

**SUMMIT COUNTY LAND USE AND DEVELOPMENT CODE  
CHAPTER 4: Zoning Regulations/Overlay Districts**

<b>DEVELOPMENT CODE REVISIONS CHAPTER 4<sup>1</sup></b>			
<b>CASE #</b>	<b>RESO #</b>	<b>SECTION/DESCRIPTION</b>	<b>DATE</b>
94-37	94-108	4200 – 4206	10/24/94
94-143	94-121	4105, 4107, 4107.02, 4110.01, 4111.03, 4112, 4114	11/19/94
97-46	97-126	4300	10/27/97
99-74	99-166	4204.01	12/20/99
04-077	07-44	Comprehensive Amendments to the Code	5/22/07
11-085	11-62	Update to accept DFIRMS and new regulations	10/11/11
09-036	13-51	Added milling to Section 4112	7/23/13
10-143	13-74	Changed Colorado Division of Wildlife (DOW) to Colorado Parks and Wildlife (CPW)	10/8/13
18-090	18-73	4105 to comply with effective date of flood insurance study, 4107.04 clarifying floodplain development permit terminology, 4110.06 to reduce appeal period	10/23/18
21-086	21-94	STR Overlay Districts, Section 4001, 4002, 4300, 4301, 4302, 4303	12/20/21

<sup>1</sup> The Sections referenced above were the Sections in effect at the time the Development Code was amended. Subsequent amendments to the Development Code may have resulted in section numbers being modified and may no longer be applicable.

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**4000: GENERAL**

**4001: Purpose and Intent**

Overlay districts are zoning districts that are superimposed over basic districts. The County has established overlay districts to address development constraints as well as neighborhood characteristics which require special attention and treatment regardless of the underlying land use allowed by the County's Zoning Regulations. Overlay districts are intended to alert developers to issues they need to address in preparing an application for development, including defining areas where specific regulations related to short-term vacation rentals may apply. Regulations have been established for each overlay district which may specify what additional information is needed at the time of submittal, and what special standards and requirements are to be met by development or applicants wishing to apply for a short-term vacation rental license in these overlay districts. These regulations are contained in this chapter (Chapter 4) or reference will be provided to the applicable chapter.

**4002: Relationship to Basic District Regulations**

The regulations for overlay districts shall be regarded as supplementary to the regulations of any underlying, basic district. When the regulations of the overlay district and the basic district conflict, the more restrictive provision shall apply.

**4100: FLOODPLAIN OVERLAY DISTRICT**

**4101: Purpose and Intent**

The Summit Board of County Commissioners ("BOCC") finds there are areas within Summit County subject to flooding which may cause serious property damage and threaten the health, safety and welfare of its residents. The imprudent use and occupation of these flood hazard areas will pose a continuing danger to life and property unless appropriate regulations are implemented concerning the use, development and occupation of these areas. The purpose and intent of these Floodplain Regulations is as follows:

- A. **To reduce the hazard of floods to life and property through:**
  - 1. Prohibiting certain uses that are hazardous to life or property in time of flood from locating in the floodplain;
  - 2. Restricting the development of certain uses in the floodplain that are hazardous to public health in time of flood;
  - 3. Restricting the development of certain uses in the floodplain which are especially susceptible to flood damage, so as to alleviate hardship and eliminate demands for public expenditures for relief and protection; and,
  - 4. Requiring permitted floodplain uses, including but not limited to public facilities that serve such uses, to be protected against floods by requiring flood proofing and general flood protection at the time of initial construction.
- B. **To protect those who may occupy areas of the floodplain through:**
  - 1. Regulating the manner in which structures and developments designed for human occupancy may be constructed and developed so as to minimize danger to human life within such structures;
  - 2. Regulating the method of constructing water supply and sanitation systems so as to prevent disease, contamination and unsanitary conditions resulting from inundation in time of flood;
  - 3. Regulating the location and method of constructing streets and bridges so as to prevent damage in time of flood; and,
  - 4. Requiring the provisions of this section and maps delineating floodplain areas be made available to the public so as to protect individuals from purchasing floodplain lands for purposes that are not suitable.
- C. To protect the public from the burden of avoidable financial expenditures for flood control and relief by regulating uses within floodplain areas so as to produce a method of construction and pattern of development which will minimize the probability of damage to property and loss of life or injury to the occupants of flood hazard areas.
- D. To protect and enhance the storage capacity of floodplains and to assure retention of sufficient floodway area to convey flood flows, which can reasonably be expected to occur by:
  - 1. Regulating filling, dumping, dredging and alteration of drainage channels;

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2. Prohibiting excessive encroachments; and,
3. Encouraging uses such as agriculture, recreation and parking in floodplains.

**4102: Applicability**

The provisions and regulations of this section shall apply to all lands within the unincorporated area of Summit County that are located as follows:

- A. Within the 100-year floodplain (area of special flood hazard) on the most recent flood insurance rate maps and flood hazard boundary maps prepared and published by the Federal Emergency Management Agency (“FEMA”).
- B. Within the 100-year floodplain as a result of a letter of map revision (“LOMR”) or letter of map amendment (“LOMA”) approved by FEMA, but not yet depicted on the flood insurance rate maps or flood hazard boundary maps published by FEMA.

**4103: Warning and Disclaimer**

The degree of flood protection intended to be provided by this section has been determined to be reasonable for regulatory purposes and is based on engineering and scientific methods of study. Floods of greater magnitude may occur and flood heights may be increased by man-made or natural causes, such as ice jams and bridge or culvert openings restricted by debris. This section does not imply that areas outside the floodplain area boundaries or land uses permitted within such areas will be free from flooding or flood damages or that compliance with these regulations will prevent any or all damages from flooding. Nor shall this section create a liability on the part of or a cause of action against Summit County or any officer or employee thereof for any flood damages that may result from reliance on this section or any administrative decision made as a consequence of its provisions.

**4104: Official Maps**

**4104.01: Designation of Official Maps**

One (1) copy of each flood insurance rate map and of each flood hazard boundary map prepared and published by FEMA for the unincorporated area of Summit County shall be designated as an official map of the Floodplain Overlay District with the following qualifications:

- A. If FEMA issues a LOMA or a LOMR, and this amendment or revision has not yet been depicted on the most recent edition of the flood insurance rate maps or flood hazard boundary maps, the fact that changes have been approved shall be noted on the official map at the approximate location of these changes.
- B. Whenever FEMA issues a new edition of the flood insurance rate maps or of the flood hazard boundary maps, one (1) copy of each map in this edition shall become the official map of the Floodplain Overlay District.

**4104.02: Availability of Official Maps and Approved Changes**

The County Engineer shall keep the official maps of the Floodplain Overlay District on file in the Engineering Department, and shall make them available for public inspection. In addition, the County Engineer shall make available copies of any LOMA or LOMR issued by FEMA, but not yet depicted on the flood insurance rate maps and flood hazard boundary maps used as the official maps for the Floodplain Overlay District. When a flood insurance rate map or flood hazard boundary map has been modified by a LOMA or a LOMR, and this amendment or revision is not yet depicted on the map, no copy of the map shall be distributed by the Engineering Department to the public without them also receiving a copy of the LOMA or of the LOMR.

**4104.03: Interpretation of Official Maps**

- A. Where interpretation of district boundaries is needed to determine whether or not an applicant is required to comply

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with the regulations in this section, the County Engineer shall be responsible for making such interpretations. When an individual is seeking financing for a piece of property, and he wants a determination on whether or not the property is in the floodplain and if he needs flood insurance, Federal law has assigned responsibility for making this determination to the lending institution (USC 44, p. 1701). If an individual wants a determination on whether or not his property is in the floodplain and if he needs flood insurance, but no lender is involved, the property owner is responsible for making his own determination.

- B. Determinations on whether or not Floodplain Regulations apply to property shall not be construed as determinations on whether or not a property owner should carry flood insurance. Such decisions shall be made either by a lending institution or by the property owner.

**4105: Approved Flood Insurance Study**

The BOCC hereby approves the Flood Insurance Study of Summit County, Colorado, and Incorporated Areas, with an effective date of November 16, 2018, published by FEMA for purposes of designating flood hazard areas in Summit County unincorporated territory and implementing these Floodplain Regulations. This approval includes all accompanying maps and flood profiles included or referenced in the November 16, 2018, Flood Insurance Study.

**4106: Regulatory Floodway**

**4106.01: Prohibited Uses**

No development, encroachment, use or alteration in, on or over any part of the regulatory floodway shall be permitted which alone or cumulatively with other such uses would cause or result in:

- A. Human occupation of permanent or temporary structures, including but not limited to manufactured homes;
- B. Development or use of overnight campgrounds;
- C. Storing or processing of materials that are buoyant, flammable, explosive or have potential for injuring human, animal or plant life;
- D. Development or operation of solid waste disposal sites and central water or sewage treatment facilities;
- E. Potential for significant solid debris or waste being carried downstream;
- F. An encroachment that would have an adverse effect on the efficiency of the floodway, impair its ability to carry and discharge a 100-year flood, change the direction of flow or increase 100-year flood heights;
- G. An increase in the water surface elevation of the 100-year flood; and/or,
- H. Expansion of any existing nonconforming use.

**4106.02: Permitted Uses**

Notwithstanding the uses allowed by any underlying basic zoning district, only the following uses shall be allowed in the regulatory floodway:

- A. Agricultural uses such as general farming, grazing of livestock, truck farming, hay farming and wild crop harvesting but not uses such as horticulture nurseries or fruit trees where the type of crop may result in obstruction of the floodway channel or may impair its ability to carry and discharge a 100-year flood;
- B. Uses accessory to residential uses but not involving structures such as lawns, gardens, play areas, open yard areas and driveways;
- C. Industrial-commercial uses such as loading areas, parking areas and storage yards for equipment or machinery, which is easy to move or is not subject to flood damage and which will not clog the floodway with debris, but not extending to include junkyards or solid waste disposal sites;
- D. Recreational uses not requiring permanent or temporary structures designed for human habitation such as parks, golf courses, driving ranges, swim facilities, picnic grounds, wildlife and natural preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, riding arenas and areas for hunting, fishing and hiking;
- E. Utility facilities such as dams, spillways, power plants, transmission lines, pipelines, water monitoring devices, water

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- supply and irrigation ditches;
- F. Streets, highways and bridges;
- G. Modifications, alterations or repairs to any nonconforming use to incorporate floodproofing measures provided such measures do not increase the water surface elevation of the 100-year flood; and,
- H. Development provided an application for a floodplain development permit is filed with the County Engineer, and a permit is issued as provided in Section 4110.

**4107: Floodproofing and Design Requirements**

**4107.01: General**

All new construction and substantial improvements (including but not limited to the placement and substantial improvement of manufactured homes) in the Floodplain Overlay District shall:

- A. Be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- B. Be constructed with materials resistant to flood damage;
- C. Be constructed by methods and practices that minimize flood damages; and,
- D. Be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**4107.02: Floodproofing of Buildings and Structures**

All buildings and structures requiring issuance of a building permit which are located in the Floodplain Overlay District shall be floodproofed. Specific requirements for floodproofing are as follows:

**A. Manufactured Homes:**

- 1. All manufactured homes to be placed or substantially improved within the Floodplain Overlay District shall be elevated on a permanent foundation, such that the lowest floor of the manufactured home is at least one (1) foot above the base flood elevation and is securely anchored to an adequately anchored foundation system in accordance with Section 4107.02.A.2.
- 2. All manufactured homes to be placed within the Floodplain Overlay District shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes shall be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not to be limited to, use of over-the-top and frame ties to ground anchors. This requirement is in addition to applicable State and County anchoring requirements for resisting wind forces.

**B. Residential Structures (Other Than Manufactured Homes):** All new construction and substantial improvements of residential structures other than manufactured homes shall have the lowest floor (including but not limited to any basement):

- 1. Elevated to at least one (1) foot above the maximum water elevation of the base flood; or
- 2. Elevated above the highest adjacent grade to at least one (1) foot above the depth number specified for the particular Shallow Flooding (AO) area in question in those areas designated as AO zones on the official maps of the Floodplain Overlay District. Submittal of an elevation certificate (Form 81-31) for each structure, with applicable parts of Section 1 and all of Section 3 completed, is necessary to fulfill this requirement; or
- 3. Designed such that adequate drainage paths are provided around structures on slopes to guide flood waters around and away from proposed structures.

**C. Nonresidential Structures (AO Zones):** All new construction and substantial improvements of nonresidential structures in an AO zone designated on the official map of the Floodplain Overlay District shall have either:

- 1. The lowest floor (including but not limited to a basement) elevated above the crown of the nearest street to at least one (1) foot above the depth number specified for the particular AO area in question; or
- 2. Complete floodproofing of the structure, and of any attendant utility and sanitary facilities, to at least one (1)

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foot above the depth number, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

Where floodproofing is used, the design of such floodproofing shall be certified by a Licensed Professional Engineer or Architect that the standards of this subsection are satisfied. Such certifications shall be provided to the County Engineer as set forth in Section 4110.01.

- D. **Nonresidential Structures (Other than AO Zones):** All new construction and substantial improvements of nonresidential structures in the Floodplain Overlay District, but outside AO zones as designated on the official maps of the Floodplain Overlay District shall have either:
1. The lowest floor (including but not limited to a basement) elevated to at least one (1) foot above the maximum water elevation of the base level flood; or
  2. Complete floodproofing of the structure and of any attendant utility and sanitary facilities to at least one (1) foot above the maximum water elevation of the base level flood, so that below that level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; or
  3. Where floodproofing is used, the design of such floodproofing shall be certified by a Licensed Professional Engineer or architect that the standards of this subsection are satisfied. Such certifications shall be provided to the County Engineer as set forth in Section 4110.01.
- E. **Design of Floodproofing for Non-Residential Structures:** Where a nonresidential structure is intended to be made watertight below the base flood level, the following requirements shall be met:
1. A Licensed Professional Engineer or Architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Sections 4107.01 and 4107.02.C or D, whichever is applicable; and
  2. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the County Engineer as provided in Section 4111.07.A.
- F. **Recreational Vehicles:** In A1-A30, AH, and AE Zones, all recreational vehicles placed on a site must:
1. Be elevated and anchored; or
  2. Be on the site for less than 180 consecutive days; or
  3. Be fully licensed and highway ready.
- G. **Critical Facilities:** All new and substantially changed Critical Facilities and New Additions to Critical Facilities shall have their lowest floor elevated or flood-proofed to two (2) feet above the Base Flood Elevation. All new Critical Facilities shall, where practicable, be constructed to accommodate continuous non-inundated access during the 100-year flood event.

**4107.03: Utility Systems**

Within the Floodplain Overlay District, utility systems and facilities shall be designed and constructed to minimize or eliminate flood damage. Utilities include systems and facilities for the provision of electric, telephone, telegraph, communications, cable television, gas, water and sewage disposal service owned or operated by a firm, partnership, association, cooperative, company, corporation, governmental agency, metropolitan or special district. In addition, new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems. New and replacement sanitary sewage systems shall be floodproofed to at least five (5) feet above the maximum water elevation of the base flood to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into floodwaters.

**4107.04: Onsite Water and Sewage Disposal Systems**

- A. **Onsite Water Systems:** Within the Floodplain Overlay District, domestic wells and other new and replacement onsite water distribution lines shall be designed and constructed to minimize or eliminate infiltration of flood waters into the systems.
- B. **Onsite Wastewater Treatment Systems (OWTS):** Within the Floodplain Overlay District, onsite wastewater



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treatment systems shall be designed and constructed to avoid impairment to them or contamination from them during flooding.

- C. **OWTS Replacement:** When an OWTS located in the Floodplain Overlay District requires replacement because it is failing, all submittal requirements shall be met as deemed necessary by the County Engineer and this Code, taking into account the location of the property and the relative risk of environmental damage and/or contamination resulting from the OWTS failure.

**4107.05: Mechanical and Utility Equipment**

Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

**4107.06: Enclosed Areas Subject to Flooding**

For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs shall be certified either by a Licensed Professional Engineer or by a Licensed Architect that they meet this requirement or shall meet or exceed the following minimum criteria:

- A. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided.
- B. The bottom of all openings shall be no higher than one (1) foot above grade.
- C. Openings may be equipped with screens, louvers or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

**4107.07: New Subdivisions or New Development**

If a new subdivision or new development (including but not limited to manufactured home parks or subdivisions) is in the Floodplain Overlay District, its design and construction shall assure that:

- A. The proposal is consistent with the need to minimize flood damage within the Floodplain Overlay District;
- B. All utility systems and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize or eliminate flood damage; and
- C. Adequate drainage is provided to reduce exposure to flood hazards.

**4107.08: Standards for Critical Facilities**

A Critical Facility is a structure or related infrastructure, but not the land on which it is situated, as specified in Rule 6 of the Rules and Regulations for Regulatory Floodplains in Colorado, that, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood.

- A. **Classification of Critical Facilities:** Critical Facilities are classified under the following categories: (1) Essential Services; (2) Hazardous Materials; (3) At-Risk Populations; and (4) Vital to Restoring Normal Services. It is the responsibility of the BOCC and the governing bodies of the various towns within the boundaries of Summit County to identify specific structures in their community according to the following criteria:
  - 1. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities and transportation lifelines. These facilities consist of:
    - a. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage and, emergency operation centers);
    - b. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment

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functions, and non-ambulatory surgical structures but excluding clinics, doctors' offices, and non-urgent care medical structures, that do not provide these functions);

- c. Designated emergency shelters;
- d. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
- e. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations, and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
- f. Air transportation lifelines (airports (municipal and large), helicopter pads and structures serving emergency functions and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances. Public utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Board of County Commissioners that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that the redundant facilities are available (either owned by the same utility or available through an intergovernmental agreement or other contract) and connected, the alternative facilities are either located outside of the 100-year floodplain or are compliant with the provision of this Chapter, and an operations plan is in effect that states how redundant systems will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Board of County Commissioners on an as-needed basis upon request.

- 2. Hazardous materials facilities shall be determined to be Critical Facilities if they produce or store material in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 20 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation of these regulations, but exclude later amendments to or editions of the regulations. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.
  - a. These Facilities may include:
    - i. Chemical and pharmaceutical plants;
    - ii. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
    - iii. Refineries;
    - iv. Hazardous waste storage and disposal sites; and
    - v. Above ground gasoline or propane storage or sales centers.
  - b. Specific exemptions to this category include:
    - i. Finished consumer products within retail centers and households containing hazardous material intended for household use and agricultural products intended for agricultural use.
    - ii. Buildings and other structures containing hazardous material for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that release of the subject hazardous material does not pose a major threat to the public.
    - iii. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

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- iv. These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Chapter.
- 3. At-risk population facilities include medical care, congregate care, and schools. These facilities also may consist of:
  - a. Elder care (nursing homes);
  - b. Congregate care serving 12 or more individuals (day care and assisted living); and
  - c. Public and private schools (pre-schools, K-12 schools, before-school and after-school care serving 12 or more children).
- 4. Facilities vital to restoring normal services, including government operations. These facilities may include, but are not limited to:
  - a. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance, and equipment centers), and;
  - b. Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Board of County Commissioners that the facility is an element of redundant systems for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with these regulations, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Board of County Commissioners on an as-needed basis upon request.
- B. **Protection for Critical Facilities:** All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purpose of these regulations, protection shall include one of the following:
  - 1. Location outside the Special Flood Hazard Area; or
  - 2. Elevation or flood-proofing of the structure to at least two (2) feet above the Base Flood Elevation.
- C. **Ingress and Egress for New Critical Facilities:** New Critical Facilities shall, when practicable as determined by the Board of County Commissioners, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

**4108: Amendments and Revisions to Federal Emergency Management Agency**

**4108.01: Map Amendments**

Amendments to FEMA's flood insurance rate maps or flood hazard boundary maps indicate whether or not a structure is located in the 100-year floodplain.

- A. **Letters of Map Amendment (“LOMA”):** Individuals who own structures located in an area designated as part of the 100-year floodplain may request FEMA to remove the floodplain designation and to waive the requirement to purchase flood insurance through a LOMA. All requests for LOMA shall be supported by sufficient technical or scientific data to demonstrate that the structures are not subject to inundation by the base flood. A LOMA is issued if FEMA determines a structure is not in the 100-year floodplain.
- B. **Conditional LOMA:** LOMA’s cannot be issued for proposed structures. However, if construction is proposed on land within the 100-year floodplain, a conditional LOMA can be issued, provided the information on the proposed structures meets FEMA's same criteria for issuing a LOMA on an existing structure. A conditional LOMA represents only comments on the proposed plan and does not amend the map or waive the insurance requirement. After construction is completed, certified as-built information shall be submitted to FEMA for the purpose of obtaining a LOMA.
- C. **Application Procedures for Map Amendments:** Information on the application requirements and decision criteria

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for obtaining LOMA may be obtained from FEMA.

**4108.02: Map Revisions**

FEMA's flood insurance rate maps and flood hazard boundary maps are prepared based on flood insurance studies. FEMA recognizes that these studies may require revision due to new information becoming available or through physical changes in floodplains. Updated or corrected topographic mapping, hydrologic or hydraulic data constitute new information which may warrant a revision. Flood protection projects such as channelization or completion of a dam, levee or any other structural measure and any form of topographic alterations constitute physical changes, which may also warrant a map revision.

- A. **Letters of Map Revision (“LOMR”):** Individuals who own structures in an area designated as part of the 100-year floodplain may initiate a request for a map revision to remove this designation and to waive the requirement to purchase flood insurance. Such requests shall be endorsed and filed by the community where the structures are located. If approved, FEMA will issue a LOMR used to generate the flood insurance rate maps and flood hazard boundary maps, and if FEMA determines it is warranted, they will publish new maps.
- B. **Conditional LOMR:** LOMR cannot be issued for proposed structures. However, if construction is proposed on land within the 100-year floodplain, a conditional LOMR can be issued. A conditional LOMR comments on the effectiveness or impacts of a proposed flood control project or floodplain modification. It is based on FEMA's review of the proposed project and states that, were the proposed project built as designed, it would be cause for a map revision.
- C. **Application Procedures for Map Revisions:** Information on the application requirements and decision criteria for LOMR may be obtained from FEMA.
- D. **Submittal of Map Revisions by the County:** Individuals seeking a map revision from FEMA for property in the unincorporated area of Summit County shall first file their request with the County Engineer. The County Engineer shall forward the request and his recommendations to the BOCC. The BOCC shall decide whether or not to endorse the request and file it with FEMA. Requests for map revisions shall be endorsed and filed by the County to be accepted by FEMA.

**4109: Amendments to Floodplain Overlay District Maps**

- A. Whenever FEMA publishes new flood insurance rate maps or new flood hazard boundary maps which change the delineation of the 100-year floodplain in the unincorporated area of Summit County, the Engineering Department shall be responsible for designating the new edition of these maps as the official maps of the County's Floodplain Overlay District.
- B. Whenever FEMA issues a LOMA or a LOMR, and this amendment or revision has not yet been depicted on the most recent edition of the flood insurance rate maps of flood hazard boundary maps, the fact that changes have been approved shall be noted on the County's official map of the Floodplain Overlay District at the approximate location of these changes. Modifications to the 100-year floodplain resulting from approved changes shall be regarded as modifications to the boundaries of the County's Floodplain Overlay District. The County shall not attempt to map these changes, but shall distribute copies of approved letters of map amendment or map revision to anyone inquiring about the location of the Floodplain Overlay District boundary. Questions about how letters of map amendment or of map revision affect the floodplain boundaries shall be referred to FEMA.

**4110: Floodplain Development Permits**

**4110.01: Floodplain Development Permit Applications**

Applications for floodplain development permits shall be filed with the County Engineer and shall include the following:

- A. Written Material.
  - 1. Application form.

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2. Total acreage of surveyed property.
  3. Report detailing all hydrologic and hydraulic calculations used in preparing the above maps and plans (or an acceptable floodplain study report prepared by a recognized agency such as the Federal Insurance Administration or Colorado Water Conservation Board (“CWCB”) and including recommended mitigation measures to be employed in meeting the intent and purposes of these regulations.
  4. For proposed developments of 50 lots or five (5) acres (including but not limited to manufactured home parks and subdivisions), whichever is lesser, which include a perennial stream or an intermittent stream draining more than 20 acres, base flood elevation data.
  5. For any proposed structures, an elevation certificate (FEMA Form 81-31) with applicable parts of Section 1 and all of Section 3 completed, including the floodproofing certification by a Colorado Licensed Professional Engineer or a Licensed Architect.
  6. Where development is proposed within the floodway, a title report prepared by a licensed title insurance or abstract company identifying, listing and certifying the following:
    - a. A listing of all property owners of record of the subject property.
    - b. All owners of land adjacent to the subject property, which might be affected by the development, and their addresses.
    - c. All owners of any surface, subsurface or above surface estates, rights or interests in the land adjacent to the subject property which might be affected by the development, and their addresses.
  7. Where a floodway analysis is required, an analysis prepared by a Colorado Licensed Professional Engineer using methodology acceptable to FEMA and according to guidelines established by the County Engineer.
  8. Where alteration or relocation of a watercourse is proposed, a maintenance plan for the altered or relocated portion, so flood carrying capacity is not diminished.
  9. Evidence of compliance with Section 404 of the Federal Clean Water Act (“CWA”) and compliance with County Water Quality Control Regulations (Chapter 7) concerning protection of wetlands.
- B. Graphic Material.
1. Boundary survey of property, including bearings and distances of all perimeter boundary lines, certified by a surveyor licensed by the State of Colorado.
  2. Maps and plans stamped by a Colorado Licensed Professional Engineer showing:
    - a. Site location.
    - b. Legal description of parcel.
    - c. Boundaries of regulated flood hazard areas (floodway and floodfringe) and water surface elevations; boundaries of the floodway and floodfringe shall be consistent with the flood insurance study adopted by the BOCC and in effect as of the date of the application and with the Floodplain Overlay District boundaries as of the date of the application.
    - d. Name and location of all watercourses, ponds, lakes and other bodies of water.
    - e. Existing and proposed contours or elevations at two (2)-foot intervals.
    - f. Elevation of the lowest floor (including but not limited to a basement) in relation to the datum of the current adopted maps of all new or substantially improved structures and whether or not such structures contain basements.
    - g. Proposed elevations in relation to mean sea level to which structures will be or have been floodproofed.
    - h. Location and elevations of existing streets and utilities.
    - i. Limits and total land area of all existing and proposed impervious surfaces, including but not limited to structures.
    - j. Existing water supply ditches, irrigation ditches and laterals.
  3. Typical valley cross-section (where required) showing:
    - a. Channel of any watercourses.
    - b. Limits of floodplain adjoining each side of channel.
    - c. Cross-section of area to be occupied by the proposed development.
    - d. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
  4. Description of proposed drainage system including, if appropriate, design drawings and construction specifications, showing typical sections and noting standards to be applied.

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5. Design and construction specifications for buildings, flood proofing filling, dredging, grading, channel improvements, storage of materials and utilities, as applicable.
6. Design and construction specifications for on-site water and sewage disposal systems.
- C. Fee as required by resolution of the BOCC.
- D. Such additional information as may be required by the County Engineer to determine if the requirements of this section have been or will be fulfilled.

**4110.02: Use of Available Flood Elevation and Floodway Data**

In reviewing applications for floodplain development permits, the County Engineer shall obtain, review and reasonably use base flood elevation and floodway data available from a Federal, State or other source as criteria for requiring that new construction, substantial or other development in the Floodplain Overlay District meet the design and floodproofing requirements in Section 4107.

**4110.03: Payment for Map Revisions**

- A. **Prior to Construction:** Where an applicant for a floodplain development permit proposes a project which will result in changes to the boundaries of the floodplain, the applicant shall be responsible for the cost of preparing maps and any technical studies necessary for submittal to FEMA for a LOMR (see Section 4108.02). Prior to issuance of any grading or building permit for the project, the applicant shall submit the required maps and technical studies to the County Engineer. The County Engineer shall file a request for a conditional LOMR with FEMA in accordance with Section 4108.02. No grading or building permit shall be issued until FEMA has indicated the information is acceptable and has issued a conditional LOMR, except as provided in Section 4110.03.C below. The applicant shall pay any costs incurred to revise information submitted to FEMA to make it acceptable.
- B. **After Construction:** After completion of the project, but prior to issuance of any occupancy permit, the County shall file a request for a LOMR. The applicant shall be responsible for the cost of any additional mapping or technical studies required by FEMA for issuance of a LOMR. No occupancy permit shall be issued until FEMA has issued a LOMR, except as provided in Section 4110.03.C below.
- C. **Financial Guarantee for Payment of Costs:**
  1. **Prior to Grading or Building Permits:** A grading or building permit may be issued prior to issuance of a conditional LOMR by FEMA, if the applicant first posts an irrevocable letter of credit (“LOC”) or cash bond in an amount sufficient to pay for any additional mapping or technical studies which may be required by FEMA. The County Engineer shall determine the amount to be posted, after consulting with FEMA on the likelihood that more work must be done. If, in reviewing a request for a conditional LOMR, FEMA determines additional mapping or technical studies must be done beyond those submitted and the applicant has posted a financial guarantee, the County Engineer shall pay these costs from the guarantee. If the guarantee is insufficient to cover such costs, the applicant shall be responsible for paying the remaining amount. No occupancy permits shall be issued until the applicant has paid such costs.
  2. **Prior to Occupancy Permits:** An occupancy permit may be issued prior to issuance of a LOMR by FEMA if the applicant first posts an irrevocable LOC or cash bond in an amount sufficient to pay for any additional mapping or technical studies which may be required by FEMA. The County Engineer shall determine the amount to be posted, after consulting with FEMA on the likelihood that more work must be done. If, in reviewing a request for a LOMR, FEMA determines additional mapping or technical studies must be done beyond those submitted and the applicant has posted a financial guarantee, the County Engineer shall pay for these costs from the guarantee. If the guarantee is insufficient to cover such costs, the applicant shall be responsible for paying the remaining amount. If these costs are not paid, the County may lien the property in order to recover payment.

**4110.04: Findings for Approval of Floodplain Development Permits**

Development in the floodplain shall be avoided. However, if there are no reasonable alternatives or the project is intended to improve or enhance the flooding situation on the site, the following findings shall be made by the County Engineer to

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approve a floodplain development permit:

- A. The uses proposed comply with the restrictions on uses in the floodway stated in Sections 4106.
- B. The proposed design and construction methods for the development and any attendant utilities comply with the floodproofing requirements in Section 4107.
- C. The cumulative effect of the proposed development with other existing and anticipated uses will not increase flood heights.
- D. The proposed development includes no encroachments, including but not limited to no fill, new construction, substantial improvements or other developments within the floodway that would result in any increase during the occurrence of a base flood discharge.
- E. If a watercourse is proposed to be altered or relocated, maintenance will be provided within the altered or relocated portion of the watercourse so flood carrying capacity is not diminished.
- F. Any proposed changes in a watercourse will not have significant impact on the watercourse, including but not limited to streambanks and streamside trees and vegetation.

**4110.05: Action on Floodplain Development Permits**

In reviewing an application for a floodplain development permit, the County Engineer shall determine the specific flood hazard on the project site and shall evaluate the suitability of the proposed use in relation to the flood hazard. If the County Engineer determines that the application for a floodplain development permit meets the required findings in Section 4110.04 and the purpose and intent of this section, the County Engineer shall issue the permit and may attach any conditions to granting of the permit, as deemed necessary, to further the purposes of these Floodplain Regulations. A floodplain development permit shall be signed by the County Engineer for it to be deemed approved. No site plan shall be approved, nor any grading or building permit be issued for development of property in the Floodplain Overlay District prior to the issuance of a floodplain development permit.

**4110.06: Effective Date of Permits; Notification**

Floodplain development permits shall not become effective for three (3) calendar days from the date of issuance. After issuing the permit, the County Engineer shall send notice of the permit issuance, including a project description and a listing of conditions imposed on the permit, to the BOCC and adjacent property owners.

**4110.07: Appeal of Action on Floodplain Development Permits**

Any member of the BOCC, the applicant or any member of the public has the ability to file an appeal of the County Engineer's decision on a floodplain development permit. Appeals shall be filed prior to the effective date of the permit. Appeals on floodplain development permits shall be heard by the BOCC, according to procedures established by the County Planning Director. If an appeal is filed before the effective date of the permit, use of the permit shall be suspended until the BOCC renders a decision on the appeal. The BOCC shall determine whether the application meets the requirements of this section, and if it so finds, shall issue the permit with such conditions as the BOCC deems appropriate.

**4110.08: Expiration of Floodplain Development Permits**

A floodplain development permit shall expire two (2) years after the date of issuance if the permit holder has not commenced construction under the permit.

**4111: Administration and Enforcement of Floodplain Regulations**

**4111.01: Responsibilities of County Engineer**

The County Engineer for Summit County is responsible for the administration and implementation of the requirements

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of this section. Such responsibilities include, but are not limited to:

- A. Determining the requirements of this section have been satisfied and all necessary permits have been obtained from local, State and Federal agencies from which prior approval is required before issuing any floodplain development permit.
- B. Obtaining, reviewing and making reasonable use of base flood elevation and floodway data available from State, Federal or other sources.
- C. Obtaining and maintaining for public inspection copies of all floodplain reports and maps, flood insurance rate maps and flood hazard boundary maps for Summit County published by FEMA (FEMA an official map of the County Floodplain Overlay District, letters of map amendment and map revision approved by FEMA, and all records pertaining to floodplain developments as provided in Section 4111.07).
- D. Notifying adjacent communities and adjacent property owners who may be affected and the CWCB, prior to any alteration or relocation of a watercourse as provided in Section 4111.06.
- E. Reviewing floodplain development permit applications, reviewing and making determinations on the applicability of regulatory floodway or flood fringe regulations and issuing permits if the applications are in compliance with the regulations in this section.
- F. Making interpretations, where needed, as to the exact location of the boundaries of the Floodplain Overlay District for purposes of determining whether or not these Floodplain Regulations apply.
- G. Reviewing and making recommendations to the Board of Adjustment (“BOA”) regarding requested variances to the provisions of this section.
- H. Making recommendations to the BOA on appeals of requirements, decisions or determinations made in administration of these regulations.
- I. Reviewing and making recommendations to the BOCC regarding requests for County endorsement of applications to FEMA for LOMR.
- J. Maintaining records as required by Section 4111.07.

**4111.02: Requirement for Floodplain Development Permit**

A floodplain development permit shall be obtained from the County Engineer in accordance with Section 4110 before any site plan is approved, any grading or building permit is issued or any construction is commenced for development within the Floodplain Overlay District.

**4111.03: Requirement for Elevation Certificate**

- A. **Preconstruction:** An elevation certificate (FEMA Form 81-31), having applicable sections of part 1 and all of part 3 completed in a manner acceptable to the County Engineer, shall be filed with the County Engineer for each structure to be constructed within the Floodplain Overlay District. The County Engineer shall find the information acceptable before any grading or building permit is issued for the structure.
- B. **Postconstruction:** After completion of each structure constructed within the Floodplain Overlay District, a new elevation certificate shall be completed and submitted to the County Engineer. The County Engineer shall find the information acceptable before any occupancy permits are issued for the building.

**4111.04: Review of Subdivisions and New Development**

The County Engineer shall review all subdivision proposals and other proposed new development, including but not limited to manufactured home parks and subdivisions, to determine whether or not such proposals will be reasonably safe from flooding. No preliminary or final subdivision plat shall be approved by the BOCC unless the design of the subdivision is consistent with the requirements of this section.



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**4111.05: Use of Base Flood Elevation and Floodway Data**

The County Engineer shall obtain, review and reasonably use any base flood elevation and floodway data available from a Federal, State or other source (including base flood elevation data provided with developments of 50 lots or five (5) acres as required in Section 4110.01.A.4) as criteria for requiring that new construction, substantial improvements or other development in the Floodplain Overlay District meet the floodproofing and design standards in Section 4107, the requirement for protection of the floodway so it is capable of carrying the waters of the base flood, and the prohibition against encroachments into the floodway.

**4111.06: Notification of Changes to Watercourses**

The County Engineer shall notify adjacent communities, adjacent property owners who may be affected and the CWCB prior to any alteration or relocation of a watercourse by publishing a notice once in a newspaper of general circulation in Summit County and shall submit evidence of such notification to FEMA.

**4111.07: Record keeping**

- A. **Elevation Certificates:** The County Engineer shall keep on file an elevation certificate for each building constructed or floodproofed in the Floodplain Overlay District after the effective date of these regulations.
- B. **Letters of Map Amendment or Map Revision:** The County Engineer shall keep on file any letters of map amendment or map revision approved by FEMA and not yet depicted on the flood insurance rate maps or flood hazard boundary maps published by FEMA for Summit County.
- C. **Flood Studies:** The County Engineer shall keep on file flood studies approved by the County Engineer for use in implementing these regulations or as the basis for issuance of a floodplain development permit.
- D. **Base Flood Elevation Data in Zone A:** Where BFE data is utilized in Zone A, the County Engineer shall obtain and maintain records of the lowest floor and flood-proofing elevations for new and substantially improved construction.
- E. **Appeals and Variances:** The County Engineer shall keep on file a record of all appeals and variance actions, including technical information used as justification for their issuance, and shall report on variances issued in its annual report submitted to FEMA.
- F. **Public Records:** The County Engineer shall keep on file all public records pertaining to provisions of this section.

**4111.08: Variances**

- A. **Filing of Variance Requests:** Any property owner seeking relief from the requirements of this section may file a variance request with the County Engineer. Each request shall be accompanied by the following:
  - 1. Description of request.
  - 2. Statement how the required findings for a variance from Floodplain Regulations can be met.
  - 3. Maps, plans, data or other information viewed as necessary by the applicant to justify the variance request.
  - 4. Other information deemed necessary by the County Engineer.
- B. **Hearing on Variance Requests:** The BOA shall conduct hearings on variance requests for the purpose of considering the applicant's submittal, the recommendation from the County Engineer and testimony from the applicant and the public. The Engineering Department shall publish notice of such hearings at least 15 calendar days prior in a newspaper of general circulation in Summit County.
- C. **Considerations in Reviewing Variances:** In reviewing variance requests, the BOA shall consider all technical evaluations, all relevant factors, the requirements and standards in these regulations and the following:
  - 1. The danger that materials may be carried by flood waters onto other lands to the injury of others.
  - 2. The danger to life and property due to flooding or erosion damage.
  - 3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
  - 4. The importance of the services provided by the proposed facility to the community.
  - 5. The necessity of a waterfront location, where applicable.
  - 6. The compatibility of the proposed use with existing and anticipated development.

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7. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
  8. The safety of access to the property in times of flood for ordinary emergency vehicles.
  9. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site.
  10. The costs of providing governmental services during and after flood conditions, including but not limited to maintenance and repair of streets, bridges and utilities.
  11. The availability of alternative locations not subject to flooding or erosion damage.
- D. **Criteria for Granting Variance Requests:**
1. While approval of variances is usually limited to a lot size less than one-half acre, deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.
  2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the Colorado Inventory of Historic Places, without regard to the procedures set forth in this section.
  3. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acres or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level as long as the requirements for a floodplain development permit, Federal 404 permit, flood proofing of utilities and of onsite water and sewage disposal systems, and for general flood proofing as stated in Section 4107.01 are met.
  4. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the requirements for a floodplain development permit and Federal 404 permit are met, and they meet the criteria in Sections 4107.01 and 4107.07.
  5. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- E. **Findings for Approval of Variance Requests:** Variances shall only be approved by the BOA upon the following:
1. A showing of good and sufficient cause.
  2. A determination that failure to grant the variance would result in exceptional hardship to the applicant.
  3. A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create fraud on or victimization of the public, or conflict with existing local laws, ordinances or regulations.
  4. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- F. **Action on Variance Requests:** Action on variances shall be taken by the BOA. The BOA shall either approve or deny a request for a variance, with approval requiring four concurring votes. Approval of a variance shall be by resolution and may be accompanied by any conditions deemed reasonable by the BOA to ensure the variance meets the required findings. Any conditions shall be recorded in the meeting minutes.
- G. **Notice to Applicant:** Any applicant to whom a variance is granted shall be given written notice that the structure will not be permitted to be built with a lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest flood elevation.
- H. **Effective Date for Variances:** If the BOA approves a variance to the Floodplain Regulations, the variance shall become effective as of the approval date.
- I. **Expiration of Variances:** Variances in Floodplain Regulations granted by the BOA shall expire 18 months after the date of approval if the permit holder has not commenced construction under the variance.
- J. **Reporting of Variances:** The County Engineer shall report any variances granted in an annual report to FEMA.

**4111.09: Appeals**

- A. **Filing of Appeals:** Any person aggrieved by a requirement, decision or determination made by the County Engineer in the administration or enforcement of this section may file an appeal with the County Engineering Department, and the County Engineer shall be responsible for forwarding the appeal to the BOA. Each appeal shall be accompanied by the following:

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1. Nature of the appeal and a description of the circumstances leading to the appeal.
  2. Maps, plans, data or other information viewed as necessary by the appellant to justify the appeal.
- B. **Hearing on Appeals:** The BOA shall conduct hearings on appeals for the purpose of considering the recommendation from the County Engineer and testimony from the appellant and the public. Hearings on appeals shall be scheduled for the next regular meeting of the BOA after they have been filed, except that if they are filed within 14 calendar days of the next regular meeting, they shall be scheduled for the following meeting.
- C. **Criteria for Reviewing Appeals:** In reviewing appeals, the BOA shall consider all technical evaluations, all relevant factors, and the requirements and standards specified in these regulations.
- D. **Action on Appeals:** The BOA shall examine the requirements, decisions or determinations made by the County Engineer that have been appealed, and shall decide whether or not these actions need to be modified. The BOA shall either grant, grant with modifications, or deny an appeal. The BOA's action shall be recorded in the meeting minutes. The County Engineer shall maintain a record of all appeals actions as provided in Section 4111.07.D.
- E. **Appeal to District Court:** Any person aggrieved by the action of the BOA, or any property owner, may appeal such decision to the Colorado District Court, as provided in Colorado Revised Statutes.

**4111.10: Nonconforming Structures and Uses**

The use of any structure or land within the Floodplain Overlay District that was lawful before the application of the provisions of the County's Floodplain Regulations or any amendment thereto, but that does not conform to the requirements of this section, may be continued subject to the following conditions:

- A. No such structure or use may be expanded or enlarged unless the expansion or enlargement itself complies with the provisions of Section 4107. When a building or other structure, including but not limited to a manufactured home, has been damaged so that the market value of repair or replacement does not exceed 50 percent (“%”) of the market value before the damage occurred, the structure may be restored to its size immediately before the damage occurred. Such reconstruction shall be constructed as required by Section 4107, and shall not be deemed to be a substantial expansion or enlargement. Any restoration or replacement of a structure, including but not limited to a manufactured home, damaged to an extent exceeding 50% of its market value before the damage occurred shall be deemed to be a substantial expansion or enlargement, and the entire structure shall be protected as required by Section 4107.
- B. Whenever an existing manufactured home, which is nonconforming or is located in a nonconforming manufactured home park or subdivision in the Floodplain Overlay District, is replaced by a new manufactured home, regardless of the reason for the replacement, the new manufactured home shall comply with the requirements of Section 4107.
- C. If any person makes substantial improvement to any nonconforming building or structure or changes the use thereof, such person shall permanently change the building or structure or use to conform to the requirements of this section.
- D. No person shall store or process materials that are buoyant, flammable, hazardous, toxic or explosive, or that in time of flooding could be harmful to human, animal or plant life except at or above the flood protection elevation.

**4111.11: Violations and Penalties for Non-Compliance**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of these and other applicable regulations. Violation of the provisions of these regulations by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall be subject to the enforcement provisions promulgated in Chapter 14 of this Code, and any other applicable statutory enforcement authority available to Summit County.

**4112: Definitions**

The following definitions are provided herein for the sole purpose of interpreting, administering and implementing the County's Floodplain Regulations. For the purposes of these Floodplain Regulations only, the definitions set forth herein shall control and take precedence over any definitions set forth in Chapter 15 or other chapters of this Code.

1. **Appeal:** A request for a review of the County Engineer's interpretation of any provisions of these regulations or a

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request for a variance.

2. **Applicant:** Any person applying for a floodplain development permit to engage in development in the Floodplain Overlay District, and this term shall include any individual, partnership, corporation, association, company or other public or corporate body, including the Federal government or any Federal entity, and includes any political subdivision, agency, instrumentality or corporation of the State.
3. **AO Zone:** See "area of shallow flooding".
4. **Area of Shallow Flooding:** An area designated as AH or AO Zone on Summit County's Flood Insurance Rate Maps. Areas of shallow flooding may be characterized by one or more of the following factors:
  - a. A one percent (1%) or greater chance of flooding to an average depth of one (1) to three (3) feet.
  - b. A clearly defined channel does not exist.
  - c. The path of flooding is unpredictable and indeterminate.
  - d. Velocity flow may be evident
  - e. Flooding is characterized by ponding or sheet flow.This type of flooding is associated with rainfall events rather than snowmelt.
5. **Area of Special Flood Hazard:** The land in the floodplain within Summit County subject to a one percent (1%) or greater chance of flooding in any given year.
6. **Base Flood:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year. Equivalent to 100-year flood.
7. **Base Flood Elevation:** The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one-percent chance of equaling or exceeding that level in any given year.
8. **Basement:** Any area of a building having its floor sub-grade (below ground level) on all sides.
9. **Building:** See "structure".
10. **County Engineer:** The director of the Summit County Engineering Department or his authorized designee.
11. **Critical Facility:** A structure or related infrastructure, but not the land on which it is situated, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during, or after a flood.
12. **Critical Feature:** An integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
13. **Development:** Any man-made change to improved or unimproved real estate, including but not limited to buildings and other structures, mining/milling, dredging, filling, grading, paving, excavation, drilling operations, and the storage of equipment and materials.
14. **Existing Construction:** Structures for which the "start of construction" commenced before the effective date of Summit County's flood insurance rate map (December 16, 1980).
15. **Existing Manufactured Home Park or Subdivision:** A manufactured home park for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads) are completed before the effective date of these regulations.
16. **Existing Structures:** See "existing construction".
17. **Expansion to Existing Manufactured Home Park or Subdivision:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including but not limited to the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads).
18. **Fill:** Material such as earth, clay, sand, concrete, rubble or waste of any kind, placed, stored or dumped upon the surface of the ground, which increases the natural ground surface elevation.
19. **Flood or Flooding:**
  - a. A general or temporary condition of partial or complete inundation of normally dry land from:
    - i. The overflow of inland or tidal waters.
    - ii. The unusual and rapid accumulation or runoff of surface waters from any source.
    - iii. Mudslides (i.e., mudflows) which are proximately caused or precipitated by accumulations of water on or under the ground.
  - b. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or

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undermining caused by waves or currents of water exceeding the anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

20. **Flood Elevation Information:** The elevation in relation to sea level and depth of flooding which is determined for specific locations in the floodplain.
21. **Flood Elevation Study:** See Flood Insurance Study.
22. **Flood Insurance Rate Map (“FIRM”):** An official map on which the Federal Emergency Management Agency (“FEMA”) has delineated both the special flood hazard areas and the risk premium zones applicable to Summit County.
23. **Flood Insurance Study:** The official report provided by FEMA that includes flood profiles, the Flood Boundary - Floodway Map, and the water surface elevation of the base flood.
24. **Floodplain:** Land area subject to inundation as a result of the base flood. The physical location of the floodplain on flood hazard maps is representative of existing ground conditions and may be based, among other things, on historical flood records or other readily available data. Equivalent to flood prone area and 100-year flood plain.
25. **Floodplain Management Program:** A program of corrective and preventative measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
26. **Floodplain Management Regulations:** Zoning, subdivision, grading and health regulations, building codes and other applications of police power, which provide standards for the purpose of flood damage prevention and reduction.
27. **Flood Prone Area:** See "floodplain".
28. **Floodproofing:** Any combination of structural and non-structural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, utilities, structures and their contents.
29. **Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.
30. **Functionally Dependent Use:** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
31. **Highest Adjacent Grade:** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
32. **Historic Structure:** Any structure that is:
  - a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
  - d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - i. By an approved program as determined by the Secretary of the Interior; or
    - ii. Directly by the Secretary of the Interior in states without approved programs.
33. **Levee:** A man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.
34. **Levee System:** A flood protection system which consists of a levee, or levees, and associated structures, such as

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- closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
35. **Lowest Floor:** The lowest floor of the lowest enclosed area (including but not limited to a basement) of a structure. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing and non-elevation design requirements of these regulations.
  36. **Manufactured Home:** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 calendar days. (For insurance purposes, the term "manufactured home" does not include park trailers, recreational vehicles, travel trailers and other similar vehicles.)
  37. **Manufactured Home Park or Subdivision:** A parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.
  38. **Manufactured Home Subdivision:** See "manufactured home park".
  39. **Mean Sea Level:** For purposes of the National Flood Insurance Program, the North American Vertical Datum ("NAVD") of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referred.
  40. **Mitigate:** To take preventative or remedial action to lessen the adverse effects of development and human activity of the impact of a natural hazard.
  41. **New Construction:** Structures for which the "start of construction" commenced on or after the effective date of these Floodplain Regulations (January 6, 1981) and includes any subsequent improvements to such structures.
  42. **New Manufactured Home Park or Subdivision:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations (January 6, 1981).
  43. **100-year Flood:** See "base flood".
  44. **100-year Floodplain:** See "floodplain".
  45. **Person:** Any individual or group of individuals, corporation, partnership, association or any other entity or group, including but not limited to State and local governments and agencies.
  46. **Principally Above Ground:** At least 51% of the actual cash value of the structure, less land value, is above ground.
  47. **Recreational Vehicle:** A vehicle which is (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projections; (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel or seasonal use.
  48. **Regulatory Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
  49. **Riverine:** Relating to, formed by or resembling a river (including tributaries), stream, brook or other watercourse.
  50. **Sheet Flow Area:** See "area of shallow flooding".
  51. **Start of Construction:** The date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 calendar days of the permit date. Actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure. Includes substantial improvements.
  52. **Structure:** A walled and roofed building that is principally above ground, including but not limited to a manufactured home, as well as a gas or liquid storage tank.
  53. **Substantial Damage:** Damage of any origin sustained by a structure, whereby the cost of restoring the structure to

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its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

54. **Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the “Start of Construction” of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred “Substantial Damage”, regardless of the actual repair work performed. The term does not, however, include:
- a. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions; or
  - b. Any alteration of a “historic structure” provided the alteration will not preclude the structure’s continued designation as a “historic structure.”
55. **Variance:** A grant of relief from the requirements of these regulations, which permits construction in a manner that would otherwise be prohibited by these regulations.
56. **Violation:** The failure of a structure or other development to be fully compliant with the provisions of these floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of Title 44 of the Code of Federal Regulations is presumed to be in violation until such time as that documentation is provided.
57. **Water Surface Elevation:** The height, in relation to the NGVD of 1929, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**4200: WILDLIFE HABITAT OVERLAY DISTRICT**

**4201: Purpose and Intent**

The Summit County BOCC finds that there are areas in the County that contain wildlife habitats and wildlife species, a natural resource of local, statewide, national and global significance. The diversity of wildlife species and habitat that occur in the County should be maintained and enhanced in order to promote the health, prosperity and welfare of the present and future inhabitants of the State and Summit County, in particular. In addition, Colorado law (C.R.S. § 29-20-104(b)) gives broad authority to local governments in Colorado to plan for and regulate the use of land to protect the environment and protect land from activities that would cause immediate or foreseeable danger to significant wildlife habitat and would endanger a wildlife species. To this end, land uses and development should be planned and designed to be harmonious with wildlife habitat and the species that depend on this habitat and should recognize and protect the full range of habitats and species in the County. Wildlife habitat includes areas important for the full range of aquatic, terrestrial, game and non-game species. These habitats are inhabited or have the potential of being inhabited by wildlife species that provide economic, recreational and environmental benefits to the residents and visitors of Summit County. Wildlife habitats occur on land held in public and private ownership. Wildlife species do not recognize property or jurisdictional boundaries. The Colorado Division of Wildlife (“DOW”), now called Colorado Parks and Wildlife (“CPW”) has developed a wildlife habitat map for Summit County. This map provides information that can be used in conjunction with more specific data about wildlife habitat and species to establish an information base and a process for protecting habitats from significant adverse effects of development and to evaluate the impact of specific land use and development proposals on wildlife habitat and wildlife species. Using the wildlife habitat map as the basis for the Wildlife Habitat Overlay District is intended to protect the wildlife habitats necessary to support all wildlife species native to Summit County.

**4202: Applicability**

The provisions and regulations of this section shall apply to all lands within the unincorporated area of Summit County designated as wildlife habitat as identified by the official map for the Wildlife Habitat Overlay District pursuant to Section 4203.01.

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**4203: Wildlife Information Base**

**4203.01: Wildlife Habitat Overlay District**

The BOCC hereby adopts the map of wildlife habitats prepared by the Colorado CPW and dated October 24, 1994. All areas on the map designated as wildlife habitat shall be included in the Wildlife Habitat Overlay District. The County seeks to fully protect wildlife habitats within the wildlife overlay zone from the significant adverse effects of development. The Planning Director shall keep the official map of the Wildlife Habitat Overlay District on file in the Planning Department and the map shall be available for public inspection.

**4203.02: Wildlife Data Base**

A wildlife database consisting of information regarding wildlife habitats and wildlife species shall be maintained by the Planning Department in cooperation with CPW. This database may be updated and revised from time to time based on new information and knowledge about wildlife habitat and wildlife species. The wildlife database shall be used as reference information and is specifically not adopted as part of these regulations.

**4204: Development Review Procedure**

**4204.01: Referral to the Colorado Division of Wildlife**

The Planning Department shall refer development proposals affecting property in the Wildlife Habitat Overlay District to the District Wildlife Manager for CPW. Specific requests that shall be referred include the following:

- A. Preliminary Zoning.
- B. Final Zoning.
- C. Preliminary PUD.
- D. Final PUD.
- E. PUD Modifications.
- F. Conditional Use Permits.
- G. Temporary Use Permits.
- H. Areas and Activities of State Interest (aka "1041 Permits").
- I. Preliminary Plats.
- J. Lot Splits on Wells Subdivision Exemptions.
- K. Rural Land Use Subdivisions.

It is the responsibility of the District Wildlife Manager to review the submittal using the wildlife habitat maps, existing wildlife information bases, other technical information, local knowledge and professional judgment to provide comments to the Planning Department. The purpose of this referral is to make use of CPW's expertise and judgment in identifying whether a proposal protects wildlife habitats and wildlife species from the significant adverse impacts of development and to make recommendations on possible mitigation methods, if any, designed to reduce or eliminate significant adverse impacts on wildlife habitat and species that may otherwise result from the proposed development.

**4204.02: Wildlife Impact Report**

- A. Pursuant to Sections 4204.03 and 4204.04, the Planning Commission or BOCC may require a wildlife impact report be prepared prior to making a recommendation or decision on a development proposal. Additionally, the Planning Director may determine that a wildlife impact report is required as part of the submittal requirements for the development application when, based on the wildlife information base described in Section 4203.02, there is a potential for significant impact to wildlife habitat or wildlife species resulting from the development proposal.
- B. When required, a wildlife impact report shall be prepared by the applicant and submitted to the County and CPW for review. The study shall be prepared by a consultant or other party, qualified to assess the impact of development



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on wildlife and mutually agreed to by the County and the developer. The cost of the study shall be paid for by the developer. The study shall address the following:

1. Total acres in the project area.
2. Total acres of each habitat type in the project area.
3. Location and total acreage of open space areas in the project area.
4. Wildlife species known to be present or occurring on the site.
5. Use patterns of wildlife habitat within the project site (movement corridors, feeding areas, etc.).
6. Critical connections or relationships with adjoining habitats outside the project site.
7. Potential impacts of the proposed project on wildlife habitat and species, with particular attention to the definition of significant adverse impact pursuant to Section 4204.05.
8. List of proposed mitigation methods for each wildlife habitat and species.
9. Any other information deemed necessary by CPW and the BOCC to adequately assess the impact of the proposal on wildlife habitat and wildlife species within or adjacent to the project site.

**4204.03: Planning Commission Consideration**

The Planning Department shall incorporate the comments and recommendations received from CPW in the staff report to the Planning Commission. The Planning Commission shall give consideration to whether the proposal protects wildlife habitats and wildlife species from the significant adverse impacts of development. The Planning Commission may give consideration to specific measures in the proposal that meaningfully mitigate adverse impacts on wildlife habitat and species. The Planning Commission may give special consideration to wildlife habitats that are determined by CPW to be of critical or unique value. The Planning Commission may recommend special conditions or modifications of a proposal, or may recommend denial of a proposal in cases where the significant adverse impacts of a development cannot be adequately mitigated resulting in a significant adverse impact on wildlife habitat and/or wildlife species in the County. In cases where the wildlife information base and the referral to the CPW does not provide sufficient information to adequately determine whether or not the proposed development or plan may result in a significant adverse impact on wildlife habitat and wildlife species, the Planning Commission may require that a wildlife impact report be prepared in accordance with Section 4204.02.

**4204.04: Board of County Commissioners Consideration**

The Planning Department shall incorporate the comments and recommendations received from CPW in the staff report to the BOCC. The BOCC shall give consideration to whether the proposal protects wildlife habitats and wildlife species from the significant adverse impacts of development. The BOCC may give consideration to specific measures in the proposal that meaningfully mitigate adverse impacts on wildlife habitat and species. The BOCC shall give special consideration to wildlife habitats that are determined by CPW to be of critical or unique value. The BOCC may require special conditions or modifications of a proposal, or may deny a proposal in cases where the significant adverse impacts of a development cannot be adequately mitigated, resulting in a significant adverse impact on wildlife habitat and/or wildlife species in the County. In cases where the wildlife information base and the referral to CPW does not provide sufficient information to adequately determine whether or not the proposed development or plan may result in a significant adverse impact on wildlife habitat and wildlife species, the BOCC may require that a wildlife impact report be prepared in accordance with Section 4204.02.

**4204.05: Significant Adverse Impact Defined**

For the purposes of this Section 4200, the Planning Commission and BOCC shall consider the following factors in determining whether or not a significant adverse impact on wildlife habitat or wildlife species in the County may occur as a result of the proposed development and the improvements necessary to serve it:

- A. **Impacts on Wildlife Species:** Said impacts on Wildlife Species include human related activities, such as the impact from domestic pets, which disrupt necessary life cycle functions of wildlife or cause stress on wildlife to the extent that the health and viability of a species is threatened in the County. Assessment of significant impact should be

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based on the following factors:

1. Activities in previously undisturbed areas involving any combination of humans, pets and machines or equipment that disturb or harass an individual animal, group of animals or wildlife species.
  2. Site development or activities that disrupt necessary life-cycle functions resulting in stress to the extent that physiological damage is done to an individual animal, group of animals or wildlife species. Examples include, but are not limited to, introduction of non-native vegetation, excessive use of fertilizers and other chemicals, placement of structures in close proximity to nesting and feeding areas and excessive exterior lighting.
  3. Species reliance on specific, unique habitat features that may be affected.
  4. Mitigation efforts that directly address the negative effects of the proposed land use on wildlife species.
- B. **Impact on Wildlife Habitat:** Said impacts on Wildlife Habitat include without limit: elimination, reduction and/or fragmentation of wildlife habitat to the point that the viability of an individual species is threatened in the County and the diversity of wildlife species occurring in the County is reduced. Assessment of significant adverse impact should be based on the following factors:
1. The amount of vegetation/habitat removal and/or alteration within the development site.
  2. The amount of habitat of similar type and quality within the development site that remains contiguous.
  3. The existing and proposed amount of lot coverage.
  4. The existence of contiguous habitat of similar type and quality on adjoining land.
  5. Mitigation efforts that directly address the negative effects of the proposed land use on wildlife habitat.
- C. **Impact on Wildlife Movement Patterns/Displacement and Adaptation of Wildlife Populations:** Said impacts on Wildlife Patterns and Populations include without limit: disruption of necessary migration or movement patterns in the County that keep wildlife from using their entire habitat to the extent that the health and viability of a species is threatened; displacement of wildlife species into areas that cannot support or sustain the species over the long term to the extent that the health and viability of a species is threatened, and the inability of wildlife species living within or in close proximity to development in the County to adapt and thrive to the extent that the health and viability of a species is threatened. Assessment of a significant impact should be based on the following factors:
1. Preventing wildlife from using a habitat they would normally use, such as blocking migration patterns from summer to winter range.
  2. Causing wildlife to find new routes that expose them to significantly increased predation, interaction with vehicles, intense human activity, or more severe topography and climactic conditions.
  3. The size of the affected habitat and availability of similarly sized and quality habitat within the surrounding area.
  4. The human activity and development would result in the inability of a single or multiple species to adapt to the new conditions.
  5. Inability of the specie or species to adapt to significant alteration of their current habitat.
  6. Inability of the specie or species to find a new habitat that is sufficient to sustain the species over the long term.
  7. Mitigation efforts that directly address the negative effects of the proposed land use on wildlife movement patterns, adaptation and/or displacement of wildlife populations.
- D. **Significance of Habitat and Species:** Said significance shall be assessed by means of the following considerations: elimination, reduction and/or fragmentation of wildlife habitat that is identified as unique or important to Summit County in that it supports wildlife species that do not commonly occur in or outside of Summit County to the extent that the health or viability of a species is threatened; and impacts on wildlife species that do not commonly occur in or outside of Summit County to the extent that the health and viability of a species is threatened. Assessment of a significant adverse impact should be based on the following factors:
1. The extent to which habitat similar to that affected by the proposed development exists in Summit County.
  2. Whether the species does not commonly occur in or outside of Summit County, as determined by listing by state or federal governments as threatened or endangered, or as determined by Summit County in consultation with CPW.
  3. Whether the habitat does not commonly occur in or outside of Summit County, as determined by Summit County in consultation with CPW.
  4. The extent of the threat to the viability of the species.
  5. The extent of the reduction of the diversity of wildlife species in the county.

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6. Mitigation efforts that directly address the negative effects of the proposed land use on wildlife habitat and wildlife species considered unique or important to Summit County.
- E. **Cumulative Impacts:** Said Cumulative Impacts include without limit cumulative impacts beyond the boundaries of the project site such that the wildlife habitat in the county is eliminated, reduced and/or fragmented to the point that the viability of individual species is threatened and the diversity of species occurring in the County is reduced. Assessment of a significant adverse impact should be based on the following:
  1. The area, including land outside the project site, in which effects of the proposed project will occur and the impacts of the proposed project that are expected to occur in that area.
  2. The incremental impact on wildlife habitat and wildlife species of the proposed development added to the past and present impact of other activities.

**4205: Effective Date of Wildlife Habitat Overlay District**

The County's original wildlife policy was adopted by the BOCC by Resolution No.80-1 on January 7, 1980. To the extent provisions of this section are the same in substance as the provisions of the original policy, the provisions of this section shall be considered as continuations thereof and not new enactments. Where the provisions of this section conflict with the earlier adopted policy, the provisions of this section shall supersede and replace the conflicting portions.

**4206: Definitions**

The following definitions are for the purpose of interpreting, administering and implementing the County's Wildlife Habitat Overlay District:

- A. **Wildlife Habitat:** The regions or environment containing those elements necessary for the survival and health of a wildlife species and consisting of principle feeding areas, winter range, summer range, shelter areas, concentration areas, production areas, movement corridors, buffer zones, areas providing essential minerals and water and special habitat needs. Wildlife habitat includes the following:
  1. **Buffer Zone:** Any area with no, or limited, human related disturbances created either on a seasonal or permanent basis to protect territory necessary to the survival of wildlife where the use of this territory by wildlife is dependent on freedom from human activity.
  2. **Concentration Areas:** Areas where certain wildlife species congregate during certain times of the year. Examples of concentration areas include staging areas for waterfowl and deer; roosting areas for different bird species; colonies of species such as swallows and beaver.
  3. **Movement Corridors:** Routes used by wildlife to accomplish seasonal migrations, or to travel between nesting, resting, roosting, feeding and watering areas. Concentrations of animals along such corridors increase the likelihood of conflict between wildlife and humans. Many of these corridors offer the only means for wildlife movements, or their use has become so traditional that disruption or interference could be disastrous for the species involved.
  4. **Principle Feeding Areas:** Areas containing the natural foods of a wildlife species of sufficient quantity, quality and availability to sustain a normal population of the species.
  5. **Production Areas:** Areas necessary for pre-nuptial activities, breeding, bearing and rearing of young, e.g. spawning beds, nursery streams and protected shoal areas for fish; permanent shallow water for amphibians; strutting, booming and dancing grounds, calling perches and nesting places for birds; breeding grounds, calving and fawning areas, den trees and burrows.
  6. **Shelter Areas:** Physical or natural features in a wildlife species habitat which provide escape from enemies and adverse weather conditions. Examples include rough terrain for many species of wildlife, rocky bottoms and shorelines and aquatic vegetation in and adjacent to water for protection of fish, amphibians and aquatic oriented species of terrestrial wildlife.
  7. **Shoreline Vegetation:** Plant life that grows along streams banks and the shorelines of ponds and lakes. Such vegetation controls water temperatures, provides food and shelter and protects banks from excessive erosion that damages or destroys wildlife habitats.
  8. **Special Habitat Needs:** Habitat features that are essential to the survival of a particular wildlife species such

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that destruction of these features would cause a species to perish.

9. **Summer Ranges:** Areas used by wildlife species during the spring, summer and fall months for foraging and especially for rearing of young.
10. **Winter Ranges:** Areas used by wildlife species during the winter months for foraging and for shelter from severe weather conditions. Such areas are much more restricted than summer ranges, since areas having suitable conditions for survival of wildlife during winter are more limited than those capable of supporting wildlife in summer.

**4300: SHORT-TERM VACATION RENTAL OVERLAY DISTRICTS**

**4301: Purpose and Intent**

The Summit County BOCC finds that the growth of residential short-term vacation rentals has a variety of effects on the county and particularly in certain areas in which those rentals are located. The impacts of short-term rentals in the historic resort areas of Summit County are generally more positive than not, as the use tends to fit into the resort infrastructure and adds to Summit County’s tourist economy while providing an excellent guest experience for visitors. However, the growth of short-term vacation rentals in the traditional residential neighborhoods in Summit County is less positive, impacting neighborhood character and presenting an incompatibility of uses for locals and visitors alike. In order to preserve neighborhood character, mitigate the effects of short-term rentals such as parking, noise, and trash, and preserve housing for the local workforce, two overlay zones are adopted encompassing the entirety of Summit County which take into account the basic distinction of Summit County’s development as a resort area or a neighborhood area.

**4302: STR Overlay Zones**

- A. **STR Resort Overlay Zone:** The STR Resort Overlay Zone is commonly defined as the Copper Mountain PUD, Tiger Run PUD, two unincorporated subdivisions at the Base of Peak 8 at Breckenridge Ski Area (Skiwatch and Four O’clock Run), and the “Keystone Resort Area”, east of Elk Run Road to the adjacent ski area development along Montezuma Road.
- B. **Neighborhood Overlay Zone:** The STR Neighborhood Overlay Zone encompasses the remainder of unincorporated Summit County outside of the STR Resort Overlay Zone.
- C. The official maps of the STR Overlay Zones will be kept on file at the Planning Department.

**4303: Applicability of STR Overlay Zones**

- A. The overlay zones are applicable to the licensing and regulation of short-term vacation rentals as further discussed in Section 3821 of this Code and Summit County Ordinance No. 20-B, as amended from time to time.