

RESOLUTION NO. 2014-30

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LA PLATA COUNTY, COLORADO, REPEALING AND REENACTING LA PLATA COUNTY LAND USE CODE CHAPTER 78, FLOODS

WHEREAS, pursuant to the Colorado Planning Code, C.R.S. §§ 30-28-101, *et seq.*, the Board of County Commissioners of La Plata County, Colorado (the "Board") is empowered to plan and provide for the physical development of the unincorporated territory of La Plata County (the "County");

WHEREAS, the Local Government Land Use Control Enabling Act, C.R.S. §§ 29-20-101, *et seq.*, empowers the Board to plan for and regulate the use of land within the unincorporated territory of the County, including but not limited to: regulating the use of land on the basis of the impact thereof on the community or surrounding areas; regulating the location of activities and developments which may result in significant changes in population density; providing for phased development of services and facilities; and otherwise planning for and regulating use of land so as to provide for the planned and orderly use of land;

WHEREAS, Colorado counties possess those powers enumerated by the Colorado Constitution and Colorado Revised Statutes and such further incidental implied powers as are reasonably necessary to carry out the express powers;

WHEREAS, the Colorado Planning Code and Local Government Land Use Control Enabling Act constitute a broad delegation of authority to the County generally encompassing the subject of land use;

WHEREAS, pursuant to these authorities, the Board adopted land use regulations and subdivision regulations set forth in Subpart B of the La Plata County Code (the "Code"), including the regulations found in Chapter 78 establishing standards to manage floodplains;

WHEREAS, the Colorado Water Conservation Board recently adopted revised and more stringent standards for floodplain management, which became effective on January 14, 2011 and are now the effective minimum standards for the State of Colorado;

WHEREAS, to be eligible for the National Flood Insurance Program as well as flood and watershed grants from the Colorado Water Conservation Board, the County must revise its floodplain management regulations to, at a minimum, meet the standards adopted by the Colorado Water Conservation Board on January 14, 2011.

WHEREAS, the Planning Commission for the County held a duly noticed public meeting on July 10, 2014, and after receiving competent evidence at the meeting, made a recommendation to the Board to approve Project No. 2014- 0170, LPLUC Amendment – Floods (Chapter 78);

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WHEREAS, the Board held a duly noticed public hearing on August 5, 2014, and heard testimony and received competent evidence that Chapter 78 should be amended as more particularly set forth in the attached Exhibit A; and

WHEREAS, the Board received competent evidence that it would be in the best interest of the general health, safety and welfare of La Plata County citizens to amend Subpart B, Chapter 78 of the Code as set forth in the attached Exhibit A.

NOW THEREFORE, BASED UPON THE EVIDENCE AND TESTIMONY PRESENTED AT THE PUBLIC HEARINGS, BE IT RESOLVED BY THE LA PLATA COUNTY BOARD OF COUNTY COMMISSIONERS:

1. Chapter 78 of the La Plata County Code shall hereby be amended as set forth in the attached Exhibit A.
2. Chapter 78 of the La Plata County Code is determined to be of the type of regulations that are general in nature and applicable to all property subject to land use regulation by La Plata County.
3. The enactment of this Resolution is necessary for the immediate preservation of public health, safety and welfare and, therefore, this Resolution shall take effect immediately upon adoption and apply to all new applications submitted on or after such date of adoption.

DONE AND ADOPTED IN DURANGO, LA PLATA COUNTY, COLORADO, this 5th day of August, 2014.

BOARD OF COUNTY COMMISSIONERS OF
LA PLATA COUNTY, COLORADO

ATTEST

Clerk to the Board



Julie Westendorff, Chair


Gwen Lachelt, Vice-Chair


Robert A. Lieb, Jr., Commissioner

EXHIBIT A

CLEAN VERSION

LA PLATA COUNTY CODE
Chapter 78 - FLOODS
ARTICLE II. - FLOODPLAIN MANAGEMENT REGULATIONS

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Sec. 78-16. - Findings of fact.

- (a) The flood hazard areas of the county are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-17. - Statutory authorization.

This chapter is adopted pursuant to C.R.S. §§ 29-20-101 *et seq.*, and 30-15-401 *et seq.*

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-18. - Statement of purpose.

The intent and purpose of this chapter is to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and;
- (7) Insure that potential buyers are notified that property is located in a flood hazard area..

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

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Sec. 78-19. - Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- (1) Restricting or prohibiting uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage; and,
- (5) Preventing or regulating the construction of flood barriers that will unnaturally divert floodwaters or may increase flood hazards in other areas.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-20. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. If not defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

100-year flood means a flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-year flood," "one percent chance flood" and "base flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

100-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-year flood means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

500-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

Addition means any activity that expands the enclosed footprint or increases the square footage of an existing structure.

Alluvial fan flooding means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

Area of shallow flooding means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is

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unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year; i.e., subject to 100-year flood. See *100-year flood*.

Base flood means a flood having one percent chance of being equaled or exceeded in any year. The term is used interchangeably with the intermediate regional flood, the 100-year flood, and the one percent flood.

Base flood elevation means 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.

Basement means any area of a building having its floor sub-grade (below ground level) on all sides.

Channel means the physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

Channelization means the artificial creation, enlargement or realignment of a stream channel.

Code of Federal Regulations (CFR) means the codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

Community means any political subdivision of the state of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

Conditional letter of map revision (CLOMR) means FEMA's comment on a proposed project, which does not revise an effective floodplain map, which would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Critical facility means a structure or related infrastructure, but not the land on which it is situated, as specified in Article 5, Section H, 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.

Development means any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials.

DFIRM database means database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

Digital flood insurance rate map (DFIRM) means a FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

Elevated building means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated

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building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) is completed before the effective date of the floodplain management regulations adopted by the county.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or pouring of concrete pads).

Federal register means the official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of water from channels and reservoir spillways;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source; or
- (3) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current).

Flood fringe means that area of the floodplain exclusive of the floodway area, plus that portion of the floodplain that could be completely obstructed without increasing the water surface elevation of the base flood more than one foot at any point. Where no floodway has been determined, the flood fringe shall be considered to be that portion of the floodplain in which the waters of a base flood will not attain a maximum depth greater than one and one-half feet or a velocity of over three feet per second.

Flood insurance rate map (FIRM) means the official map on which FEMA has delineated both the Special Flood Hazards Areas and the risk premium zones applicable to the community.

Flood insurance study (FIS) means the official report provided by FEMA that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

Floodplain or flood-prone area means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

Floodplain administrator means the community official designated by title to administer and enforce the floodplain management regulations.

Floodplain development permit means a permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.

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Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood control structure means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood proofing means 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, water and sanitary facilities, structures and their contents.

Floodway (Regulatory Floodway) means the channel of a river or other watercourse and 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. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be 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.

Freeboard means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Functionally dependent use means 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.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) 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;

(2) 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;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or,

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior; or,

b. Directly by the Secretary of the Interior in states without approved programs.

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Letter of map revision (LOMR) means FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

Letter of map revision based on fill (LOMR-F) means FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Levee means a man-made embankment, usually earthen, 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. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including the basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or 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 non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means 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. This term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means:

- (1) A parcel of land used for placement of manufactured homes, or contiguous parcels of land used for placement of manufactured homes which, if held in individual ownership, are operated as a single entity by a planned unit development, development approved under Subpart B of this Code, homeowners association, or other ownership organization for provision of common utilities and service, and meeting the definition of a manufactured home park as to the number of manufactured home sites or spaces contained therein as specified in the land use system in effect at the time of the transaction governed by this chapter.
- (2) For purposes of the definition of an existing manufactured home park or subdivision, a single parcel of ground on which manufactured home lots or spaces are rented for placement and occupancy of manufactured homes shall be considered to be a manufactured home park, if it meets the other criteria set forth in this definition, regardless of the number of spaces contained therein.

Mean sea level means 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 referenced.

Material safety data sheet (MSDS) means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in

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a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

National flood insurance program (NFIP) means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

New construction means structures for which the start of construction commenced on or after the effective date of the regulations from which this chapter has been derived.

New manufactured home park or manufactured home subdivision means 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 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 floodplain management regulations adopted by the county.

Nonconforming use means any structure, development or land use in existence on the effective date of the regulations from which this chapter was derived and not permitted under the terms and provisions of this chapter.

No-rise certification means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

Physical map revision (PMR) means FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred 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.

Special flood hazard area means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Start of construction (including substantial improvement) means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, addition, placement or other improvement was within 180 days of the permit date. The actual start 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. For a substantial improvement, the actual

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start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally aboveground, as well as a manufactured home.

Subdivision means any subdivision as defined in C.R.S. § 30-28-110(10), as the same may from time to time be amended, except that divisions of land declared to be exempt pursuant to subsection (d) thereof shall nevertheless be considered subdivisions for the purposes of this chapter.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means 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 "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 either:

- (1) 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
- (2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Threshold planning quantity (TPQ) means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

Variance means grant of relief to a person from the requirement of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations).

Violation means the failure of a structure or other development to be fully compliant with this chapter.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Cross reference— Definitions generally, § 1-2.

Sec. 78-21. - Lands to which this chapter applies.

This chapter shall apply to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction La Plata County.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

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Sec. 78-22. - Adoption of maps and studies.

- (a) Designation of flood insurance rate maps and flood insurance studies to be used in application of this chapter shall be by official resolutions of the board of county commissioners after a public hearing. Notice of such hearing shall be published one time in a newspaper of general circulation in the county at least ten days, but not more than 30 days, prior to the hearing. The published notice shall include the time and place of the hearing, and shall designate the county office where information shall be available for public inspection. Within 30 days of the conclusion of the hearing, a decision as to the floodplain designation will be made by the board of county commissioners.
- (b) Prior to the designation of official studies and maps by the board of county commissioners, the proposed studies shall be reviewed by the planning commission and the state water conservation board. Recommendations shall be presented to the board of county commissioners by the above-named agencies for the adoption, rejection or adoption with modification of the studies and/or maps.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-23. - Basis for establishing the areas of special flood hazard.

The Special Flood Hazard Areas identified by FEMA in the August 19, 2010 "Flood Insurance Study: La Plata County, Colorado and Incorporated Areas, Volumes 1 and 2" along with accompanying Flood Insurance Rate Maps and Floodway Maps and the February 2008 study, prepared by Baker Engineering and Energy, entitled "La Plata County, Colorado Technical Support Data Notebook: Zone A Analysis La Plata, Florida, and Animas Rivers" including all attachments, revisions and supporting documentation (GIS BFE floodplain layers, hydraulic models, etc.) are hereby adopted by reference and declared to be a part of this chapter. These Special Flood Hazard Areas identified by the flood insurance study and attendant mapping are the minimum area of applicability of this chapter and may be supplemented by studies designated and approved by the board of county commissioners. The flood insurance study is on file at La Plata County Offices, 1060 East Second Avenue, Durango, Colorado 81301.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-24. - Amendments.

Any changes or amendments to this chapter shall be adopted pursuant to the procedure set forth in C.R.S. § 30-15-401 et seq., as the same may from time to time be amended.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-25. - Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside of Special Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the county, any officer or employee thereof or FEMA, for any flood damages that result from reliance on this chapter or any administrative decision made thereunder.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

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Sec. 78-26. - Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Deemed neither to limit nor repeal any other powers granted under state statutes;
- (3) Liberally construed in favor of the governing body.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-27. - Validity of prior regulations.

Nothing in this chapter shall be deemed to affect the validity of prior regulations and all actions taken thereunder.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-28. - Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Nothing herein shall prevent the board of county commissioners from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-29. - Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate or impair any existing easement, covenants or deed restrictions. However, where this chapter and other regulation, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-30. - Penalty for violation of article.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of any provision of this chapter shall be punishable as provided in C.R.S. § 30-15-402, as the same may from time to time be amended. Nothing herein contained shall prevent the county from taking such other lawful action as is necessary to prevent or remedy any violation.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

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Sec. 78-31. - Separate offenses.

Where a development is in violation of any provision of this chapter, each violation of any provision and day that such development is in violation shall be deemed a separate offense.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

State law reference— Penalties, C.R.S. §§ 30-15-402, 30-28-124, 30-28-124.5.

Sec. 78-32. - Severability and validity.

This chapter and the various parts thereof are hereby declared to be severable. If a section, subsection, sentence, clause or phrase of this chapter is, for any reason, declared unconstitutional, invalid or becomes inoperative for any reason, such declaration shall not affect the validity of any other section, subsection, sentence, clause or phrase, and it shall be presumed that this chapter would have been adopted without such unconstitutional, illegal or invalid parts or provisions.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-33. – Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this chapter.

Secs. 78-34—78-49. - Reserved.

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Sec. 78-50. - Designation of the Floodplain Administrator.

The Director of the La Plata County Building Department is hereby appointed as floodplain administrator to administer, implement and enforce the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

Sec. 78-51. - Duties and Responsibilities of the Floodplain Administrator.

The duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- (1) Review, approve, or deny all applications for floodplain development permits required by adoption of this chapter.
- (2) Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (4) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this chapter, including proper elevation of the structure.
- (5) *Interpretation of floodplain boundaries.*
 - a. Where interpretation is needed as to the accurate location of the boundaries the special flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the floodplain administrator shall make the necessary interpretations.
 - b. If available, the base flood elevation as shown on the profiles and tabulations for the points in question shall be the governing factor in determining accurate boundaries and shall take precedence over the boundaries shown on the maps.
 - c. When base flood elevation data has not been provided in accordance with subsection (5)b. of this section, the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvements or other development are administered in accordance with division 3 of this chapter.
 - d. Any person contesting the location of a floodplain boundary shall be given a reasonable opportunity to appeal the floodplain designation. Any boundary appeal must be substantiated by technical engineering data of sufficient detail to allow a determination to be made. The planning and building departments shall review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, both departments shall ensure that the encroachment provisions of division 3 of this chapter are met.

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- (6) *Information to be obtained and maintained.* The floodplain administrator shall:
- a. Maintain for public inspection all records pertaining to the provisions of this chapter.
 - b. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including the basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
 - c. For all new or substantially improved flood proofed structures:
 1. Verify and record the actual elevation (in relation to mean sea level to which the structure has been flood proofed); and
 2. Maintain the flood proofing certifications required in this chapter.
- (7) *Notification.* Notify adjacent communities and the state water conservation board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
- (8) *Maintenance.* Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-52. - Application requirements.

- (a) *Information submittals.* In addition to the regular development review requirements, a floodplain development permit shall be obtained before construction or development begins within any area of special flood hazard established in division 1 of this chapter. Application for a floodplain development permit shall be made on forms furnished by the floodplain administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; the location, dimensions, and elevation of proposed landscape alterations; existing and proposed structures, including the placement of manufactured homes; fill, storage of materials, and drainage facilities; and the location of the foregoing. Specifically, the following information is required:
- (1) Location of site (distance upstream as per floodplain studies);
 - (2) Building site elevation (in relation to the mean sea level);
 - (3) Difference between the building site elevation and the stream bed elevation;
 - (4) Elevation, in relation to the mean sea level, of the lowest floor (including the basement) of all new and substantially improved structures;
 - (5) Elevation in relation to the mean sea level to which any nonresidential structure shall be flood proofed;
 - (6) Description of any construction activity that would affect the hydraulic capacity of the base flood perimeters;
 - (7) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in section 78-73;
 - (8) Other information requested by the floodplain administrator; and,
 - (9) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

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- (b) *Preparation of submittals.* The information contained in subsection (a) of this section shall be prepared and certified by a professional engineer, registered in the state. Required elevation data may be provided by a registered land surveyor.
- (c) *Information to be kept on file.* Whenever an applicant is required to prepare and submit base flood elevation data in areas designated on the FIRM on an approximate A zone, the applicant shall also submit all underlying data and engineering calculations. Such information shall be kept on file for use pursuant to section 78-51

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-53. - Application approval or denial.

- (a) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this chapter and the following relevant factors:
 - (1) The danger to life and property due to flooding or erosion damage;
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (3) The danger that materials may be swept onto other lands to the injury of others;
 - (4) The compatibility of the proposed use with existing and anticipated development;
 - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - (7) 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;
 - (8) The necessity to the facility of a waterfront location, where applicable;
 - (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (10) The relationship of the proposed use to any comprehensive plan, master plan or floodplain management program for that area, if applicable.
- (b) For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the county FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and reasonably anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the county.
- (c) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, as amended, the floodplain administrator may approve certain development in Zones A1-30, AE, AH, on the county's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the applicant first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of 44 CFR § 65.12 and receives FEMA approval.

Sec. 78-54. - Variance procedure.

(a) *Appeals board.*

- (1) A board of appeals consisting of the board of county commissioners is hereby established to hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The board of appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this chapter.
- (3) Those aggrieved by the decision of the board of appeals may seek judicial review of such decision pursuant to C.R.C.P. 106(a)(4).
- (4) In passing upon such applications, the board of appeals shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this chapter, including but not limited to Sec. 78-53.
- (5) Upon consideration of the factors of this Article and the purposes of this chapter, the board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this chapter.

(b) *Conditions for variances.*

- (1) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure
- (2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, with regard to the procedures set forth in this section.
- (2) A variance shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (4) Variances shall only be issued upon:
 - a. A showing of good and sufficient cause;
 - b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or regulations.
- (5) Any applicant to whom a variance is granted shall be given written notice that the structure may be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (6) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the provisions of Sec. 78-

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53have been fully considered. As the lot size increases beyond one-half acre, the technical justifications required for issuing the variance increases.

- (7) Variances may be issued by the floodplain administrator for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:
 - a. The criteria outlined in this section are met, and
 - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(c) *Record of Variances*

The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to FEMA upon request.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Secs. 78-55—78-70. - Reserved.

FOOTNOTE(S):

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Cross reference— Administration, ch. 2.

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Sec. 78-71. - Compliance.

- (a) No floodplain development permit shall be issued for any building or structure, including a manufactured home, which is proposed to be located within an area of special flood hazard without the full compliance with the terms of this chapter.

Exception: The building and planning officials may accept certification from a professional engineer or surveyor, registered in the state, that a building site in a designated floodplain is above the base flood level. However, the applicant shall obtain a letter of map amendment (LOMA) from the Federal Emergency Management Agency prior to receiving a certificate of occupancy.

- (b) No subdivision which contains at least five acres or 50 lots, or other development proposed for any designated floodplain area shall be granted final approval without full compliance with the provisions of this chapter.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-72. - General standards.

In all special flood hazard areas, the following provisions are required for all new construction and substantial improvements. In determining compliance with this section, available base flood elevation data shall be utilized.

(a) *Anchoring.*

- (1) All new construction and substantial improvements shall 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.
- (2) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top and frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements shall be that:
 - a. Over-the-top ties are 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;
 - b. Frame ties are 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 shall be capable of carrying a force of 4,800 pounds; and
 - d. Any additions to the manufactured home shall be similarly anchored.

(b) *Construction materials and methods.*

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- (1) All new construction and/or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (2) All new construction and substantial improvements, including manufactured homes, shall be constructed using methods and practices that minimize flood damage.
 - (3) All new construction and substantial improvements 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.
- (c) *Utilities.*
- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
 - (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharge from the systems into floodwaters.
 - (3) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 - (4) Plumbing opening into areas required to be flood proofed shall be equipped with backwater valves, as provided in the plumbing code.
 - (5) Electrical wiring shall be entirely within the flood proofed space. The electrical service and meter shall be above the base flood level in a location approved by the serving utility.
- (d) *Subdivision and other development proposals.*
- (1) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
 - (2) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
 - (3) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
 - (4) Base flood elevation data shall be generated and provided for all subdivision proposals or other development proposals, including the placement of manufactured home parks and subdivisions, which contain at least 50 lots or five acres, whichever is less, if not otherwise provided pursuant to Sec. 78-23 or 78-51 of this chapter.
 - (5) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, must obtain a floodplain development permit in accordance with Sec. 78-33 by submitting an application pursuant to the requirements of Sec. 78-52, and satisfy the applicable provisions of Division 3 of this chapter. No building sites shall be approved in any determined floodway area.
 - (6) Any contemplated floodplain encroachment or channeling shall be thoroughly analyzed and its effect on stream flow determined before it is undertaken. No encroachment of a floodway area shall be allowed that would result in any increase in flood levels during the occurrence of a base flood.

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(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-73. - Specific standards.

In all special flood hazard areas, except those areas governed by section 78-75 below, the following provisions are required. In determining compliance with this section, available base flood elevation data shall be utilized.

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including the basement, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the floodplain administrator.
- (2) *Nonresidential construction.* With the exception of critical facilities, outlined in Sec. 78-79, new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including the basement, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to at least one foot above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
 - a. Be flood proofed so that below the base flood level, the structure is watertight with walls substantially impermeable to the passage of water to at least one foot above the base flood elevation;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - c. A Colorado registered 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 as outlined in this subsection. Such certification shall be maintained by the floodplain administrator.
- (3) *Openings in enclosures below the lowest floor.* For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and 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 for meeting this requirement must either be certified by a Colorado registered professional engineer or architect, or must meet or exceed the following minimum criteria:
 - a. 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;
 - b. The bottom of all openings shall be no higher than one foot above grade; and,
 - c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) *Manufactured homes.*

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- a. Manufactured homes shall be anchored in accordance with the standards of subsection 78-72(a).
 - b. Manufactured homes that are placed or substantially improved within zones A1-30, AH and AE on sites outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, are required to be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to at least one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - c. Manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions within zones A1-30, AH, and AE that are not subject to the provisions of subsection (3)b. of this section are required to be elevated so that either the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are at least one foot above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (5) *Recreational vehicles.* All recreational vehicles placed on sites within Zones A1-30, AH, and AE must either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of this chapter as well as the elevation and anchoring requirements for manufactured homes.
- (6) *Below-grade residential crawlspace construction.* New construction and substantial improvement of any below-grade crawlspace shall:
- a. Have the interior grade elevation that is below base flood elevation no lower than two feet below the lowest adjacent grade;
 - b. Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceed four feet at any point;
 - c. Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;
 - d. Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;
 - e. Be constructed with materials and utility equipment resistant to flood damage;
 - f. Be constructed using methods and practices that minimize flood damage;
 - g. 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;
 - h. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. 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:

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1. 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;
2. The bottom of all openings shall be no higher than one foot above grade; and,
3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-74. - Encroachment absent regulatory floodway designation.

Until a regulatory floodway is designated, no development may increase the water surface elevation of the base flood level more than one-half foot.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-75. - Areas of shallow flooding (AO/AH zones).

Located within the special flood hazard areas established in this chapter are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the applicable FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the floodplain administrator.
- (2) All new construction and substantial improvements of non-residential structures (with the exception of critical facilities as outlined in Sec. 78-79);
 - a. Have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the applicable FIRM (at least three feet if no depth number is specified); or,
 - b. Together with attendant utility and sanitary facilities be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.
- (3) A Colorado registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this chapter are satisfied.
- (4) Require within zones AH or AO adequate drainage paths around structures on slopes to guide flood waters around and away from proposed structures.

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(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-76. - Floodways.

Located within areas of special flood hazard are areas designated as "floodways." Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- (1) All encroachments within floodways including fill, new construction, substantial improvements and other development are prohibited, unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.
- (2) If the general standards of section 78-72 are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this division.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-77. – Alteration of a watercourse.

For all proposed developments that alter a watercourse within a special flood hazard area, the following standards shall apply:

- (1) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
- (2) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
- (3) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
- (4) Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or certified professional hydrologist.
- (5) All activities within the regulatory floodplain shall meet all applicable federal, state and county floodplain requirements and regulations.
- (6) Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado professional engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, otherwise known as a No-Rise Certification, unless the project proponent first obtains a CLOMR and floodway revision in accordance with Section 78-76 of this Article.

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- (7) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

Sec. 78-78. – Properties removed from the floodplain by fill.

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

- (1) For all new construction and substantial improvements of residential structures, the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to at least one foot above the Base Flood Elevation that existed prior to the placement of fill.
- (2) For all new construction and substantial improvements of nonresidential structures, the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to at least one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of the effects of buoyancy.

Sec. 78-79. – 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.

- (1) Classification of critical facilities

It is the responsibility of the board of county commissioners to identify and confirm that specific structures in their community meet the following criteria:

Critical facilities are classified under the following categories: (a) essential services; (b) hazardous materials; (c) at-risk populations; and (d) vital to restoring normal services.

- a. 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:
 1. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
 2. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
 3. Designated emergency shelters;

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4. 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);
5. 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,
6. Air Transportation lifelines (airports (municipal and larger), 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 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 provisions of this Article, 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.

- b. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include:
 1. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
 2. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
 3. Refineries;
 4. Hazardous waste storage and disposal sites; and,
 5. Above ground gasoline or propane storage or sales centers.

Facilities shall be determined to be critical facilities if they produce or store materials 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 Public Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities,

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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 this ordinance, but exclude later amendments to or editions of the regulations.

Specific exemptions to this category include:

1. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
2. Buildings and other structures containing hazardous materials 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 a release of the subject hazardous material does not pose a major threat to the public.
3. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this chapter.

- c. At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
 1. Elder care (nursing homes);
 2. Congregate care serving 12 or more individuals (day care and assisted living); and,
 3. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children).
- d. Facilities vital to restoring normal services including government operations. These facilities consist of:
 1. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers); and,
 2. 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 a redundant system 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 this ordinance, 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.

(2) Protection for critical facilities

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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 purposes of this ordinance, protection shall include one of the following:

- a. Location outside the special flood hazard area; or
- b. Elevation of the lowest floor or flood proofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the base flood elevation.

(3) 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.

Secs. 78-80 — 78-89. - Reserved.

REDLINE VERSION

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Sec. 78-16. - Findings of fact.

- (a) The flood hazard areas of the county are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are caused by the cumulative effect of obstructions in areas of special flood hazards which increase flood heights and velocities, and when inadequately anchored, damage uses in other areas. Uses that are inadequately flood-proofed, elevated or otherwise protected from flood damage also contribute to the flood loss.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-17. - Statutory authorization.

This chapter is adopted pursuant to C.R.S. §§ 29-20-101 *et seq.*, and 30-15-401 *et seq.*

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-18. - Statement of purpose.

The intent and purpose of this chapter is to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) ~~Prohibit within a floodplain any obstruction which would cause a foreseeable damage to others, wherever located~~Protect human life and health;
- (2) ~~Minimize or eliminate infiltration of, or discharge to, floodwaters with respect to new or replacement water supply and waste disposal systems~~expenditure of public money for costly flood control projects;
- (3) ~~Prohibit within a floodplain substantial solid debris capable of being carried downstream by floodwater~~Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) ~~Minimize prolonged business interruptions; Protect the public from the burden of avoidable financial expenditures for flood control projects, flood relief measures, and damages to public utilities, streets and bridges;~~
- ~~(5) Prevent avoidable business and commerce interruptions;~~
- (6) Minimize damage to critical facilities, infrastructure and other public facilities such as water, sewer and gas mains; electric and communications stations; and streets and bridges located in floodplains~~Ensure that potential buyers are on notice that property is subject to flood hazard and the mitigation requirements which must be met for use of such property;~~

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- ~~(76) Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and Facilitate the administration of flood hazard areas by establishing requirements which must be met before construction in such areas is permitted;~~
 - ~~(87) Insure that potential buyers are notified that property is located in a flood hazard area. Facilitate the county's participation in the federal flood insurance program;~~
 - ~~(9) Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;~~
 - ~~(10) Ensure that those who occupy the areas of special flood hazards assume responsibility for their actions;~~
 - ~~(11) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public; and~~
 - ~~(12) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone, and sewer lines; and streets and bridges located in areas of special flood hazard.~~
- (Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-19. - Methods of reducing flood losses.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- (1) Restricting or prohibiting uses ~~which that~~ are dangerous to health, safety ~~and or~~ property in times of flood, or cause excessive increases in flood heights or velocities; due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers, which help accommodate or channel floodwaters;
- (4) Controlling filling, grading, dredging and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers ~~which that~~ will unnaturally divert floodwaters or ~~which~~ may increase flood hazards in other areas.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-20. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. If not defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

100-year flood means a flood having a recurrence interval that has a one-percent chance of being equaled or exceeded during any given year (1-percent-annual-chance flood). The terms "one-hundred-

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year flood," "one percent chance flood" and "base flood" are synonymous with the term "100-year flood." The term does not imply that the flood will necessarily happen once every one hundred years.

100-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

500-year flood means a flood having a recurrence interval that has a 0.2-percent chance of being equaled or exceeded during any given year (0.2-percent-chance-annual-flood). The term does not imply that the flood will necessarily happen once every five hundred years.

500-year floodplain means the area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

Addition means any activity that expands the enclosed footprint or increases the square footage of an existing structure.

Alluvial fan flooding means a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

Area of shallow flooding means a designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow designated AO zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and, velocity flow may be evident.

Area of special flood hazard means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year; i.e., subject to 100-year flood. See ~~Base~~ 100-year flood.

Base flood means a flood having one percent chance of being equaled or exceeded in any year. The term is used interchangeably with the intermediate regional flood, the 100-year flood, and the one percent flood.

Base flood elevation means 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 height, in relation to the North American Vertical Datum of 1988 (NAVD88) (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

Basement means any area of a building having its floor sub-grade (below ground level) on all sides.

Channel means the physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

Channelization means the artificial creation, enlargement or realignment of a stream channel.

Code of Federal Regulations (CFR) means the codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

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Community means any political subdivision of the state of Colorado that has authority to adopt and enforce floodplain management regulations through zoning, including, but not limited to, cities, towns, unincorporated areas in the counties, Indian tribes and drainage and flood control districts.

Conditional letter of map revision (CLOMR) means FEMA's comment on a proposed project, which does not revise an effective floodplain map, which would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

Critical facility means a structure or related infrastructure, but not the land on which it is situated, as specified in Article 5, Section H, 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.

Development means any man-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, ~~or~~ drilling operations or storage of equipment or materials.

DFIRM database means database (usually spreadsheets containing data and analyses that accompany DFIRMs). The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

Digital flood insurance rate map (DFIRM) means a FEMA digital floodplain map. These digital maps serve as "regulatory floodplain maps" for insurance and floodplain management purposes.

Elevated building means a non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) ~~are-is~~ completed before the effective date of the floodplain management regulations adopted by the county.

Expansion to an existing manufactured home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or pouring of concrete pads).

Federal register means the official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

FEMA means the Federal Emergency Management Agency, the agency responsible for administering the National Flood Insurance Program.

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of water from channels and reservoir spillways;
- (2) The unusual and rapid accumulation or runoff of surface waters from any source; or

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(3) Mudslides or mudflows that occur from excess surface water that is combined with mud or other debris that is sufficiently fluid so as to flow over the surface of normally dry land areas (such as earth carried by a current of water and deposited along the path of the current), the overflow of streams, river or other inland water, or the unusual and rapid accumulation or runoff of surface waters from any source.

Flood fringe means that area of the floodplain exclusive of the floodway area, plus that portion of the floodplain that could be completely obstructed without increasing the water surface elevation of the base flood more than one foot at any point. Where no floodway has been determined, the flood fringe shall be considered to be that portion of the floodplain in which the waters of a base flood will not attain a maximum depth greater than one and one-half feet or a velocity of over three feet per second.

Flood insurance rate map (FIRM) means the official map on which ~~the Federal Emergency Management Agency (FEMA)~~ has delineated both the ~~areas of s~~pecial ~~f~~lood ~~h~~azards Areas and the risk premium zones applicable to the community.

Flood insurance study (FIS) means the official report provided by ~~the Federal Emergency Management Agency~~FEMA that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

Floodplain or flood-prone area means any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir adjacent to a stream, which area is subject to flooding as the result of the occurrence of a base flood and which area thus is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property.

Floodplain administrator means the community official designated by title to administer and enforce the floodplain management regulations.

Floodplain development permit means a permit required before construction or development begins within any Special Flood Hazard Area (SFHA). If FEMA has not defined the SFHA within a community, the community shall require permits for all proposed construction or other development in the community including the placement of manufactured homes, so that it may determine whether such construction or other development is proposed within flood-prone areas. Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain management regulations means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Flood control structure means a physical structure designed and built expressly or partially for the purpose of reducing, redirecting, or guiding flood flows along a particular waterway. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Flood proofing means 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, water and sanitary facilities, structures and their contents.

Floodway (Regulatory Floodway) means the channel of a river or other watercourse and 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. The Colorado statewide standard for the

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~~designated height to be used for all newly studied reaches shall be 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 that area of the floodplain exclusive of the flood fringe, in which channel of the watercourse and these portions of the adjoining floodplain which must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot at any point.~~

Freeboard means the vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

Functionally dependent use means 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.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic structure means any structure that is:

(1) 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;

(2) 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;

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or,

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

a. By an approved state program as determined by the Secretary of the Interior; or,

b. Directly by the Secretary of the Interior in states without approved programs.

Letter of map revision (LOMR) means FEMA's official revision of an effective Flood Insurance Rate Map (FIRM), or Flood Boundary and Floodway Map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA).

Letter of map revision based on fill (LOMR-F) means FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Levee means a man-made embankment, usually earthen, 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. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

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Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area (including the basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or 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 non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations. 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 non-elevation design requirements of this chapter.

Manufactured home means 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. This term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means:

- (1) A parcel of land used for placement of manufactured homes, or contiguous parcels of land used for placement of manufactured homes which, if held in individual ownership, are operated as a single entity by a planned unit development, development approved under Subpart B of this Code, homeowners association, or other ownership organization for provision of common utilities and service, and meeting the definition of a manufactured home park as to the number of manufactured home sites or spaces contained therein as specified in the land use system in effect at the time of the transaction governed by this chapter.
- (2) For purposes of the definition of an existing manufactured home park or subdivision, a single parcel of ground on which manufactured home lots or spaces are rented for placement and occupancy of manufactured homes shall be considered to be a manufactured home park, if it meets the other criteria set forth in this definition, regardless of the number of spaces contained therein.

Mean sea level means 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 referenced.

Material safety data sheet (MSDS) means a form with data regarding the properties of a particular substance. An important component of product stewardship and workplace safety, it is intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and includes information such as physical data (melting point, boiling point, flash point, etc.), toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment, and spill-handling procedures.

National flood insurance program (NFIP) means FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44 of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

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New construction means structures for which the start of construction commenced on or after the effective date of the regulations from which this chapter has been derived.

New manufactured home park or manufactured home subdivision means 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 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 floodplain management regulations adopted by the county.

Nonconforming use means any structure, development or land use in existence on the effective date of the regulations from which this chapter was derived and not permitted under the terms and provisions of this chapter.

No-rise certification means a record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A No-Rise Certification must be supported by technical data and signed by a registered Colorado Professional Engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM).

Physical map revision (PMR) means FEMA's action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

~~100-year flood. See Base flood.~~

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred 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.

Special flood hazard area means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

Start of construction (~~including~~ substantial improvement), ~~and~~ means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, addition, placement or other improvement was within 180 days of the permit date. The actual start 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. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building, including a gas or liquid storage tank, ~~that~~ which is principally aboveground, as well as a manufactured home.

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Subdivision means any subdivision as defined in C.R.S. § 30-28-110(10), as the same may from time to time be amended, except that divisions of land declared to be exempt pursuant to subsection (d) thereof shall nevertheless be considered subdivisions for the purposes of this chapter.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial improvement means 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 "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 either: repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- (1) 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~~Before the improvement or repair is started;~~ or
- (2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."~~If the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, the term "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.~~

~~The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to ensure safe living conditions, or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.~~

Threshold planning quantity (TPQ) means a quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

Variance means grant of relief to a person from the requirement of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations).~~a grant of relief from the requirements of this chapter which permits construction in a manner that would otherwise be prohibited by this chapter.~~

Violation means the failure of a structure or other development to be fully compliant with this chapter.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Cross reference— Definitions generally, § 1-2.

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Sec. 78-21. - Lands to which this chapter applies.

This chapter ~~shall apply to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction shall apply to all areas of unincorporated~~ La Plata County.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-22. - Adoption of maps and studies.

- (a) Designation of flood insurance rate maps and flood insurance studies to be used in application of this chapter shall be by official resolutions of the board of county commissioners after a public hearing. Notice of such hearing shall be published one time in a newspaper of general circulation in the county at least ten days, but not more than 30 days, prior to the hearing. The published notice shall include the time and place of the hearing, and shall designate the county office where information shall be available for public inspection. Within 30 days of the conclusion of the hearing, a decision as to the floodplain designation will be made by the board of county commissioners.
- (b) Prior to the designation of official studies and maps by the board of county commissioners, the proposed studies shall be reviewed by the planning commission and the state water conservation board. Recommendations shall be presented to the board of county commissioners by the above-named agencies for the adoption, rejection or adoption with modification of the studies and/or maps.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-23. - Basis for establishing the areas of special flood hazard.

The ~~areas of special Flood Hazard Areas~~ identified by ~~the Federal Emergency Management Agency-FEMA~~ in the August 19, 2010 "Flood Insurance Study: La Plata County, Colorado and Incorporated Areas, Volumes 1 and 2" along with accompanying ~~flood-Flood insurance-Insurance rate-Rate maps-Maps~~ and ~~floodway-Floodway maps-Maps~~ and the February 2008 study, prepared by Baker Engineering and Energy, entitled "La Plata County, Colorado Technical Support Data Notebook: Zone A Analysis La Plata, Florida, and Animas Rivers" including all attachments, revisions and supporting documentation (GIS BFE floodplain layers, hydraulic models, etc.) are hereby adopted by reference and declared to be a part of this chapter. These Special Flood Hazard Areas identified by the flood insurance study and attendant mapping are the minimum area of applicability of this chapter and may be supplemented by studies designated and approved by the board of county commissioners. The flood insurance study is on file at La Plata County Offices, 1060 East Second Avenue, Durango, Colorado 81301.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-24. - Amendments.

Any changes or amendments to this chapter shall be adopted pursuant to the procedure set forth in C.R.S. § 30-15-401 et seq., as the same may from time to time be amended.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

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Sec. 78-25. - Warning and disclaimer of liability.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside ~~the areas of special~~ Special flood Flood hazards Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the county, any officer or employee thereof or ~~the Federal Emergency Management Agency~~ FEMA, for any flood damages that result from reliance on this chapter or any administrative decision made thereunder.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-26. - Interpretation.

In the interpretation and application of this chapter, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Deemed neither to limit nor repeal any other powers granted under state statutes;
- (3) Liberally construed in favor of the governing body.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-27. - Validity of prior regulations.

Nothing in this chapter shall be deemed to affect the validity of prior regulations and all actions taken thereunder.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-28. - Compliance.

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter and other applicable regulations. Nothing herein shall prevent the board of county commissioners from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-29. - Abrogation and greater restrictions.

This chapter is not intended to repeal, abrogate or impair any existing easement, covenants or deed restrictions. However, where this chapter and other regulation, easement, covenant or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

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Sec. 78-30. - Penalty for violation of article.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations. Violations of any provision of this chapter shall be punishable as provided in C.R.S. § 30-15-402, as the same may from time to time be amended. Nothing herein contained shall prevent the county from taking such other lawful action as is necessary to prevent or remedy any violation.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-31. - Separate offenses.

Where a development is in violation of any provision of this chapter, each violation of any provision and day that such development is in violation shall be deemed a separate offense.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

State law reference— Penalties, C.R.S. §§ 30-15-402, 30-28-124, 30-28-124.5.

Sec. 78-32. - Severability and validity.

This chapter and the various parts thereof are hereby declared to be severable. If a section, subsection, sentence, clause or phrase of this chapter is, for any reason, declared unconstitutional, invalid or becomes inoperative for any reason, such invalidity or failure declaration shall not affect the validity of any other section, subsection, sentence, clause or phrase, and it shall be presumed that this chapter would have been adopted without such unconstitutional, illegal or invalid parts or provisions.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Secs. 78-33. – Establishment of Floodplain Development Permit

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this chapter.

Secs. 78-34—78-5049. - Reserved.

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DIVISION 2. - ADMINISTRATION ^[2]

Sec. 78-~~51~~50. - Designation of the Floodplain Administrator.

The Director of the La Plata County Building Department is hereby appointed as floodplain administrator to administer, implement and enforce the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

Sec. 78-51. - Duties and Responsibilities of the Floodplain Administrator~~planning and building departments.~~

~~The duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following: planning and building departments are hereby appointed to administer and implement this chapter by granting or denying development permit applications in accordance with its provisions.~~

- (1) Review, approve, or deny all applications for floodplain development permits required by adoption of this chapter.
- (2) Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (4) Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this chapter, including proper elevation of the structure.
- (45) Interpretation of floodplain boundaries.
 - a. ~~Where interpretation is needed as to the accurate location of the boundaries of floodplains~~the special flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), the ~~planning and building department personnel~~floodplain administrator shall make the necessary interpretations.
 - b. If available, the base flood elevation as shown on the profiles and tabulations for the points in question shall be the governing factor in determining accurate boundaries and shall take precedence over the boundaries shown on the maps.
 - c. When base flood elevation data has not been provided in accordance with subsection ~~(45)~~b. of this section, the ~~floodplain administrator~~ planning and building departments shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvements or other development ~~in zone A~~ are administered in accordance with division 3 of this chapter.
 - d. Any person contesting the location of a floodplain boundary shall be given a reasonable opportunity to appeal the floodplain designation. Any boundary appeal must be substantiated by technical engineering data of sufficient detail to allow a determination to be made.

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~~e. The planning and building departments shall review all development permits to determine that the permit requirements of this chapter have been satisfied.~~

~~f. The planning and building departments shall review all development permits to determine that all necessary permits have been obtained from federal, state or local governmental agencies from which prior approval is required.~~

~~g. The planning and building departments shall review all development permits to determine if the proposed development is located in the floodway. If located in the floodway, both departments shall ensure that the encroachment provisions of division 3 of this chapter are met.~~

(26) *Information to be obtained and maintained.* The ~~planning and building departments~~floodplain administrator shall:

- a. Maintain for public inspection all records pertaining to the provisions of this chapter.
- b. Obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including the basement) of all new or substantially improved structures, and whether or not the structure contains a basement.
- c. For all new or substantially improved flood proofed structures:
 1. Verify and record the actual elevation (in relation to mean sea level to which the structure has been flood proofed); and
 2. Maintain the flood proofing certifications required in this chapter.

(37) *Notification.* Notify adjacent communities and the state water conservation board prior to any alteration or relocation of a watercourse, and submit evidence of such notification to ~~the Federal Emergency Management Agency~~FEMA.

(48) *Maintenance.* Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood-carrying capacity is not diminished.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-52. - Application requirements.

(a) *Information submittals.* In addition to the regular development review requirements, a floodplain development permit shall be obtained before construction or development begins within any area of special flood hazard established in division 1 of this chapter. Application for a floodplain development permit shall be made on forms furnished by the ~~planning department~~floodplain administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions and elevations of the area in question; the location, dimensions, and elevation of proposed landscape alterations; existing ~~or~~ and proposed structures, including the placement of manufactured homes; fill, storage of materials, and drainage facilities; and the location of the foregoing. Specifically, the following information is required:

- (1) Location of site (distance upstream as per floodplain studies);
- (2) Building site elevation (in relation to the mean sea level);
- (3) Difference between the building site elevation and the stream bed elevation;
- (4) Elevation, in relation to the mean sea level, of the lowest floor (including the basement) of all new and substantially improved structures;

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- (5) Elevation in relation to the mean sea level to which any nonresidential structure ~~has been~~ shall be flood proofed;
 - (6) Description of any construction activity ~~which that~~ would affect the hydraulic capacity of the base flood perimeters;
 - (7) Certification by a registered professional engineer or architect that the flood proofing methods for any nonresidential structure meet the flood proofing criteria in section 78-73;
 - (8) Other information requested by the ~~planning and/or building departments~~ floodplain administrator; and,
 - (9) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- (b) *Preparation of submittals.* The information contained in subsection (a) of this section shall be prepared and certified by a professional engineer, registered in the state. Required elevation data may be provided by a registered land surveyor.
- (c) *Information to be kept on file.* Whenever an applicant is required to prepare and submit base flood elevation data in areas designated on the FIRM on an approximate A zone, the applicant shall also submit all underlying data and engineering calculations. Such information shall be kept on file for use pursuant to section 78-51

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-53. - Application approval or denial.

- (a) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this chapter and the following relevant factors:
- (1) The danger to life and property due to flooding or erosion damage;
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (3) The danger that materials may be swept onto other lands to the injury of others;
 - (4) The compatibility of the proposed use with existing and anticipated development;
 - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - (7) 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;
 - (8) The necessity to the facility of a waterfront location, where applicable;
 - (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (10) The relationship of the proposed use to any comprehensive plan, master plan or floodplain management program for that area, if applicable.

- (b) For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the county FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and reasonably anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the county.
- (c) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, as amended, the floodplain administrator may approve certain development in Zones A1-30, AE, AH, on the county's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the applicant first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of 44 CFR § 65.12 and receives FEMA approval.

Sec. 78-~~535~~4. - Variance procedure.

(a) *Appeals board.*

- (1) A board of appeals consisting of the board of county commissioners is hereby established to hear and decide appeals and requests for variances from the requirements of this chapter.
- (2) The board of appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this chapter.
- (3) Those aggrieved by the decision of the board of appeals may seek judicial review of such decision pursuant to C.R.C.P. ~~406~~ 106(a)(4).
- (4) In passing upon such applications, the board of appeals shall consider all technical evaluations, all relevant factors, and standards specified in other sections of this chapter, including but not limited to Sec. 78-53; and:
 - ~~a. The danger that materials may be swept onto other lands to the injury of others;~~
 - ~~b. The danger to life and property due to flooding or erosion damage;~~
 - ~~c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;~~
 - ~~d. The importance of the services provided by the proposed facility to the community;~~
 - ~~e. The necessity to the facility of a waterfront location, where applicable;~~
 - ~~f. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;~~
 - ~~g. The compatibility of the proposed use with existing and anticipated development;~~
 - ~~h. The relationship of the proposed use to the master plan and floodplain management program of that area;~~
 - ~~i. The safety of access to the property in times of flood for ordinary and emergency vehicles;~~
 - ~~j. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters;~~
and

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~~k. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.~~

(5) Upon consideration of the factors ~~of subsection (a)(4)~~ of this ~~section Article~~ and the purposes of this chapter, the board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this chapter.

(b) *Conditions for variances.*

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

(2) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places, with regard to the procedures set forth in this section.

(2) A variance shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or regulations.

(5) Any applicant to whom a variance is granted shall be given written notice that the structure may be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(6) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the provisions of Sec. 78-53 subsection (a)(4) of this section ~~has have~~ been fully considered. As the lot size increases beyond one-half acre, the technical justifications required for issuing the variance increases. ~~The county planning staff shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Emergency Management Agency.~~

(7) Variances may be issued by the floodplain administrator for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:

a. The criteria outlined in this section are met, and

b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

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(c) Record of Variances

The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to FEMA upon request.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Secs. 78-~~5455~~—78-70. - Reserved.

FOOTNOTE(S):

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Cross reference— Administration, ch. 2.

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Sec. 78-71. - Compliance.

- (a) No floodplain development permit shall be issued for any building or structure, including a manufactured home, which is proposed to be located within an area of special flood hazard without the full compliance with the terms of this chapter.

Exception: The building and planning officials may accept certification from a professional engineer or surveyor, registered in the state, that a building site in a designated floodplain is above the base flood level. However, the applicant shall obtain a letter of map amendment (LOMA) from the Federal Emergency Management Agency prior to receiving a certificate of occupancy.

- (b) No subdivision which contains at least five acres or 50 lots, or other development proposed for any designated floodplain area shall be granted final approval without full compliance with the provisions of this chapter.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-72. - General standards.

In all ~~areas of~~ special flood hazards areas, the following provisions are required for all new construction and substantial improvements. In determining compliance with this section, available base flood elevation data shall be utilized.

(a) *Anchoring.*

- (1) All new construction and substantial improvements shall 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 and to withstand hydrodynamic loads.
- (2) All manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top and frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces. Specific requirements shall be that:
- a. Over-the-top ties are 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;
 - b. Frame ties are 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 shall be capable of carrying a force of 4,800 pounds; and
 - d. Any additions to the manufactured home shall be similarly anchored.

(b) *Construction materials and methods.*

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- (1) All new construction and/or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
 - (2) All new construction and substantial improvements, including manufactured homes, shall be constructed using methods and practices that minimize flood damage.
 - (3) All new construction and substantial improvements 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.
- (c) *Utilities.*
- (1) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
 - (2) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into systems and discharge from the systems into floodwaters.
 - (3) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
 - (4) Plumbing opening into areas required to be flood proofed shall be equipped with backwater valves, as provided in the plumbing code.
 - (5) Electrical wiring shall be entirely within the flood proofed space. The electrical service and meter shall be above the base flood level in a location approved by the serving utility.
- (d) *Subdivision and other development proposals.*
- (1) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage. All subdivision proposals shall be consistent with the need to minimize flood damage.
 - (2) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.
 - (3) All subdivision proposals, including the placement of manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood damagehazards.
 - (4) Base flood elevation data shall be generated and provided for all subdivision proposals or other development proposals, including the placement of manufactured home parks and subdivisions, which contain at least 50 lots or five acres, whichever is less, if not otherwise provided pursuant to Sec. 78-23 or 78-51 of this chapter.
 - (5) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, must obtain a floodplain development permit in accordance with Sec. 78-33 by submitting an application pursuant to the requirements of Sec. 78-52, and satisfy the applicable provisions of Division 3 of this chapter. No building sites shall be approved in any determined floodway area.
 - (6) Any contemplated floodplain encroachment or channeling shall be thoroughly analyzed and its effect on stream flow determined before it is undertaken. No encroachment of a

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floodway area shall be allowed ~~which that~~ would result in any increase in flood levels during the occurrence of a base flood.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-73. - Specific standards.

In all ~~areas of~~ special flood hazard areas, except those areas governed by section 78-75 below, the following provisions are required. In determining compliance with this section, available base flood elevation data shall be utilized.

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor, including the basement, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the floodplain administrator.
- (2) *Nonresidential construction.* With the exception of critical facilities, outlined in Sec. 78-79, New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including the basement, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to at least one foot above the level of the base flood elevation; or, together with attendant utility and sanitary facilities, shall:
 - a. Be flood proofed so that below the base flood level, the structure is watertight with walls substantially impermeable to the passage of water to at least one foot above the base flood elevation;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - c. ~~Be certified by a~~ A Colorado registered 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 as outlined in this subsection. Such certification shall be maintained by the floodplain administrator that the standards of this subsection are satisfied.
- (3) *Openings in enclosures below the lowest floor.* For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access, or storage in an area other than a basement and 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 for meeting this requirement must either be certified by a Colorado registered professional engineer or architect, or must meet or exceed the following minimum criteria:
 - a. 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;
 - b. The bottom of all openings shall be no higher than one foot above grade; and,

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- c. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) *Manufactured homes.*
- a. Manufactured homes shall be anchored in accordance with the standards of subsection 78-72(a).
 - b. Manufactured homes that are placed or substantially improved within zones A1-30, AH and AE on sites outside of a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, are required to be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), is- are elevated to ~~or at least~~ one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
 - c. Manufactured homes to be placed or substantially improved on sites in existing manufactured home parks or subdivisions within zones A1-30, AH, and AE that are not subject to the provisions of subsection (3)b. of this section are required to be elevated so that either the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), isare at-erat least one foot above the base flood elevation, or the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (5) *Recreational vehicles.* Require that All recreational vehicles placed on sites within Zones A1-30, AH, and AE must either (i) be on the site for fewer than 180 consecutive days, (ii) be fully licensed and ready for highway use, or (iii) meet the permit requirements of this chapter as well as the ~~and~~ elevation and anchoring requirements for manufactured homes.
- (6) *Below-grade residential crawlspace construction.* New construction and substantial improvement of any below-grade crawlspace shall:
- a. Have the interior grade elevation that is below base flood elevation no lower than two feet below the lowest adjacent grade;
 - b. Have the height of the below-grade crawlspace measured from the interior grade of the crawlspace to the top of the foundation wall, not exceed four feet at any point;
 - c. Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;
 - d. Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;
 - e. Be constructed with materials and utility equipment resistant to flood damage;
 - f. Be constructed using methods and practices that minimize flood damage;
 - g. 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;

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- h. Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. 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:
1. 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;
 2. The bottom of all openings shall be no higher than one foot above grade; and,
 3. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-74. - Encroachment absent regulatory floodway designation.

Until a regulatory floodway is designated, no development may increase the water surface elevation of the base flood level more than one half foot.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-75. - Areas of shallow flooding (AO/AH zones).

Located within the ~~areas of~~ special flood hazard areas established in this chapter, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above as high as the depth number specified in feet on the applicable FIRM (at least two-three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the floodplain administrator.
- (2) All new construction and substantial improvements of non-residential structures (with the exception of critical facilities as outlined in Sec. 78-79):
 - a. Have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above as high as the depth number specified in feet on the applicable FIRM (at least two-three feet if no depth number is specified); or,
 - b. Together with attendant utility and sanitary facilities be designed so that the structure is watertight to at least one foot above the base flood level so that below the base flood 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 of effects of buoyancy.

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- (3) A Colorado registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this chapter are satisfied.
- (4) Require within zones AH or AO adequate drainage paths around structures on slopes, to guide flood waters around and away from proposed structures.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-76. - Floodways.

Located within areas of special flood hazard are areas designated as "floodways." Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

- (1) All encroachments within floodways including fill, new construction, substantial improvements and other development are prohibited, unless it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.~~unless a technical evaluation by a registered professional engineer demonstrates that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.~~
- (2) If the general standards of section 78-72 are satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this division.

(Res. No. 2010-37, § 1(Exh. A), 7-20-2010)

Sec. 78-77. – Alteration of a watercourse.

For all proposed developments that alter a watercourse within a special flood hazard area, the following standards shall apply:

- (1) Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
- (2) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
- (3) Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
- (4) Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or certified professional hydrologist.
- (5) All activities within the regulatory floodplain shall meet all applicable federal, state and county floodplain requirements and regulations.

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- (6) Within the regulatory floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado professional engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, otherwise known as a No-Rise Certification, unless the project proponent first obtains a CLOMR and floodway revision in accordance with Section 78-76 of this Article.
- (7) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

Sec. 78-78. – Properties removed from the floodplain by fill.

A Floodplain Development Permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), unless such new structure or addition complies with the following:

- (1) For all new construction and substantial improvements of residential structures, the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to at least one foot above the Base Flood Elevation that existed prior to the placement of fill.
- (2) For all new construction and substantial improvements of nonresidential structures, the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to at least one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of the effects of buoyancy.

Sec. 78-79. – 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.

(1) Classification of critical facilities

It is the responsibility of the board of county commissioners to identify and confirm that specific structures in their community meet the following criteria:

Critical facilities are classified under the following categories: (a) essential services; (b) hazardous materials; (c) at-risk populations; and (d) vital to restoring normal services.

- a. 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:

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1. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
2. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
3. Designated emergency shelters;
4. 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);
5. 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,
6. Air Transportation lifelines (airports (municipal and larger), 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 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 provisions of this Article, 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.

- b. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include:
 1. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
 2. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
 3. Refineries;
 4. Hazardous waste storage and disposal sites; and,
 5. Above ground gasoline or propane storage or sales centers.

Facilities shall be determined to be critical facilities if they produce or store materials 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

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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 Public Health and Environment. OSHA requirements for MSDS can be found in 29 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 this ordinance, but exclude later amendments to or editions of the regulations.

Specific exemptions to this category include:

1. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
2. Buildings and other structures containing hazardous materials 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 a release of the subject hazardous material does not pose a major threat to the public.
3. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as critical facilities under another category outlined in this chapter.

- c. At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
 1. Elder care (nursing homes);
 2. Congregate care serving 12 or more individuals (day care and assisted living); and,
 3. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children).
- d. Facilities vital to restoring normal services including government operations. These facilities consist of:
 1. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers); and,
 2. 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 a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant

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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 this ordinance, 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.

(2) 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 purposes of this ordinance, protection shall include one of the following:

- a. Location outside the special flood hazard area; or
- b. Elevation of the lowest floor or flood proofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the base flood elevation.

(3) 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.

Secs. 78-80 — 78-89. - Reserved.