

DOCKET DC-20-0004: PROPOSED TEXT AMENDMENTS TO ARTICLE 19, PROCEDURES FOLLOWING DISASTERS, TO ADD ARTICLE 19-400 (CALWOOD FIRE 2020) - Text amendments to the Boulder County Land Use Code to add a new Article 19-400 establishing an interim permitting procedure for rebuilding structures destroyed by the October 2020, Calwood Fire.

Article 19 • Procedures Following Disasters

Purpose:

(Amend PURPOSE statement, as follows):

Boulder County is vulnerable to natural and human caused disasters that can damage property and cause injury or death, including wildfires, flood, hailstorms, rockslides, blizzards, high winds, and tornadoes. Boulder County's Land Use Code contains provisions for rebuilding structures damaged or destroyed by means outside the control of the property owner; however, specific disaster events may warrant modified permitting and approval procedures to allow property owners to rebuild in a timely, safe, and responsible manner while also encouraging reasonable improvements in redevelopment consistent with current regulations and the Comprehensive Plan.

In addition, to respond appropriately in a disaster emergency, extraordinary actions must be taken quickly and efficiently. Some actions must occur faster than previously established permit processing timelines allow. Some actions require uses not normally allowed in certain zones, or not allowed without discretionary review, or not allowed without certain public process.

This Article addresses disaster emergency response in two ways. First, Section 19-100 grants temporary authority to certain county staff, upon the declaration of a local, state, or federal disaster emergency affecting Boulder County. The following ~~Second, sections 19-200 and 19-300~~ include regulations tied to specific disasters, namely the Fourmile Canyon Fire of September 2010 and the Front Range Extreme Flood and Rain Event of September 2013.

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Article 19-400 CAL-WOOD FIRE 2020

On October 17, 2020, Boulder County declared a local disaster emergency pursuant to § 24-33.5-709, C.R.S., as amended, in response to the Cal-Wood Fire (the “Fire”), which caused severe damage and loss of property in Boulder County, in particular to the Mountain Ridge and Foothills Ranch subdivisions west of Foothills Highway. The provisions in this Article pertain to structures damaged or destroyed and land restoration efforts from the Cal-Wood Fire with particular emphasis in the Mountain Ridge and Foothills Ranch subdivisions.

A. Structure Deconstruction/Demolition Permitting

1. A deconstruction/demolition permit for the removal of damaged or destroyed structures must be obtained from the Building Division when at least one non-foundation wall of over six feet in height remains after the Fire. The deconstruction recycling requirements of the Building Code Section commonly known as “Boulder County BuildSmart” shall not apply to deconstruction permits. However, owners are encouraged to recycle building materials and contents where safe and practicable.
 - a. Foundations may remain in place for one year after initial deconstruction of the standing walls (or 18 months from the date of the Fire) provided that the property owner installs safety fencing around the perimeter of the foundation and places mulch in disturbed areas sufficient to control erosion.
 - b. The property owner must obtain a deconstruction permit for and remove the foundation and restore the foundation area within one year after initial deconstruction. The Director may approve extensions of this one-year period if the property owner demonstrates sufficient progress towards rebuilding.
2. Other applicable permitting requirements, including but not limited to permits related to asbestos removal administered by the Colorado Department of Public Health and Environment, may be required in addition to a deconstruction permit from the Building Division.

B. Qualifications for Eligible Structures

1. An eligible structure is exempt from Land Use Code site plan review approval (Article 4-800), special use review approval (Article 4-600), and compliance with residential floor area Development Credit acquisition requirements (Article 4-1300). As required by the Building Code, a structure requires building permit. The following structures are eligible structures:
 - a. A legally existing structure damaged or destroyed by the Fire. Legally existing structures include structures erected according to a valid County building permit.
 - b. Accessory structures proposed as part of the rebuilding and reestablishment of a principal residential use damaged or destroyed by the Fire.
 - c. A ground-mounted Accessory Solar Energy System that otherwise requires a site plan review waiver under this Code associated with principal structure damaged by the Fire, provided the Director determines that the proposed location of the system is will not have a significant adverse visual impact on neighboring private and public property.

C. Access Requirements to Construct Eligible Structures

1. Prior to issuance of a building permit to construct an eligible structure, demonstration of legal access to the structure is not required. However, applicants must make improvements to bring existing accesses into compliance with the Boulder County Multimodal Transportation Standards

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to the greatest extent possible. Relocation of an access may occur provided the new access point is in compliance with the Boulder County Multimodal Transportation Standards and if a site-specific geologic hazard investigation performed by an appropriate licensed professional sufficiently demonstrates that the existing geologic hazards have been mitigated.

2. Safety improvements to shared subdivision roads may be required subject to evaluation of the roads by the County Engineer and in consultation with the Homeowners Associations and Fire District.

D. Timeframe for Eligible Structures

1. A property owner must submit a building permit to build an eligible structure to the Community Planning & Permitting Department by February 25, 2023. The Director may extend this period for up to one additional year for good cause shown.
2. Work under a valid building permit may continue within the timelines provided for under the Boulder County Building Code.

E. Standards and Requirements for Eligible Structures

Before issuance of building permit for an eligible structure, the Director must determine the eligible structure meets the following conditions and requirements:

1. The Residential Floor Area of eligible structure(s) must not exceed the lesser of either the Neighborhood Size Presumption (7,556 sq. ft in Mountain Ridge, and 7,911 in Foothills Ranch), or 1,000 square feet above the size of the original damaged or destroyed structure;
2. Changes from the original structure, including changes to the roofline, orientation, the reduction in the number of stories, and other modifications, may be permitted when rebuilding a destroyed structure.
 - a. Due to the visible nature of the area and the increased visibility of the area following the Fire, the visual impacts of development must be mitigated. Mitigation of visual impacts may be achieved through the following measures, but other means may also be considered on a site-by-site basis:
 - i. The use of non-reflective natural exterior materials in medium to dark earth tone colors to blend with the environment. Property owners must submit exterior color and material samples for review and approval by Community Planning and Permitting.
 - ii. The careful placement of windows and glazing and use of appropriate types of glass, i.e., non-reflective glass, to reduce reflectivity of the structure and nighttime glow from interior lights in order to protect views from public lands and rights-of-way.
 - iii. Exterior Lighting generally should be limited to one light per exterior entrance however, additional lighting may be considered if there is a demonstrated need. Fixtures must be fully shielded and downlit and the property owner must submit an exterior lighting plan that includes locations of exterior fixtures and cut sheets for fixtures for review and approval by Community Planning and Permitting.
 - iv. Existing topography may be used to minimize visual impacts, with structures following the contours, minimizing height and utilizing rooflines that step down the slope.

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- v. In the Mountain Ridge subdivision, per the subdivision approval, structures on Lots 13, 14, 15, 17 and 18 are required to be no more than one story at the high side, following the slope with roof lines.
3. The County Planning and Permitting Department must determine that the proposal for an eligible structure sufficiently mitigates the risk of debris flow, rockslide, and mudslide. An appropriate licensed professional must evaluate the site conditions and analyze the risks of an such an event. As part of the building permit application the property owner must provide a report that evaluates these hazards and provides mitigation recommendations. The report must be approved by Community Planning and Permitting and the hazard mitigation recommendations of the report shall be incorporated into the building permit.
4. The building permit application for the rebuilding of any eligible structure must include a soils and foundation investigation performed by an appropriate licensed professional. The report must be approved by Community Planning and Permitting.
5. Rebuilding must occur in the same location as the original structure and within the previously existing foundation footprint to the extent possible. Community Planning and Permitting may permit expansion beyond the previous footprint if a site-specific geologic hazard investigation performed by an appropriate licensed professional sufficiently demonstrates that the existing geologic hazard has been mitigated. The property owner must provide such an investigation report as part of the building permit application, and, if approved by Community Planning and Permitting, all recommendations of the report shall be incorporated into the building permit.
6. Redevelopment must mitigate the risk of wildfire both to the subject property and to neighboring properties in the surrounding area. All redevelopment requires a Wildfire Partners Certificate to complete the defensible space requirements of the Building Code.
7. Revegetation and erosion control on the property must occur in conjunction with reconstruction. The property owner must include a [revegetation and erosion control plan](#) with the building permit application for review and approval by Community Planning and Permitting. The full installation of the approved plans must be inspected and approved prior to issuance of a certificate of occupancy for the residence.

F. Appeals related to Eligible Structures

1. If the Director finds that the building permit application cannot comply with the applicable standards or requirements, the Director shall deny the application. The Director also may deny an application, or in the Director's discretion delay a decision on the application for further information, if the Director finds that insufficient information has been presented to allow a reasonable evaluation of the hazards associated with the proposed development, or to determine the of effectiveness hazard mitigation measures, or to evaluate compliance with other requirements set forth in this Section.
2. While the Director is not required to make a decision on a building permit application within a specified time, and may delay a decision on a reasonable basis as provided herein, the Director shall make a good-faith effort to process requests as soon as practicable after a complete application has been submitted.
3. The applicant may appeal the Director's final decision on a building permit application using the same process as set forth in Article 4-808 for appeals of Site Plan Review decisions.

G. Compliance with Other County Permitting Requirements

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1. Any other County permitting requirement or related provision not specifically addressed in this Article 19-400, shall be presumed to apply, unless the Director determines that strict application is contrary to the intent and purposes of this Article. The Director may grant appropriate relief from the strict application, subject to reasonable mitigating measures.
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 Boulder County Public Health for details on applicable OWS requirements. The building permit and any required OWS permit or approval may be reviewed concurrently.
3. In the event of a conflict between this Article 19-400 and any other code provision, this Article shall apply.

H. Enforcement

The County may enforce this Article 19-400 through the provisions of Section 17-300 of this Code. Nothing in this Article shall limit the County's existing enforcement authority under Articles 14 or 17 of this Code, the Building Code, or other applicable law.