

# Article 4



## Zoning

### Article 4 • Zoning Table

District	Lot Size		Setbacks			Height	Additional Restrictions
	Subdivided with Water & Sewer in a Community Service Area	Unsubdivided	Front	Side	Rear		
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(l).
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 through 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(l).
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 through 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(l).
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.

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## 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(l).
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)

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- 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(l).
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.

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## 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(l).

**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 through 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(l).
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 through 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(l).
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 through 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

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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(l).
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(l).
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(l).
  - 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.

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## 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(l).
  - 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.

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## 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(l) 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(l).
  - 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 through 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. 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. 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:

$$F_b = 0.134V_t\gamma FS$$

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.

$\gamma$  is the specific weight of flood water surrounding the tank (generally 62.4 lb/ft<sup>3</sup> for fresh water and 64.1 lb/ft<sup>3</sup> 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	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								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// ✓	S										S	S// ✓
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			U*							
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
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 • 4-512 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 G; 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 accommodate 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.

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- 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.

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## 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

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- 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 an 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 within 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

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## 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).

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- 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.

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## 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.



**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.

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## 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.

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## 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.

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## 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 through 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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