

SECTION 12-100 AREAS AND ACTIVITIES OF SPECIAL INTEREST

12-101 GENERAL PROVISIONS AND PROCEDURES

12-101.01 APPLICABILITY

The following regulations pertain to areas and activities of special interest which have been identified or as may be identified as such in the County Comprehensive Plan.

12-101.02 PROCEDURAL REQUIREMENTS

12-101.02 .01

Anyone proposing to begin development of an activity of special interest or development in an area of special interest shall submit to the platting process as outlined in the County Subdivision Regulations and shall further submit all other evidence as required by the applicable special area or activity regulations included in this Section of these Regulations. No person shall engage in any special development activity or develop in any area of special interest without approval of a Final Plat and/or Final and Master Development Plan, Location and Extent or Use by Special Review Plan, whichever may be applicable.

12-101.02.02

Hearings conducted for the purpose of approving development activities or development in areas of special interest shall be held in public following public notice of such meetings.

12-101.02.03

Any development activity which is to take place in an area not currently zoned for such activities shall also submit to the rezoning procedures outlined in these Regulations.

12-101.03 PROVISIONS

The provisions of this Section shall not apply to any nonconforming use existing prior to the date the area is identified or subjected to these Regulations, provided that when such nonconforming use shall be discontinued for six months or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty percent (50%) of the appraised value, any reuse, reconstruction or replacement of such structure shall be deemed a new use and shall be subject to the provisions of these Regulations, unless the Board of County Commissioners grants an extension of time.

12-101.04 ALTERATIONS

Any alteration, addition or repair to any nonconforming structure or significant change in land use permitted pursuant to various sections of this regulation shall be designed to minimize, mitigate or avoid the significant adverse impact of specific hazards or specific resource utilization.

12-101.05 ADDITIONAL REGULATIONS

Additional regulations regarding nonconforming uses may be further delineated in specific special area and activity regulations to follow.

12-102 RELATIONSHIP TO OTHER REQUIREMENTS

A. Nothing in these regulations shall be construed as exempting an applicant from any other requirements of Arapahoe County or other state or federal laws and regulations.

B. To the extent that the requirements of these regulations differ from any other applicable requirements, the more restrictive requirements shall apply.

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12-103 APPLICATION FEE

An application fee shall be established by the Board of County Commissioners and paid to PWD.

12-104 REGULATIONS FOR AREAS OF SPECIAL INTEREST - MINERAL RESOURCE AREAS

12-104.01 PURPOSE AND INTENT

The purpose and intent of the regulations contained in this section shall be to:

12-104.01.01

Protect and administer mineral resource areas in such a manner as to permit the extraction and exploration of minerals therefrom, unless extraction and exploration would cause significant danger to public health and safety.

12-104.01.02

Permit development in mineral resource areas which will not interfere with the extraction and exploration of minerals.

12-104.01.03

Give preference to existing or requested uses other than mineral extraction if the economic value of the minerals present is of less value than those of other uses.

12-104.01.04

Administer areas containing sand, gravel, quarried rock, aggregate or limestone used for construction purposes according to §34-1-301, et seq., C.R.S. as amended.

12-104.01.05

Administer areas containing coal, oil and natural gas deposits.

12-104.01.06

Accomplish extraction and exploration of minerals from any area in a manner which causes the least practicable environmental disturbance and reclaim such surface areas disturbed thereby in accordance with the provisions of §34-32-101, et seq., or §34-40-101, et seq., C.R.S. as amended, whichever is applicable.

12-104.01.07

Prevent landslides, floods or erosion due to mineral extraction operations.

12-104.01.08

Preserve access to and extraction of mineral resources according to a rational plan for extraction of such resources.

12-104.01.09

Provide, during the mining process and after the mining operations have been completed, for the reclamation of land subjected to surface disturbance by mining and thereby conserve natural resources, aid in the protection of wildlife, aquatic, historic and archaeological resources and establish recreational, residential and industrial sites.

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12-104.01.10

Extract commercial mineral deposits according to a rational plan, calculated to avoid waste of such deposits and cause the least practicable disruption of the environment and quality of life of the citizens of Arapahoe County.

12-104.01.11

Protect and perpetuate the taxable value of property.

12-104.01.12

Protect and promote the health, safety and general welfare of the people of Arapahoe County.

12-104.02 PERMITTED USES IN IDENTIFIED MINERAL RESOURCE AREAS

12-104.02.01

Agricultural uses such as general farming, grazing, truck farming, forestry, sod farming and wild crop harvesting.

12-104.02.02

Public and private recreational uses requiring only accessory, but not permanent structures such as parks, natural swimming areas, golf courses, driving ranges, picnic grounds, wildlife and nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges and hunting, fishing and hiking areas.

12-104.03 PROHIBITED USES IN IDENTIFIED MINERAL RESOURCE AREAS

12-104.03.01

No use shall be allowed which would interfere with the present or future extraction of such deposits by an operator, provided that uses may be allowed which do not permit erection of permanent structures upon or otherwise permanently preclude the extraction of commercial mineral deposits by an operator from land subject to said uses, unless such is allowed by approval of the Board of County Commissioners.

12-104.03.02

Uses which create a significant impact on the surrounding area, unless mitigated pursuant to Section 12-104.03.03, below.

12-104.03.03

Land uses which will create a significant impact on the surrounding area and which are generally prohibited in an identified mineral resource area may be allowed if it is determined that those impacts will be alleviated through the use of mitigation techniques. These include but are not limited to:

- A. Measures which will lessen potential dangers to health, safety, economy or resources to an acceptable level.
- B. Measures which will offset increased costs of providing any governmental services.
- C. Measures which will insure that air and water pollution resulting from development will meet applicable federal and state standards.
- D. Measures which will restrict noise and/or obnoxious odors to within the development.
- E. Measures which will prevent hazardous traffic patterns resulting from development of the site.

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12-104.03.04

To the extent that a proposed use is not covered by Section 12-104.03.03 above, the provisions of 34-1-301 et seq., C.R.S. as amended or 34-32-101 et seq., C.R.S. as amended, shall apply.

12-104.04 DESCRIPTION OF IDENTIFIED MINERAL RESOURCE AREAS

12-104.04.01

Arapahoe County hereby declares that the areas identified or to be identified, upon application for development within these areas, shall be subject to these Mineral Resource Regulations.

12-104.04.02

One copy of all maps of identified mineral resource areas in unincorporated Arapahoe County shall be sent to the Colorado Geological Survey.

12-104.05 SUBMITTAL REQUIREMENTS

All applicants seeking to engage in development in a mineral resource area shall submit the following documents:

12-104.05.01

When applicable, the name, address and phone number of the corporation's registered agent.

12-104.05.02

Ownership of the mineral rights affected.

12-104.05.03

Aerial photographs of reasonable scale and date which reasonably portray the current condition of the area to be covered by the development application. The area covered by the development shall be outlined on the aerial photographs.

12-104.05.04

Type and location of mineral resources on or under the property.

12-104.05.05

An analysis of the commercial feasibility of extracting the mineral resources.

12-104.05.06

A map or maps portraying the geologic conditions of the area with particular attention given to the appropriate identified mineral resource deposit. If appropriate or needed, subsurface cross sections shall also be utilized to portray such conditions at depth. If possible, the maps shall be at the same scale and in the same format as the development plan maps.

12-104.05.07

An analysis of the fiscal impacts on local services and facilities.

12-104.05.08

A statement that the applicant will comply with all relevant federal, state and local requirements existing at the time the plan is to be implemented.

12-104.05.09

Descriptive material showing the relationship of the proposed development to existing master plans for the area involved.

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12-104.05.10

Applicants seeking to engage in development of a mineral resource area without the intention of exploration or extraction of minerals also shall submit to the PWD Planning Division the number of copies requested as determined by referral needs containing the necessary information, maps, reports and/or data:

12-104.05.11

If the development is a subdivision, data equivalent to that required for a Preliminary and/or Final Plat by the County Subdivision Regulations.

12-104.05.12

Evidence that the development plan will present no obstacle to extraction of the mineral resource on or under the subject property or evidence that the proposed development will be of a greater economic value than the minerals present.

12-104.06 EXHIBIT REQUIREMENTS

Applicants seeking to engage in development of a mineral resource area with the intention of exploration or extraction of minerals shall also submit to the PWD Planning Division the number of copies requested as determined by referral needs containing the following information, maps, reports and/or data:

- A. When applicable, the name, address and phone number of the corporation's registered agent.
- B. Ownership of the substance to be mined.
- C. The source of the applicant's legal right to enter and mine on the land affected.
- D. Method of extraction and processing.
- E. Plan for transportation of extracted material.
- F. Time and duration of extraction.
- G. Number of permanent and temporary employees anticipated.
- H. The size of the area or areas to be worked at any one time.
- I. The timetable which will be required for the various stages of the operations.
- J. Anticipated traffic volumes and directional distributions related to the development.
- K. An analysis of any potential health and/or safety hazards occasioned by the development, and a plan for mitigation thereof.
- L. A description of wildlife occurrence on and in the vicinity of the application area including a narrative that describes:
 1. Wildlife occurrence in the area.
 2. Seasonal occurrence of the major species.
 3. The presence of threatened/endangered species listed on either federal or state lists.
 4. The impact of the operation on the wildlife with regard to displacement of wildlife and extent of replacement of suitable habitat for the post-operational wildlife that might inhabit the area.
- M. A narrative, supplemented with diagrams and text, of the water resources on and in the vicinity of the application area shall be submitted. Such narrative shall include:
 1. Both surface and subsurface resources.
 2. A description of the impact of the operation on the quality and quantity of water resources.
 3. Demonstration of water right ownership to supply any necessary water requirements for operations or impoundment's, whether temporary or permanent.
 4. Data acquired for other permits which would fulfill these requirements may be submitted in lieu of the above.
- N. Accompanying the development plan, every operator shall submit a reclamation plan and map.

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O. The reclamation plan shall be based upon provisions for, or satisfactory explanation of, all general requirements for the type of reclamation proposed to be implemented by the operator. The plan shall be based upon the advice of technically trained personnel experienced in that type of reclamation on mined lands and upon scientific knowledge from research in reclaiming and utilizing mined lands. Reclamation shall be required on all the affected land.

P. The reclamation plan shall include a narrative describing:

1. Which of the approved uses the operator proposes to achieve in the reclamation of the affected land; why each use was chosen; and the amount of acreage accorded to each.
2. How the reclamation plan will be implemented to meet performance standards.
3. A proposed timetable indicating when and how the various stages of the mining and reclamation plan shall be implemented.
4. How the reclamation plan shall rehabilitate the surface disturbances affected by the mining operation. The narrative shall include, but not be limited to, the following factors: natural vegetation, wildlife, water, air and soil resources.

Q. The map accompanying the reclamation plan shall include all of the land to be affected by all phases of the mining operation. It shall indicate the following:

1. The expected physical appearance of the area to be mined and the area of land affected, correlated to the timetable.
2. Portrayal of the proposed reclaimed land use for each portion of the affected lands.
3. The applicant's estimated costs of each of the following segments of the reclamation process, including where applicable: backfilling, grading, highwall reduction, topsoiling (if done), planting, revegetation management and protection prior to vegetation establishment, and administrative costs.

R. The application shall also include maps showing the following information:

1. Identification of adjacent underground mining and adjacent surface owners.
2. Wells, roads, railroads, buildings, oil and gas wells and lines, and power and communication lines in the area of affected land and within two hundred feet of all boundaries of such area.
3. Total area involved in the operation, including the area to be mined.
4. Topography of the area with contour lines of sufficient detail to portray the direction and rate of slope of the land covered in the application.
5. General type, thickness and distribution of soil over the area covered by the development application.
6. Type, character and density of present vegetation occurring in the area covered by the development application.
7. Depth and thickness of the mineral resource to be mined and the thickness and type of overburden to be removed.
8. Topography of any aquifers in the area to be covered by the development application, both before and after the mining operation occurs, shall be shown by cross sections.

S. Applications for development in identified mineral resource areas shall include additional information if required by Arapahoe County.

T. At the discretion of the Board of County Commissioners, favorable recommendation from appropriate state agencies regarding development in mineral resource areas may be considered sufficient evidence for waiving portions or all of the extra submission requirements imposed by these regulations.

U. When two or more mineral resource areas overlap, the recommendations of the State Oil and Gas Conservation Commission shall have precedence over those of other agencies if the area has been previously identified as an oil or gas resource area.

12-104.07 Map Requirements

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Unless otherwise specified above, the following map standards will be adhered to:

- A. All data shall be drawn on 24" x 36" sheets.
- B. Maps will be in compliance with national map accuracy standards.
- C. Topographic maps shall have a contour interval of two feet (2') or less.
- D. Map scale shall be sufficiently detailed to meet the objectives of this regulation, but in no case less detailed than 1 inch = 100 feet.
- E. All maps shall show a true north arrow, section corners, and the appropriate land grid, the name of the person who prepared the map, the map scale and the date the map was prepared.
- F. One of the copies of each map shall be in reproducible form.

12-104.08 Qualification of Investigators

A. All geologic maps and reports required under the requirements of this regulation shall be prepared by or under the responsible direction of and signed by a professional geologist as defined by §34-1-201, et seq., C.R.S. as amended.

B. All engineering work required under the requirements of this regulation shall be prepared by or under the responsible charge of a registered professional engineer as defined in §12-25-101, et seq., C.R.S. as amended. Such engineer shall also be experienced and competent in the engineering specialty required to meet the objectives of this regulation.

12-105 GEOLOGIC HAZARD AREAS

12-105.01 PURPOSE AND INTENT

The purpose and intent of this section is:

A. To minimize significant hazards to public health, safety or property in an identified geologic hazard area.

B. To promote safe use of geologic hazard areas.

C. To reduce the impact of geologic hazards on life and property by:

1. Prohibit certain land uses that are dangerous to life or property in geologic hazard areas.
2. Restrict the land uses that would be hazardous to the public health, safety or property in geologic hazard areas.

3. Restrict the land uses that are particularly vulnerable to geologic hazards so as to reduce the demands for public expenditures for relief and protection.

4. Require land uses permitted in geologic hazard areas, including public facilities which serve such uses, to be protected from geologic hazards by providing for investigation and avoidance or mitigation of such hazard impacts at the time of initial construction.

5. Protect geologic hazard area occupants or users from the impacts of geologic hazards by regulating the area or manner in which structures designed for human occupancy may be constructed so as to prevent danger to human life or property.

6. Protect geologic hazard area occupants or users from the impacts of geologic hazards by identifying, delineating and describing areas that could be adversely affected by geologic hazards so as to protect individuals from purchasing or improperly utilizing lands for purposes which are dangerous to human life or property.

7. Protect the public from the burden of excessive financial expenditures from the impacts of geologic hazards and relief by:

- a) Regulating land uses within geologic hazard areas so as to produce a pattern of development of a soundly engineered manner of construction which will minimize the

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intensity and/or probability of damage to property and loss of life or injury to the inhabitants or users of geologic hazard areas.

b) Regulating the cutting, filling or drainage changes and other man-made changes which could initiate or intensify adverse conditions within geologic hazard areas.

c) Encouraging non-conflicting uses such as agriculture, grazing, greenbelt, open space and recreation within geologic hazard areas.

12-105.02 PERMITTED USES IN IDENTIFIED GEOLOGIC HAZARD AREAS

The following uses shall be permitted within identified geologic hazard areas unless they are prohibited in a particular area by these Regulations or other regulations. However, no such use shall be regarded as a use by right:

A. Agricultural uses such as general farming, grazing, truck farming, forestry, sod farming and wild crop harvesting.

B. Industrial or commercial uses such as loading areas, parking areas not requiring extensive grading or impervious paving, and storage yards for equipment or machinery easily moved or not subject to geologic hazard damage.

C. Public and/or private recreational uses not requiring permanent structures designed for human habitation such as parks, natural swimming areas, golf courses, picnic grounds, driving ranges, wildlife and nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges, and hunting, fishing and hiking areas, if such uses do not cause concentrations of people in areas during periods of high hazard probability.

12-105.03 PROHIBITED USES IN IDENTIFIED GEOLOGIC HAZARD AREAS

12-105.03.01

Land uses which are dangerous to life or property in identified areas of geologic hazard.

12-105.03.02

Any type of development in an identified area of moderate and/or extreme expansive soil potential, unless mitigation techniques are incorporated into the design of the proposed development.

12-105.04 CONDITIONAL USES IN IDENTIFIED GEOLOGIC HAZARD AREAS

12-105.04.01

Land uses which are generally prohibited in an identified area of moderate and/or extreme expansive soil potential may be permitted if the following mitigation techniques are carried out:

12-105.04.02

Mitigation techniques shall correct adverse conditions within moderate and/or extreme expansive soil and rock areas through engineered design and construction. These methods should include:

- A. Engineered foundation design.
- B. Planned site drainage or moisture control.
- C. Landscaping to enhance drainage.
- D. Proper interior construction design.

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12-105.05 DESCRIPTION OF IDENTIFIED OR REGULATED GEOLOGIC HAZARD AREAS

Arapahoe County hereby declares that the areas identified or to be identified as Geologic Hazard Areas, upon application for development within these areas, shall be subject to these Geologic Hazard Regulations.

12-105.06 SUBMITTAL REQUIREMENTS

A. Anyone proposing to develop land in an identified expansive soils area shall be required to submit a thorough soil engineering study conducted by a registered professional soil engineer to determine expansive soil potential at the time of the Preliminary Plat submittal as described in the County Subdivision Regulations.

B. The soils study shall include a minimum of one (1) test boring for every ten (10) lots or three (3) acres in the development with a minimum of one (1) sample per boring tested for swell. Some test borings may be deferred until later; however, the above requirements shall be met by the time of Final Plat submittal.

C. The report shall also include a description of the engineering design and construction mitigation techniques that will correct the adverse conditions within moderate and/or extreme expansive soil areas.

12-106 FLOOD HAZARD AREAS: FLOOD DAMAGE PREVENTION REGULATIONS

12-106.01 Statement of Purpose

12-106.02 Methods of Reducing Flood Losses

12-106.03

12-106.04

12-106.05

12-106.06

12-106.07

12-106.08 General Provisions

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12-106.08.02 Basis for Establishing the Areas of Special Flood Hazard

12-106.08.03 Compliance

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12-106.08.05 Interpretation

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12-106.09 Administration

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12-106.09.02 Designation of the Floodplain Administrator

12-106.09.03 Duties, Responsibilities, And Authority of the Floodplain Administrator and Zoning Administrator

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12-106.11 General Standards for Development in Flood Hazard Zones

12-106.11.01 Anchoring

12-106.11.02 Construction Materials and Methods

12-106.11.03 Utilities

12-106.11.04 Other Development

12-106.11.05 Conditions on Approval of Flood Plain Development Permit

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12-106.11.06 Specific Standards

12-106.11.07 Openings in Enclosures Below the Lowest Floor

12-106.11.08 Floodways

12-106.01 STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to lessen public and private losses due to flood conditions to specific areas by provisions designed:

- A. To protect human life and health;
- B. To reduce expenditure of public money for costly flood control projects;
- C. To reduce the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. To reduce prolonged business interruptions;
- E. To reduce damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- F. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to reduce future flood blight areas;
- G. To provide a means to respond to requests from potential developers for information supporting a determination regarding whether property is in an area of special flood hazard; and,
- H. To provide that those who occupy the areas of special flood hazard assume responsibility for their actions.

12-106.02 METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, these regulations include methods and provisions for:

- A. Restricting or prohibiting uses which are dangerous to health, safety, and property due to flood water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- B. Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- C. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- D. Controlling filling, grading, dredging, and other development which may increase flood damage;
- E. Preventing or regulating the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards in other areas; and,
- F. Preventing all new construction or installation of residential or non-residential structures, and preventing all substantial improvement (defined in Section 19-100) to all existing legal nonconforming structures or facilities, in any area of special flood hazard, including F Zone properties.

12-106.03

It is the intent of the Board of County Commissioners that these regulations be jointly administered and enforced by the Floodplain Administrator and the Zoning Administrator, as set forth in these regulations. Generally speaking, the Zoning Administrator shall be responsible for determining whether a proposed development requiring a building permit is located within or without a designated flood hazard zone and for collecting and maintaining certain records related thereto. The Floodplain Administrator shall be responsible for determining this information for all other developments, and shall be responsible for coordinating the enforcement of the construction and floodproofing requirements for all developments (including those for which a building permit is required) located in flood hazard zones.

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12-106.04

Effective with the adoption of these regulations, all development (as defined in Section 19-100) shall be required to apply for a Floodplain Determination prior to beginning any work, for the sole purpose of determining whether, and the extent to which, the floodplain regulations restrict or regulate development on the applicant's property. Development which requires a building permit shall obtain this determination from the Zoning Administrator in connection with the building permit application process. All other development shall obtain this determination from the Floodplain Administrator upon such forms and in accordance with such policies as may be developed by the PWD Engineering Division. All persons obtaining a Floodplain determination shall pay the fee established by the Board of County Commissioners for that service in addition to such other fees as may be required in the processing of the particular development application.

12-106.05

All development proposed within a flood hazard area and all development constructed, installed, commenced, improved or maintained within a flood hazard area after the effective date of these regulations, to the extent permitted by these regulations, shall be required to obtain a Floodplain Development Permit from the Floodplain Administrator in accordance with the procedures established in these regulations and shall pay the fee established by the Board of County Commissioners.

12-106.06

A floodplain determination is only intended to guide Arapahoe County in its application of the Floodplain Regulations and cannot be relied upon for any other purpose. Property owners who wish for a reliable determination of whether their property is affected by the floodplain or exposed to flood risks must obtain their own determination from licensed or qualified professionals. No County employees are authorized to make Floodplain determinations which may be relied upon by any person for any purpose other than a determination of the extent to which the Floodplain Regulations shall restrict or regulate development on parcels of property.

12-106.07

The Floodplain chapter of the Arapahoe County Stormwater Management Manual is hereby adopted and declared to be a part of this Code. The Stormwater Management Manual provides detailed requirements for the management and regulation of areas of special flood hazard.

12-106.08 GENERAL PROVISIONS

12-106.08.01 LANDS TO WHICH THESE REGULATIONS APPLY

These regulations shall apply uniformly to all areas of special flood hazard within the jurisdiction of unincorporated Arapahoe County.

12-106.08.02 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The basis for establishing areas of special flood hazard shall be the boundary of the 100-year floodplain. The extent of this area shall be based upon the best available information including:

A. The most recent Flood Insurance Study (FIS) for Arapahoe County and the accompanying Flood Insurance Rate Map (FIRM) as amended, and produced by the Federal Emergency Management Agency (FEMA).

B. Flood Hazard Area Delineation (FHAD) studies produced by the Urban Drainage and Flood Control District, hereby adopted by reference and declared to be a part of this Code.

C. Other 100-year floodplain studies as approved by the County and accepted by the appropriate local, regional, state or federal agencies.

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D. As further defined by the requirements of the Floodplain Chapter of the Arapahoe County Stormwater Management Manual, hereby adopted by reference and declared to be a part of this Code.

12-106.08.03 COMPLIANCE

No structure or land shall hereafter be constructed, located, extended, have fill placed upon, converted or materially altered without full compliance with the terms of these regulations and other applicable regulations.

12-106.08.04 ABROGATION AND GREATER RESTRICTIONS

These regulations are not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where these regulations and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

12-106.08.05 INTERPRETATION

- A. In the interpretation and application of these regulations, all provisions shall be:
1. Considered as minimum requirements;
 2. Liberally construed in favor of the governing body; and,
 3. Deemed neither to limit nor repeal any other powers granted under State Statutes.

12-106.08.06 WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by these regulations is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur, and many of the consequences of floods cannot be predicted with reliability. Flood heights may be increased by man-made or natural causes. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. Neither Arapahoe County nor FEMA can assure any person subject to or relying upon these regulations that compliance will reduce or eliminate all risk of flooding and flood damage. These regulations are intended only to address some of the effects that can be predicted and remedied in part. No part of these regulations shall create liability on the part of Arapahoe County, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on these regulations or any administrative decision lawfully made thereunder. The Board of County Commissioners does not intend to create, and hereby disclaim any intention to create, any private right of action, for damages or otherwise, against Arapahoe County, its officers, employees, agents, or contractors, related in any way to the promulgation, administration or enforcement of these regulations.

12-106.09 ADMINISTRATION

12-106.09.01 ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

A. A floodplain development permit shall be obtained from the Floodplain Administrator before construction or development begins within any area of special flood hazard established in Section 12-106.08.01.

B. Application for a floodplain development permit shall be made on forms furnished by the Floodplain Administrator and may include but not be limited to:

1. Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. The Floodplain Administrator may also require any additional information as specified in the Arapahoe

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County Stormwater Management Manual. Specifically, the following information is required for each application unless waived by the Floodplain Administrator.

2. Elevation, certified by a licensed professional land surveyor using NAVD 88 datum, in relation to mean sea level of the lowest floor (including basement) of all structure.

3. Elevation, certified by a licensed professional land surveyor using NAVD 88 datum, in relation to mean sea level to which any structure has been floodproofed;

4. Certification by a registered professional engineer or architect that the floodproofing methods for any non-residential structure meet the floodproofing criteria in this Land Development Code.

5. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

6. Three copies of one or more typical valley cross-sections (as determined by the Floodplain Administrator), showing the channel of the stream, the elevation of the land adjoining the channel, the cross-sectional areas to be occupied by the proposed development, and the base flood elevations. This plan shall include a description of the extent to which any watercourse will be altered or relocated as a result of development.

7. Three copies of a plan view showing the elevations or contours of the ground; all existing and proposed structures (size, location and spatial arrangement); embankment or structural fill or storage elevations; location and elevations of streets, water supply and sanitary facilities; and soil types.

8. Photographs showing existing land uses and vegetation on site, and upstream and downstream of the site.

12-106.09.02 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Program Manager, Stormwater Management Program, in the PWD Engineering Division, or other designee assigned by the PWD Director, is hereby appointed to administer and implement these regulations by granting or denying floodplain development permit applications in accordance with its provisions. The Floodplain Administrator shall designate an alternate to perform the functions of the Administrator during any period of unavailability. The Zoning Administrator shall be responsible for implementing and enforcing these regulations with respect to building permit applications, and shall comply with all reasonable rules and policies of the Floodplain Administrator related to this duty. The Zoning Administrator shall designate an alternate in the Zoning Division to perform the functions of the Administrator during any period of unavailability.

12-106.09.03 DUTIES, RESPONSIBILITIES, AND AUTHORITY OF THE FLOODPLAIN ADMINISTRATOR AND ZONING ADMINISTRATOR

12-106.09.03.01

Duties of the Floodplain Administrator shall include, but not be limited to review all applications for development permits, except building permits which shall be reviewed by the Zoning Administrator, to determine if the proposed development is located in the special flood hazard area and require compliance with the permit requirements of these regulations.

12-106.09.03.02

The Zoning Administrator shall review all applications for building permits for compliance with the Zoning Regulations, which shall include a review to determine if the proposed development is located in a special flood hazard area. If located within the

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floodplain, the Zoning Administrator shall require the prior approval of the Floodplain Administrator before determining compliance with these regulations.

12-106.09.03.03

Approval of floodplain development permits shall be based upon compliance with the general and specific standards set forth in “PROVISIONS FOR FLOOD HAZARD REDUCTION”, this Section herein, and as required in the Arapahoe County Stormwater Management Manual, as interpreted and applied by the Floodplain Administrator, with due consideration given to the factors set forth in this Land Development Code.

12-106.09.03.04

In addition to the remedies available for enforcement of zoning violations, Arapahoe County shall be entitled to enforce these regulations by all legal and equitable means allowed by law, including injunctive relief.

12-106.09.03.05

Whenever the Floodplain Administrator determines that a violation of these regulations has occurred, may occur, or is threatened, the Floodplain Administrator shall be responsible for placing a temporary or permanent hold on further development permits, approvals and actions (including building permits, rezoning actions, subdivision actions, grading permits, and the like) to the extent necessary to prevent or remedy the violation, and for notifying affected County departments of this action. The hold shall remain in place until the property owner complies with these regulations.

12-106.09.03.06 USE OF OTHER BASE FLOOD DATA

When base flood elevation data has not been provided in accordance with BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from any Federal, State, UDFCD or other source as criteria for requiring that new construction, substantial improvement (defined in Section 19-100), or other development in any flood hazard zone are administered in SPECIFIC STANDARDS. The applicant shall be responsible for generating any base flood elevation data and survey data requested by the Floodplain Administrator relating to the site and proposed development. In cases where there is conflicting base flood elevation data, the data which is most protective of flood hazard areas and which restricts development will be used.

12-106.09.03.07 INFORMATION TO BE OBTAINED AND MAINTAINED FOR REMODELING AND NONSTRUCTURAL DEVELOPMENT IN FLOOD HAZARD AREAS

A. No new structures or substantial improvement (defined in Section 19-100) of existing structures shall occur in any area of special flood hazard.

B. The Zoning Administrator shall, in accordance with policies and rules of the Floodplain Administrator which may require completion of a FEMA Elevation Certificate, obtain and record the actual elevation, certified by a licensed professional land surveyor using NAVD 88 datum (in relation to mean sea level), of the lowest floor (including basement) of all such existing legal nonconforming structures proposed to be remodeled, and whether or not the structure contains a basement.

C. For all permitted remodeling, the Zoning Administrator shall, in accordance with policies and rules of the Floodplain Administrator require verification of, and record, the

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actual elevation, certified by a licensed professional land surveyor using NAVD 88 datum (in relation to mean sea level), to which the structure has been floodproofed.

12-106.09.03.08 ALTERATION OF WATER COURSES

A. The Floodplain Administrator shall notify adjacent communities and the Colorado Water Conservation Board prior to any alteration or relocation of a water course and submit evidence of such notification to the Federal Emergency Management Agency.

B. The Floodplain Administrator shall also require that maintenance is provided within the altered or relocated portion of said water course so that the flood-carrying capacity is not diminished.

12-106.09.03.09 INTERPRETATION OF FIRM BOUNDARIES

The Zoning Administrator shall make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall provide all survey information requested by the Zoning Administrator and shall be given a reasonable opportunity to appeal the interpretation as provided of the Zoning Regulations. In making these determinations, the Zoning Administrator may require the submission of additional survey data from the applicant. The Floodplain Administrator shall provide all necessary technical support and information needed to assist the Zoning Administrator in making these determinations. All requests for technical support shall be answered by the Floodplain Administrator as soon as possible but, in any event, within five (5) working days.

12-106.10 PROVISIONS FOR FLOOD HAZARD REDUCTION

The construction standards contained in this part shall apply only to minor remodeling of structures legally existing as nonconforming uses as of the date of enactment of these floodplain regulations, and to other nonstructural development as permitted by the Floodplain Administrator.

12-106.11 GENERAL STANDARDS FOR DEVELOPMENT IN FLOOD HAZARD ZONES

12-106.11.01 ANCHORING

12-106.11.01.01

All new construction shall be anchored to prevent floatation, collapse, or lateral movement of the improvement and capable of resisting the hydrostatic and hydrodynamic loads, including the effects of buoyancy.

12-106.11.01.02

All additions to existing manufactured homes must be elevated and anchored to resist floatation, collapse or lateral movement and capable of resisting the hydrostatic and hydrodynamic loads. Methods of anchoring may include, but are not limited to use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

12-106.11.01.03

Specific requirements may be:

A. Over-the-top ties be provided at each of the four corners of the manufactured home, with two additional ties per side at intermediate locations, with manufactured homes less than 50 feet long requiring one additional tie per side;

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B. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with manufactured homes less than 50 feet long requiring four additional ties per side;

C. All components of the anchoring system be capable of carrying a force of 4,800 pounds.

12-106.11.02 CONSTRUCTION MATERIALS AND METHODS

12-106.11.02.01

All new construction shall be constructed with materials and utility equipment resistant to flood damage. This may include the installation of cutoff valves on sewer lines or the elimination of gravity flow basement drains; the use of paints, membranes or mortars to reduce seepage or water through walls;

12-106.11.02.02

All new construction shall be constructed using methods and practices that minimize flood damage;

12-106.11.02.03

All new construction shall 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.

12-106.11.03 UTILITIES

12-106.11.03.01

All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

12-106.11.03.02

New and replacement sanitary systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and

12-106.11.03.03

On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

12-106.11.04 OTHER DEVELOPMENT

All other development in areas of special flood hazard shall be prohibited unless shown to the satisfaction of the Flood Plain Administrator during the review of the application of a Flood Plain Development Permit:

12-106.11.04.01

That the proposed development does not adversely affect the efficiency of, or unduly restrict the capacity of, the channels or floodways of any tributaries to the mainstream, drainage ditches, or any other drainage facilities or systems; or

12-106.11.04.02

That no structure (temporary or permanent), fill (including fill for roads and levees), deposits, obstruction, storage of materials, or other floodplain uses which, acting alone or in

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combination with existing or future floodplain uses, adversely affects the efficiency or the capacity of the floodway, or increases flood heights or adversely affects the storage capacity of the floodplains based on the assumption of an equal degree of encroachment extending for a significant reach on both sides of the stream.

12-106.11.05 CONDITIONS ON APPROVAL OF FLOODPLAIN DEVELOPMENT PERMIT

The Floodplain Administrator may impose conditions on approval of floodplain development permits in order to achieve compliance with the above general standards, which conditions may include modification of proposed systems and facilities and imposition of operational controls and limitations on periods and conditions of use and operation. Additionally, a map revision process may be required prior to permit approval.

12-106.11.06 SPECIFIC STANDARDS

In all areas of special flood hazard where base flood elevation data has been provided as set forth in the BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD or the USE OF OTHER BASE FLOOD DATA, the following provisions are required:

12-106.11.06.01 RESIDENTIAL CONSTRUCTION

Alteration of land, placement of fill, new construction and substantial improvement (Defined in Section 19-100) of residential structures shall not be permitted.

12-106.11.06.02 NONRESIDENTIAL CONSTRUCTION

A. Alteration of land, placement of fill, new construction and substantial improvement (Defined in Section 19-100) of non-residential structures shall not be permitted.

B. When permitted, new construction and minor improvements of any commercial, industrial or other non-residential and non-structural improvement shall either have the lowest floor (including basement) elevated to the level of the base flood elevation; or, together with attendant utility and sanitary facilities shall:

1. Be floodproofed so that below the base flood elevation the structure is watertight with walls substantially impermeable to the passage of water;
2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this paragraph. Such certifications shall be provided to the official as set forth in Section 12-106.08.03.

12-106.11.07 OPENINGS IN ENCLOSURES BELOW THE LOWEST FLOOR

For all new construction 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 floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria;

12-106.11.07.01

A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;

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12-106.11.07.02

The bottom of all openings shall be no higher than one foot above grade;

12-106.11.07.03

Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwater.

12-106.11.07.04 Manufactured Homes

New construction or installation, or substantial improvement (Defined in Section 19-100) to manufactured homes shall not be permitted in areas of special flood hazard.

12-106.11.07.05 Recreational Vehicles

Require that recreational vehicles either be on the site for fewer than 180 consecutive days or be fully licensed and ready for highway use.

12-106.11.08 FLOODWAYS

12-106.11.08.01

A. Located within areas of special flood hazard are areas designated as floodways. The Floodway is defined as “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.” Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles, and erosion potential, construction shall adhere to the following provisions:

1. Prohibit encroachments, including fill, new construction, substantial improvement (Defined in Section 19-100, and other development unless certification by a registered professional engineer is provided demonstrating that encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge, or otherwise alter the floodway in a manner which will constrict the channel or increase erosion potential.

2. If the requirements of above are satisfied, all new construction and substantial improvement (Defined in Section 19-100) shall comply with all applicable flood hazard reduction provisions of this Section, PROVISIONS FOR FLOOD HAZARD REDUCTION.

12-106.11.08.02 SUBMITTAL REQUIREMENTS

A. Applications for approval of development in a flood hazard area shall be accompanied by the required data and maps as described in the County Subdivision Regulations.

B. All maps required shall meet the minimum presentation standards as outlined in the County Subdivision Regulations.

C. The Arapahoe County Stormwater Management Manual, “Requirements for a Floodplain Modification Study” describes the submittal requirements needed to make changes to existing floodplains.

12-106.11.08.03 PERMIT REQUIREMENTS

A. All necessary state and federal permits shall be secured before building permits will be issued by Arapahoe County. At the time of issuance of building permits, the applicant shall certify to the PWD Building Division that the proposed structure(s) are outside the 100-year storm boundaries as outlined in the “Flood Insurance Study” prepared by the Federal Emergency Management Agency.

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B. Building permits shall not be issued for any new structures within the boundaries of the 100-year flood.

C. Building permits for the renovation or substantial improvement of existing structures within the 100-year storm shall not be issued if the value of the improvements exceeds fifty percent (50%) of the value of the existing structure.