Boulder County

Land Use

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BOULDER COUNTY
BOARD OF COUNTY COMMISSIONERS

November 17, 2011 – 10:30 AM
Hearing Room, Third Floor
Boulder County Courthouse

Staff: Abby Shannon, AICP

Authorization of Land Use Code Text Amendments – Agricultural Uses
Authorization of text amendments to the Boulder County Land Use Code Articles 4 and 18 related to principal and accessory agricultural uses including but not limited to definitions, allowed zone districts, use-specific criteria, and required land use processes. This docket may propose new use classifications or propose to modify or delete existing classifications. Other related issues will be addressed as identified through the public process.
Public testimony will not be taken – Action requested

Summary
Updating the Land Use Code has been a stated Commissioner priority since 2005. During that year, the Land Use Department spent a great deal of time talking with homeowners, holding meetings with a variety of stakeholder groups, and publically reviewing the Code. This process resulted in a 40-page issues list which was presented to the Planning Commission and the Board of County Commissioners. In January 2009, the Board held a public hearing to review the status of that list and to prioritize that projects that remained. We have updated this list to include the projects accomplished since that time (see Exhibit A).

Project Goals
Agricultural preservation has long been a cornerstone goal in the Boulder County Comprehensive Plan. Preserving agriculture, providing buffers between the cities, maintaining scenic vistas, and protecting this sector of the local economy are all identified as goals in the Comprehensive Plan. This project will not waiver from these long-established county goals. The Land Use Code has been amended in the past with different regulatory processes that supported and encouraged agriculture. Such amendments include the creation of the Non-Urban Planned Unit Development (NUPUD) subdivision in 1978 which rewarded farmers who protected land in a conservation easement with a density bonus, and the creation of the Demonstration Farm use in 2006 which allows farmers to offer education in agricultural and farming practices. Through this project, Boulder County will continue to encourage and support the long term viability of a diverse farming community.

The specific goals of this docket could evolve as we hear from the public, Planning Commission, and the Board of County Commissioners. The following goals have been identified so far:

- Modernize and modify use classifications including adding or deleting use classifications where necessary.
- Consider agriculturally-based activities that supplement farming.

Cindy Domenico *County Commissioner* **Ben Pearlman** *County Commissioner* **Will Toor** *County Commissioner*

- Consider local food production at a residential scale while maintaining neighborhood character.
- Consider local food production, sales, marketing, and production of value-added products while continuing to be compatible with rural character.
- Encourage energy efficient and modern farming practices such as passive solar greenhouses while continuing to be compatible with rural character.
- Consider the appropriate scale of rural and agricultural development including structure size.

Included with this memo are some of staff's identified issues that should be considered in these amendments (see Exhibit B).

Authorization and Timeline

Staff seeks the Board's authorization of this docket as required by Art. 16-100.A. of the Land Use Code.

Staff has scheduled a joint Planning Commission and County Commission study session where both boards will have the opportunity to hear directly from farmers about farming and how the agricultural provisions in the Code could be improved. This study session is scheduled for the afternoon of Wednesday, December 14, 2011 at 1:30 pm. It will also be an opportunity for Planning Commission and the Board to have a discussion about the goals of this project. Public testimony will be taken on December 14, 2011.

In the meantime, staff will be researching how other local governments deal with similar goals and challenges and how changes would be reviewed within existing Land Use processes. We will also be working with stakeholders to address their concerns with existing definitions and regulations. There will be multiple public hearings with the Planning Commission and the Board of County Commissioners to review staff's recommended changes and to hear from the public on these future proposals. Staff intends to have this project complete by Spring 2012.

Attachments

Exhibit A	Land Use Code Update – List of Accomplishments to Date
Exhibit B	Preliminary List of Staff-Identified Issues

Land Use Code Update – List of Accomplishments
Updated November 2011

We have accomplished a number of objectives in modernizing the Land Use Code since this project began in 2005. This list of accomplishments was first published for a public hearing with the Board of County Commissioners on January 15, 2009. It has been updated to reflect the code amendments that have been approved since that time.

The status update includes the docket number and a brief description of how that docket accomplished the objective. Please note the objectives listed are not necessarily objectives the County has agreed are worth pursuing. This is a list that combines issues and concerns with the Land Use Code raised by the County Commissioners, Planning Commission, staff, and the public. The descriptions also include the date of final action and the effective date.

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1. Change references from "septic systems" to "onsite wastewater systems" throughout the Code.
STATUS: Docket #DC-09-001 *made this correction.*
Approved by BOCC, 5/21/2009
Effective, 5/26/2009

3. Delete all references to the Colorado Land Use Commission from the Code.
STATUS: Docket #DC-09-001 *made this correction.*
Approved by BOCC, 5/21/2009
Effective, 5/26/2009

4. Clarify that photovoltaic cells are considered appurtenances under 18-120 Building Height, and therefore are excluded from the measurement of building height.
STATUS: Docket #DC-08-001 *didn't make changes to the definition of building height but it did create an allowance for roof-mounted solar panels to exceed the maximum building height in certain situations.*
Approved by BOCC, 6/16/2009
Effective, 6/30/2009

11. Better identify in a preamble the relationship and foundation of this Code to the Constitution, State Regulations, and the Boulder County Comprehensive Plan; identify the roles and responsibilities outlined in State regulations.
STATUS: Docket #DC-09-0005 *added a preamble to Article 4 Zoning which was taken directly from the Forward to Boulder County's first zoning resolution, adopted on February 4, 1944. The intent of adding this paragraph was to provide a broad and historic context for the practice of zoning and planning.*
Approved by BOCC, 10/14/2010
Effective, 11/4/2010

21. Consider a mountain TDR program
STATUS: Docket #DC-05-002h *effectively achieved a mountain TDR program because the expanded program applied to all areas of the unincorporated County, not just the plains area as in the earlier TDR program.*
Approved by BOCC, 6/12/2008

Effective, 8/8/2008

27. Acknowledge that much of the undeveloped land in the County is irregular or unusual.

- **Encourage flexibility and creativity**
- **"Grandfather" in more non-conforming existing conditions.**

STATUS: Docket #DC-09-005 *made revisions to the Use of Community Significance use classification which makes it easier for a non-conforming use which is valued by the community to come into conformance with the Code. This docket also created a Camp use classification for the first time and establishes a by-right process of compliance for legally existing camps not seeking to enlarge over established review thresholds.*
Approved by BOCC, 10/14/2010
Effective, 11/4/2010

34. Make the notice provisions for all processes consistent

- **Notice area should be the same for all applications**
- **Better utilize the internet to provide information on applications to interested parties**

STATUS: *Postcard notices with web-based referral materials has been utilized for Site Plan Review since February 2007.*
Docket #DC-08-002 *allowed postcard notices with web-based referrals for all dockets.*
Approved by BOCC, 7/3/2008
Effective, 7/10/2008

39. Add a definition of Legal Access to the Land Use Code.

STATUS: *A definition for legal access has not been added directly to the Land Use Code but it is described in the Boulder County Multimodal Transportation Standards in section 2.6.*
Adopted by BOCC, 12/16/2010
Effective, 1/1/2011 and incorporated by reference into the Land Use Code

41. Ensure compatibility between the floor area calculation methods in the Code and in the Building Code

STATUS: Docket #DC-05-002h *revised the site plan review criteria for consistent measurements between the Land Use Code and the Building Code.*
Approved by Board of County Commissioners, 6/12/2008
Effective, 8/8/2008

43. For development of a significant size (beyond "sustainability") require mitigation in the areas of energy and water use and building material reuse

- **Look at impact fees as a way to off-set the increased impacts of large size development**
- **Use the purchase of a TDR to off-set increased impacts**

STATUS: Docket #DC-05-002h *requires the purchase of transferable development credits to mitigate for the impacts of significant residential development.*
Approved by BOCC, 6/12/2008
Effective, 8/8/2008

Docket #DC-05-002d *revised the Building Code to require greater energy efficiency as residential structures grow larger.*
Approved by BOCC, 4/8/2008

Effective, 5/1/2008

Docket #DC-09-0004 *clarified provisions related to Development Credits as part of the BOCC-requested 6-month review of the regulations.*
Approved by BOCC, 12/2/10
Effective, 12/2/10

Docket #DC-10-0007 *refined the number of credits required to mitigate the impacts of larger development.*
Approved by BOCC, 12/2/10
Effective, 12/2/10

59. Look at exemptions from SPR without an associated structure

- **Earthwork requiring a Floodplain Development Permit**
- **Access Permits issued by the Transportation Department**
- **Applicability of SPR in cases where only utilities are being installed**

STATUS: Docket #DC-10-0004 *clarified one of these items. Previously, all access permits triggered the Site Plan Review Waiver process. Now, only those access permits that would cause more than 50 cubic yards of grading trigger a review.*
Approved by BOCC, 12/16/2010
Effective, 1/1/2011

65. Continue to notify adjacent property owners and consider the input of neighbors in reviewing SPR applications

- **Input of the neighbors needs to be considered in determining the character of the area**
- **Institute a simple postcard notice to all property owners in a "neighborhood" directing them to the website and giving them the planner's name and phone**

STATUS: *Postcard referral notification for adjacent property owners has been utilized since February 2007. This did not require any changes to the text of the Land Use Code.*
Effective, February 2007

82. Set objective criteria to determine allowed building size

- **Use zoning district setbacks and height limits to define appropriate house size**
- **In defining neighborhood character, use the median size of other houses instead of the average house size to determine what is compatible**
- **The size of a new home should not be required to be smaller than a square footage that is 10% greater than the largest house within a 1500 foot radius**
- **Home size should be determined by the homeowner's needs not neighbor's preferences**
- **The method used to measure house size is meaningless and arbitrary – the counting of covered decks and protruding eves does not make sense**
- **Regulations on house size need to be made clear and predictable; adopt requirements for the mitigation of the off-site impacts associated with very large home**

STATUS: Docket #DC-05-002h *revised the Site Plan Review criteria to set an objective definition of "neighborhood;" defined a presumptive compatible size (125% of the median); removed covered decks from counting toward the total residential square footage; impacts of very large homes are mitigated through the purchase of transferable development credits.*
Approved by BOCC, 6/12/2008

Effective, 8/8/2008

Docket #DC-09-0007 further refined the neighborhood compatibility and factors to overcome the presumption provisions as part of the BOCC-requested 6-month review of the regulations.
Approved by BOCC, 9/1/09
Effective, 9/9/09

91. Objectively define neighborhood character

- **Establish criteria to be used to define allowable sizes and uses in specific areas**
- **Use a design guideline checklist to communicate what constitutes neighborhood character**

STATUS: Docket #DC-05-002h presumes that a house not larger than 125% of the median of the defined neighborhood fits in with the character of the established neighborhood. Townsites are also defined as neighborhoods and have the ability, through the Townsite Planning Initiative, to further define the character of the townsite.
Approved by the Board of County Commissioners, 6/12/2008
Effective, 8/8/2008

Docket #DC-09-0007 further refined the neighborhood compatibility and factors to overcome the presumption provisions as part of the BOCC-requested 6-month review of the regulations.
Approved by BOCC, 9/1/09
Effective, 9/9/09

98. Eliminate Mergers

- **Eliminate the Single-Deed Merger Policy**
- **Eliminate the Mountain Merger Policy**
- **Use SB67 criteria to identify merged properties, regardless of when the merger took place**
- **Determine how to handle the issue of legal access in looking at rescinding the mountain merger regulations**

STATUS: Docket #DC-05-002a rescinded the mountain merger. The single-deed merger provision is an effective tool for describing parcels and is not being considered for change.
Approved by the Board of County Commissioners, 5/18/2006
Effective, 7/8/2006

114. Allow administrative review of an approved subdivision exemption which has expired due to the applicant not fulfilling post-approval requirements

- **Set a time limit under which this review could be done – five years from approval date**

STATUS: Docket #DC-08-005 gives the BOCC the ability to grant two one-year extensions in order for applicants to complete the post-approval requirements.
Approved by the Board of County Commissioners, 10/7/2008
Effective, 10/21/2008

116. Develop Green Building Guidelines

- **Reduce fees for development which utilizes green building**
- **Only adopt a Green Building requirement if it truly mitigates the impacts of development; don't institute a program just to say the County supports Green Building**

- **Look at the overall zoning and land use policies to ensure that all are promoting low impact/green development – i.e. do the land use policies increase traffic by not allowing for clustered and mixed use development**
- **Incorporate policies to encourage and reward decreased water use**
- **Ensure compatibility with the City of Boulder's Green Points program**
- **Use incentives to promote green building – no mandates**
- **Enact a renewable energy mitigation program**
- **Require all development include a construction and demolition recycling and reuse plan**

STATUS: Docket #DC-05-002d *revised the Building Code to require energy efficiency, on-site recycling during construction, deconstruction (as opposed to demolition) of existing structures/square footage.*
Approved by the Board of County Commissioners, 4/8/2008
Effective, 5/1/2008

117. Allow for alternative energy in the County, even if the structures needed for this do not meet our regulations – i.e. wind mills exceeding the height limits

STATUS: Docket #DC-08-001 *expanded the opportunities for noncommercial renewable energy systems including a higher allowed height for wind turbines. It also allows roof-mounted solar panels to exceed the roofline if it will help achieve proper solar orientation.*
Approved by the Board of County Commissioners, 6/16/2009
Effective, 6/30/2009

118. Expand the agricultural uses allowed in the RR zone district.

- **Ability to sell products grown on parcels under the same ownership or control, including temporary sales**
- **Agricultural product processing and storage**
- **Commercial nursery**

STATUS: Docket #DC-05-002b *added Commercial Nursery and Farm Stand as allowable uses on unsubdivided parcels in the Rural Residential zone district; added Demonstration Farm as a use accessory to Open Agricultural in the Agricultural and Rural Residential zones; added Farm Stand as a temporary use; amended the definition of Agriculture to be more inclusive.*
Approved by the Board of County Commissioners, 9/12/2006
Effective, 10/16/2006

119. Review the uses allowed on properties zoned Ag.

- **Ensure the protection of agricultural heritage by promoting the agricultural use of properties**
- **Define commercial Ag operations (for example, Open Ag Use (grazing)) by using either the number of animal units per acre or a monetary return from the sale of Ag products**

STATUS: This issue will be included in the scope of work for the upcoming Agricultural Land Use Code amendments docket.

122. Review allowable "Home Occupations" on Ag property

- **The ability to engage in a home occupation on ag property allows the owner to supplement the income form that property and keep the land in ag production**

- **Home occupations should be presumptively allowed unless and until there is a complaint or off-site impact. If off-site impacts are found, special use should be used to mitigate the impacts.**

STATUS: This issue will be included in the scope of work for the upcoming Agricultural Land Use Code amendments docket.

125. Update the 1041 map for threatened and endangered species.

STATUS: In the works. Parks and Open Space staff has been asked to help Land Use staff with this map. It will be finalized and adopted as staffing allows.

140. Increase the regulation of churches to mitigate their impact on neighborhood character.

STATUS: Docket #DC-09-005 **didn't increase the regulation of churches – they are still a use by right in most zone districts and only require special use review if they meet one of the standard review triggers. This docket did, however, specify appropriate intensity of development for all Community uses (not just churches) as it relates to parcel size which helps mitigate the impact on neighborhood character.**
Approved by BOCC, 10/14/2010
Effective, 11/4/2010

141. Accessory Dwelling Units and Structures

- **Expand the Accessory Dwelling Unit Definition to include housing for Family Care**
- **Clarify requirements for a bathroom in an accessory structure**
- **Allow Accessory Dwelling Units as a use by right in cases where the property is greater than 5 acres in size; by special review on smaller parcels**
- **Limit Accessory Dwelling Units to 1000 square feet in size**
- **Require that the occupant of an Accessory Dwelling Unit provides household, ranch or estate maintenance services if that occupant is not related to the owner of the property**
- **Allow for accessory detached clubhouse or recreational facilities with kitchen facilities and a bath for entertaining on a parcel with a Single Family Dwelling**
- **Allow for an accessory structure to be used as an office**

STATUS: **The definition of ADU includes family care units; family care units are limited to 700 sq ft and agricultural worker units are limited to 1,800 sq ft; agricultural worker units can only be obtained if the applicant adequately demonstrates the worker is substantially employed in the farming for the property; accessory** structures **may be used for offices but not accessory** dwellings.
Docket #DC-08-005 **simplified the process for family care units from Special Review to Limited Impact Special Review.**
Approved by Board of County Commissioners, 10/7/2008
Effective, 10/21/2008

144. Define the allowed rental duration for a single family dwelling – not covered under lodging or resort uses.

STATUS: Docket # DC-07-002 **created a new use classification called Lodging in a Dwelling which allows short-term vacation-type rentals of homes.**
Approved by Board of County Commissioners, 10/30/2008
Effective, 11/6/2008

146. Review Campground and Resort Lodge/Conference Center uses to determine how to classify uses such as the Boy and Girl Scout Camp.

- **These uses can include recreational uses above camping and horseback riding (i.e. climbing walls, shooting ranges) as well as large meetings rooms**
- **In some cases the facility is rented to a non-scout group.**

STATUS: Docket #DC-09-005 **created a new use classification called Camps. It also clarified the Resort Lodge/Conference Center use.**
Approved by BOCC, 10/14/2010
Effective, 11/4/2010

148. Clarify nonconforming use regulations.

- **Clarify the treatment of accessory uses on the same parcel as the nonconforming use**
- **Allow for reasonable upgrades to a nonconforming use**
- **Establish a simple review process whereby nonconforming uses can become conforming based on the parameters outlined in the Code for uses allowed by Special Use in that zone district.**

STATUS: Docket #DC-09-005 **expanded the Use of Community Significance classification to provide a path for compliance for nonconforming uses that are valued by the community.**
Approved by BOCC, 10/14/2010
Effective, 11/4/2010

150. Review the Special Use Review Process.

- **Ensure that pre-application meetings are productive and give applicants all the necessary information and to understand what they can reasonable expect to do with their property**
- **Allow for some modest additions and incremental changes under one Special Use approval**
- **Review the Standards and Conditions for approval of a Special Use to ensure that they are not vague and subjective**
- **Eliminate Special Use for small scale projects**

STATUS: Docket #DC-09-005 **provides better expectations of what can be approved for Community and Lodging Uses. This docket clarified the Modifications of a Special Review section so that modest changes can be reviewed and approved without applying for a new Special Use review. Two of the standards were expanded and one was expunged. An introductory paragraph was added to provide a description and context for the Special Review and Limited Impact Special Review processes.**
Approved by BOCC, 10/14/2010
Effective, 11/4/2010

152. Allow for kids camps (art camp or farm camp) in the RR zoning district.

STATUS: Docket #DC-09-005 **created a new use classification called Camps and they are allowed in the Agricultural zone. This would allow farm camps as suggested. Camps are not a permitted use in the Rural Residential zone.**
Approved by BOCC, 10/14/2010
Effective, 11/4/2010

153. Institute Trip Demand Management for certain types of commercial and institutional uses.

STATUS: Docket #DC-09-005 *allows large Community uses to mitigate impacts through multimodal transportation management strategies.*
Approved by BOCC, 10/14/2010
Effective, 11/4/2010

Methods and standards to evaluate trip demand management were included in the Boulder County Multimodal Transportation Standards.
Adopted by BOCC, 12/16/2010
Effective, 1/1/2011

187. Add "Areas and Activities of State Interest" to the Application Submittal Requirements Chart.

STATUS: *This was accomplished administratively. The chart is for illustrative purposes only and the correction was not a change in policy.*

204. Rework road standards to ensure compatibility with the County's Road Standards (7-600).

STATUS: *The Boulder County Multimodal Transportation Standards replaced the previous Boulder County Transportation Standards which was last adopted in 1983.*
Adopted by BOCC, 12/16/2010
Effective, 1/1/2011

Docket #DC-10-0004 *removed many of the design standards that were found in Article 7 and instead relies on the Multimodal Transportation Standards.*
Approved by BOCC, 12/16/2010
Effective, 1/1/2011

212. Add criteria to Article 10 – Vacations of Public Roads, Alleys and Easements – for approval of a vacation.

STATUS: Docket #DC-09-0009 *added criteria specific to the Eldora townsite only. This suggestion could still be implemented throughout the unincorporated county.*
Approved by BOCC, 10/20/2009
Effective, 11/3/2009

228. Clarify that building permits are not required for one-story detached accessory buildings so long as the total square footage of the accessory building(s) does not exceed 120 square feet and the building(s) does not have plumbing or electricity (Section 17-300).

STATUS: Docket #DC-09-0010 *clarified the provision for accessory structures that do not require building permits. This docket also allows slightly larger loafing sheds (200 sq ft) and multiple unpermitted sheds depending on the size of the parcel.*
Approved by BOCC, 11/10/2009
Effective, 11/19/2009

230. Change the Board of Adjustment term from one year to three years.

STATUS: Docket #DC-09-001 *accomplished this.*
Approved by BOCC, 5/21/2009
Effective, 5/26/2009

241. Clarify in 3-203.B.1.d and C.1 that a Wildlife Impact Reports may be prepared by a wildlife expert retained by the Parks and Open Space Department, not the Land Use Director.

STATUS: Docket #DC-08-005 *clarified this provision.*
Approved by Board of County Commissioners, 10/7/2008
Effective, 10/21/2008

244. Change references to the Boulder County Undesirable Plant Management Plan to Noxious Weed Management Plan.

STATUS: Docket #DC-09-001 *made this correction.*
Approved by BOCC, 5/21/2009
Effective, 5/26/2009

247. Review the applicability of SPR to non-cloth shade structures for nursery uses

- **Shade structures made of cloth do not require building permits, but shade structures made of 1x2 inch lath do require a building permit which pushes them into SPR**

STATUS: This issue will be included in the scope of work for the upcoming Agricultural Land Use Code amendments docket.

258. Ensure floodplain, flood fringe, and floodway regulations are consistent throughout the Code.

STATUS: Docket #DC-09-001 *made clarifications to the definition of Substantial Improvement as it relates to the Floodplain Overlay zone.*
Approved by BOCC, 5/21/2009
Effective, 5/26/2009

The Board has approved other text amendments since 2005 that, while specifically listed on the Code Update Issues list, have helped clarify and modernize the Code.

Docket #DC-05-001 Amendments to the Sign Code (Article 13)

Amended Article 13 including a revised definition of Noncommercial Sign *and other minor changes.*

STATUS: Approved by the Board of County Commissioners, 5/11/2006
Effective, 6/9/2006

Docket #DC-05-002G Amendments related to Zoning Enforcement

Amended sections of Articles 2, 14, and 17 related to code enforcement and moratoria powers as a result of amendments to the Colorado Revised Statutes.

STATUS: Approved by the Board of County Commissioners, 4/3/2007
Effective, 4/10/2007

Docket #DC-05-003 Amendments to the Niwot Rural Community District

Amended Section 4-116 to add Commercial Bakery as an allowed use within the NRCD.

STATUS: Approved by the Board of County Commissioners, 7/14/2005
Effective, 7/19/2005

Docket #DC-05-004 Amendments related to stormwater management and erosion control

Amended sections of Articles 7 and 18 to add provisions regarding stormwater quality and management in the urbanized areas of the unincorporated parts of the county to meet the County's obligations under the Federal Clean Water Act.
STATUS: Approved by the Board of County Commissioners, 8/11/2005
Effective, 8/18/2005

Docket #DC-06-001 Adaptive Reuse of Historic Structures
Amended Sec. 4-506 to add flexibility to existing adaptive reuse provision for structures designated historic by Boulder County.
STATUS: Approved by the Board of County Commissioners, 2/22/2007
Effective, 2/27/2007

Docket #DC-07-001 Home Events
Created a new Accessory use classification called Home Events in Article 4.
STATUS: Approved by the Board of County Commissioners, 2/22/2007
Effective, 2/27/2007

Docket #DC-08-004 Correction to Golf Course Use
Amended Article 4 of the Land Use Code to correct an error in Docket #DC-03-08 by allowing (though Special Review) Golf Courses in the Multifamily Zoning District that legally existed as of April 20, 2004; and to make explicit in the Agricultural zoning district that the Resort Lodge use allowed by Special Review also covers uses legally existing as of April 20, 2004
STATUS: Approved by the Board of County Commissioners, 10/23/2008
Effective, 10/23/2008

Docket #DC-09-0003 Niwot Rural Community District (NRCD) II
Text and map amendments to create a new zoning district for the residential areas of old town Niwot.
STATUS: Approved by the Board of County Commissioners, 7/16/2009
Effective, 7/21/2009

Docket #DC-09-0006 Text Amendments to Articles 4 and 13
Land Use Code amendments adding Home Events to lists of permitted uses (4-101 through 4-112 and 4-117), allowing renewable energy systems as permitted multiple principal use (4-101 through 4-112 and 4-117), adding Kennels as an allowed use in Forestry through Special Review (4-503), adding renewable energy systems and wildlife rehab to Applicability of Site Plan Review (4-802), and clarifying the sign code (13-500).
STATUS: Approved by the Board of County Commissioners, 8/18/2009
Effective, 8/25/2009

Docket #DC-10-0002 Text Amendments to Article 4 – Medical Marijuana Centers
Zoning regulations governing facilities that sell or dispense medical marijuana, including the growing and/or processing of medical marijuana.
STATUS: Approved by the Board of County Commissioners, 6/8/2010
Effective, 6/8/2010

Docket #DC-10-0003 Eldorado Springs
Land Use Code amendments stemming from the Eldorado Springs Townsite Planning Initiative
STATUS: In process

Docket #DC-10-0006 Fourmile Canyon Fire – Land Use Code Text Amendments
Land Use Code text amendments (including amendments to the Building Code) to add Article 19-100 to facilitate rebuilding of structures damaged or destroyed in the Fourmile Canyon fire.
STATUS: Approved by the Board of County Commissioners, 10/21/2010
Effective, 10/26/2010

Docket #DC-11-0001 Solar Gardens and Commercial Solar Energy Systems
Land Use Code text amendments to better facilitate statewide Solar Gardens legislation and to allow small to medium sized commercial scale solar energy power generation facilities. This docket includes amendments to Art. 4-514(J) Small Solar Energy Systems and 4-514(E) Major Facility of a Public Utility; a new use classification for Medium Solar Energy System or Solar Garden as a principal use; and a new use classification for Large Solar Energy System.
STATUS: Approved by the Board of County Commissioners, 4/19/2011
Effective, 5/3/2011

Docket #DC-11-0002 A Variety of Policy Clarifications to Articles 3, 4, 8, 9, and 18
Land Use Code text amendments related to: Conservation Easement-holder signatures on applications, the classification of garage sales, cumulative square footage increases as a trigger for SPR, factor to overcome the SPR size presumption if a project already exceeds the allowable size, determiner of adequate water supply in 1041 applications, missing word in Subdivision Exemption section, and definition of Building Lot.
STATUS: Approved by the Board of County Commissioners, 4/14/2011
Effective, 4/19/2011

DC-11-0003 Agricultural Uses
Preliminary Issue Identification for Each Agricultural Use Classification

Listed below are all of the use classifications that involve agricultural uses. These may (or may not) be amended as a function of the upcoming docket. Each use is included as it currently exists in the Land Use Code. Below the Code language in italics are questions, possible ways the classification could be amended, and other general thoughts. Also included are definitions found in the Land Use Code, related excerpts from the Building Code, and a list of uses that are not explicitly addressed in the Land Use Code.

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
5. Additional Provisions: None

- *Special Use is a big process for small-scale processing. Small-scale could be defined as a structure smaller than a certain size (similar to Custom Meat or Poultry Processing Facility)?*

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.

- *Given the intensity, SU is probably the appropriate process. Has staff or the public had issues with this use classification?*

C. 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.

- *Should retail sales be permitted – similar to Accessory Agricultural Sales?*

D. 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.

- *Have we had issues or confusion with this use classification? Anything that needs to be changed?*
- *Is this an Agri-Business? Should it be classified with Community Uses instead (if so, it would be subject to the size thresholds)?*
- *Consider including sport-birding (such as falconry, pigeons)? Accessory to residential? Licensing through other agencies may be required.*

4-502 Agricultural Uses

A. 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 either wholesale or retail.

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.

- *How is this use different from Intensive Ag? Could the two be condensed into one?*
  - *Perhaps these uses could be better defined as Wholesale Nursery (no retail, ag use) or Retail Nursery (retail sales, commercial use). Examples in the county – The Tree Farm, 11868 Mineral Rd; Harlequin's Gardens, 4795 N 26th St*
- *Should Commercial Nursery be an Agri-Business instead?*

B. 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.

- *Consider overnight camping associated with competitive events (SU is already the required process for competitive events)?*
- *Perhaps Horse Boarding and Equestrian Center need to be separate use classifications?*

C. Farm Stand

1. Definition: A location for the sale of agricultural and horticultural products for more than 42 days in a calendar year. The products for sale may include, but are not limited to, the sale of seasonal produce, which does not have to be grown on-site.

2. Districts Permitted: By right in B, C, and GI; by limited impact special review in A, and in RR on unsubdivided land.

3. Parking Requirements: One space per 200 square feet of floor area.

4. Loading Requirements: One loading space for 10,000 or more square feet of floor area.

5. Additional Provisions:

a. One single family dwelling, occupied by the owner, operator, or manager of the business will be considered customary and incidental as a part of this use.

b. No more than ten percent of the Farm Stand sales may be of nonagricultural or nonhorticultural products.

c. This use requires a building lot.

- *This use meant for products NOT grown on-site (like a produce-only grocery store) but is frequently confused with Accessory Agricultural Sales.*
- *Should this use function like the Boulder Farmers Market? If so, perhaps change the name of the use to Farmers Market and remove or increase the percentage in 5.b?*

D. Intensive Agricultural Uses

1. Definition: Agricultural uses where the principal nonresidential use of the property is contained within one or more structures, including but not limited to agricultural storage facilities, accessory greenhouses 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: 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. Accessory Sales associated with Intensive Agricultural Uses shall conform to the requirements of section 4-516.A.

b. One single-family dwelling, occupied by the owner, operator, or manager of the farm, would be considered customary and incidental as a part of this use.

- *How is this use different from Commercial Nursery?*
- *Should the definition include a maximum square footage allowance for agricultural structures to better differentiate from Open Ag? Relate to parcel size? Would it need to differentiate between permanent structures and semi-permanent structures (such as hoop houses)?*
- *Do the parking and loading requirements make sense?*

E. Open Agricultural Uses

1. Definition: Agricultural uses which do not have structures, other than accessory structures, associated with their operation, including but not limited to the grazing, keeping and use of livestock, the production of agricultural or horticultural products, and accessory storage.

2. Districts Permitted: By right in F, A, RR, ER, LI, GI, and MI

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. 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. Accessory Sales associated with Intensive Agricultural Uses shall conform to the requirements of section 4-516.A.
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 predominately 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.

(i) 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. A demonstration farm (as defined in section 4-516) may be allowed as an accessory use by limited impact special review in A, and in RR on unsubdivided land.

- *Do the parking and loading requirements make sense?*
- *In 5.b., change "Intensive" to "Open." (This is a typo.)*
- *In 5.d., could refer the reader to the Equestrian Center use rather than repeat this information; OR could remove from Open Ag and add a use classification for Horse Boarding.*
- *5.f. is redundant –principal uses generally do not identify possible accessory uses.*
- *Should the definition include a maximum square footage allowance for agricultural structures to better differentiate from Intensive Ag? Relate to parcel size? Would it need to differentiate between permanent structures and seasonal structures (such as hoop houses used for the beginning of the growing season but removed once the weather is warm enough)?*

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 sales.
2. Districts Permitted: By right in F, A, RR on unsubdivided land, ER, LI, GI, and MI
3. Parking Requirements: None
4. Loading Requirements: None
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.

- *This use is commonly thought of as a Farm Stand. Perhaps we could consolidate the various ag sales into one category and base the review process on whether the products are from onsite, offsite, or if the sales are temporary in nature.*
- *Explicitly state that Community Supported Agriculture (CSA) pick-up is allowed under this use as well? Although not all CSAs contain at least 90% of products from the same farm but they serve as a distribution point...*
- *Explicitly state that structures are not permitted for this use (if we don't want structures – not sure that is the case); OR create some "pre-approved" design options whereby only a BP would be required*

D. 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. (*not included*)

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.

- *Are any changes needed?*
- *Should this capture housing for seasonal workers? Housing options that do not meet the definition of Dwelling (such as bunkhouses which don't have kitchens)?*

E. 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.

- *Is this use classification necessary? The zone districts already specific where animal units are allowed.*
- *Is ½ an acre enough space for a horse?*

F. 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.

- *Are any changes needed? Should the agricultural exemption be better described?*

H. 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.

- Should this differentiate between accessory residential structures and accessory agricultural structures?
- Should "subordinate" be defined?
- Should Accessory structure describe what types of structures are considered Residential Floor Area (RFA) and which would be considered agricultural square footage?
    - Greenhouse accessory to a residence – RFA or Ag?

I. Demonstration Farm

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.

2. Districts Permitted: By limited impact special review in A and in RR on unsubdivided land.

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. A related educational facility, including a kitchen for food preparation, may be approved as part of the Demonstration Farm use.

b. This use does not include commercial, institutional, lodging, or recreational uses such as hay rides, petting zoos, corn mazes, day-care centers, or summer camps.

- Are any changes needed?
- Allow demonstration farm as an accessory use to other (any?) Agricultural or Agribusiness use?
- Should there be a level of education/tours that is allowed as a use by right?
- Should Demonstration Farms be allowed in other zone districts?

J. 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:

- *Should we define "normal grading activity associated with agriculture?"*
- *Reiterate that any grading that occurs in a floodplain requires a floodplain development permit, even if the grading is otherwise exempt from a review process?*

4-517 Temporary Uses

G. Temporary 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 which are not grown on-site may comprise no more than ten percent of 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: 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. The Temporary Farm Stand may include agriculturally based recreation activities.

- *It doesn't make sense that 90% of sales must come from products grown on site but Open Ag and Intensive Ag are not permitted uses in B or C. Should this use allow seasonal agricultural products to be grown offsite instead?*
- *Create a Temporary Seasonal Sales use instead that captures all types of seasonal sales – pumpkins, fireworks, Christmas trees, etc.?*
    - *Not to exceed 42 days*
    - *LISR should be the process, need to discuss which zone districts are appropriate*
    - *LISR approval can be OK'd on an ongoing (annual) basis provided the characteristics of the approval do not change?*
- OR *merge all Farm Stand uses together and base the review process on the intensity of the proposal?*

Article 18 Definitions

Amendments to the definitions related to agriculture may not be necessary at this time, but I wanted to include these in case we would like to have a discussion to help determine the scope of the project. Are there definitions we should add? Greenhouse? Hoop house? Shade cloth structure (used in the building code)?

18-104 Agriculture

Uses involving the cultivation of land, production of crops, raising, breeding, and keeping of livestock, and the buying and selling of crops, products or livestock associated with the agricultural operation. Agriculture specifically does not include commercial, institutional, lodging, or recreational uses such as petting zoos, day-care centers, or summer camps.

18-105 Agricultural Products

Products intended for direct human or animal consumption such as vegetables, fruits, dairy products, eggs, grains, meat, poultry, fish, honey, hay, bedding plants and wool.

18-108 Animal Unit
A term used to establish an equivalent density for various species of livestock. The following animals shall have the following animal unit equivalents:

Animal Type	Animal Units
Cattle/Buffalo/Horse	1/animal unit
Horse (34 inches or less at withers)	5/animal unit
Swine/Ostrich	5/animal unit
Goat/Sheep/Llama	5/animal unit
Poultry	50/animal unit
Mink and similar fur bearing animals	50/animal unit
Other Livestock	1/animal unit

- *Perhaps the animal units as defined are fine but the allowable animal units per acre in some zone districts should be changed? In Ag, LI, and GI, parcels are allowed to have 4 animal units per acre. In F, RR, ER, and MI, parcels are allowed to have 2 animal units per acre. SR and MF can have horses (1 per ½ acre of pasture) but no chickens or goats.*

18-110A Arena, Equestrian
An improved area, generally fenced, of at least 30 feet in width or length within which equestrian activities involving horse riding or driving occurs.

18-149 Farm
A parcel of land used for agricultural purposes.

18-150B Fish Farm
The hatching and raising of fish for the purpose of harvesting and sale. Fish farms are exclusive of recreational fishing operations.

18-168 Grading
Any excavating, filling or combination thereof. Grading is regulated by the appendix chapter titled "Excavation And Grading," of the most current edition of the Uniform Building Code, as published by the International Conference of Building Officials, 5360WorkmanMill Road, Whittier, California 90601, with the administration of the excavation and grading provisions otherwise being in accordance with the administrative provisions of the current edition of the Boulder County Building Code.

18-169 Grazing
The feeding of livestock or horses where more than 50% of the feed is produced on the immediate parcel and available to the animals as in place vegetation to sustain life.

18-170 Horticultural
Having to do with the growing of fruits, vegetables, flowers, or ornamental plants.

18-173A Livestock
Farm animals kept or raised for pleasure or profit. (See also 18-108)

18-203 Structure

A. A combination of materials forming an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, but excluding the following:

1. retaining walls;
2. fences not over 6 feet high;
3. platforms or decks not more than 30 inches above grade and not over any basement or story below;
4. utility mains, lines, and underground facilities; and
5. yard and play equipment.

B. A permanent structure is built of materials in a manner which would commonly be expected to remain useful for a substantial period of time.

C. A temporary structure is built of materials in a manner which would commonly be expected to have relatively short useful life, or is built for a purpose that would be expected to be relatively short-term in duration.

From the Building Code:

(I* deleted the items in this section that do not relate to ag.*)

105.2 Work Exempt from Permit. Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

1. One story detached accessory structures used as a storage shed, playhouse, greenhouse, chicken coop, agricultural loafing shed, or similar uses, provided:

a. The floor area of any structure does not exceed 120 square feet, except agricultural listed in item b. below.
b. Loafing sheds not exceeding 200 square feet,
c. Structures without utilities of less than 12 feet in height,
d. Structures that do not violate the conditions of any existing land use approval or conservation easement.
e. The number of detached accessory structures which may be constructed without a building permit shall be determined by the size of the subject parcel:
    i. One detached accessory structure may be constructed without a building permit on parcels 0.5 acres or less in size.
    ii. Two detached accessory structures may be constructed without a building permit on parcels greater than 0.5 acre and less than ten acres.
    iii. Three detached accessory structures may be constructed without a building permit on parcels 10 acres and larger.

8. Shade cloth structures constructed for nursery or agricultural purposes, and not including service systems.

- ***The Land Use Code contains the same language for small accessory storage structures (Art. 17-300A.1.a.) but not for shade cloth structures. Are hoop houses shade cloth structures?***
- ***Should the LUC exempt shade cloth structures? Should there by parameters by which some shade structures will be exempt while others will require BPs?***

Other Building-related Issues
Some farms plant in the early season, use hoop houses/high tunnels, and heat them with propane – not very energy efficient. Should we do something to encourage more efficient use of energy?

Use Not Specifically Listed
But maybe we would like to add new use classifications to the Code? Maybe not?

- Community Gardens – are these Open Ag or are they a different use?
- Pick-Yer-Own aka U-Pic aka Self-Service Fresh Produce – is this Open Ag with Accessory Sales or a different use?
- Agritainment (or Agritourism) – Agriculture meets entertainment (or tourism); could encompass seasonal events with or without agricultural product sales, petting zoos, and other non-traditional uses that may occur on agricultural land
- Farm-Based Special Events? Farm-to-Table dinners? Weekly CSA events? Annual get-to-know-your-farmer events? Or should it be grouped with Home Events? Should there be a use classifications that captures these types of events? Accessory use?
- WOOF (Worldwide Opportunities on Organic Farms). From www.wwoofusa.org: One-half day of volunteer help is traded for food and accommodation, with no money exchanged. How does the Code treat WOOFing?
    - A guest (accessory to residential)?
    - Agricultural worker? Lodging?
    - Is it ok to continue not explicitly describing this practice in the Code?
- Farm Stay (similar to a Bed Breakfast but you also work on the farm). B B is allowed in A and RR (among other zones) through Special Use
    - Does this need a separate use classification?
    - Change the B B review process to LISR if it is accessory to an agricultural use?
    - Or perhaps classify these as Guest Ranch and allow the guest ranch use in Ag through SU review?
    - No changes necessary (continue to consider it a B B and require SU review)?
- Small-scale farm-based restaurants – like a B B but you get dinner instead of breakfast. And you don't spend the night.
    - Is this a use we should consider?
    - What does "small-scale" mean? Cap the number of dinners/night?
    - Would this require a commercial kitchen by PH?
- Farming communities – multiple owners, multiple dwellings, working together on one farm.
    - Is this a use we should consider? (This was an idea that came up with the Agricultural Advisory Committee in 1999 and has recently resurfaced)
- Higher dependence on sales of value-added products – wine, jellies, preserved vegetables, pie
    - These do not currently meet the "agricultural products" definition in the Code
- Bee-keeping – Is bee-keeping allowed?
    - "Honey" is included in the list of Agricultural Products (18-105) but bees aren't listed in the DOW's list of domestic animals.
    - Do we need to establish an animal unit equivalency? (How do you count bees?)