



# Community Planning & Permitting

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## BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING

November 15, 2022 – 10:30 AM  
Third Floor Hearing Room  
County Court House  
1325 Pearl Street, Boulder

### Authorization under Article 16-100.A of the Boulder County Land Use Code for Text Amendments to the Land Use Code related to floodplain regulations

*Staff:* Kelly Watson, Floodplain Program Planner, Community Planning & Permitting Department

*Public testimony will not be taken – action requested*

#### SUMMARY

Staff requests Board authorization to pursue text amendments in Articles 4-400 and 4-802 of the Land Use Code related to floodplain development regulations. The purpose of this amendment is to:

- Comply with the Federal Emergency Management Agency's (FEMA) recent clarifications to National Flood Insurance Program (NFIP) policy regarding agricultural structures;
- Conform to updated Mile High Flood District (MHFD) regulations regarding tents and makeshift structures in the regulatory floodplain;
- Remove the automatic requirement that Site Plan Review (SPR) be required for all projects requiring an individual Floodplain Development Permit;
- Simplify flood protection requirements for manufactured homes;
- Revise the conditions under which an Elevation Certificate is required;
- Streamline existing processes, requirements, and definitions; and
- Make clarifications that reflect the current implementation of the code.

#### BACKGROUND

Boulder County has participated in the NFIP since 1979. The NFIP provides a means for county residents to purchase flood insurance and receive federal assistance for flood recovery. In exchange, the county must adopt and enforce floodplain regulations that meet or exceed FEMA and Colorado Water Conservation Board (CWCB) minimum standards for development in the regulatory floodplain. In Boulder County, the regulatory floodplain is known as the Floodplain Overlay District, a zoning district defined by the modeled extent of the predicted 1% annual-chance (100-year) floodplain. County floodplain regulations, set forth in Land Use Code Article 4-400, define allowable and prohibited land uses, establish the basis for floodplain development permitting, and require flood protection measures for development in the Floodplain Overlay District. No changes to the map of the Floodplain Overlay District are proposed at this time.

The last substantial text amendments to Article 4-400 were approved in 2016 (Resolution 2016-111). In 2020, FEMA published new direction on flood protection requirements for agricultural structures under the NFIP (FEMA Policy #104-008-03), and the Mile High Flood District approved an

amendment to their floodplain regulations prohibiting all tents and makeshift structures used for human habitation in the regulatory floodplain (Resolution 57). Land Use Code Article 4-400 must be revised to incorporate these changes to ensure the county remains compliant with FEMA and MHFD standards and county residents have continued access to flood insurance and federal flood recovery assistance. The county anticipates a review under the NFIP Community Rating System in 2023 and intends to have the code changes completed prior to that evaluation.

Staff also recommends additional revisions and clarifications based on six years of experience with the last revisions to Article 4-400. These revisions include simplifying flood protection requirements for Manufactured Homes, clarifying the types of buildings that require Elevation Certificates, and other minor clarifications that reflect the current implementation of the code.

Article 4-800 was revised in 2019 to provide an option to exempt or waive SPR when a project requires an individual Floodplain Development Permit, so long as the Community Planning & Permitting Director finds that the project does not conflict with the SPR review standards. Since 2019, the Director has typically only required full SPR when other SPR triggers (besides an individual Floodplain Development Permit) are present. Therefore, staff would like to investigate whether there is a better way to tailor the level of Land Use review to the types of projects that require an individual Floodplain Development Permit.

Staff plans to conduct a public meeting to educate property owners and the agricultural community on the proposed revisions. Staff will then bring the revisions to the Planning Commission and Board of County Commissioners, likely in February and March 2023.

#### **ACTION REQUESTED**

Staff requests that the Board of County Commissioners authorize staff to pursue text amendments to Articles 4-400 and 4-802 of the Boulder County Land Use Code as described above.