

RESOLUTION 2023-036

A resolution approving Boulder County Land Use Docket DC-22-0004: Floodplain Land Use Code Change

Recitals

A. The Board of County Commissioners of Boulder County (the “Board”) is authorized to amend the text of the county’s zoning regulations according to the procedures in the regulations and C.R.S. §§ 30-28-112, -116 and -133.

B. Under other statutory authority, the Board is empowered to adopt regulations related to the control of land use, including but not limited to Article 65.1 of Title 24 (Areas and Activities of State Interest); Articles 67 and 68 of Title 24 (Planned Unit Developments and Vested Rights); Article 20 of Title 29 (Local Land Use Enabling Act); Articles 11 and 15 of Title 30 (County Powers and Police Power); Article 1 of Title 32 (Special District Control); and Article 2 of Title 43 (County Highways), C.R.S.

C. By Resolution 94-185, adopted October 18, 1994, the Board approved a unified Boulder County Land Use Code (the “Code”), which the Board has amended on subsequent occasions.

D. The present Docket, DC-22-0004 (the “Docket”), is intended to incorporate changes from FEMA Policy #104-008-03 flood protection requirements for agricultural structures, align with Mile High Flood District amendments to its floodplain regulations prohibiting all tents and makeshift structures used for human habitation in the regulatory floodplain, clarify based upon the current implementation of the Code since the last revisions to Article 4-400, and update the Site Plan Review regulations to narrow the scope of when Site Plan Review is required when the Floodplain Development Permit is the only trigger. The proposed text amendments to Article 4-400 and related sections of Article 4-802 of the Code (the “Proposed Amendments”) are set forth in the Boulder County Community Planning & Permitting Department’s memorandum and recommendation dated May 11, 2023, with its attachments (the “Staff Recommendation”).

E. The Boulder County Planning Commission (the “Planning Commission”) held a duly noticed public hearing on the Proposed Amendments on March 15, 2023. The Planning Commission recommended approval of the Proposed Amendments and certified the Docket for action to the Board.

F. On May 11, 2023, the Board held a duly noticed public hearing on the Docket (the “Public Hearing”) and considered the Staff Recommendation, documents, and testimony presented by county Community Planning & Permitting Department staff. Three members of the public spoke at the Public Hearing.

G. Based on the information presented at the Public Hearing, the Board finds that the Proposed Amendments included in **Exhibit A** meet the criteria for text amendments contained in Article 16-100.B of the Code, in that the existing text is in need of amendment; the Proposed Amendments are not contrary to the intent and purpose of the Code; and the Proposed Amendments are in accordance with the Boulder County Comprehensive Plan.

Therefore, the Board resolves:

1. The Proposed Amendments in **Exhibit A** are approved, effective as of May 11, 2023.
2. Under § 30-28-125, C.R.S., the Board authorizes the Clerk to the Board to transmit this Resolution, with its Exhibit A, to the County Clerk and Recorder for filing and appropriate indexing. This transmittal should state recording Reference **No. 03596339**, the recording of the Boulder County Land Use Code on June 6, 2017, which this transmittal amends.

[Signature Page to Follow]

A motion to approve the Proposed Amendments, was made at the Public Hearing by Commissioner Ashley Stolzmann, seconded by Commissioner Claire Levy, and passed by a 2-0 vote. Commissioner Marta Loachamin was excused from the Public Hearing.

ADOPTED as a final decision of the Board on this 30th day of May, 2023.

**BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:**

Claire Levy

Claire Levy, Chair

Ashley Stolzmann

Ashley Stolzmann, Vice Chair

Excused May 11, 2023

Marta Loachamin, Commissioner

ATTEST:

Cecilia Lacey

Clerk to the Board

Exhibit A

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DOCKET DC-22-0004: PROPOSED TEXT AMENDMENTS TO ARTICLE 4-400 AND ARTICLE 4-802 –
Text amendments to the Boulder County Land Use Code related to floodplain regulations.

4-404.A. Minimum Federal and State Standards

- 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 those development projects allowed in the FEMA 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 unless the applicant first receives an approved Conditional Letter of Map Revision (CLOMR) from FEMA prior to permitting, in compliance with the provisions of 4-404.2.E.4.

4-404.B. Uses Prohibited in Floodway

- B. Uses Prohibited in Floodway.** The floodway is the portion of the FO District that must be reserved for passage or conveyance of the 1%-annual-chance (100-year) flood without cumulatively increasing the water surface elevation more than a designated height (described in Section 4-404.2.E.3). ~~depicts the portion of the floodplain where flood depths and velocities are greatest, risk to health and safety is highest, and damages resulting from flooding are the most catastrophic.~~ The following activities and uses are prohibited within all Floodways:

...

- 6.** Dispersed camping, including the use of tents, makeshift structures, enclosures, and other temporary shelters used for habitation, except in locations approved through the issuance of a Group Gathering / Special Event Permit as defined in this Code that have adequate sanitation facilities and a flood evacuation plan; unless the camping is approved through the issuance of a Group Gathering / Special Event Permit as defined in the Land Use Code;

4-404.C.1. Uses Allowed in Floodway under Certain Conditions

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:

...

- 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;

...

- 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); ~~and;~~

- h.** Linear transportation infrastructure, including but not limited to roads, trails, and railroad rights-of-way (but not including freight yards or switching, storage, or industrial sidings).

4-404.D. Uses Allowed in Flood Fringe under Certain Conditions

- 5.** Dispersed Camping, overnight campgrounds, tents, makeshift structures, enclosures, and other temporary shelters used for habitation in the Flood Fringe must be approved through the issuance of a Group Gathering / Special Event Permit as defined in this Code and must have adequate sanitation facilities and a flood evacuation plan.

4-404.E. Emergency Work

E. Emergency Work. Emergency work necessary to prevent or mitigate an immediate threat to life or property is allowed. The property owner is responsible for notifying the County Engineer within 7 days of the initiation of all emergency work. A complete application for a Floodplain Development Permit shall be submitted within 30 days of commencement of work. Authorization to perform emergency work does not indicate approval of such work. If necessary, modifications to the work already performed may be required in accordance with this Code.

4-404.1. General Floodplain Development Permits

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, the County Engineer ~~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. Conditions of approval, if any, for work approved under the General FDP; and
3. 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~~ notification through referral required by a separate Community Planning & Permitting 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 Community Planning & Permitting 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, amended General FDP, or rescission of a General FDP is appropriate after consideration of the factors in 4-404.1.B above, ~~the County Engineer shall he shall post the proposed General FDP on the Public Works 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.~~ first provide a 14-day public review and comment period by:
 - a. Posting the new General FDP, amended General FDP, or notice of General FDP rescission on the County's website;
 - b. Providing public notice of the new General FDP, amended General FDP, or notice of General FDP rescission in the manner described in Article 3 for comprehensive

rezonings; and

- c. Maintaining 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 County Engineer shall send the new General FDP, amended General FDP, or notice of General FDP rescission (via electronic means to the most recent electronic mail address on file) to all such owners, 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.
 - ~~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 Public Works 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 Public Works 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.
 - ~~52.~~ If the County Engineer receives public comment on a proposed new, amended, or rescinded General FDP during the 14-day ~~notice~~ review and comment period, then prior to the effective date the County Engineer shall consider such comments to determine whether in their ~~his~~ professional judgment as floodplain administrator any changes to the proposed action are merited. If no comments are received, or if no changes to the proposed action are merited, the proposed action shall be deemed effective 14 days after the date it was posted.
 - ~~63.~~ Subject to the ~~notice~~ 14-day review and comment period requirements described above, the County Engineer may issue, amend, or rescind a General FDP at any time, on their ~~his~~ own initiative, without the need for public hearings before Planning Commission and Board of County Commissioners.
 - ~~74.~~ 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.
 - ~~85.~~ 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.
- G. Work Not Approved under a General FDP.** Any development within the Floodplain FO District that does not meet the criteria of a General FDP requires either approval of an Individual FDP prior to beginning the work or a determination by the County Engineer that no FDP is required at all.
- ~~1.~~ ~~1.~~—Should any work commence that is assumed by an applicant to be covered by a General FDP, and the County Engineer determines it is not covered by a General FDP, a Stop Work order will be issued. The unpermitted work will be treated as a zoning violation under Article 17 until an approved Individual FDP is issued or the violation is otherwise resolved.

2. ~~2.~~—Anyone considering a project in the Floodplain FO District 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 the Community Planning & Permitting Department at all times and available for public review.

4-404.2.A. Floodplain Pre-Application Conferences

- 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 Community Planning & Permitting 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. At the discretion of the County Engineer, or by applicant request, a Floodplain Pre-Application Conference (Floodplain Pre-App) may be required prior to submittal of a complete individual FDP application. The Floodplain Pre-App should include a discussion of conforming and nonconforming structures and uses of the subject property.~~

4-405.C.1.e. General Requirements for New Floodplain Construction

- e.** ~~New buildings or other structures must minimize obstruction to flood flows. Whenever practicable and to the extent consistent with other provisions of this Code, new buildings and other structures must be placed with their longitudinal axes parallel to the predicted direction of flow of flood waters or with the same orientation as neighboring structures. ~~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.~~~~

4-405.C.2.a. 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 elements~~.

4-405.C.3.c. Agricultural Buildings and Structures

- 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.~~ Agricultural buildings and structures are those used exclusively for agricultural purposes or uses in connection with the production, harvesting, storage, raising, or drying of agricultural commodities and livestock. Buildings and structures used for human habitation and those that are places of employment or entertainment and structures with multiple or mixed purposes do not satisfy the "exclusive use"

requirement and are not agricultural buildings and structures. Types of buildings and structures that qualify under this section include farm storage structures (used exclusively for the storage of farm machinery and equipment), silos, grain elevators, 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 floodproofed 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.
- ~~(iiiiv)~~ Permanent agricultural buildings or structures are prohibited in the Floodway.
- (iv) Temporary agricultural buildings or structures are allowed in the ~~f~~loodway, 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.
- (v) Agricultural buildings or structures that do not have at least two rigid walls and a fully secured roof, including but not limited to pens, pole barns, shade structures, and some livestock shelters may be constructed at grade and must use flood-resistant materials up to the FPE.
- (vi) Agricultural buildings or structures with at least two rigid walls and a fully secured roof 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, unless an administrative variance is granted by the County Engineer to allow the building or structure to be either elevated to the BFE, or wet-floodproofed at-grade in accordance with 4-405.C.2.b.
- (vii) Requests for an administrative variance described in (vi) above must be made in writing using an approved form and submitted with a complete Individual Floodplain Development Permit application. An administrative variance allowing an agricultural building or structure to be wet-floodproofed may be granted if the following criteria are met:
 - (A) The building or structure meets all flood protection requirements of 4-405.B, 4-405.C.1, and 4-405.C.2.b;
 - (B) The building or structure has low flood damage potential and cost of recovery with respect to construction materials, location within the floodplain, flood depths and velocities, potential for debris, building contents, and function;
 - (C) The building or structure does not increase risks and pose a danger to public health, safety, and welfare if flooded and contents are released, including but not limited to the effects of flooding on manure storage, livestock confinement operations, liquified natural gas terminals, and production and storage of highly volatile, toxic, or water-reactive materials; and
 - (D) The variance would provide the minimum relief necessary to avoid exceptional hardship.
- (viii) Prior to issuance of Certificate of Occupancy or final inspection, whichever occurs last, the property owner may be required to execute a Non-Conversion Agreement and the County must record the agreement in the real estate records. If required, 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 building in accordance with the provisions of this section 4-405.C.3.c (Agricultural Buildings and Structures), and to put prospective purchasers on notice of such

restrictions. The covenant will also reference retrofitting criteria necessary to properly convert the building 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.

4-405.C.3.d. Crawlspace

1. General Requirements

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i. New Floodplain Construction of any Below-Grade Crawlspace must have:

- (i) An interior grade elevation no lower than two feet below the Lowest Adjacent Grade;
- (ii) Height, as measured from the interior grade of the Crawlspace to the top of the foundation wall, not to exceed four feet at any point; and
- (iii) An adequate drainage system that allows floodwaters to drain from the interior area of the Crawlspace following a flood.

...

3. Non-residential Buildings.

...

~~d. Crawlspace. 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.~~

4-405.E. Manufactured Homes

E. Manufactured Homes 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 newly placed or substantially improved on sites in a new manufactured home park, an existing park, or outside a manufactured home park-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 m-~~ Manufactured homes and additions to manufactured homes must be anchored to resist flotation, collapse, or lateral movement. The foundation system must be certified by a P.E. registered in the State of Colorado to withstand the anticipated forces of the 1%-annual-chance (100-year) flood or use ~~by providing over-the-top and frame ties to ground anchors as well as the following that meet the following requirements:~~
 - (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; and
 - (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.~~
- d. All mechanical equipment and outside appliances must be elevated to or above the FPE.
- e. Fully enclosed areas below the lowest floor of the manufactured home must comply with 4-405.C.2.b.

4-405.G.4. Repair/Replacement OWTS

4. Repair/Replacement OWTS

- a. For any OWTS or OWTS component in the Flood Fringe that requires replacement, the system or component 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 or OWTS component in the Floodway the County Engineer must determine that the proposed repair/replacement is consistent with Subsections (i) through (iii), below.

4-405.J. Elevation Certificate Requirements

J. Elevation Certificate Requirements

- 1. As built Lowest Floor Elevations (referenced to the NAVD88 datum) for all New Floodplain Construction, Substantial Improvements, other improvements involving new floor area, and ~~or for~~ new manufactured home stands, must be certified by a Colorado Registered Professional Engineer or Colorado Registered Professional Land Surveyor. For construction of new accessory structures built at grade in accordance with 4-405.C.2.b and lateral additions to buildings that are not Substantial Improvements, as-built Lowest Floor elevations may be submitted in a certified letter and must be submitted prior to the issuance of a Certificate of Occupancy or final inspection. For all other projects, including new and Substantially Improved permanent buildings with elevated Lowest Floors, FEMA Elevation Certificates are required. FEMA 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 all required Elevation Certificates and certified elevation letters. For datum requirements for permit submittals, see 4-404.2.(B).

4-409.D.2.b. Variances, Limitation on Board's Authority

- b. ~~For variances that allow construction of a building's Lowest Floor below the FPE, the County must notify the applicant in writing. 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.~~

4-414 Definitions

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.

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Floodway. Those portions of the FO District including the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the 1% annual-chance (100-year) flood without cumulatively increasing the water surface elevation more than a designated height required for the passage or conveyance of the 1% annual-chance (100-year) 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 in order to protect the health and safety of the residents of and visitors to Boulder County, and to discharge the 100-year flood without cumulatively increasing the water surface elevation more than a designated height (also called 'surcharge' and described in Section 4-404.2.(E.)(3)).

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.~~

...

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.~~

Other Minor Fixes in 4-400

4-403.B.1. (website language)

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's website.

4-404.B.2. ("this Code" language)

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 this Code ~~the Land Use Code~~, or another temporary activity permitted by county regulations;

4-404.B.13. and 4-404.B.14. (fix list punctuation)

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);

4-404.2.B.1.b. and 4-404.2.B.1.c. (fix list punctuation)

- 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; and.

4-404.2.B.3.b. (add list punctuation)

- b. Description and locations of any proposed site, filling, dredging, grading, and/or channel improvements;

4-404.2.B.4.a.vii. (add list punctuation)

- (i) existing buildings;

4-405.D.3. ("Code" capitalization)

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.

4-406.D. ("an FDP" correction)

- D. Any determination by the County Engineer to approve, conditionally approve, or deny an FDP must be in writing and mailed or otherwise provided to the applicant.

4-407.A. (website language)

- 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's 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.

4-410 (remove gender-specific language)

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.

4-413.C.2.a. (erroneous parentheses)

- (i) {Relocation is subject to other provisions of this Code, including without limitation setback and zoning requirements.
- (ii) {Relocation to less hazardous locations is strongly encouraged, but not required.

4-415 (“this Code” language)

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 this Code ~~the Land Use Code~~ and related local regulations such as the Building Code. ...

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):

...

- ~~8. Any development in the Floodplain Overlay District involving new structures, elevation of an existing building, or additions to existing buildings that expand the footprint of the structure, development or earthwork requiring an Individual Floodplain Development Permit.~~

...

B. Site Plan Review shall not be required for:

...

- 6. Any development or earthwork eligible for a General Floodplain Development Permit.
- 7. Any development or earthwork requiring an Individual Floodplain Development Permit, so long as the Community Planning & Permitting Director finds no conflicts with the standards listed in Article 4-806 of this Code.

...

C. Site Plan Review may be waived for the following circumstances if the Community Planning & Permitting Director determines that there is no potential for any significant conflict with the criteria listed in Article 4-806 of this Code:

...

- ~~9. Any development or earthwork requiring an Individual Floodplain Development Permit for which the Director does not exempt Site Plan Review per 4-802.B.7. above.~~