

RESOLUTION 2015-43

A resolution approving Boulder County Land Use Docket #DC-13-0001: Proposed Text Amendments to Articles 1, 3, 4, 7, 8, 9, 13, and 17 of the Boulder County Land Use Code

Recitals

A. Pursuant to Title 30, Article 28, Part 1 of the Colorado Revised Statutes as amended, the Board of County Commissioners of Boulder County (“the Board”) is authorized to amend the text of the County’s Zoning and Subdivision Regulations in accordance with the procedures set forth in those provisions and the applicable County regulations.

B. Pursuant to other statutory authority, the Board is empowered to adopt additional regulations which are 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, respectively); Article 20 of Title 29 (Local Land Use Enabling Act); Articles 11 and 15 of Title 30 (County Powers and Police Power, respectively); Article 1 of Title 32 (Special District Control); and Article 2 of Title 43 (County Highways), C.R.S.

C. Pursuant to the above-referenced authority, by Resolution 94-185 adopted October 18, 1994, effective October 19, 1994, the Board approved a unified Boulder County Land Use Code (“the Code”), which the Board has amended on numerous subsequent occasions.

D. Article 16-100 of the Code allows for amendments to the Code.

E. In the present Docket, DC-13-0001 (the “Docket”), the Boulder County Land Use staff proposed text amendments to Articles 1, 3, 4, 7, 8, 9, 13, and 17 to correct and clarify miscellaneous provisions within the Code, all as further described in the memorandum and written recommendation to the Board by Boulder County Land Use Department Planning Staff dated February 5, 2015, together with its attachments (the “Staff Recommendation”).

F. Specifically, the amendments are to Article 3-205 Public Review; Article 4-409.B Appeals and Variances (Floodplain); Article 4-503.F Kennel; Article 4-512.N Vehicle Service Center; Article 4-802 Applicability and Scope for the Site Plan Review Process for Development; incorporate the Airport Regulations (Article 22, Part 8 of the February 1992 Boulder County Zoning Resolution) previously omitted from the 1994 Code revisions, as Article 4-119 Airport Overlay Zone (including four airport influence maps); Article 9-102 General Exemption Criteria; Article 13 Sign Regulations Governing Specific Zoning Districts. These amendments are set forth in the attached Exhibit A. Proposed deletions to the Code are shown as stricken, and proposed additions to the Code are shown in underline.

G. The Staff Recommendation also proposed amendments to change references to the “Boulder County Public Health Department” throughout the Code to “Boulder County Public Health” at that agency’s request. All references proposed for this amendment are listed in the attached Exhibit B.

H. The Board initiated these text amendments (the “Proposed Amendments”) at a Business Meeting on April 30, 2013. The existing text is in need of the proposed amendments in order to make the minor clarifications as described in the Staff Recommendation and the attached Exhibits A and B.

I. The Boulder County Planning Commission considered the Docket at a public hearing held May 15, 2013, and recommended approval and certified the Docket for action to the Board. After the Planning Commission hearing, the Docket was delayed due to County-wide flood recovery efforts.

J. At a public hearing on the Docket held February 12, 2015, the Board considered the Staff Recommendation as well as the documents and testimony presented by County Land Use Planning staff, with no members of the public speaking, as further reflected on the official record of the public hearing.

K. Based on the Staff Recommendation and the Public Hearing, the Board finds that the Proposed Amendments, specifically as set forth in the Exhibits A and B attached hereto and incorporated into this Resolution, meet the criteria for text amendments contained in Article 16 of the Code, in that the existing text is in need of amendment; the proposed amendments are not contrary to the Code but resolve some discrepancies and correct it, and they are in accordance with the Boulder County Comprehensive Plan.

L. The Board further determines that the proposed amendments as set forth in Exhibits A and B do not constitute or contain any substantial departure from the Docket as certified to the Board by the Planning Commission, and thus do not warrant any re-referral of the Docket to the Planning Commission.

Therefore, the Board resolves:

Docket #DC-13-0001 is approved on the basis and terms set forth in this Resolution, and the Proposed Amendments, specifically as shown on the attached Exhibits A and B incorporated into this Resolution, are approved for incorporation into the Boulder County Land Use Code, to be effective on this date.

A motion to approve the Docket was made by Commissioner Domenico, seconded by Commissioner Gardner, and passed by a 2-0 vote, with Commissioner Jones being excused.

ADOPTED as a final decision of the Board on this 5th day of March, 2015.

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


Deb Gardner, Chair



Elise Jones, Vice Chair


Cindy Domenico, Commissioner

ATTEST:



Clerk to the Board

EXHIBIT A TO DC-13-0001

Proposed Amendments to the Boulder County Land Use Code

Article 3-205.B. Planning Commission Review

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

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

Article 3-205.C. Board of County Commissioners Review

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

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

Article 4-409.B. Conditions for Variances

~~2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places without regard to the procedures set forth in the remainder of this section.~~

2. Variances may be issued for the repair or rehabilitation of designated historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

Article 4-503.F. Kennel

F. Kennel

1. *Definition: Any place or premises, other than a pet shop or veterinary clinic, used in whole or part for the purpose of keeping eight or more dogs or cats in any combination whether the animals are boarded or household pets.*
2. *Districts Permitted: By Special Review or Limited Impact Special Review in A; by Special Review in F and MI*
3. *Parking Requirements: One space per 300 square feet of floor area, with a minimum of two spaces.*
4. *Loading Requirements: None*
5. *Additional Provisions:*
 - a. *For kennels with eight to 12 dogs or cats:*
 - i. *the animals shall be kept a minimum of 100 feet from any property line or other mitigating circumstance exists or may be created which has the same or better mitigating effect; and*

- ii. kennels of this size require Limited Impact Special Review in the Agricultural zoning district, and Special Review in the Forestry and Mountain Institutional zoning districts.
- b. For kennels with more than 12 dogs or cats:
 - i. the animals shall be kept a minimum of 300 feet from any property line or other mitigating circumstance exists or may be created which has the same or better mitigating effect.
 - ii. kennels of this size require Special Review in all permitted zoning districts.
- c. If a single family dwelling is used as the holding facility for boarded animals, the use shall be limited to no more than 12 boarded animals but in no case shall there be more than 15 dogs including household pets or no more than 15 total cats including household pets, and the requirements of 5 (a) above shall apply.
- d. One single family dwelling, occupied by the owner, operator, or manager of the business will be considered customary and incidental as a part of this use.
- e. Kennels which legally existed on April 1, 2000 will be considered conforming at their present levels of use provided a site plan and description of the operation is submitted to the Land Use Department by December 31, 2000.

Article 4-512.N. Vehicle Service Center

1. Definition: A facility for the retail sale of gasoline and other petroleum products fuel for vehicles and/or where light maintenance or vehicle service activities such as engine tune-ups, lubrication, minor repairs, recharge of electrical vehicles, and carburetor cleaning are conducted.
2. Districts Permitted: By right in B, C, and GI
3. Parking Requirements:
 - a. One Space per gas pump, plus two spaces per service bay
 - b. One stacking space per service bay and car wash bay
4. Loading Requirements: none
5. Additional Provisions:
 - a. A one bay car wash may be accessory to the vehicle service center.
 - b. Electric vehicle recharge stations built in conjunction with and accessory to homes or businesses that are for use by the owners, employees, or customers of the homes or businesses shall not be considered Vehicle Service Centers.

Article 4-802 Applicability and Scope of the Site Plan Review Process for Development

- A. Site Plan Review shall be required for (unless not required or waived pursuant to sections B and C below):
 1. [not proposed for amendment]
 2. [not proposed for amendment]
 3. [not proposed for amendment]
 4. [not proposed for amendment]
 5. [not proposed for amendment]
 6. [not proposed for amendment]

7. Development occurring in a Rural Community District as described in the regulations for that District.

Article 4-119 Airport Overlay Zone

1. No structure or use shall create any unreasonable electrical interference with navigational signals for radio communications between airports and aircraft, make it unreasonably difficult for pilots to distinguish airport lights from others, result in glare in the eyes of the pilots using airports, unreasonably impair visibility in the vicinity of airports or otherwise in any way create a hazard or endanger the landing, take-off, or maneuvering of aircraft intending to use airports.
2. Except as otherwise provided in this article, no structure shall be erected, altered, or be maintained at a height which intrudes into the Airport Protection Surfaces, as defined by ~~Section 28-204C~~ Article 18-107. The location and boundaries of the Airport Protection Surfaces are designated in the following official maps, as amended, which are hereby incorporated into this Resolution for purposes of this regulation:
 - (A) That map entitled F. A.R. Part 77 Surfaces -Vance Brand Airport- prepared by Denver Regional Council of Governments and dated February 3, 1989.
 - (B) That map entitled F.A.R. Part 77 Surfaces -Boulder Municipal Airport- prepared by Denver Regional Council of Governments and dated January 27, 1989.
 - (C) That map entitled F.A.R. Part 77 Surfaces -Jefferson County Airport- prepared by Denver Regional Council of Governments and dated February 2, 1989.
 - (D) That map entitled Erie Airpark Tri-County Airport, Erie, Colorado - APPROACH PLAN prepared by Denver Regional Council of Governments and dated December 1, 1987. These maps shall be the official Boulder County Zoning Maps for the purpose of establishing height limits for structures hereunder and shall be kept on file and open to public inspection by the Zoning Administrator.
3. Any permit or variance granted may include conditions that require the owner of the subject structure to install, operate and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

9-102 General Exemption Criteria

A. Criteria for all Exemptions

1. Any new parcel created shall not increase the degree of nonconformity of an existing structure.
2. No exemption shall be approved if development will occur on a topographic or geologic hazard.
3. No exemption shall be approved by the Board within a Floodplain Overlay District, unless it is determined by the County Engineer that all proposed uses are capable of receiving a floodplain development permit.

4. All proposals for the development of parcels created shall conform to the provisions of Article 7 of this Code and the Transportation Standards, including but not limited to access.
5. Proposed parcel boundaries and development shall be suitably located and sized with respect to the physical characteristics of the land, the character of the neighborhood, and the County's goals of preserving agricultural and forestry lands.
6. Proposed subdivisions involving subdivided land shall go through an exemption plat process if applicable under Section 9-200, below, or subdivision review pursuant to the Subdivision Regulations of Article 5 of this code.
7. The proposal shall be in accordance with the Comprehensive Plan, any applicable intergovernmental agreement affecting land use or development, and this Code.

B. Additional Criteria for Boundary Line Adjustments

1. Divisions which create any number of parcels equal to or less than the number of original unsubdivided parcels are subject to the following conditions:
 - a. Where the original building lot is in conformance with the lot requirements of the zoning district in which the parcel is located, any parcels created shall also conform to those requirements.
 - b. Where original building lots are nonconforming with respect to the lot requirements of the zoning district in which located, any parcels created should not increase the degree of nonconformity.
 - c. A boundary line adjustment shall not be approved ~~solely~~ primarily for convenience of construction and shall substantially advance a legitimate land use purpose under this Code.

Article 13 Sign Regulations Governing Specific Zoning Districts

13-200 Definitions

A. Terms and phrases used in this Article shall have the following meaning:

1. *Commercial Sign:* A sign containing a message advertising the manufacture, sale or availability of products, accommodations, services, attractions, or activities or that is intended to attract attention to a business or to products, property, accommodations, services, attractions, or activities that are offered or exist for sale or for hire.
2. *Freestanding Sign:* A sign that is erected on its own self-supporting permanent structure, detached from any supporting elements of a building.
3. *Identification Sign:* A sign that is designed and intended to identify only the business, place, organization, building, street address, or person on the property on which the sign is located.
 - a. ~~Institutional and Use of Community Significance~~ Community Use Identification Signs: A sign associated with a legal use on a parcel under Article 4-506 504.

[the remainder of section 13-200.A. to remain unchanged]

13-600 Sign Regulations Governing Specific Zoning Districts

A. Forestry, Mountain Institutional and Agricultural Zoning Districts

1. *The following signs shall be permitted in the Forestry, Mountain Institutional and Agricultural Zoning Districts:*
 - a. *One identification sign, provided the total surface area of such sign does not exceed two square feet.*
 - b. ~~*Institutional and Use of Community Significance*~~ *Community Use* *identification sign subject to the following limitations:*
 - i. *The total surface area of such sign shall not exceed 16 square feet per sign face.*
 - ii. *The total area of such sign does not exceed 32 square feet.*

[the remainder of section 13-600.A. to remain unchanged]

B. Rural Residential Zoning District

1. *The following signs shall be permitted in the Rural Residential Zoning District:*
 - a. *One identification sign, provided the total surface area of such sign does not exceed two square feet.*
 - b. ~~*Institutional and Use of Community Significance*~~ *Community Use* *identification sign subject to the following limitations:*
 - i. *The total surface area of such sign shall not exceed 16 square feet per sign face.*
 - ii. *The total area of such sign does not exceed 32 square feet.*

[the remainder of section 13-600.B. to remain unchanged]

C. Estate Residential, Suburban Residential, Multifamily, and Manufactured Home Park Zoning Districts

1. *The following signs shall be permitted in the Estate Residential, Suburban Residential, Multifamily, and Manufactured Home Park Zoning Districts:*
 - a. *One identification sign for each parcel upon which an occupied dwelling is located, provided the total surface area of such sign does not exceed two square feet.*
 - b. ~~*Institutional and Use of Community Significance*~~ *Community Use* *identification sign subject to the following limitations:*
 - i. *The total surface area of such sign shall not exceed 16 square feet per sign face.*
 - ii. *The total area of such sign does not exceed 32 square feet.*

[the remainder of section 13-600.C. to remain unchanged]

D. Transitional, Business, Commercial, Light Industrial, Historic, Economic Development, and General Industrial Zoning Districts:

1. *The following signs shall be permitted in the Transitional, Business, Commercial, Light Industrial, and General Industrial Zoning Districts:*
 - a. [not proposed for amendment]
 - b. [not proposed for amendment]
 - c. [not proposed for amendment]
 - d. ~~*Institutional and Use of Community Significance*~~ *Community Use* *identification sign subject to the following limitations:*

i. The total surface area of such sign shall not exceed 16 square feet per sign face.

ii. The total area of such sign does not exceed 32 square feet.

[the remainder of section 13-600.D. to remain unchanged]

EXHIBIT B TO DC-13-0001

Proposed Amendments to the Boulder County Land Use Code

References for "the Boulder County Public Health Department" which need to change to "Boulder County Public Health."

1. **1-1400.A.6.:**
any applicable rules of ~~the Boulder County Public Health Department~~, Board of Health and/or appropriate state agencies;
2. **3-201.A.2.b.:**
For water supply, sanitation, or water quality concerns, the applicant will meet with members of the Environmental Health Section of ~~the Boulder County Public Health Department~~. ~~The Boulder County Public Health Department~~ Staff will also review the location of the property in relation to the identified radiation hazard sites as shown on the Boulder County Public Health ~~Department~~ maps.
3. **3-203.E.4.m.(ii):**
Where an on-site treatment system is proposed, location and results of soil percolation tests and proposed on-site wastewater system or other type sewage treatment areas and a boring log and classification of the soils encountered to a depth of eight feet or to bedrock, whichever is lesser. The tests shall be sufficiently representative to assure that all proposed subdivided lots can reasonably be assumed to meet ~~the Boulder County Public Health Department~~ requirements.
4. **3-203.G.1.c.:**
Sewage Collection. Plans for an adequate and safe sanitation system must be provided. This system must be designed, constructed and maintained in accordance with all applicable regulations and requirements of ~~the Boulder County Public Health Department~~ and other applicable regulatory agencies.
5. **3-203.G.1.c.(ii):**
Sewer system design must be based on the maximum number of estimated users of the development, and must be approved by ~~the Boulder County Public Health Department~~ prior to application.
6. **3-203.G.1.d.(i):**
The source and method of distribution must be approved by ~~the Boulder County Public Health Department~~ and other applicable regulatory agencies. The source of the water supply should be sufficient to meet all the present and future domestic and agricultural requirements of the proposed area.
7. **3-204.C.2.:**
~~The Boulder County Public Health Department~~ will review the on-lot sewage disposal reports
8. **3-204.C.2.b.:**
~~The Boulder County Public Health Department~~ may require the applicant to submit additional engineering or geological reports or data and to conduct a study of the economic and engineering feasibility of a sewage treatment works prior to making its recommendations.
9. **3-204.C.3.:**
~~The Boulder County Public Health Department~~ shall review the potential for radiation hazard.

10. **4-507.E.6.a.(ii):**

Dwellings must have an on-site wastewater system recognized and approved by ~~the~~ Boulder County Public Health ~~Department~~ according to their applicable regulations. Existing systems do not need to be repaired or replaced unless required by ~~the~~ Boulder County Public Health ~~Department~~.
11. **4-804.C.7.:**

Location and results of soil percolation tests (Boulder County Public Health ~~Department~~ approval) where onsite wastewater systems or similar systems are proposed. This may include site approval and discharge permit, if required, as issued by the Colorado Department of Health.
12. **7-300.B.:**

~~the~~ Boulder County Public Health ~~Department~~ shall be considered as the County's expert in evaluating the quality of the proposed water supply source. It shall be the responsibility of the applicant to provide such evidence as may be required by ~~the~~ Boulder County Public Health ~~Department~~.
13. **7-300.C.:**

Water supplies shall be treated by a method acceptable to ~~the~~ Boulder County Public Health ~~Department~~ to conform to minimum local and State requirements. ~~The~~ County Public Health ~~Department~~ may require test wells.
14. **7-301.A.:**

In addition to the requirements of the State Engineer and Public Health ~~Department~~, the following provisions shall be used to evaluate the adequacy of the water source intended to serve the proposed development:
15. **7-302.D.:**

If a private water supply system is proposed, the applicant shall submit engineering plans to the County to be reviewed by the Land Use Department, County Engineer, and County Public Health ~~Department~~.
16. **7-302.D.1.:**

If a private central water supply system is proposed, evidence must be submitted regarding the ability of the system to meet the minimum requirements of State and County Public Health ~~Department~~ regulations and this Section. Evidence regarding the means to repair and maintain the water system is also required.
17. **7-400.A.:**

~~The~~ Boulder County Public Health ~~Department~~ shall be considered Boulder County's expert concerning the adequacy of the proposed sewage treatment system.
18. **7-400.B.:**

In addition to the requirements of ~~the~~ Boulder County Public Health ~~Department~~ the provisions of this article shall be used to evaluate the adequacy of the sewage treatment system intended to serve the proposed development.
19. **7-402.A.:**

For private systems, the applicant will be required to submit formal plans to the County which will be reviewed by the Land Use Department, County Engineer, and ~~the~~ County Public Health

Department. The recommendations of these referral agencies will be given to the Planning Commission and the Board of County Commissioners.

20. **7-402.B.:**

On-site Systems. Where individual or central on-site treatment systems are proposed, lots shall be laid out to provide a suitable treatment area for each lot or grouping of lots based upon criteria established by the Boulder County Public Health Department.

21. **7-402.B.2.:**

The applicant must contact the Boulder County Public Health Department to determine specific problems in the general vicinity which might affect the proposed on-site wastewater systems.

22. **7-402.B.3.:**

For central systems, the applicant must submit engineering data to prove that each site in the development is capable of accommodating an on-site wastewater system or accommodating an alternative engineered system in accordance with the Boulder County Public Health Department requirements.

23. **7-403.A.:**

Collection systems shall be designed and sized in accordance with guidelines and requirements furnished by the sewage agency providing the service and Boulder County Public Health Department.

24. **7-1700.A.8.:**

Is determined by the Boulder County Parks and Open Space Department to serve as significant habitat for the black-tailed prairie dog (*Cynomys ludovicianus*), with reference to any published maps of the Boulder County Public Health Department, the Colorado Division of Wildlife, or other such competent information source.

25. **8-506.A.2.b.:**

For water supply, sanitation, water quality or other public health concerns, the applicant will meet with members of the Environmental Health Section of the Boulder County Public Health Department. The Boulder County Public Health Department Staff will also review the location of the property affected by the application in relation to the identified radiation hazard sites as shown on the Boulder County Public Health Department maps.

26. **8-511.L.5.:**

Development shall comply with all applicable County Building Code and Public Health Department regulations.

27. **17-300.A.4.:**

The Building Official shall not issue any occupancy permit or issue any final inspection approval until the Boulder County Public Health Department has completed a final inspection and approval of any required sanitation system to serve the proposed structure or use.

28. **19-100.B.1.f.:**

Temporary Emergency Housing Units shall be connected to an approved on-site wastewater system unless the Boulder County Public Health Department approves a different sanitation arrangement.

29. **19-100.H.1.b.(vi):**

interfere with septic field siting or property sanitation service as confirmed by the Boulder County Public Health Department; or

30. 19-100.J.2.:

Existing OWS systems may be used if they were not damaged in the Fire and if the restored residence or structure does not contain more bedrooms than preexisted the Fire. Owners should contact the Boulder County Public Health Department for details on applicable OWS requirements. The building permit and any required OWS permit or approval may be reviewed concurrently.