design and construction of a permanent solution.

3. Submittal Requirements for FRAP application

a. For an access that does not cross a waterway, the applicant must submit:

(i) Description of damage to access;

(ii) Verification of legal access; and

(iii) Description of work and material to be used to repair or restore the access.

b. For a culvert installation, the applicant must submit:

(i) Description of damage to culvert crossing;

(ii) Verification of legal access;

(iii) Culvert size, number and type;

(iv) Storm size that installed culvert(s) shall accommodate;

(v) Quantity and type of fill material; and

(vi) Cross-section of location where culvert(s) shall be installed.

c. For the construction or repair of a bridge, the applicant must submit:

(i) Description of damage to structure;

(ii) Description of the size and materials of the pre-flood bridge;

(iii) Verification of legal access;

(iv) Hydraulic and hydrologic analysis provided by a licensed engineer;

(v) Structure design provided by a licensed engineer; and

(vi) Cross-section of location where bridge shall be installed.

4. FRAP Review Criteria

a. The County Engineer will review and evaluate FRAP applications for compliance with the following criteria and approve, conditionally approve, or deny the FRAP application as appropriate.

(i) Location. Accesses shall be located to align as close as possible with pre-flood positions. Any change to an access location shall be based on the recommendation by the inspector as determined during the initial assessment. Location changes that reduce potential hazards or negative environmental impacts may be permitted.

(ii) Culvert and Structure Design.

(1) An 18" (minimum) diameter culvert shall generally be required for accesses that do not cross a regulated waterway for the purpose of conveying storm drainage in the roadway consistent with the Boulder County Multimodal Transportation Standards.

(2) Where an access crosses a waterway, the crossing shall meet the following criteria:

(a) Where creek geometry allows, the capacity of a temporary crossing structure or culvert may not be less than that of the pre-flood structure;

(b) Where a damaged or destroyed structure across a regulated stream is replaced by a culvert, the culvert must be sized by the County Engineer.

(3) Based on data gathered by the inspector, the county shall perform the calculations and provide culvert or structure design information to the Applicant. The Applicant may retain a qualified, registered engineer to design and size structures to access property, if desired, at his/her own expense.

b. Risk to public health and safety. To the greatest extent possible, in the professional judgment of the County Engineer, the temporary culvert or structure must:

(i) Not be severely undersized;

(ii) Be constructed so as to minimize the risk of dislodging or breaking apart and entering the waterway during another high water event;

(iii) Be constructed so as to minimize adverse effects on the efficiency of the floodway, changes in the direction of flow, and increases in the base flood elevations;

(iv) Not threaten the integrity of adjacent or nearby public infrastructure during a high water event;

(v) Not increase the flood hazard risk on an insurable structure; and

(vi) Not pose significant risks to nearby accesses serving multiple residences or properties.

5. Conditions on FRAP Approvals

a. Any project to restore an access onto county rights-of-way must obtain all applicable local, state, and federal permits. Dependent upon the location and the specific nature of the activity or structure to be installed, building, grading, and floodplain development permits may be required in addition to a FRAP.

b. As applicable, the County Engineer may condition FRAP approval on compliance with design requirements, including without limitation:

(i) Site specific findings of the County inspector based on his or her assessment;

(ii) Structure design requirements determined by the County or by a licensed civil or structural engineer in the State of Colorado; and

(iii) Other access design conditions such as drainage, sight distance, and geometric needs.

c. The County Engineer will inspect completed temporary accesses upon notification by the Applicant or upon determination that an inspection is needed. This inspection shall ensure compliance with county requirements. Any work or material which does not conform to the conditions made as part of the issued permits shall be brought to the attention of the Applicant for immediate correction.

d. Once construction is complete and approved, the County Engineer will provide a final signed FRAP as proof of approval.

e. The Applicant shall be responsible for maintaining temporary accesses. Where applicable, the County Engineer may condition FRAP approval on restoration of the right-of-way once the FRAP has expired.

f. In the event the County realigns or widens the road in a manner that necessitates the removal or relocation of a temporary access or temporary work done by the property owner in the public right-of-way, the removal or relocation shall be at the Applicant's expense upon written notification by the County. The relocation or removal must be completed within 60 days after notification, unless the County Engineer in his sole discretion grants additional time. (As a separate matter, where the County requires new property rights to relocate a right-of-way or other transportation facility, the County will acquire such rights using standard procedures for determining compensation.)

g. Prior to the date of expiration noted on the FRAP approval, the County Engineer will review the condition of the adjacent waterway, applicable state and federal regulatory requirements, and public rights-of-way to determine if a permanent access may be permitted. Upon application to and recommendation by the County Engineer, and based upon best available information at the time, the FRAP may be extended for up to six months at a time, for a combined total of no more than three years.

6. Permanent Access

a. Prior to the expiration of a FRAP or notification by the County that a permanent access may be permitted, whichever occurs first, FRAP recipients shall either (i) submit the appropriate applications to verify that the temporary access meets the criteria for a permanent access, or (ii) commence design and construction of a permanent access.

b. Prior to approval of a permanent access application, applicants with a substantially damaged dwelling in the floodplain must demonstrate that (i) the repaired or reconstructed building can comply with all county regulations, including those governing the floodplain, and (ii) a compliant onsite wastewater system is in place or is in the process of being repaired or replaced.

c. All permanent accesses must comply with Boulder County regulations including without limitation the Boulder County Land Use Code (including the floodplain regulations), the Boulder County Multimodal Transportation Standards, the Boulder County Building Code, and the Boulder County Storm Drainage Criteria Manual, as applicable.

d. Construction of a permanent access shall be completed within 6 months of whichever of the following occurs first: (i) the date the FRAP expires, (ii) the date the County notifies the property owner that a permanent access may be permitted, or (iii) the date of the sale of the property, per property transfer regulations adopted by the Board of County Commissioners under separate cover.

e. The County Engineer may provide an extension to the deadline to construct a permanent access upon finding in writing that there are design or other physical, regulatory, or programmatic constraints or opportunities beyond the Applicant's control which prevent completion of the construction of an approved permanent access and the Applicant has been working in good faith to design and construct a permanent access within the required timeframes set out in these regulations.

7. Removal of Unsafe Culverts and Structures

a. Where the Extreme Rain and Flood Event damaged a property access point, the property owner must undertake one of the following actions:

(i) Make permanent repairs to the access by obtaining all required permits

(ii) Make temporary repairs to the access by obtaining a FRAP and, as soon as possible thereafter, make permanent repairs by obtaining all required permits

(iii) Safely deconstruct the access point and remove all materials and debris from the floodplain, creek channel, and public right-of-way, as applicable.

b. Temporary culverts and structures must be removed at the property owner's expense within 14 days after written notification by the County that the culvert or structure poses a risk to public health and safety. Removal or replacement shall be required if, in the judgment of the County Engineer, the culvert or structure:

(i) Does not comply with the Culvert and Structure Design requirements identified in the FRAP Review Criteria above;

(ii) Is currently an obstruction in the waterway as determined by the County Engineer or the Office of Emergency Management;

(iii) Is constructed so as to be at risk of dislodging or breaking apart and entering the waterway during another high water event;

(iv) Is severely undersized;

(v) Threatens the integrity of adjacent or nearby public infrastructure during a high water event;

(vi) Increases the flood hazard risk on an insurable structure;

(vii) Creates a risk to nearby accesses serving multiple residences or properties; or

(viii) Presents additional risks or hazards not specified here in the professional judgment of the County Engineer, including situations where the County has previously issued a FRAP, and the County Engineer has received new information indicating the structure is a risk to public health and safety.

c. Any culvert or structure damaged in Extreme Rain and Flood Event and subsequently deemed a risk to public health and safety by the County Engineer and not timely abated by the property owner is subject to enforcement under the Multimodal Transportation Standards or the Land Use Code, as appropriate.

E. Applicability of Other Regulations; Enforcement

1. Except as amended in this Article 19-300, all other applicable provisions of the Land Use Code and related County land development, access, Multimodal Transportation, and Public Health regulations shall be in full force and effect as stated therein. Of note, while this Article 19-300 amends Subsections a. and c. of Section 4-802.B.3., it does not amend Subsection 4-802.B.3.b. regarding the exemption from Site Plan Review for replacement of bridges, box culverts, low-water crossings to other structures spanning a creek or other drainage within a mapped floodplain, which remains in effect as provided therein. In the event of a conflict between this Article 19-300 and any other code provision, this Article shall control, unless the Director determines otherwise in order to better serve the purposes of this Article 19-300.

2. Where the BOCC has provided specific approval of emergency response actions by the Director, the County Engineer/Transportation Department Director, or other County department heads, related to the need for immediate permitting of repairs to structures, access, and property damaged or destroyed by the 2013 Extreme Rain and Flood Event (including without limitation BOCC Declaration of Local Disaster Emergency Extension #1 adopted September 19, 2013, Extension #2 adopted September 24, 2013, and Extension #3 adopted October 1, 2013, and any further extensions thereof), those department heads, in their sound discretion, may continue, modify, or terminate those permitting practices as reasonably necessary to administratively handle the ongoing effects of the disaster recovery effort. Adoption of this Article 19-300 shall, however, immediately terminate the temporary cessation on the issuance of County building permits and floodplain development permits authorized in Paragraph 1 of the BOCC's Declaration of Local Disaster Emergency Extension #3 (October 1, 2013).

3. The County may enforce this Article 19-300 through the provisions of Section 17-300 of this Code. Nothing in this Article shall limit the County's existing enforcement authority under Articles 14 or 17 of this Code, the Building Code, or other applicable law.

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Article 4-116

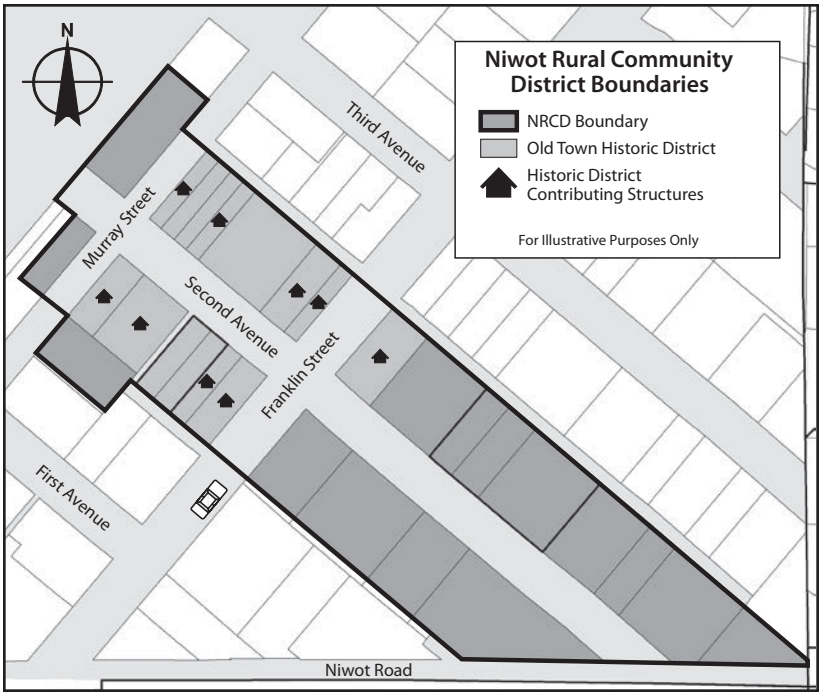
Niwot Rural Community District

Article 4-116 • Niwot Rural Community District (Fully Illustrated Version Under Separate Cover)

Introduction

The Niwot Rural Community District (NRCD) is located along Second Avenue in Old Town Niwot. A portion of the parcels zoned NRCD are also within the Old Town Niwot Historic District. Some of the following regulations and guidelines will apply to all of the parcels within the NRCD, while others will apply only to the historic district. On the other hand, some regulations and guidelines will apply only to those properties that are not in the historic district. Unless specifically stated that a regulation applies only to the historic or non-historic area, it will apply to the entire Rural Community District.

A pre-application conference with Land Use staff is required to ensure that the applicant for a new use or new construction is meeting the standards and guidelines of the NRCD and the Old Town Niwot Historic District.



In order to expedite the review process, the applicant is required to complete the Niwot Rural Community District Design Checklist, available at the Land Use Department. Prior to final approval of a site plan at the building permit stage, county staff makes sure that the applicable regulations in the *Boulder County Land Use Code*, *Niwot Rural Community District Handbook*, and *Transportation Standards* are being satisfactorily addressed. A Certificate of Occupancy for renovations or new construction will not be issued until all conditions of the site plan and building permit have been completed.

Review Boards

Old Town Niwot Design Review Subcommittee

The NRCD has a Design Review Subcommittee. The subcommittee's primary role is to act as a referral agency for proposals within the Old Town Niwot Historic District. The Subcommittee does not have legal authority to grant Certificates of Appropriateness. However, the Historic Preservation Advisory Board (HPAB) shall consider the subcommittee's recommendation as well as other public testimony in decisions pertaining to the historic district.

Occasionally, a property owner in the non-historic portion of the NRCD will propose a design which is not within the parameters of the standards and guidelines. In the cases of paint color, building materials, and temporary signs, the subcommittee shall have the authority to grant variances from the standards and guidelines.

The subcommittee shall be a referral agency for cases within the NRCD which require Special Review.

The Old Town Niwot Design Review Subcommittee will be composed of representatives of the Niwot Business Association, the Niwot Community Association, the Niwot Historical Society, and at least one member of the HPAB.

Historic Preservation Advisory Board (HPAB)

The HPAB reviews proposals only within the Old Town Niwot Historic District. For more information about design review within the historic district, refer to Section B of this handbook.

County Board of Adjustment

The Board of Adjustment has the authority to grant variances from the bulk requirements of all of Boulder County's zoning districts. Bulk requirements are those that address structure height and setbacks. More information pertaining to the Board of Adjustment can be found in Article 4-1200 of the Boulder County Land Use Code.

Development Standards

A. Amendments

1. Proposed amendments to the boundary of the Niwot Rural Community District shall be referred to all property owners within the NRCD as well as the Old Town Niwot Design Review Subcommittee. Referral comments from NRCD property owners and the Subcommittee shall be considered by the Planning Commission and the Board of County Commissioners when reviewing rezoning requests in or adjacent to the current boundary of the NRCD as shown in Map 1 of this handbook.

B. Permitted Uses

1. Entire district:

Bank

Church

Eating or drinking place

Emergency care facility

Furniture restoration

Overnight lodging (not more than 14 rooms)

Professional office

Public or quasi-public facility other than listed

Residential provided it is part of a mixed-use development (i.e. an apartment above a store)

Retail or personal service facility

Veterinary clinic without outside pens

Commercial Bakery (see 4-503D) provided it is limited to no more than 2,000 square feet of floor area and is located on the second floor or in the rear of the property.

2. Nonhistoric district only:

Agricultural products retail outlet

Day care center

Mortuary

Single family dwelling

Vehicle sales and service

3. Special Review will be necessary for any use which:

a. Generates traffic volumes in excess of 500 average daily trips; or

b. Has a total floor area greater than or equal to 35,000 square feet.

4. Site plan review is not required for a change of use. A site plan review waiver process is required when demolishing any square footage or adding less than 1000 square feet. A full site plan review process is required when building on a vacant parcel or adding 1000 square feet or more to a property.

C. Lot, Building, and Structure Design and Dimension Requirements

1. Minimum lot size - 3,500 square feet

2. Maximum building height - 30 feet

3. Minimum setback:

a. Front yard - 0 feet in block one(between the Diagonal Highway and Franklin Street;20 feet in block two (between Franklin Street and Niwot Road);

b. Side yard - 0 or 12 feet

c. Rear yard - 0 with an alley; 10 feet without an alley

4. Supplemental Setbacks:

a. Within the NRCD, no supplemental setback from the center line of Second Avenue is required.

b. Along Niwot Road, within the NRCD, the minimum yard requirements for all structures, with the exception of signs, shall not be less than 80 feet from the center line of the roadway.

D. Parking Requirements

1. Any additional square footage built over that which legally existed on July 1, 2012 will require 1 parking space per 500 square feet of floor area. Existing square footage is grandfathered in as the property is currently configured and is not recalculated at the rate of one space per 500 square feet of floor area.

2. A change of use within an existing structure or the addition of at grade, uncovered outdoor seating will not require additional parking.

3. Parking may be provided on the lot or on another lot within the NRCD. A county approved parking agreement is required if the parking is provided on another lot.

4. Credit will be given for on-street parking at a ratio of 1 space per 15 feet of street frontage in the area west of Franklin and 1 per 25 feet of frontage in the area east of Franklin Street.

5. Small car spaces may be used to meet on-site parking requirements provided they are designated for employee parking. In no case shall the designated small car spaces exceed 40 percent of the required on-site parking spaces.

6. No loading space is required unless determined to be necessary through the zoning review or site plan review process.

E. Design Guidelines

1. Parking

Parking shall not occur in the front yard within 7 feet of the front property line.

2. Signs

a. Wall mounted signs per building face shall not exceed 32 square feet total

b. Wall mounted perpendicular signs may not exceed 12 square feet per sign face

c. One ground sign (not raised on a pole) per building lot of no more than 32 square feet or 16 square feet per sign face is permissible

d. Items may be displayed outside of a structure provided they are displayed for no more than 48 hours and not more than once per week or have received the approval of the Old Town Niwot Design Review Subcommittee. Such objects shall not obstruct pedestrian traffic on sidewalks.

3. Landscaping

a. With the exception of a driveway, paving shall not be permitted in the front yard within 7 feet of the front property line.

b. Only deciduous trees shall be permitted in the front yards. Any type of shrub shall be allowed.

c. Grass, turf-block, or organic mulch are permitted; gravel is not permitted in the front yard within 7 feet of the front property line

d. The grade may be raised no more than 2 feet above existing grade to create a berm within the first 7 feet of the front property line

e. Any lighting shall be low intensity - no greater than 50 watts per light fixture

f. Freestanding lighting shall be no more than 12 feet in height with the exception of street lights

g. Lighting attached to a building must be directed at the building facade or directed down

4. Building materials in the nonhistoric area

a. Front facades shall be composed of brick, wood or a non-organic wood facsimile siding, stucco, or stone; or, a material approved by the Old Town Niwot Design Review Subcommittee

b. Preapproved paint colors listed in Appendix A may be used; If a color not listed in Appendix A is requested, approval by the Old Town Niwot Design Review Subcommittee is required.

c. Fences shall be wood or wrought iron and shall be no higher than 4 feet in the front yard

5. Building form

a. Roofs should conform with the existing roof forms on Second Avenue

b. Expanses of building facade longer than 25 feet shall incorporate design variations to break up the continuity of the facade in an attempt to reduce the possibility of a long monotonous wall

c. Service areas and rooftop mechanical equipment shall be screened.

Historic District • Old Town Niwot Historical Narrative

by Anne Dyni

The Niwot Historical District represents a significant collection of buildings dating from the early 1900s, typical of the County's early agricultural communities. Within the County, only two such communities (Hygiene and Niwot) remain today, basically unchanged since the turn of the century. Of the two, Niwot perhaps best represents the typical commercial aspects of an agricultural district linked to the railroad for distribution of its products.

Niwot was platted along both sides of the Colorado Central Railroad track at the site of an existing section house lying halfway between Boulder and Longmont. When Porter T. Hinman helped to lay out the town in 1875, the surrounding region was being settled by men whose names are still associated with the area. Hinman himself had arrived in 1860 and his name is still affiliated with Hinman Ditch, which runs through the town.

Niwot's commercial district of the 1880s lay on the west side of the track near the depot, while most of the town's residents lived on the east side. By 1896, businesses included a blacksmith shop and mercantile. To the west stood the United Brethren Church, and beyond that was the Left Hand Grange Hall. The one-room Niwot schoolhouse had been built on Dan Burch's place at 81st and Oxford Road, and the Batchelder School at 63rd and Monarch Road served children living southwest of town. Railroad activity continued to revolve around the depot, but by the turn of the century, stores and services also began to appear across the track as well.

When the Hogsett family opened their lumberyard and hardware store just east of the track in 1911, the community seemed to experience renewed energy. There was even talk of laying concrete sidewalks along both sides of Main Street. A band shell was built across from the bank, where 18 local musicians held concerts on weekends and holidays. The bank was prospering and a weekly newspaper reported all of Niwot's social and business activities every Friday. In the lot next to the bank stood a shack housing the town's fire wagon. John Nelson's hall stood at the east end of the block, housing various businesses on the first floor and a meeting room upstairs for the Odd Fellows, Rebekahs, Royal Neighbors, and Modern Woodmen. The post office stood next to Nelson Hall, and across the street was a drugstore where the town doctor dispensed drugs and advice. Next to the drugstore was a pool hall and barber shop, favorite social gathering places after ballgames and band concerts. The Livingston Hotel stood in the middle of the block, its front porch extending all the way to the street. It catered to travelers as well as several local citizens and oilfield personnel working in the oil fields to the west of town. The United Brethren Church, recently hauled across the track from its original location west of town, now sat on the corner of Third and Franklin. Diagonally from the church was the new cooperative creamery. The Seventh Day Adventists worshipped in the only other church in town in the second block of Main Street (Second Avenue). The old one-room school was gone now and Niwot had just completed a two story schoolhouse at the north end of town. Along Murray Street, between Main Street and Third Avenue, stood the beet dump which drew farmers from great distances to town each October with beets to be shipped to Longmont for processing. A sidetrack had been laid next to the dump where Great Western cars could be parked to collect the loads of beets. Teams pulling beet wagons passed down Main Street continually during beet harvest, making deep ruts in the muddy street.

On the west side of the track, in 1912, stood an alfalfa mill and a grain elevator. The grangers were meeting closer to town now with a grange hall next to the elevator. The depot was still the hub of shipping activity with a stock pen to the north and feed mills to the south. Seven trains also stopped daily for passengers and mail on a line which was now owned by the Colorado and Southern Railroad.

Historic District Review Process

Introduction

By designating Old Town Niwot as a Historic District, the Niwot community and Boulder County officials have the opportunity to preserve Niwot's heritage as an agriculturally based commercial center. This task is accomplished through design guidelines that address Niwot's appearance in the past, present, and future.

In order to prevent arbitrary design review decisions, written guidelines provide standards for which decisions must be based. Guidelines also:

- Improve the quality of growth and development;
- Protect the value of public and private investments;
- Increase public awareness of design issues related to their community.

The guidelines on the following pages express a standard of appropriateness for alterations to existing structures and sites. While new buildings must meet certain criteria for compatibility with historic buildings, a design that gives the new building its "own place in time" is encouraged. Replication of historic buildings is inappropriate as it creates historical confusion and is often an undue burden on the owner or developer of the new building.

Design Review Process

The intent of design review is not to stifle individuality or creativity, but to encourage a cooperative process between the property owner and the Boulder County Historic Preservation Advisory Board (HPAB). The following review process applies only to the historic district encompassed by the Niwot Rural Community District.

The Land Use Department will be happy to answer any questions as to what types of projects need building permits and what types of projects will need Certificates of Appropriateness (CA). Feel free to contact the department at 441-3930 with any questions.

The following is an outline of the design review process. The time necessary to complete the review process will vary depending on the complexity of the proposed work. County staff will make the process as expedient as possible.

Step 1 Pre-application conference

A property owner wishing to make alterations must first contact the Land Use department to talk to a planner about the proposed changes. The planner can assist the property owner in determining if design review is needed, and if so, what types of information must be submitted to aid in the review.

Step 2 Application Submittal

Once the applicant has submitted the complete application, the Land Use Department staff will forward one copy of the application materials to the Old Town Niwot Design Review Subcommittee. A hearing will be scheduled for the next possible HPAB meeting. Applications for Certificates of Appropriateness are due no later than the second Thursday of each month, for review at the next regularly scheduled meeting. This deadline allows time for staff review and Old Town Niwot Design Review Subcommittee referral.

Step 3 Old Town Niwot Design Review Subcommittee

A subcommittee of the HPAB will meet to discuss the proposed alterations. Recommendations will be forwarded to the HPAB.

Step 4 HPAB Review

The HPAB will consider the recommendations of the Old Town Niwot Design Review Subcommittee as well as any other pertinent information at a public hearing. At the hearing, the HPAB will decide to issue or deny a Certificate of Appropriateness. The HPAB may also decide that more information is needed before making a decision.

Step 5 Appeals

In cases where the applicant disagrees with the decision of the HPAB, the applicant may appeal the decision to the Board of County Commissioners.

Step 6 Building Permit Application or Issuance

Many types of projects do not require a building permit. An example of a project not requiring a building permit would be painting. If a building permit is required, the property owner may apply for a building permit before or after obtaining a CA. However, a building permit will not be issued until the CA is obtained.

Step 7 Completion of Project

After obtaining the necessary permits, you may begin work on your project.

Design Review Boards

Old Town Niwot Design Review Subcommittee

The Old Town Niwot Historic District has a Design Review Subcommittee. This group acts in an advisory role to the HPAB. The Old Town Niwot Design Review Subcommittee does not have legal authority to grant Certificates of Appropriateness. However, the HPAB shall consider the subcommittee's recommendation as well as other public testimony in decisions pertaining to the historic district.

County Historic Preservation Advisory Board

The HPAB shall consider an application for a Certificate of Appropriateness at any regularly scheduled meeting for which the public notice requirements of the Historic Preservation Regulations can be met. The Boulder County Historic Preservation Regulations give the HPAB the decision making authority to grant or deny a Certificate of Appropriateness. This decision can, however, be appealed to the Board of County Commissioners.

Alterations Which Do Not Require HPAB Review

A. The following alterations shall be permitted within the historic district without obtaining a CA from the Boulder County Historic Preservation Advisory Board.

1. Pre-approved color changes as listed in Appendix A of these guidelines, or repainting of a structure with the identical color as the existing color.
2. Regular maintenance and repairs to structures that retain the existing materials. Examples include, repointing mortar joints; replacing damaged wood siding with new wood siding which is identical in scale, color, and pattern as the existing siding; replacing damaged roofing material with identical roofing material; and window pane replacement, provided the mullions and muntins of the existing window are being retained and the glass is not tinted or mirrored.
3. Landscaping
4. Interior alterations which do not affect the exterior appearance of the structure.
5. Although these alterations do not require Old Town Niwot Design Review Subcommittee review or HPAB review, the owner proposing these changes must inform the Land Use Department prior to undertaking the change to insure that it does in fact fall within one of the above four categories.

Applying for a Certificate of Appropriateness

A property owner seeking a Certificate of Appropriateness can apply in two ways. If the owner needs a building permit for the proposed work, the building permit application automatically forwards the proposal to Certificate of Appropriateness review. However, information beyond that submitted for the building permit may be required. Property owners also may apply for a CA prior to submitting a building permit application. An owner proposing work that does not require a building permit will need to complete an application form available at the Land Use Department. In order to effectively consider the proposal, detailed information about the proposal will be required. Historical review does not require an application fee.

Submittal Requirements

Depending on the type of work being proposed, the Land Use Department may request the following information. Two sets of application materials will be required from the applicant in order to forward one set to the Niwot Subcommittee for review. Although preparing the application materials will be the responsibility of the applicant, the HPAB and the Land Use department will help the applicant through the process as much as possible. If the proposed alteration involves a new use or an expansion of an existing use, the NRCD Design Review Checklist must also be completed.

1. Application Form

An application form including the name and address of the owner of the property; the legal description of the property; and the name and address of the agent for the property owner, if applicable (i.e. the architect) shall be submitted. The form is available at the Boulder County Land Use Department Offices. In the case of an alteration that requires a building permit, the application form for the building permit may serve as the application form for a CA.

2. Site Plan

The site plan must be drawn to scale, which may vary depending on the size of the lot. The plan shall show property boundaries, existing buildings, significant landscape features, and the proposed changes. It shall also include a North arrow, and the location of adjacent buildings, streets, and alleys.

3. Floor Plans

Floor plans must be drawn to scale, at a minimum of 1/8" = 1'0" and shall include a North arrow. The floor plans should show the existing building and how the alteration relates to it. It should be complete enough to show any exterior stairs, porches, decks, or similar improvements.

4. Elevations

Elevations of all relevant views of the alteration shall be shown at the scale necessary to show building detail. They should be accurately labeled, and the existing building should be included in the elevations with as much detail as necessary to show how the old and the new relate to each other. Adjacent buildings may be drawn on the elevations to clearly show the relationship between the proposed alteration and adjacent structures.

5. Materials

List the visible exterior materials and describe them as fully as possible. Samples of these materials are helpful.

6. Color

If your plans include paint or stain, describe the colors and provide a sample. A good way to show the color scheme is to color one or more of the elevations. Since the appearance of paint color varies with the size of the painted surface and the combination of color, the property owner may want to paint a large swatch on the least visible part of the building to test the appearance of the scheme under actual conditions.

7. Photographs

Provide photographs that show all the views of the existing building and include at least a portion of the neighboring buildings. The context in which your building sits is as important as the building itself.

Once two copies of these application materials have been received, the Land Use department will refer the application to the Old Town Niwot Design Review Subcommittee. At the same time, the application will be scheduled for a hearing before the HPAB. The Niwot Subcommittee will review and prepare a written recommendation of the application prior to the HPAB hearing and forwarding that recommendation back to the Land Use Department.

Contributing Structures

Historic districts are important in part because of specific buildings within the district, but also because of how each building relates to all of the other buildings. For example, one or two great players on a sports team cannot guarantee a championship. It takes the whole team to make a winning combination. Historic districts are no different. Some buildings have had very little changes throughout history and were sites of important events, while others have qualities that contribute to the district without being individually significant.

Within the Old Town Niwot Historic District, the majority of the buildings were constructed prior to 1925. The changes that have occurred to these buildings over the years show the natural progression of Niwot as an evolving community. Vacant lots in Old Town are also very important parts of the natural progression of the town, and any new construction should be sensitive to the surrounding environment.

The district has several buildings constructed since 1970 that are part of the character of the district. However, these structures need not be protected for historical purposes. There is not sufficient justification to prevent an owner of a newer building from demolishing or changing their building, provided the end result does not detract from the district.

The following structures have had the least alterations since their construction in the early 1900s:

Nelson Hall - 195 Second Avenue (Constructed 1907)

In 1993, Nelson Hall is occupied by the Left Hand Grange. The building is a two story vernacular style that was typical of mid-western and western towns in the early 1900s. The footprint of the building is a simple rectangle with a front gable roof. A false front hides the gable roof and gives the appearance of a flat roof with a triangular pediment as an accent at the center of the building. Two double hung windows are symmetrically oriented on the second floor facade. Vertically-oriented windows are irregularly placed along the sides and back of the building on the second and first floors. A smaller, rectangular attic window also is centered under the pediment, on the main facade. The door and horizontally-oriented first floor windows have been altered since the early 1900s. The building is wood frame with horizontal wood siding with drop joint construction.

Old Post Office - 165 Second Avenue (Constructed 1909)

The old post office building, located adjacent to Nelson Hall, is a one story vernacular building with several additions to the back. The roof of the original building is flat and the additions have a gently sloping shed roof. A simple cornice tops the main facade of the building, and a small overhang covered in wood shingles is located above the windows. The windows themselves are quite detailed, with muntins dividing the main portion of the window into 24 separate lights. A transom of three lights is directly above the main window. A single wood door with three lights is centered between the windows. There are very few windows located on the sides or back of the building. The building is a frame construction with horizontally oriented wood siding with drop joint construction.

The White House - 121 Second Avenue (Constructed 1914)

Like Nelson Hall, The White House is a simple rectangular plan with a front gable roof hidden behind a false front with a simple cornice. The structure is two stories and has had additions on the side and back that make the building more conducive to restaurant use. Two, double-hung second story windows are vertically aligned with elements from the first floor. The first floor windows are symmetrically located on either side of a double-door entrance. The windows are divided by muntins into smaller lights. Historic photos show that the original windows were not divided by muntins. An awning, which incorporates a sign, has been added onto the front of the building. This building is of frame construction with horizontally-oriented wood siding with drop joint construction.

Niwot State Bank - 102 Second Avenue (Constructed 1909)

This building is unique within the Niwot community. The building is basically a square plan with a corner entrance. The brick masonry construction is typical of a financial institution, in that it portrays permanence and solidness. Decorative corbelling along the cornice line tops a wall that has varied brick coursing to provide visual interest. Windowsills are made of sandstone. The roof of this building is flat and the building is one story. The windows of the building are tall and vertically oriented. Windows have been removed and a door has been added on the west side of the structure. There is evidence that the face brick has been replaced at some point, as the brick at the back of the building appears older and of a different quality.

Niwot Tribune Building - 198 Second Avenue (Constructed 1909)

The Niwot Tribune building is a one story wood frame building with a simple rectangular plan. The main facade has a false front with a very simple cornice line. Perhaps the most important element of the building is its covered porch. The roof of the porch is sloped and covered with wood shake shingles. The roof is held up by decorative columns that have some folk victorian influences. Balustrades line the front of the porch. The entry to the building is centered between two display-type windows. The southeast side of the structure has an entrance and a window with a decorative canopy. The building is clad in horizontal wood siding with drop joint construction.

Frank Bader House - 210 Franklin Street (Ca. 1900)

The Frank Bader House has folk victorian influences. Its roof is a medium pitched front gable. Side wings, with gable roofs of the same pitch have been added through the years. It appears as though a porch was enclosed along the front facade of the house at some point in time. The house is two stories with double-hung windows on both the first and second floors. A small covered porch emphasizes the entrance on the west side of the building. Scallop detailing under the gables gives the house its victorian appearance. Once again, horizontal wood siding clads the wood frame building. In 1994, this wood siding was covered by vinyl siding. The roofing material is light grey asphalt shingles. The house is a light grey, with a darker shade accenting window frames.

101 Second Avenue (Constructed 1911)

Originally constructed in 1910, this was the site of one of Niwot's mercantile stores. The building at 101 Second Avenue has been altered significantly since the early 1900s. However, portions of the original structure are still in existence and the alterations that have been made have been done in a scale and with materials that allude to the early 1900s. This corner lot is very visible in Old Town and contributes to the district.

124 Second Avenue (Constructed 1921)

The structure at 124 Second Avenue was the site of Niwot's blacksmith shop. Throughout out the years, the structure has undergone renovations, however, the facade of the building is typical of the town in 1913.

190 Second Avenue (Constructed 1907)

190 Second Avenue was an important social spot in Niwot. A pool hall and barbershop were located on this site. Historical photographs show that most of the facade has not been significantly altered since the building's construction.

Non-Contributing Structures

The term "non-contributing structure" does not mean that a building is not an important part of the community. Non-contributing structures may have been newly constructed, or may be older buildings that have had major alterations that do not allude to Old Town Niwot's historical progression. The following structures are considered non-contributing.

112 Second Avenue

The structure at this address was originally constructed in 1927. Major alterations were made to the structure in 1950. The building itself is of a scale that typical to the district. However, many of the facade details are modern in character. Because the building does not need protection for historical purposes, it is considered non-contributing within the district. The site itself is an important part of the visual quality of the district.

136 Second Avenue

The structure at this site was constructed in 1974. Many of the facade elements of this structure do allude to Niwot's history. However, because of the building's age it is not important to protect the structure for historical purposes. As with all of the non-contributing structures, this site is an important part of the overall visual character of the district.

210 Franklin

Although the Frank Bader House located on this property is a contributing structure, the remaining buildings on the site are newly constructed and non-contributing. The newer buildings (all but the Bader House) on this site do play a role in the visual character of the Frank Bader House but do not require the protected status of a contributing structure.

195 Second Avenue

The Left Hand Grange, a contributing structure, shares its site with a small fire station. The station is located southwest of the Grange, is of recent construction, and is non-contributing within the district.

143 Second Avenue

At one time, this site was the location of a filling station. Since that time, the building has been converted into a residence. The residence does not have any architectural features or historical significance that would justify a contributing status in the district.

Rhythm, Pattern, Alignment, & Massing

Historical Precedent

The existing buildings within the historic district are varied. The underlying 25' lot width of the original townsite plat influences the pattern and scale of the buildings, many of which are 25' wide, or combinations thereof.

Intent

Patterns come in many different scales. The arrangement of building set-backs or facade elements, such as; windows, columns, porches, and the arrangement of bricks in a wall are all examples of patterns that occur at different scales. New construction and renovations shall contribute to the patterns that occur in the new construction's surroundings.

Guidelines

- Contributing structures should not be demolished or moved off of the site, unless the owner of the structure is granted an economic hardship by the Historic Preservation Advisory Board or the Chief Building Official determines that the structure presents a hazard to the health and welfare of the general public. In cases where demolition is necessary, the facade of the building should be retained.
- New additions or alterations to contributing structures shall be done in a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.
- Additions to the rear of a structure are more appropriate than those made to the side. Additions to the front of a structure are not appropriate because of the importance of the facades in the historical architecture.
- Break up the monotony of building facades longer than 25' by incorporating design variations along the facade.
- Variation may take the form of a change in building material, color, or the use of vertical elements such as columns or pilasters.
- The appearance of a continuous pedestrian walkway along the fronts of the buildings should be maintained.
- The appearance of a continuous walkway may be achieved through zero lot line set-backs of the buildings themselves; or the placing a low open style of fence, planters, or some other decorative element at the edge of the walkway.
- Alleys should be retained to provide access to the rear of buildings and to provide a service area for the building that is not highly visible from Second Avenue.
- The patterns created by second story windows should be maintained.
- The second story windows in the historic district are typically vertically oriented with a height approximately two times the width.
- The distinction between upper and lower story floors should be maintained.
- Window style and size are important elements in separating the first and second floors.
- Columns that exceed one story in height would create an imbalance in the scale of the architecture in the district.

Architectural Details

Historical Precedent

The commercial buildings found along Niwot's Second Avenue during the early 1900s were simple styles that reflected the rural character of the community. Buildings often had false fronts with elements that were reminiscent of the Neoclassical style, common in the United States between 1895 and the 1950s. Cornices were simple, such as the Livingston Hotel cornice, or may have had more detail, such as the pedimented cornice found on Nelson Hall. A wide band of trim beneath the cornice, representative of the classical entablature, was common. A one story, flat-roofed entry porch was also common in the Neoclassical style. This architectural detail was the most significant element of the Livingston Hotel. The windows in the commercial buildings were typically rectangular and vertically oriented. Upper story windows were double-hung and commonly had a height two times the width. First floor windows were also vertically oriented and rectangular. The building's entrance was typically centrally located between two first floor display windows, and may have had a transom.

The Frank Bader house is of the Folk Victorian style that was associated with the period of time when railroads were inspiring the creation of small western and mid-western towns. The house has simple Victorian detailing as found in cornice details and scallop forms. Vertically oriented double-hung windows were typical on the first and second stories of the Bader house. The Bader House is the only structure within the district with primarily Victorian characteristics. As such, Victorian elements such as arched windows, bay windows, scallops, and dormers do not define the character of the Old Town Niwot commercial area.

Intent

The facade elements that gave the historic buildings of Old Town Niwot their original character had a style and proportion that established the building's place in time. New buildings and renovations of existing buildings should allude to that historical place in time while identifying with their own time period.

Guidelines

- The facade elements of the contributing structures, such as awnings, cornice details, pilasters, and columns are timeless elements of architectural detail and should not be removed or altered. Using these elements on new construction strengthens the historic character of the district.
- Inappropriate roof forms in the commercial architecture of the district include; side gable, mansard, and hipped. Flat roofs and false fronts are not appropriate for residential architecture within the district.
- Front gabled roofs hidden behind a false front are most common for commercial architecture, and are encouraged.
- The roof shape of the contributing buildings shall not be permanently altered.
- Efforts shall be made to make solar panels, skylights, and rooftop mechanical equipment as unobtrusive as possible.
- Wall-mounted light fixtures are appropriate to provide lighting of signage or building entrances.
- Typical window openings did not include circular, arched, or triangular windows.

Historical Precedent

Horizontal wood siding and bricks in red hues are the two most common building materials used in Niwot. Both of these materials are similar in scale and pattern because each wood board is similar in width to a brick course. Wood and sandstone were used as accent materials around window and door frames, and sandstone was occasionally used at building corners (quoins) as an accent. Larger scale, rough-hewn blocks were used in the Niwot Mercantile. Glass was widely used for display windows on the first floor of the commercial buildings.

Brightly painted buildings were not found in Old Town Niwot. The colors used for large building expanses were generally lighter colors, such as light grey or off-white; or the red color of brick. Accent colors may have been found in architectural details and awnings.

Intent

The main intent of these guidelines is to prevent the use of a material that stands out in the district because of characteristics that identify the material as modern. An example would be the use of mirrored glass. Mirrored glass was not typical of Niwot and is commonly associated with large, modern office buildings.

The color schemes used on the commercial buildings of Old Town should be compatible with the district as a whole. The intent of these guidelines is to allow a variety of colors, providing they are used in a manner that contributes to the overall character of the district

Guidelines

- Materials typical to or compatible with the district shall be used for renovations and new construction.
- Whenever possible, replacement of existing roofing, siding, or masonry units in a contributing building shall be done with a material that matches the original material in scale, color, and texture.
- Bright, intense colors shall be reserved for small areas, such as window and door trim, cornice details, kick plate, and clerestory details.

The following materials are suggested for CONTRIBUTING and NON-CONTRIBUTING structures. A variety of materials are acceptable and property owners are not limited to the following list, provided the HPAB approves the material through the Certificate of Appropriateness process.

- Brick
- Horizontally-oriented wood lapboard siding of a scale typical to the district.
- Horizontally oriented siding (of a material other than wood) that replicates the scale and texture of the lapboard siding typical of the district (boards are typically four or five inches in width). A variety of materials are available that replicate wood siding. Examples include painted composite pressed board, vinyl, wood clad aluminum, and non-reflective aluminum siding.
- Sandstone
- Decorative detailing in wood or cast iron, or a facsimile material.
- Fabric awnings
- Wood shingles
- 3-tab asphalt shingles
- Non-reflective metal roofing products
- Window and door frames made of wood, anodized aluminum, or other material provided it is non-reflective.

Materials appropriate for NON-CONTRIBUTING structures only:

- Decorative concrete block
- Precast or poured concrete (if it is not the principal material)

The following materials are inappropriate for use within the historic district:

- Vertically-oriented siding
- Stucco
- Shiny metallic window and door frames
- Tinted or mirrored glass
- Terra Cotta/Ceramic Tiles

Signs

Historical Precedent

Photos of Old Town Niwot show many of the commercial buildings having painted wooden signs just under the cornice line of the roof, just above the door and first floor windows (architrave), or incorporated into awnings.

Intent

The purpose of sign is to identify the location of a business, to promote the merchandise or service within, and to attract customers. When carefully done, the building and sign become part of the overall design, each supporting each other. These guidelines shall be used in conjunction with the sign regulations in the Boulder County Land Use Code.

Guidelines

- Signs shall not be positioned so as to cover architectural details.
- Flush mounted or projecting signs are preferable in the district. With the exception of the Bader House, freestanding signs should not be used.
- Internally lit signs are inappropriate except for small neon signs in a store window.

NRCD Appendix A

Old Town Niwot Colors

Bright, multi-hued color schemes are often associated with historic architecture. The Pearl Street mall in downtown Boulder, Colorado exemplifies the successful use of a variety of trim colors in combination with brick and painted board siding. The "Painted Ladies" of San Francisco, California is another example of successful color use.

Both of these examples, however, are not representative of Niwot. Niwot's agricultural roots have led to a more conservative use of color. While a wide variety of colors may still be acceptable, bright hues used on large surfaces will stand out within the district, disrupting the continuity of the streetscape. The architecture of downtown Niwot is not Victorian, and as a result, complex Victorian color schemes should be avoided.

A color that looks appropriate for the district on a small chip may not be appropriate when painted on a large surface. In addition, combining colors that are opposites on the color wheel may result in the appearance of an intensification of each individual hue. Using opposite colors (complementary colors) often has attractive results, but is dependent on each individual situation.

NRCD Pre-Approved Colors

The following pre-approved colors may be used within the NRCD without the review of the Old Town Niwot Design Review Subcommittee or HPAB. Colors not included in this list may be acceptable but will require review and approval. Use of more than two trim colors shall also require review and approval by the subcommittee (non-historic portion) or the HPAB (historic district).

Pre-approved colors

- Repainting with the same color as the existing color
- White
- Off-white

Base Colors (Relates to Uncoated Pantone Chart)

- Neutral Greys: 406, 407, 413, 420, 421, 427, 428, 454, 468, 726, 4685, 5455, 5527, 5655, Warm Grey 1, Warm Grey 2, Warm Grey 3, Cool Grey 1, Cool Grey 2, and Cool Grey 3

Note: The list of pre-approved base colors is very limited to pale, neutral hues. Applicants should not feel they have to stay within the pre-approved color range, as darker base colors would often be appropriate with the approval of the subcommittee.

Trim Colors (Relates to Uncoated Pantone Chart):

- Reds: 181, 1815, 1817, 194, 1945, 195, 1955, 201, 202, 209, 216, 229, 491, 492, 4985, 4995, 505, 506, 696, and 697
- Purples: 262, 2622, 2695, 276, 511, 5115, 5125, 5185, 5195, 5205, 668, and 669
- Blues: 282, 289, 534, 5405, 5415, 5425, 5435, 5445, 548, 646, 647, 648, 653, and 655
- Greens: 3292, 3298, 5477, 5487, 5497, 5507, 5517, 555, 5545, 5555, 5565, 5575, 5585, 5615, 5625, 5635, 5645, 625, and 626
- Blue Greens: 5473, 5483
- Browns: 437, 438, 439, 463, 4635, 464, 4645, 465, 4655, 466, 4665, 467, 469, 470, 477, 478, 728, 729, 1405, 1545
- Greys: Warm Grey 1 through 11, Cool Grey 1 through 11, 403, 404, 405, 408, 409, 410, 411, 414, 415, 416, 417, 418, 422, 423, 424, 429, 430, 431, 442, 443, 444, 445

Niwot Rural Community District - Design Checklist

The Niwot Rural Community District Design Checklist is available from the Land Use Department. Each project is unique, so the information necessary to review the project will vary.

Site Plan

- ❑ The following information may be necessary:
- ❑ The location of your building and those structures next to you.
- ❑ The location of any curb cuts, parking spaces
- ❑ The location of landscape features such as existing large trees, fencing
- ❑ The location of freestanding signs/lights
- ❑ A professionally engineered drainage plan
- ❑ A typical cross-section of the proposed parking lot surface
- ❑ As required by the Americans with Disabilities Act, the location and dimension of handicap accessible parking spaces per the Boulder County Building Code and Transportation Standards.
- ❑ Any other information that you feel is important to your design.

Elevations

The elevations, or views of your building from the side, help staff determine how tall the building will be and what steps have been taken to meet the NRCD design guidelines which states that long expanses of facade should have design features that break up the length. Elevations are also good for showing windows, building materials and color.

Color Chips

If you submit color chips, staff will be able to determine if the color is within the pre-approved color range. We need to know colors for elements such as signs and light posts as well as the main building.

Check List

The checklist will help you determine what types of information you need to consider when designing your proposal. Staff will use this checklist and your site plan, elevations, and color chips to make sure that your proposal is in conformance with the design standards and guidelines in the Niwot Rural Community District Handbook as well as the Transportation Standards. Please note that there may be county standards and regulations that apply to your property that are not in the NRCD Handbook. For example, projects must conform to building codes and transportation standards.

The following describes how the NRCD complies with the criteria for approval of an RCD:

1. A public need exists for the amendment.

   The existing commercial zoning allows some uses, such as tire vulcanization, that would be detrimental to the character of Old Town Niwot. Additionally, the setback requirements of the commercial zoning and the height allowance of 50 feet are not compatible with the historical character of the district. The NRCD will establish regulations that have been individualized to preserve the pattern and scale of building that is typical to the area.

2. The amendment is consistent with and in furtherance of the stated intent and purposes of the Boulder County Zoning Resolution.

   The NRCD protects the health, safety, and welfare of the Old Town Niwot community members because several uses that are now allowed in commercial zoning that would be over intensive have been eliminated as allowable uses in the NRCD. These uses could have presented a nuisance to surrounding properties.

3. The amendment is in accordance with the Boulder County Comprehensive Plan.

   Goal A.3 of the BCCP states that "Diverse, compatible, and functional land use patterns should be established and, when necessary, revised to prevent urban and rural decay." The NRCD meets this goal by providing a mechanism for compatible design and development of the Second Avenue area.

   Policy 13.08 states, "It shall be County policy to recognize the desired character of the Niwot Community Service Area as being semi-rural and encourage additional future development be compatible to the semi-rural character." The proposed permitted uses in the NRCD include service-oriented uses that are specifically useful to the Niwot community; specialty retail uses such as antique shops; and residential uses.

   It is the intent of the BCCP to maintain the semi-rural character of the Niwot Community Service Area. The NRCD complies with this intent because the district is not an expansion of the area in which commercial-type uses are allowed. Additionally, if a use was not originally allowed by the Commercial zoning, it cannot be a use by right in the NRCD. However, the uses permitted in the NRCD may be more limiting than those uses allowed in the Commercial zoning district.

   Old Town Niwot is an important part of Boulder County's history. The NRCD is in conformance with policy 3.02.2, which states, "The Boulder County Land Use Plan and attendant regulations shall insure that historic sites shall be protected through the planning of compatible surrounding land uses and the passage of a County-wide resolution aimed at the preservation of such sites."

4. The subject property is an appropriate site for the amendment, and is a reasonable unit of land for such reclassification.

   The proposed NRCD covers the same land area as the existing Commercial zoning.

5. The amendment will not have a material adverse effect on the surrounding area.

   The provisions in the NRCD have to ability to lessen impacts to surrounding areas by permitting only uses appropriate to the district, creating guidelines that will encourage quality site and architectural design, and creating flexible parking standards.

6. The amendment will not result in an overintensive use of the land.

   The current Commercial zoning district does not specifically list a minimum lot size. The minimum lot size in the NRCD is proposed at 3,500 square feet, the size of the historical townsite lots. Additionally, the maximum building height is proposed at 30 feet, 20 feet less than the maximum height now allowed (the tallest existing building, the Left Hand Grange, is approximately 31 feet in height). The combination of a minimum lot size and the maximum building height will prevent higher density development, while insuring that any new buildings are compatible in a scale with the existing area. No new lots are created by the NRCD and the proposed uses are not overintensive.

7. The amendment will not have a material adverse effect on community capital improvement programs.

   The Boulder County Transportation Department is currently involved, with the Niwot community, in a streetscape project on Second Avenue. At this time, the ultimate design of the Second Avenue streetscape is unclear. However, the provisions of the NRCD are compatible to Second Avenue's existing conditions, or with the proposed design transmitted to the Land Use department on June 28, 1993. Actual construction of this streetscape may not begin until Spring of 1994. At that time, if inconsistencies with the streetscape and the NRCD are revealed, minor changes to the NRCD design guidelines are feasible.

8. The amendment will not require a level of community facilities and services greater than that which is available.

   Public water and sewer service currently serves the proposed district. The proposed NRCD will not change the level of service required.

9. The amendment will not result in undue traffic congestion or traffic hazards.

Because the NRCD does not allow more intensive uses than are already in existence along Second Avenue, traffic congestion and traffic hazards are not expected to increase.

10. The amendment will not cause significant air, water, or noise pollution.

Because the NRCD does not allow more intensive uses, and public utilities service the district, the amendment will not cause significant air, water, or noise pollution.

11. If geologic conditions on the site are such that they present moderate or severe limitations to the construction of structures or facilities to be permitted on the property by reason of the amendment, it has been demonstrated that such limitations can be reasonably overcome.

No geological hazards exist within the proposed district.

12. The amendment will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Boulder County.

The primary purpose of the NRCD is to improve upon the existing urban form along Second Avenue by preserving the historical area, implementing flexible design standards and guidelines, and insuring that future uses area compatible with Niwot's semi-rural character. The amendment will benefit the present and future inhabitants of Boulder County.

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Land Use Code

Text Amendments & Resolutions

Boulder County Land Use Code Text Amendments & Resolutions

Please note effective dates and resolution information from docket database. If there is a difference between this date and the date on the Resolution the Resolution date applies.

DC-94-1 • Mountain Regulations/County-wide Si	
Permanent regulations affecting the mountainous areas of Boulder County and county-wide implementation of site plan review and subdivision exemption changes.	
02/22/1994	Resolution

DC-94-4 • Land Use Code (PUDs & TDRs)	
New regulations allowing the transfer of units from designated sending sites to receiving areas which have been approved as PUDs.	
03/09/1995	Resolution 95-27, effective 03/09/1995

DC-95-01 • Land Use Code Amendments	
Corrections and changes to the Land Use Code	
05/18/1995	Resolution 95-69, effective 05/18/1995

DC-95-02 • Niwot Rural Community District (NRCD)	
Amendments to Article 4, Section 116 of the Boulder County Land Use Code.	
07/18/1995	Resolution 95-133, effective 07/18/1995

DC-95-03 • Land Use Code (Floodplain Overlay)	
Amendments to Section 4-402(B) - Designation of Official Maps and Section 4-407(D)(1) - Floodplain Development Permit of the Boulder County Land Use Code as recommended by the County Transportation Dept.	
06/29/1995	Resolution 95-118, effective 6/29/1995

DC-95-04 • Land Use Code (Article 4 & 18)	
Amendments to Section 4-800: Site Plan Review of the Boulder County Land Use Code to change the time frame for a public hearing on an appeal, and amendments to Section 18-121: Building Lot of the Boulder County Land Use Code to exempt parcel combination in subdivisions and the addition of definition of "above grade".	
07/06/1995	Resolution 95-120, effective 7/6/1995 (spr appeal and and above grade definition). and subdivided lot combination requirements in Article 18-121 effective 7/6/1995.

DC-96-01 • BCLUC - Amendment to Section 18-121	
Consideration of changes in the Land Use Code text allowing, in some cases, subdivided parcels held on one deed to be considered separate parcels.	
05/23/1996	Resolution 96-81, effective 5/23/1996.

DC-96-02 • Land Use Code Amendments	
Multiple amendments (including Section 4-505(A) - Composting Facility of the Boulder County Land Use Code).	
09/05/1996	Resolution 96-110, effective 9/5/1996.
10/17/1996	Resolution 96-156, effective 10/17/1996.
12/10/1996	Resolution 96-177, effective 12/10/1996.

DC-96-03 • Article 15 - Historic Preservation	
Amendments altering the design review process for CAs and Building Permit review.	
12/12/1996	Resolution 96-188, effective 12/12/1996

DC-96-04 • Boulder County Land Use Code Text A	
Amendments to Article 3 of the Boulder County Land Use Code to Implement S.B. 96-061 regarding 'Measures To Improve The Efficiency of the County Planning Process,' and To Clarify Title Information Requirements for Land Use Applications.	
09/05/1996	Resolution 96-131, effective 9/5/1996.

DC-96-05 • BCLUC - Article 4	
Amendments to Article 4 of the Land Use Code to add a new accessory use: Asphalt or Concrete Batching Plant as an accessory use to open mining in certain zoning districts.	
12/10/1996	Resolution 96-176, effective 12/10/1996.

DC-96-07 • BCLUC - Subsurface Mining Text Amendments	
Amendments to the Boulder County Land Use Code regarding Subsurface Mining.	
06/10/1997	Resolution 97-94, effective 6/10/1997.

DC-97-01 • BCLUC - Mountain Institutional Uses	
Text amendment to the Boulder County Land Use Code proposing a new district, Mountain Institutional Use District, to permit institutional and other uses in the mountainous areas of the County, and to remove most institutional uses from the text of the Forestry District.	
06/26/1997	Resolution 97-145, effective 6/26/1997.

DC-97-02 • BCLUC - Article 6	
Amendments to the Boulder County Land Use Code designating rural preservation properties in the East Boulder County IGA area as eligible to apply for a NUPUD or NCNUPUD.	
09/11/1997	Resolution 97-146, effective 9/11/1997.

DC-97-03 • BCLUC - Text Amendments	
Amendments to the Boulder County Land Use Code to identify community cisterns as a new utility and public service use.	
07/17/1997	Resolution 97-111, effective 7/17/1997.

DC-97-04 • BCLUC - Article 4	
Amendments to Article 4 of the Boulder County Land Use Code to add Section 4-1004.	
09/04/1997	Resolution 97-144, effective 9/4/1997.

DC-97-05 • BCLUC - Text Amendments	
Amendments regarding School Uses.	
11/13/1997	Resolution 97-178, effective 11/13/1997 (corrected in Res. 98-26).

DC-97-06 • BCLUC - Article 4	
Amendments to Article 4 revising the minimum setback from an irrigation ditch.	
11/25/1997	Resolution 97-191, effective 11/25/1997.

DC-97-08 • BCLUC - Text Amendments	
Amendments to the nonconforming section adding language allowing approval for the purpose of affordable housing.	
02/03/1998	Resolution 98-25, effective 2/3/1998.

DC-97-09 • BCLUC - Text Amendments	
Amendments to clarify height limitations in each zoning district, and amending the Forestry Zone to remove educational facilities	
02/03/1998	Resolution 98-26, effective 2/3/1998.

DC-97-10 • BCLUC - SPR Regs	
Amendments to the Site Plan Review regulations.	
07/09/1998	Resolution 98-108, effective 7/9/1998, repealing and reenacting SPR regulations (also see Resolution 98-151).
09/08/1998	Resolution 98-151, effective 9/8/1998, remainder of SPR amendments, see also Res. 98-108.

DC-98-01 • BCLUC - AG Regs	
Amendments Concerning Floor Area in Agricultural Districts, Accessory Dwellings for Agricultural Uses, Equestrian Centers, Livery or Horse Rental Operations, and Riding Academies.	
07/23/1998	Resolution 98-129, effective 7/23/1998, adopting various agricultural amendments (see also Res. 98-143).
09/01/1998	Resolution 98-143, effective 9/1/1998, various ag amendments (also see Res. 98-129).

DC-98-02 • BCLUC - Article 15 (HPAB)	
Amendments to Article 15 of the Code to change the number of HPAB members from eight to “at least 7”.	
07/09/1998	Resolution 98-112, effective 7/9/1998.

DC-98-03 • BCLUC- Article 8 (1041 Regs)	
Amendments to Article 8 of the Code to add new areas and activities to be covered by 1041 regulations.	
10/06/1998	Resolution 98-142, effective 10/6/1998.

DC-98-05 • BCLUC - Article 6	
Amendments to add certain older subdivision lots as potential sending sites.	
09/22/1998	Resolution 98-162, effective 9/22/1998.

DC-98-06 • BCLUC - NRCD	
Amendments to Niwot RCD standards including changing the number of rooms permitted in the overnight lodging use from 6 to 14.	
09/08/1998	Resolution 98-152, effective 9/8/1998.

DC-98-07 • BCLUC - Section 6-700(3)	
Amendments to Section 6-700(J)(1) of the Boulder County Land Use Code to allow parcels less than 35 acres to be considered for a TDR/PUD receiving site if the parcel is located within a municipal community service area or municipal influence area, as adopted by Boulder County, and is supported by the relevant municipality; amendments to definition of "CSA".	
02/03/2000	Resolution 2000-12, effective 2/3/2000.

DC-98-09 • BCLUC - Wildlife Regulations	
Amendments to Articles 3, 4, and 7 of the Boulder County Land Use Code to require preparation of a wildlife impact report for certain development proposals located within designated locations of importance to wildlife (critical wildlife habitats, natural landmarks and areas, and other designated areas or parcels under the Boulder County Comprehensive Plan and related official documents), or located in areas determined by the County Parks and Open Space Department to be significant habitat for listed threatened or endangered species, the black-tailed prairie dog, and other specified "Species of Special County Concern" in unincorporated Boulder County, and to authorize the Board of County Commissioners to deny the proposed development or impose conditions to mitigate the impacts of the proposed development on wildlife or wildlife habitat as identified under the amendments.	
01/26/1999	Resolution 99-13, effective 1/26/1999.

DC-99-01 • BCLUC	
Amendments to sections: 4-603 (D) Special Review for a Telecommunication Facility; 4-802 Applicability and Scope of the Site Plan Review; 4-516 Accessory Uses; and 6-700 Transferred Development Rights Planned Unit Development of the Boulder County Land Use Code.	
09/07/1999	Resolution 99-118, effective 9/7/1999.

DC-99-02 • BCLUC- Article 4-800	
Amendments to Article 4-800: Site Plan Review.	
06/20/2000	Resolution 2000-62, effective 6/20/2000.

DC-99-03 • BCLUC - Article 3 (Vested Rights)	
Amendments to "Vested Rights" Provisions of Article 3: Processes of the Boulder County Land Use Code.	
01/11/2000	Resolution 2000-10, effective 1/11/2000.

DC-99-04 • BCLUC Text Amendment	
Text Amendments to Articles 6-700(J)(1) and 18-126 of the Boulder County Land Use to correct and clarify the definition of "community service area."	
2/3/2000	Resolution 2000-12, effective 2/3/2000

DC-99-05 • LUC - Affordable Housing Standards	
Text Amendment to Article 4-1004(A)(3) of the Land Use Code, approving affordable housing standards.	
12/16/1999	Resolution 99-198, effective 12/16/1999.

DC-00-01 • BCLUC - Kennel Use 4-503F	
Amendments to Section 4-503 (F) of Boulder County Land Use Code, to create a second type of kennel use, to allow residences to be included as an incidental use, and to require special use or limited impact special use review in the agricultural district.	
11/14/2000	Resolution 2000-170, effective 11/14/2000, amending kennel regulations.

DC-00-02 • BCLUC - Grading	
Amendments to the use of grading of more than 500 Cubic Yards removing open space trails and roads; and the addition of language further incorporating the comprehensive plan as a standard in making land use decisions.	
09/19/2000	Resolution 2000-139, effective 9/19/2000.

DC-00-03 • BCLUC - Article 15	
Amendments to change the deadline for completion of the Historic Sites Survey.	
09/19/2000	Resolution 2000-149, effective 9/19/2000, amending historic preservation regulations.

DC-00-04 • BCLUC 4-506 Day Care Center	
Amendments to Section 4-506 (C) increasing the threshold to become a day care center from five or more persons to eight or more persons.	
10/05/2000	Resolution 2000-158, effective 10/5/2000.

DC-00-05 • BCLUC Article 4 Community Cistern	
Amendments to 4-514 (B) Community Cistern allowing the Director to waive limited impact special review in certain circumstances.	
11/21/2000	Resolution 2000-179, effective 11/21/2000.

DC-01-01 • BCLUC Article 4-517	
Amendments allowing temporary churches and similar temporary community meeting uses in school buildings.	
04/05/2001	Resolution 2001-41, effective 4/5/2001.

DC-01-02 • BCLUC Article 8 Activities & State Interest	
Amendments to Article 8: Activities & State Interest of the Boulder County Land Use Code.	
11/01/2005	Resolution 2001-162, effective 11/1/2001.

DC-01-03 • BCLUC Article 18-162	
Amendment to Article 18-800 definition for above grade and floor area.	
05/21/2002	Resolution 2002-55, effective 5/21/2002.

DC-01-04 • BCLUC - Various Text Amendments	
Amendments to Articles 3, 4, 8, 9, and 15 of the Boulder County Land Use Code, to implement Colorado House Bill 1088 (regarding required notice of proposed surface development to severed mineral interest owners/lessees) and C.R.S. Section 29-20-108 as amended by Colorado house bill 1195 (regarding processing of local land use applications for major electrical and natural gas facilities of public utilities and power authorities), and to make other changes to the process-related provisions of the land use code.	
09/27/2001	Resolution 2001-141, effective 9/27/2001.

DC-01-05 • BCLUC - Article 4-514	
Amendments to Article 4-514: Utility & Public Service Uses to clarify that an accessory equipment shelter may be allowed as part of a Telecommunications Facility as long as it is no more than 10% of the gross floor area of all existing structures on the site, or 450 sq. ft. whichever is less.	
02/26/2002	Resolution 2002-20, effective 2/26/2002.

DC-02-01 • BCLUC - Article 4 NCOD	
Amendments to Article 4, enabling language for creation of Neighborhood Conservation Overlay Districts in the Boulder County Land Use Code.	
06/06/2002	Resolution 2002-67, effective 6/6/2002.

DC-02-02 • BCLUC - ADUs & Historic Preservation	
Amendments related to Accessory Dwelling Units, multiple principle uses and historic preservation.	
01/09/2003	Resolution 2003-14, effective 1/9/2003.

DC-02-03 • BCLUC - Article 18-121A(4)	
Amendments to Article 18-121A.4. of the Boulder County Land Use Code (Part of the Definition of "Building Lot") to Clarify when Subdivided Lots Held on a Single Deed Are Combined into A Single Building Lot.	
05/21/2002	Resolution 2002-56, effective 5/21/2002.

DC-02-04 • BCLUC - Article 4-800 SPR	
Amendments to Article 4 of the Boulder County Land Use Code to make certain clarifications to the call-up and appeal procedures for approved site plans and development plans, and to make clear when the director's decision on a plan becomes final.	
11/26/2002	Resolution 2002-155, effective 11/26/2002.

DC-02-05 • BCLUC - Article 4	
Amendments to Article 4 of the Boulder County Land Use Code to require that driveways and grading have an associated principal use; to make the determination to waive an accessory structure from site plan review have a one year expiration; to add "Compatibility with the General Character of the Surrounding Area" to the impacts considered in a decision to waive site plan review; and to clarify language related to waivers of accessory structures on conservation easements.	
10/17/2002	Resolution 2002-127, effective 10/17/2002.

DC-02-06 • BCLUC - Article 4-501	
Amendments to Article 4-501 of the Boulder County Land Use Code to include wildlife rehabilitation licensed by the Colorado Division of Wildlife into the current "Keeping of Nondomestic Animals" regulations (4-501(D)).	
10/17/2002	Resolution 2002-128, effective 10/17/2002.

DC-02-07 • BCLUC Article 6 Niwot TDR	
Text and map amendments to Article 6 of the Boulder County Land Use Code to change the status of a receiving area to a sending area and to clarify that land that is currently owned by Left Hand Water District is not a sending or receiving site.	
07/30/2002	Resolution 2002-86, effective 7/30/2002.

DC-02-08 • BCLUC Mineral Interest Notification	
Amendments to the Boulder County Land Use Code - to deal with the recent changes in statutory severed mineral interest notification requirements, and to correct some errors in Article 3 (such as the BOCC hearing/notice timing requirements for vacations, which are internally conflicting). And amending certain provisions of Article 15 (including increasing the length of stay of building permit issuance from 120 to 180 days).	
05/22/2003	Resolution 2003-59, effective 5/22/2003.

DC-02-09 • BCLUC - Article 4-400, 4-1202 & 18	
Text amendments to Article 4-400 Floodplain Overlay District, 4-1202 Standards of Review and 18 Definitions of the Boulder County Land Use Code.	
10/29/2002	Resolution 2002-147, effective 10/29/2002.

DC-02-10 • BCLUC - Article 8	
Amendments to Articles 8-501 and 8-507 of Articles 8-200, et seq., of the Boulder County Land Use Code (County's "1041" Regulations), To Require Applications to Encompass the Entire Contemplated Development for a Parcel or Parcels, and To Preclude Subsequent Applications To Amend Any Approved Development for A Specified Period, With Certain Limited Exceptions.	
02/27/2003	Resolution 2003-29, effective 2/27/2003.

DC-02-11 • BCLUC - Article 17 & 18	
Amendments to Article 17-300 and article 18-162 of the boulder county land use code to make the land use code and uniform building code definitions consistent.	
12/17/2002	Resolution 2002-169, effective 12/17/2002.

DC-03-01 • BCLUC - Article 7-1600	
Amendments to Article 7-1600 Outdoor Lighting.	
08/05/2003	Resolution 2003-95, effective 8/5/2003.

DC-03-02 • BCLUC - Article 4 (SPR)	
Amendments to Article 4-800 Site Plan Review regulations.	
07/17/2003	Resolution 2003-81, effective 7/17/2003.

DC-03-03 • BCLUC Text Amendment	
Amendments to review triggers of the Limited Impact Special Review process (government trail parking areas).	
07/01/2003	Resolution 2003-79, effective 7/1/2003.

DC-03-04 • BCLUC - Article 5 & 4	
Amendments to Articles 5 & 4 of the Boulder County Land Use Code: (1) Amendments to Section 5-500(A) of the Boulder County Land Use Code to provide for additional extension request to record a final plat; and (2) Delete Section 4-600(B) of the Boulder County Land Use Code to allow for correct Special Use hearing and referral response times.	
08/05/2003	Resolution 2003-100, effective 8/5/2003.

DC-03-06 • BCLUC Text Amendments - Articles 14 & 17	
Amendments to Articles 14 and 17 of the Boulder County Land Use Code changing some procedures for zoning enforcement.	
01/15/2004	Resolution 2004-10, effective 1/15/2004.

DC-03-07 • BCLUC - Article 18	
Amendments to Section 18-121 of the Boulder County Land Use Code (Definition of "Building Lot"), to codify Section 30-28-139, C.R.S., enacted from SB-03-67, effective October 1, 2003, regarding County regulations providing for the merger of two or more parcels of land (requiring, in essence, regulatory mergers occurring on or after October 1, 2003 to have the consent of the affected property owners).	
01/27/2004	Resolution 2004-18, effective 1/27/2004.

DC-03-08 • BCLUC Use Amendments	
Amendments to Article 4 of the Boulder County Land Use Code excluding certain uses previous permitted in certain zoning districts, adding a garage sale use, amending several existing us definitions, and amending certain other provisions of Article 4.	
05/06/2004	Resolution 2004-47, effective 5/6/2004.

DC-04-01 • BCLUC Text Amendment	
Amendments to Section 4-1002(D) of the Boulder County Land Use Code to provide for an extension of time by the County Commissioners to allow restoration of a nonconforming structure upon a showing of extraordinary circumstances.	
04/06/2004	Resolution 2004-39, effective 4/6/2004.

DC-04-03 • BCLUC Text Amendment	
Amendments to Articles 1, 2, 3, 4, 5, 6, 8, 9, 12, 17, and 18 of the Boulder County Land Use Code, to (1) add a definition of the term "Subdivision," and add or amend related terms (such as "Exemption Plat," "Platted Land," "Outlot," and the like), in Article 18 of the code; (2) conform the text of the Land Use Code to these new and amended terms in Article 18 related to the subdivision process; (3) amend the exemption plat regulations (sections 9-200 and 9-201 of the code) to allow property owners to request, through the exemption plat process, to increase the number of platted building lots and to add unsubdivided land to platted land, so long as all resulting subdivided lots are 35 acres or more in size; and (4) make certain minor amendments to the process-related provisions of the land use code.	
10/26/2004	Resolution 2004-130, effective 10/26/2004.

DC-04-04 • BCLUC - Article 18-121	
Amendments to Section 18-121 and Article 9 concerning lot mergers in the mountainous areas of Boulder County.	
09/01/2004	Resolution 2004-100, effective 9/1/2004.

DC-05-001 • BCLUC - Article 13 Sign Code Article 4-1202	
Sign code rewrite, Article 13 and companion amendment to Article 4-1202 of the Boulder County Land Use Code.	
06/09/2006	Resolution 2006-75, effective 6/8/2006, amending Article 13 Sign Code.

DC-05-002A • BCLUC - Merger Regulations	
Amendments to Section 18-121, Article 9, and Section 6-700 of the Boulder County Land Use Code, to rescind provisions governing the merger of vacant substandard parcels in the mountainous areas of the unincorporated county (as codified primarily in Section 18-121.B of the Land Use Code) , and the merger of vacant lots in underdeveloped platted subdivisions recorded prior to March 22, 1978 (codified primarily in Section 18-121.A.4. of the Land Use Code).	
05/18/2006	Resolution 2006-68, effective 7/8/2006.

DC-05-002B • BCLUC - Agricultural Uses	
Amending Articles 4-102 (Agricultural (A) District), 4-103 (Rural Residential (RR) District), 4-501 (Agri-business Uses), 4-502 (Agricultural Uses), 4-516 (Accessory Uses), 4-517 (Temporary Uses) and Article 18 (Definitions) regarding agricultural uses in Boulder County.	
10/17/2006	Resolution 2006-121, effective 10/17/2006.

DC-05-002G • BCLUC - Zoning Enforcement	
Amendments proposed text amendments to Articles 2, 14, and 17 of the Boulder County Land Use Code dealing with land use code enforcement and moratoria powers.	
05/22/2007	Resolution 2007-41, effective 04/10/2007.

DC-05-002H • BCLUC - Expanded Transferable Development Rights Program Including Structure Size Considerations	
Amendments to the Land Use Code establishing a transferable development credits program and revising site plan review criteria.	
06/12/2008	Resolution 2008-72, effective 8/8/2008.

DC-05-003 • BCLUC - Amendments to NRCD (Niwot)	
Amendment of Section 4-116 of Article 4 of the Boulder County Land Use Code to add Commercial Bakery as an allowed use within the Niwot Rural Community District.	
07/19/2005	Resolution 2005-84, effective 7/19/2005.

DC-05-004 • BCLUC - Articles 7 & 18	
Amendments to Articles 7 & 18 related to stormwater management and erosion control.	
08/18/2005	Resolution 2005-104, effective 8/18/2005.

DC-06-001 • BCLUC - Adaptive Reuse of Historic	
Article 4-506 of the Boulder County Land Use Code - Adaptive Reuse of a Historic Landmark.	
02/27/2007	Resolution 2007-24, effective 2/27/2007.

DC-07-001 • BCLUC – Art. 4-516 Home Events	
Text amendment to 4-516 of the L.U.C. - home events as an accessory residential use.	
03/13/2008	Resolution 2008-37, effective 3/20/2008.

DC-07-002 • BCLUC - Short-Term Dwelling Rentals	
Text Amendments to Article 4-507 of the Boulder County Land Use Code related to lodging uses.	
11/06/2008	Resolution 2008-138, effective 11/06/2008.

DC-08-001 • BCLUC • Small Renewable Energy Systems	
Land Use Code amendments relating to noncommercial renewable energy systems including Wind Powered Electric Generators (Art. 4-514(O)) and Solar Energy Systems (Art. 4-516(O)).	
06/16/09	Resolution 2009-79, effective 6/30/09

DC-08-002 • BCLUC - Text Amendments to Referral Notification Process	
Text amendment to Sec. 3-204 and Sec. 8-508 of the LUC to allow postcard referral notification for land use dockets.	
07/03/2008	Resolution 2008-82, effective 7/10/2008.

DC-08-003 • BCLUC - Community Biomass Sort Yards	
A text amendment creating a use classification for facilities that allow the collection, sorting, and processing of woody biomass materials to promote forest health.	
2/24/2009	Resolution 2009-35, effective 3/3/2009

DC-08-004 • BCLUC • Correction to Golf Course Use	
Text Amendments to Article 4 of the Boulder County Land Use Code to Correct an Error in Docket DC-03-08 by allowing (through Special Review) Golf Courses in the Multifamily Zoning District that legally existed as of April 20, 2004; and to make explicit in the Agricultural Zoning District that the Resort Lodge Use allowed by Special Review also covers uses Legally Existing as of April 20, 2004.	
10/23/2008	Resolution 2008-136, effective 10/23/2008.

DC-08-005 • BCLUC • Text Amendments to Articles 3, 4, 7, 9, and 18	
Text amendments to Articles 3, 4, 7, 9, and 18 of the Boulder County Land Use Code to correct and clarify minor and miscellaneous provisions in the Code.	
10/7/2008	Resolution 2008-131, effective 10/21/2008.

DC-09-001 • BCLUC • Text Amendments to Articles 2-8, and 18	
Text amendments to Articles 2, 3, 4, 5, 6, 7, 8, and 18 of the Boulder County Land Use Code to correct and clarify minor and miscellaneous provisions in the Code involving: deletions of references to Colorado Land Use Commission; changes in terminology to "undesirable plant management plan" and "septic system"; corrections to "Accessory Horse Keeping" in the MF, SR, GI and LI zoning districts; change terms of appointment to the Board of Adjustment; revisions to the Conservation Easement language and standards in Article 6-800; and additions to the definition of "Substantial Improvement" related to the Floodplain Overlay District.	
05/21/09	Resolution 2009-72, effective 5/26/09

DC-09-0003 • BCLUC • Niwot Rural Community District (NRCD) II	
Text and map amendments to create a new zoning district for the residential areas of old town Niwot.	
07/16/09	Resolution 2009-95, effective 7/21/09

DC-09-0004 • BCLUC • Text Amendments to Articles 4-1300 and 18 (TDC Program)	
Text amendments resulting from the six-month review of Transferable Development Credit (TDC) regulations.	
06/18/09	Resolution 2009-81, effective 6/30/09

DC-09-0005 • BCLUC • Text Amendments to Articles 3, 4, & 18	
Land Use Code amendments to Articles 3, 4, and 18 of the Boulder County Land Use Code addressing application submittal requirements; amending the special use review criteria and the Special Provisions governing changes to existing special uses; redefining and reclassifying Institutional and Uses of Community Significance and certain lodging uses; imposing certain limits on Community and/or Lodging special uses; adding a Camp zoning use; amending the requirements for nonconforming uses to become Uses of Community Significance; and allowing Development Credits under Article 4-1300 of the Code to be used for certain limited expansions of existing Community and/or Lodging Special Uses.	
10/14/10	Resolution 2010-130, effective 11/4/10

DC-09-0006 • BCLUC • Text Amendments to Articles 4 and 13	
Land Use Code amendments adding Home Events to lists of permitted uses (4-101 through 4-112 and 4-117), allowing renewable energy systems as permitted multiple principal use (4-101 through 4-112 and 4-117), adding Kennels as an allowed use in Forestry through Special Review (4-503), adding renewable energy systems and wildlife rehab to Applicability of Site Plan Review (4-802), and clarifying the sign code (13-500).	
08/18/09	Resolution 2009-116, effective 8/25/09

DC-09-0007 • BCLUC • Text Amendments to Articles 4-806 SPR regulations	
Land Use Code amendments related to neighborhood compatibility and the factors used to overcome the presumptive size limitation for development within defined neighborhoods, following the 6-month review of the revisions adopted 8/8/08	
09/01/09	Resolution 2009-127, effective 9/9/09

DC-09-0009 • BCLUC • Text Amendments to Article 10	
Addition of Section 10-101 specifying review criteria regarding road, alley, and rights-of-way vacations in the Eldora Townsite.	
10/20/09	Resolution 2009-144, effective 11/3/09

DC-09-0010 • BCLUC • Text Amendments to Article 17-300(A)	
Text amendments to the Zoning Regulation Enforcement provisions of the Code relating to storage sheds and other structures that are 120 square feet or less in size and do not require a building permit.	
11/10/09	Resolution 2009-133, effective 11/19/09

DC-10-0002 • BCLUC • Text Amendments to Article 4 Medical Marijuana Centers	
Zoning regulations governing facilities that sell or dispense medical marijuana, including the growing and/or processing of medical marijuana.	
06/08/10	Resolution 2010-73, effective 06/08/10

DC-10-0004 • BCLUC • Text Amendments Related to the Multimodal Transportation Standards	
Land Use Code amendments to Articles 1-5, 7, 9, 12, 17, and 18 related to the proposed adoption of the Boulder County Multimodal Transportation Standards (adopted 12/16/10, effective 1/1/11).	
12/16/10	Resolution 2010-153, effective 01/01/11

DC-10-0006 • BCLUC • Fourmile Canyon Fire - Land Use Code Text Amendments	
Land Use Code text amendments (including amendments to the Building Code) to add Article 19-100 to facilitate rebuilding of structures damaged or destroyed in the Fourmile Canyon fire.	
10/21/10	Resolution 2010-132, effective 10/26/10

DC-11-0001 • BCLUC • Solar Gardens and Commercial Solar Energy Systems	
Land Use Code text amendments to better facilitate statewide Solar Gardens legislation and to allow small to medium sized commercial scale solar energy power generation facilities. This docket includes amendments to Art. 4-514(J) Small Solar Energy Systems and 4-514(E) Major Facility of a Public Utility; a new use classification for Medium Solar Energy Systems or Solar Gardens as a principal use; and a new use classification for Large Solar Energy System.	
04/19/11	Resolution 2011-51, effective 05/03/11

DC-11-0002 • BCLUC • A Variety of Policy Clarifications to Articles 3, 4, 8, 9, and 18	
Land Use Code text amendments related to: Conservation Easement-holder signatures on applications, the classification of garage sales, cumulative square footage increases as a trigger for SPR, factor to overcome the SPR size presumption if a project already exceeds the allowable size, determiner of adequate water supply in 1041 applications, missing word in Subdivision Exemption section, and definition of Building Lot.	
04/14/11	Resolution 2011-50, effective 04/19/11

DC-12-0001 • BCLUC • Text Amendment to Article 18-189D	
Land Use Code amendment to Article 18 (Definitions) of the Boulder County Land Use Code to increase the flexibility of the exemptions in Article 18-189D (the definition of "residential floor area" originally adopted as part of Docket #DC-05-002H, "Expanded Transfer of Development Rights Program, including structure size considerations").	
03/13/12	Resolution 2012-29, effective 3/22/2012

DC-12-0002 • BCLUC • Text Amendments to Article 4-802.B.3.	
Land Use Code amendment to Article 4 (Zoning) of the Boulder County Land Use Code Article 4-802.B.3., to exempt damaged or destroyed water crossing structures from Site Plan Review.	
06/14/12	Resolution 2012-62, effective 6/26/2012

DC-12-0004 • BCLUC • Text Amendments to Article 4-116 Niwot Rural Community District (NRCD)	
Land Use Code amendment to Article 4-116 (Niwot Rural Community District) of the Boulder County Land Use Code: Reducing the parking requirement for new floor area to one space per 500 square feet of floor area, with existing parking-to-floor-area configurations to be grandfathered and not recalculated at the 1/500 rate; adoption of one parking rate for all uses allowed in the District so that uses can come and go without there being a different parking requirement; requiring new on-site parking only if adding floor area; allowing for more flexibility with shared parking; eliminating the need for a site plan review process if only the use is being changed, and mandating a site plan review or waiver process only if adding or deconstructing floor area; not considering outdoor seating as new floor area (if at grade and not a covered area); and removing the required vote for amending the Niwot Rural Community District provisions of the Land Use Code.	
08/14/12	Resolution 2012-87, effective 8/14/2012

DC-12-0005 • BCLUC • Text Amendments to Article 4-400 and Article 18	
Land Use Code text amendments to Article 4-400 (Floodplain Overlay District) and Article 18 (Definitions) of the Boulder County Land Use Code. The changes clarify the County's regulation of the Floodplain Overlay District and bring these regulations into consistency with regulatory agencies including the Federal Emergency Management Agency, the National Flood Insurance Program, and the Colorado Water Conservation Board.	
11/1/12	Resolution 2012-123, Effective 11/13/2012

DC-11-0003 • BCLUC • Text Amendments to Articles 3, 4, 17 and 18	
Text amendments to the Boulder County Land Use Code Articles 4 (Zoning) and 18 (Definitions) related to principal and accessory agricultural uses including but not limited to definitions, allowed uses (including new use classifications and modification of existing use classifications), permitted zone districts, use-specific criteria, and required land use processes. Amendments also made to Article 3 (Processes) and Article 17 (Enforcement) for purposes of implementation.	
2/21/13	Resolution 2013-23, effective 3/07/2013

DC-12-0003 • BCLUC • Text Amendments to Articles 4 and 18, new Article 12: DPR for Oil and Gas Operations	
New Article 12 related to Regulations of Oil and Gas Operations, and corresponding Text Amendments to Articles 4 and 18.	
12/13/12	Resolution 2012-142, effective 12/20/2012 (A moratorium on accepting applications for oil and gas development is in effect until January 1, 2015)

DC-12-0006 • BCLUC • Text Amendments to Articles 3, 7, and 18	
Text amendments to Article 3-100 (Approvals and Permits Necessary Prior to Development), Article 7-903 (Erosion and Sediment Control), Article 7-904 (Stormwater Quality and Management in Urbanized Areas) and Article 18 (Definitions) of the Boulder County Land Use Code. The changes clarify the County's regulation of stormwater quality management and bring these regulations into consistency with Colorado Department of Public Health and Environment regulations. The portions of the amendments to Land Use Code Articles 7-904 and 18 that administer the County's Separate Storm Sewer System (MS4) General Permit issued by the Colorado Water Quality Control Division as part of the state's water quality discharge permit system, were also adopted by the Board of County Commissioners as a County ordinance (Ordinance 2012-5) under the authority of C.R.S. Section 30-15-401(11).	
1/15/13	Ordinance 2012-5 (also serving as resolution adopting DC-12-0006), effective 5/15/2013

DC-13-0002 • BCLUC • Text Amendments to Article 4-512.I. Pertaining to Medical Marijuana Centers	
Amendments to Article 4-512.I. of the Land Use Code pertaining to Medical Marijuana Centers – Types of Medical Marijuana Centers, setback requirements, and cleanup of outdated provisions.	
9/26/13	Resolution 2013-93, effective 10/15/2013

DC-13-0003 • BCLUC • Front Range Flood and Extreme Rain Text Amendments to Article 19 of the Land Use Code Governing Redevelopment Following Natural Disasters, to Amend Article 19-100.F. (Fourmile Fire) and Add Article 19-200 (2013 Extreme Rain and Flood Event)	
Text amendments to the Boulder County Land Use Code to amend Article 19-100.F. to extend the timeline to rebuild following the Fourmile Canyon Fire, to add a new Article 19-200 establishing an interim permitting procedures for restoring structures damaged or destroyed by the September 2013, Front Range Flood and associated weather impacts, and other related provisions of the Land Use Code as needed.	
10/29/2013	Resolution 2013-103, effective 11/4/13

DC-14-0002 • BCLUC • Text Amendments to Articles 4 and 18 (Floodplain Regulations "SI Cumulative Amendment")	
Text amendments to the Floodplain Regulations, Articles 4 and 18, Concerning Cumulative Retroactive Application of "Substantial Improvement" Definition and Related Amendments.	
05/29/14	Resolution 2014-49, effective 06/05/2014

DC-14-0001 • BCLUC • Text Amendments to Article 4 Pertaining to Retail and Medical Marijuana	
Text amendments to Article 4, to amend section 4-512 to define retail and medical marijuana as a combined use and section 4-516 regarding home occupation and accessory uses related to marijuana.	
08/12/14	Resolution 2014-72, effective 08/12/2014

DC-14-0004 • BCLUC • Text Amendments to Articles 4 and Article 19, Special Approval Procedures for Redevelopment and Hazard Mitigation Following Natural Disasters	
Text amendments to Article 19, Special Approval Procedures for Redevelopment and Hazard Mitigation Following Natural Disasters and Companion Changes to Articles 4-400, 4-600, 4-800, 4-1000, the Boulder County Multimodal Transportation Standards and other related sections of the Boulder County Land Use Code.	
10/07/14	Resolution 2014-81, effective 10/14/2014

DC-13-0001 • BCLUC • Various Policy Clarifications and "Clean-Up" Amendments	
Text amendments to Articles 1, 3, 4, 7, 8, 9, 13, and 17 to correct and clarify miscellaneous provisions within the Boulder County Land Use Code related to: advertising requirements for BCCP public hearings, eligibility of floodplain variances, clarification in the Kennel use classification, clarification in the Vehicle Service Center use classification, applicability of SPR in the Rural Community Districts, reinstating the Airport regulations, clarification to boundary line adjustment criteria, correcting references to Community Uses in the Sign regulations, and correcting the name of Boulder County Public Health throughout the Code.	
02/05/15	Resolution 2015-43, effective 03/05/2015

DC-15-0001 • BCLUC • Text Amendment to Article 15-200 Boulder County Historic Preservation Advisory Board Selection	
Text Amendment to Article 15-200 Boulder County Historic Preservation Advisory Board (HPAB) selection, removing the subject matter expertise requirements for HPAB members from the Land Use Code, and instead adding provisions to the HPAB Bylaws that make some of the positions aspirational rather than mandatory.	
03/24/15	Resolution 2015-56, effective 04/02/2015

DC-16-0002 • BCLUC • Text Amendments to Article 4 and Article 18 to address the cultivation and processing of marijuana as a Residential Accessory Use	
Text Amendments to Article 4-512(I), 4-516(Q), 4-516(R), and 4-802, and a new definition in Article 18 (18-185B Primary Caregiver), to address the cultivation and processing of marijuana as a Residential Accessory Use.	
07/12/16	Resolution 2016-75, effective 06/28/2016

DC-16-0001 • BCLUC • Text Amendments to Article 13 Signs	
Text Amendments to the Boulder County Land Use Code to amend Article 13 Signs to correct and clarify content-based references in the sign code, regulating the number, type, location, physical dimensions and design of signs.	
07/26/16	Resolution 2016-93, effective 08/09/2016

DC-15-0004 • BCLUC • Text Amendments to floodplain regulations in Article 4 and related provisions, and Article 3 and Article 18	
Text Amendments to the Boulder County Land Use Code to amend Article 4 and related provisions which govern the Floodplain Overlay District, and related changes to Article 3 - Processes and Article 18 - Definitions. No changes to the floodplain maps which define the floodplain overlay district occurred as part of this regulatory update.	
09/28/16	Resolution 2016-111, effective 10/17/2016

DC-15-0003 • BCLUC • Text Amendments to Articles 3, 4 and 7 regarding the updated 2016 Storm Drainage Criteria Manual	
Text Amendments to Boulder County Land Use Code Articles 3, 4 and 7 regarding the updated 2016 Storm Drainage Criteria Manual. The 2016 Manual repeals and replaces the County's 1984 Manual, as amended, in its entirety.	
10/27/16	Resolution 2016-121, effective 11/01/2016

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