



Town of Superior
Board of Trustees Meeting
September 9, 2024
(6:00 p.m.)

****REVISED****

Removed agenda item #6 – Resolution Approving Public Works and Parks, Recreation and Open Space (PROS) Operation & Maintenance Facility Project

*The Board meeting will be held in-person and remotely, and members of the public wishing to attend may view the Meeting by visiting the Town's website:
<https://www.superiorcolorado.gov/home>*

The Board Meeting recording will be posted subsequently on the Town's website.

1. Call to Order Meeting of Board of Trustees (6:00 p.m.)
2. Preliminary Matters (6:05 p.m.)
 - a. Pledge of Allegiance
 - b. Roll Call
 - c. Approval of Agenda
 - d. Board Reports (6:15 p.m.)
 - e. Public comment on Consent Agenda, Presentations, and Non-Agenda Items. Persons making public comment are asked to state your name and the city you live in (limit 5 min./person) (6:30 p.m.)
 - f. Khandbari Sister City Presentation (6:45 p.m.)
3. Consent Agenda (7:00 p.m.)
 - a. Approval of the Board of Trustees Meeting Minutes
 - b. Acceptance of Committee Meeting Notes
 - c. Consideration of Resolution Approving Appointments to Superior Youth Leadership Council (SYLC)

- d. Consideration of Ordinance Updating Floodplain Regulations - Second Reading
 - e. Consideration of Resolution Approving Agreement with SavATree for 2024 Holiday Lighting Decor
 - f. Airport Noise Report – August
- 4. Consideration of Ordinance Amending the Town's Trash Code – First Reading (7:15 p.m.)
 - 5. Consideration of Ordinance Repealing and Reenacting Section 10-5-90 of the Superior Municipal Code to Prohibit Outdoor Fires – First Reading (8:00 p.m.)
 - 6. Adjournment (11:00 p.m.)

Public comment submitted via e-mail regarding general Town Board agenda items that are not the subject of public hearings should be submitted with sufficient time before the meeting to allow Board Members an opportunity to review.



Town Board Meeting Minutes

August 26, 2024
Town Hall, 124 E. Coal Creek Drive
Superior, CO 80027
6:00 p.m.

Call to Order Meeting of Board of Trustees

Roll Call

Present: *Mayor Mark Lacis
Mayor Pro Tem Neal Shah
Trustee Jenn Kaaoush
Trustee Stephanie Miller
Trustee Jason Serbu
Trustee Sandie Hammerly
Trustee Bob McCool*

Absent: *None*

Others Present: *Town Manager Matt Magley
Town Attorney Nick Hartman
Town Clerk Lydia Yecke*

Approval of Agenda

Motion: Trustee Bob McCool moved to approve Agenda with the correction numbering of agenda adjournment item #7 to #6, seconded by Trustee Jason Serbu.

Vote: CARRIED. 7 - 0

Board Reports

The following Board members gave reports: Trustee McCool, Trustee Hammerly, Trustee Serbu, Trustee Miller, Trustee Kaaoush, Mayor Pro-Tem Shah and Mayor Lacis.

Public comment on Consent Agenda, Presentations, and Non-Agenda Items.
The following residents gave public comment in the Board room: George Kupfner, Jill Sellars, Sarah Peltier and Brad Walker gave public comment via Zoom.

Superior Youth Leadership Council Interviews

Consent Agenda

Motion: Mayor Pro Tem Neal Shah moved to approve Consent Agenda, seconded by Trustee Jason Serbu. **Vote:** CARRIED. 7 - 0

Proclamations for Home Rule Charter Commissioners
Proclamations for Outgoing Superior Youth Leadership Council (SYLC) Members

Consideration of Ordinance Adopting Short-Term Rental Regulations – Second Reading

Motion: Trustee Bob McCool moved to approve Ordinance Adopting Short-Term Rental Regulations, seconded by Trustee Sandie Hammerly. **Vote:** CARRIED. 7 - 0

Discussion of Use of Superior Community Center Osprey Room

Town Board in favor of CAPS utilizing Superior Community Center's Osprey Room when needed for projects and potentially move to Civic Space when it becomes available.

Mayor Lacis Adjourned the meeting at 9:37 p.m.

Mark Lacis, Mayor

Lydia Yecke, Town Clerk



MEETING NOTES
Cultural Arts and Public Spaces Advisory Committee (CAPS)
MEETING – AUGUST 22, 2024 @ 6:00 PM
SUPERIOR COMMUNITY CENTER

1. Call Meeting to Order
Andrew Vaughan called mtg to order at 6:01 pm.
2. Preliminary Matters
 - a. Roll Call
Andrew Vaughan, Susan Chevalier, Brandon Opalka, Liza McKenzie, Sherry Smith (remote), Chris Nunes (remote).
Staff Present: Jennifer “JG” Garner, Arts & Historical Programs Supervisor
Trustee Liaison Present: Sandie Hammerly
 - b. Agenda Approval
Liza motions to approve agenda, Susan seconds.
Unanimously approved.
 - c. Public Comment (limit 5 minutes/person)
There was no public comment.
3. Staff Updates
 - a. Artwork installation status
 - Concrete pads are here, things are moving along. Mike Clapper will be here for installation of his piece. Gregory Fields “surfboard” will be placed soon after Clapper piece. Coyote-Hawk will have a custom rock base, ordered by the artist, Joe Norman. The pieces on concrete pads that JG recently had fabricated, will be easier to move as they have forklift pockets. Town approved location for Coyote-Hawk is at the median near Eldorado K-8 and Wildflower Park. The Mitch Levin heart wings sculpture is set to go in Founders’ Park, per a recent site visit.
 - Digital Monitors/screens are at Superior Self Storage
Dust covers are coming to protect them due to lack of climate control at Superior Self Storage. JG suggests that CAPS leads the access/moving/planning of digital screens due to box truck need and potential after hours moves that Parks staff cannot accommodate. She also stated that future displays and tech responsibilities need to fall under the purview of CAPS. Chris asked that JG conduct an inventory of remote controls before next event so that additional remotes can be ordered if necessary.
 - JG out of the office October 1st-11th and will not be accessing email.
4. General Updates & Debriefing
 - a. Updates
 - i. Marshall Fire Memorial
 - All-advisory group subcommittee met and approved the survey which has gone out and is live.
 - ii. AI Competition status
 - Closed permanently. 34 images and 2 videos from 11 artists. The date for a reception event is Sept. 27th. The Stable restaurant is offering their premise for the reception. They wouldn’t charge a fee. If there is enough in the budget a small

moving company could be hired to help move monitors. The Golf Bays could be used to project art though the quality wouldn't be super high.

b. Debriefing

- Giant Bead Making July 28: Per Sherry, first workshop was much better attended. Second workshop, 25 had signed up, there was a wait list, 8 people showed up and 3 were kids. Sherry has been making beads on her own to supplement the pieces that were made. Suggestions: Girl Scouts of Superior could do some beads for the projects; Superior Seniors could help.

c. Upcoming Events

- i. Needle Felting Workshop, October 19, 4-6:30 p.m.
 - Supplies have been delivered, good to go.
- ii. Stained Glass Workshop, November 2nd, 1-4 p.m.
 - Stephanie has materials, rooms are booked.

5. Work Plan Check-In

a. Mural subcommittee and RFQ

- 33 submissions so far. Call is still open. Cafe call entry deadline is Friday the 30th. Liza and Brandon will prescreen. So far everyone seems to want to be part of jury to choose finalists.

b. Music event planning

- On hold

c. Digital event "3" Location:

- Potentially The Stable, but Bambei's was suggested as another location outside of the Community Center. JG questioned if we leave monitors overnight after event due to limited access to the Parks crew and after hours need.

6. Discussion Items

a. 2025 Work Plan

- Andrew shared a budget plan thus far with \$69K currently estimated. CAPS had a \$70K budget for 2024.
- Work Plan discussion items that arose:
 - CAPS having a dedicated studio space and additional storage. JG stated that this is on the Board agenda for this coming Monday, regarding the Osprey room at the Community Center. JG asked for any last comments to share with the Board should they have any question since she will be attending the Board meeting. The committee shared that it would be ideal to have the space but that it wouldn't need to be entirely dedicated to CAPS, and perhaps it could be advertised to other art groups. It definitely could be reserved for meetings and other needed activities, even if equipped with additional cabinets.
 - Potential budget declarations:
 - Art Path \$30k
 - Public Art Outdoor Collection Plaques ??, Waterproof Paint (Rainworks) \$1K, Spring AI Art Competition \$1500
 - Events and Programming—Ornament workshop \$1500, Digital Exhibitions \$2K, Neighborhood grants \$5K, ARtery engagement \$3K, Geocaching, Community Music Events \$2K, Community Art Exhibition, Monthly Art Lectures \$6K.

- Elevate Capital Artists Roster Publicity and Events \$3k, Mural Projects \$15K
- Mural Projects \$15K
- No cost events—art district application, advocate for dedicated space,
- External Projects—Life Sciences Building? Bigsby’s Folly
- Other Ideas—Peace Poles, CBCA Leadership
- Notes: Use/distribute digital screens, improve event no shows, activate Civic Space, ARTery markings, ARTery planning, and more murals. Should CAPS encourage the start-up of a foundation to raise money for public art to enable stronger eligibility towards applying for gov’t grants? JG stated that eligibility is rooted in program data (which we could get through CivicRec—harder with EventBrite) that demonstrates what we kinds of events were holding/promoting for SCFD and other grant organizations.

7. Adjourn:

Andrew motioned to adjourn the meeting at 8 pm. Brandon seconded.

Next Meeting: Thursday, September 26, 2024 at the Superior Community Center



MEETING AGENDA
Superior Youth Leadership Council (SYLC)
September 4, 2024
6:30 p.m.
Superior Community Center (hybrid)

1. Call Meeting to Order (6:00pm)
2. Introductions (SYLC and Town Board Members)
3. Questions for Town Board
 - a. How can we be more engaged as a council?
 - Come to the actual town board meetings!
 - Board rep. should be able to update us every month on what happens in town board meetings.
 - Subscribe to town media sources.
 - You can always reach out to the Superior Town Board for clarifications.
 - Attending Committee meetings (they are even broadcasted!)
4. Preliminary Matters
 - a. Roll Call (Staff liaison)
 1. Absent: Amanda
 - b. Approval of Agenda
 1. Approved!
 - c. Public Comment (limit 5 minutes/person).
 1. N/A
5. Team Building & welcome new council members
 - a. Council went around the room and introduced themselves and one interesting fact of themselves.
6. Chair elections
 - a. Council went over responsibilities of each chair, then proceeded to elect for chair positions.
 - b. Running for chair: Rachel, Om, Kai, Neel
 1. Winner: Rachel Mill
 - c. Running for VC of Communications: Brek, Michael, Neel
 1. Winner: Brek Hoenninger
 - d. Running for VC of Events: Ashna, Kai, Om, Neel
 1. Winner: Ashna Shah
 - e. Running for Secretary: Josh, Zoe, Elizabeth, Michael, Neel
 1. Winner: Josh Kim
7. Norms/Term update for the SYLC
 - a. Come to meetings, if not make sure to alert Jeremy or Katie AT LEAST 24 hours in advance.
 - b. Participate in meetings

- c. Attend as many volunteer events as possible
 - d. Council will be stricter with enforcing attendance this year for the good of the council
 - e. Be professional at meetings - everything is recorded
- 8. Upcoming events
 - 1. Monster Mash
 - 1. Updates
 - 2. Volunteers
 - a. Everyone present is willing to volunteer!
 - 3. Costume contest judging
 - 4. Other activities
 - a. Trunk or Treat?
 - b. Haunted house?
 - i. If desired by theater programs, etc.
 - 5. Finish up at the October meeting.
- 9. 2025 Work Plan
 - a. Council has voted on discussing this topic at next month's (October) meeting.
- 10. Staff Updates
 - a. Improving connection between younger and older generations in Superior?
 - b. Legislative Aids Shadow Program was suggested by Trustee Serbu.
- 11. Adjourn



ITEM NO. 3c

INFORMATION FOR MEETING OF THE SUPERIOR BOARD OF TRUSTEES

AGENDA ITEM NAME: Resolution - Approving Appointments to the Superior Youth Leadership Council

MEETING DATE: September 9, 2024

PRESENTED BY: Matt Magley, Town Manager

PRESENTED FOR: Action

BACKGROUND:

Section 2-12-40 of the Superior Municipal Code addresses membership of Town Advisory Committees, including the appointment of Advisory Group members. There are currently 8 (eight) vacancies on the Superior Youth Leadership Council (SYLC). These vacancies have been posted through Town media over recent months. There were a total of twelve applicants, however, only 8 interviewed with the Board at the August 26 meeting. Scheduled under this agenda item is the Board's consideration of whether to appoint the candidates. The Board has the option to appoint or not appoint, and staff will continue to advertise vacancies.

Superior Youth Leadership Council (SYLC) Candidates – 8 vacancies

1. Elle Holmes
2. Annie England
3. Emma Taylor
4. Hannah Lee
5. Aadi Sobti
6. Sebastian Medina
7. Sathya Balamurugan
8. Avika Dhar

ALTERNATIVES CONSIDERED:

Make no appointment and continue to advertise.

MOTION:

Move to approve Resolutions making appointments to the Youth Leadership Council.

ATTACHMENTS:

- Resolution

**TOWN OF SUPERIOR
RESOLUTION NO. R-49
SERIES 2024**

**A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
SUPERIOR, COLORADO APPOINTING MEMBERS TO THE SUPERIOR
YOUTH LEADERSHIP COUNCIL**

WHEREAS, on October 13, 2014, the Board of Trustees re-established the Youth Services Committee by Resolution No. R-53, Series 2014;

WHEREAS, on January 26, 2015, by Resolution No. R-6, Series 2015, the Board of Trustees renamed the Superior Youth Services Committee the Superior Youth Leadership Council; and

WHEREAS, the Board of Trustees wishes to make appointments to the Superior Youth Leadership Council pursuant to Article XII of Chapter 2 of the Superior Municipal Code.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

Section 1. The Board of Trustees hereby makes the following appointments to the Superior Youth Leadership Council:

<u>Name</u>	<u>Term expires</u>
Elle Holmes	August 2026
Annie England	August 2026
Emma Taylor	August 2026
Hannah Lee	August 2026
Aadi Sobti	August 2026
Sebastian Medina	August 2026
Sathya Balamurugan	August 2026
Avika Dhar	August 2026

ADOPTED this 9th day of September, 2024.

Mark Lacis, Mayor

ATTEST:

Lydia Yecke, Town Clerk



ITEM NO. 3d

INFORMATION FOR MEETING OF THE SUPERIOR BOARD OF TRUSTEES

AGENDA ITEM NAME: Ordinance – Repealing and Reenacting Chapter 15 of the Superior Municipal Code Regarding Flood Regulations

MEETING DATE: September 9, 2024

PRESENTED BY: Christine Katz, Public Works & Utilities Civil Engineer
Brannon Richards, Public Works and Utilities Director

PRESENTED FOR: Action

BACKGROUND:

FEMA has updated the Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs) for Boulder County and the new maps become effective on October 24, 2024. Prior to the effective date, the Town must adopt the new FIS and FIRMs into the Town of Superior's municipal code. FEMA also requires that the Town update its Municipal Code to bring its floodplain management regulations current with the standards of 44 CFR Part 60.3(d) of the National Flood Insurance Program (NFIP) regulations.

The Public Works staff has updated Chapter 15 of the Town's Municipal code titled Flood Regulations to meet the standards of the NFIP as well as the State of Colorado's more strict standards for flood regulation. Public Works staff has had the updated Town municipal code reviewed by the Town attorney and the State of Colorado's NFIP Community Assistance Program Coordinator. Attached is the redlined version of Chapter 15.

BUDGET IMPLICATIONS:

There are no budget implications to implementing the changes proposed to the Town's municipal code.

RECOMMENDED ACTION: Staff recommends approval and adoption of the updated Floodplain Regulations within Chapter 15 of the Town Municipal Code.

MOTION: Move to repeal and reenact Chapter 15 of the Superior Municipal Code regarding flood regulations.

ATTACHMENTS:

- Ordinance (including redlined Chapter 15 of the Town Municipal Code)
- NFIP Community Floodplain Management Regulations Review Checklist – performed by the State of Colorado’s Community Assistance Program Coordinator
- FEMA Letter of Final Determination (LFD) for Boulder County

**TOWN OF SUPERIOR
ORDINANCE NO. O-12
SERIES 2024**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF
SUPERIOR REPEALING AND REENACTING CHAPTER 15 OF THE
SUPERIOR MUNICIPAL CODE REGARDING FLOOD REGULATIONS**

WHEREAS, the Board of Trustees desires to update the Town's Flood Regulations.

NOW BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

Section 1. Chapter 15 of the Superior Municipal Code is hereby repealed in its entirety and reenacted as follows:

**ARTICLE I
GENERAL PROVISIONS**

Sec. 15-1-10 – Purpose and jurisdiction.

(a) Purpose. It is the purpose of this Chapter to promote the public health, safety, and 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 funds 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 caused by flooding;
- (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) 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) Ensure that potential buyers are notified that property is located in a flood hazard area.

(b) Jurisdiction. Pursuant to Title 29, Article 20, C.R.S., the State has delegated to local governments the responsibility to adopt regulations designed to minimize flood losses.

(c) Findings of Fact.

- (1) The flood hazard areas of the Town are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety, and welfare of the public.
 - (2) These flood losses are created by the cumulative effect of obstructions in floodplain which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands, because they are inadequately elevated, floodproofed or otherwise protected from flood damage.
- (d) **Methods of Reducing Flood Losses.** To accomplish its purposes, this Chapter uses the following methods:
- (1) Restricts or prohibits uses that are dangerous to health, safety, or property in times of flood, or cause excessive increases in flood heights or velocities;
 - (2) Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
 - (3) Controls the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
 - (4) Controls filling, grading, dredging, and other development which may increase flood damage; and
 - (5) Prevents or regulates the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards to other lands.

Sec. 15-1-20. Definitions.

For purposes of this Chapter, the following terms shall have the following meanings:

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

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

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

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

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 or mobile home on a foundation or, for a substantial improvement, 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.

Addition means an 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, containing active stream channels and boulder bars and recently abandoned channels, and predominantly formed by alluvial deposits, and is modified by infrequent sheet flood, channel avulsions and other stream processes.

Area of shallow flooding means a designated Zone AO or AH on a FIRM with a one percent (1%) chance or greater annual chance of flooding to an average depth of one (1) to three (3) 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.

Base Flood means a 100-year flood. This term is used in the National Flood Insurance Program (the "NFIP") to indicate the minimum level of flooding to be used by the Town in floodplain management regulations.

Base Flood Elevation or *BFE* means the elevation shown on a FIRM 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 (1%) chance of equaling or exceeding that level in any given year.

Basement means an area of a building having its floor below ground level on all sides.

Channel means the physical confine of a 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.

Conditional Letter of Map Revision or *CLOMR* means FEMA's comment on a proposed project, which does not revise an effective floodplain map, that 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, which, if flooded, may result in significant hazards to public health

and safety or interrupt essential services and operations for the Town at any time before, during and after a flood.

CWCB means the Colorado Water Conservation Board.

Development means a man-made change in improved and unimproved real estate, including without limitation buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

DFIRM database means the database containing data and analyses that accompanies DFIRMs. The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

Digital Flood Insurance Rate Map or *DFIRM* means the FEMA digital floodplain map which serves 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, it 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 lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads, is completed before the effective date of the floodplain management regulations adopted by the Town.

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 the pouring of concrete pads.

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

Expansion to an existing mobile home park or subdivision means the preparation of additional sites by the construction of facilities for servicing the lots on which

the mobile homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

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

Flood means a temporary condition of partial or complete inundation of normally dry land areas from the overflow of water from channels and reservoir spillways, the unusual and rapid accumulation or runoff of surface waters from any source, or 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 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, constructed in conformance with sound engineering standards.

Flood Insurance Rate Map or *FIRM* means an official map on which FEMA has delineated both the SFHA and the risk premium zones.

Flood Insurance Study or *FIS* means the official report provided by FEMA containing the FIRM as well as flood profiles for studied flooding sources that can be used to determine the BFE for some areas.

Floodplain or *Flood-prone area* means a 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 Town 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 SFHA to ensure that proposed development projects meet the requirements of the NFIP and this Chapter.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including without limitation emergency preparedness plans, flood control works and floodplain management regulations.

Floodproofing means any combination of structural or nonstructural 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 or *Regulatory Floodway* means the channel of a river or other watercourse and adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height, using the statewide standard for the designated height for all newly studied reaches, which is six (6) inches, provided that LOMRs 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, and 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 a structure that is listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; certified or preliminarily, as 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; individually listed on a State Inventory of Historic Places; or individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved State program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

Letter of Map Revision or *LOMR* means FEMA's official revision of an effective FIRM or Flood Boundary and Floodway Map (the "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, or the Special Flood Hazard Area.

Letter of Map Revision Based on Fill or *LOMR-F* means FEMA's modification of the SFHA shown on the 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 shall meet the requirements set forth in 44 C.F.R. § 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 of a building, including the basement, but excluding an unfinished or flood-resistant enclosure usable solely for parking or vehicles, building access or storage in an area other than a basement area, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of § 60.3 of the NFIP Regulations.

Manufactured home means a single-family dwelling which is partially or entirely manufactured in a factory; is at least twenty-four (24) feet wide and thirty-six (36) feet long; is permanently affixed to and installed on an engineered permanent foundation at the entire perimeter of the dwelling; has a pitched or cosmetically equivalent roof of at least 4:12 pitch, and brick or cosmetically equivalent wood exterior siding; and is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401, *et seq.*, as amended.

Manufactured home park or subdivision means a parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.

Material Safety Data Sheet or *MSDS* means a form with data regarding the properties of a particular substance, intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and that includes information such as physical data, toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment and spill-handling procedures.

Mean sea level means, for purposes of the NFIP, the North American Vertical Datum (the "NAVD") of 1988 or other datum to which BFEs shown on a FIRM are referenced.

Mobile home means a structure, transportable in one (1) or more sections, which is eight (8) body feet or more in width and is thirty-two (32) body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling without permanent foundation when connected to required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein, but excluding factory-built homes, manufactured homes and recreational vehicles.

Mobile home park means a plot of land under single or unified ownership where two (2) or more mobile homes are located on pads on lots or spaces for permanent dwelling purposes.

National Flood Insurance Program or *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, 44 C.F.R. § 59.1, *et seq.*

New construction means the construction of a new structure, including the placement of a mobile home or facility or the replacement of a structure or facility which has been totally destroyed.

New manufactured home park or 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 a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads, is completed on or after the effective date of this Chapter.

New mobile home park or subdivision means a mobile home park or subdivision for which the construction of facilities for servicing the lots on which the mobile homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads, is completed on or after the effective date of 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, which shall be supported by technical data and signed by a registered Colorado professional engineer, with supporting technical data based on the standard step-backwater computer model used to develop the 100-year floodway shown on the FIRM or Flood Boundary and Floodway Map.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation for 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.

Physical Map Revision or *PMR* means FEMA's action whereby one (1) or more map panels are physically revised and republished to change flood risk zones, floodplain or floodway delineations, flood elevations or planimetric features.

Recreational vehicle means a vehicle that is built on a single chassis; four hundred (400) square feet or less when measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. Any such vehicle placed on a site for greater than ninety (90) days, which is skirted, which has the wheels removed or is otherwise permanently affixed to the lot, is treated as a mobile home.

Special Flood Hazard Area or *SFHA* means the land in the floodplain in the Town subject to a one percent (1%) or greater chance of flooding in any given year.

Start of construction means the date a building permit was issued, including substantial improvements, if the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date.

Structure means anything which is built or constructed upon the ground.

Substantial damage means damage sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty

percent (50%) of the market value of the structure immediately preceding the damage.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started; or if the structure has been damaged and is being restored, before the damage occurred. A *substantial improvement* is considered to occur when the first alteration of any wall, ceiling, floor or other part of the structure commences, whether or not that alteration affects the external dimensions of the structure or any act that requires a building permit. The term does not, however, include any project for improvement of a structure to comply with State, County or Town health, sanitary or safety code specifications which are solely necessary to assure safe conditions; or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

Threshold Planning Quality or *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.

Violation means the failure of a structure or other development to be fully compliant with the Town's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this Chapter is presumed to be in violation until such time as that documentation is provided.

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

Sec. 15-1-20 – Applicability.

This Chapter shall apply to all SFHA and areas removed from the floodplain by the issuance of a LOMR-F in the Town.

Sec. 15-1-40 – Interpretation.

This Chapter meets the minimum requirements as set forth by the CWCB and the NFIP. In the application of this Chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the Town, and deemed neither to limit nor repeal any other powers granted under State or federal law.

Sec. 15-1-50 – Violation; penalty.

- (a) It is unlawful to construct, locate, extend, convert or alter any land or structure in the Town except in compliance with this Chapter.
- (b) Violations of this Chapter shall be punished as provided in Chapter 1 of this Code.

ARTICLE II ADMINISTRATION

Sec. 15-2-10 – Establishment of SFHAs.

The SFHAs identified by FEMA in a scientific and engineering report entitled *The Flood Insurance Study for Boulder County, Colorado and Incorporated Areas*, dated October 24, 2024, with accompanying FIRMs or FBFMs and any revisions thereto, are hereby adopted by reference. These SFHAs identified by the FIS and attendant mapping are the minimum area of applicability of this Chapter and may be supplemented by studies designated and approved by the Town. The Floodplain Administrator shall keep a copy of the FIS, DFIRMs, FIRMs and FBFMs on file and available for public inspection.

Sec. 15-2-20 – General provisions.

- (a) Permit Required. No structure or land shall be located, altered or have its use changed within the SFHA without a floodplain development permit in compliance with this Chapter.
- (b) Compliance. No structure or land shall hereafter be located, altered, or have its use changed within the SFHA without full compliance with this Chapter and other applicable regulations. Nothing herein shall prevent the Town 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 CWCBC and the NFIP.
- (c) Other Restrictions. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter or another Chapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
- (d) Interpretation. In the interpretation of this Chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the Town, and deemed to neither limit nor repeal any other powers granted under State statutes.
- (e) Disclaimer. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the SFHA or uses permitted within such areas will be free from flooding or flood damage. This Chapter shall not create liability on the part of the Town or any official or employee thereof for any flood damage that results from reliance on this Chapter or any administrative decision lawfully made thereunder.

Sec. 15-2-30 – Floodplain Administrator.

- (a) The Town Manager or designee is hereby appointed as the Floodplain Administrator, with the authority to administer, implement and enforce this Chapter and other appropriate NFIP Regulations pertaining to floodplain management.
- (b) The Floodplain Administrator shall:

- (1) Maintain and hold open for public inspection all records pertaining to this Chapter, including the actual elevation, in relation to mean sea level, of the lowest floor, including a basement, of all new or substantially improved structures and any floodproofing certificate required by this Chapter.
- (2) Review, approve or deny all applications for floodplain development permits.
- (3) Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured and mobile homes, will be reasonably safe from flooding.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, State or local governmental agencies, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334, for which prior approval is required.
- (5) Inspect all development at appropriate times during the period of construction to ensure compliance with this Chapter, including proper elevation of the structure.
- (6) Where interpretation is needed as to the exact location of the boundaries of the SFHA, the Floodplain Administrator shall make the necessary interpretation.
- (7) When BFE data has not been provided in accordance with this Chapter, the Floodplain Administrator shall obtain, review and reasonably utilize any BFE data and floodway data available from a federal, State or other source.
- (8) For waterways with BFEs 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 FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half ($\frac{1}{2}$) foot at any point within the Town.
- (9) Pursuant to 44 C.F.R. § 65.12 of the NFIP, the Town may approve certain development in Zones A1-30, AE and AH on the FIRM that increases the water surface elevation of the base flood by more than one-half ($\frac{1}{2}$) foot, provided that the Town first applies for a CLOMR, fulfills the requirements of 44 C.F.R. § 65.12 and receives FEMA approval.
- (10) In riverine situations, notify adjacent communities and the CWCB prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
- (11) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

Sec. 15-2-40 – Permit procedures.

(a) An application for a floodplain development permit shall be submitted to the Floodplain Administrator and shall include all of the following:

- (1) Plans drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured and mobile homes, and the location of the foregoing in relation to SFHA.
- (2) Elevation in relation to mean sea level of the lowest floor, including a basement, of all new and substantially improved structures.
- (3) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed.
- (4) A certificate from a registered Colorado professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria of Section 15-3-20(2) of this Chapter.
- (5) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
- (6) Maintain a record of all such information in accordance with Section 15-2-30 of this Chapter.

(b) The Floodplain Administrator shall consider the following in determining whether to issue a floodplain development permit:

- (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 and the Comprehensive Plan;
- (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; and

- (9) The availability of alternative locations not subject to flooding or erosion damage for the proposed use.

Sec. 15-2-50 – Variance procedures.

- (a) The Board of Trustees shall hear and decide on applications for variances from the requirements of this Chapter 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.
- (b) Any person or persons aggrieved by the decision of the Board of Trustees may appeal the decision to a court of competent jurisdiction.
- (c) The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to FEMA upon request.
- (d) Variances may be issued for the repair, rehabilitation or restoration 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.
- (e) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half ($\frac{1}{2}$) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, if the relevant criteria in Section 15-2-40(b) have been fully considered. As the lot size increases beyond the one-half ($\frac{1}{2}$) acre, the technical justification required for issuing the variance increases.
- (f) The Board of Trustees may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter.
- (g) Variances shall only be issued if the following criteria are satisfied:
- (1) The variance is the minimum necessary, considering the flood hazard, to afford relief;
 - (2) The variance is necessary for a good and sufficient cause;
 - (3) Failure to grant the variance would result in exceptional hardship to the applicant;
 - (4) The grant of the 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 ordinances; and
 - (5) The variance is not within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (h) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the 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.

(i) Variances may be issued by the Town for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use if the criteria outlined in subsections (a)-(e) hereof are met and 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.

ARTICLE III FLOOD HAZARD REDUCTION

Sec. 15-3-10 – General standards.

In an SFHA, the following provisions are required for all new construction and substantial improvements:

(a) 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.

(b) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage, with materials resistant to flood damage, and with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(c) Manufactured homes and mobile homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes and mobile homes shall be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include without limitation use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(d) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood water into the system.

(e) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(f) On-site waste disposal systems shall be located in such a way as to avoid impairment to them or contamination from them during flooding.

Sec. 15-3-20 – Specific standards.

(a) Applicability. In an SFHA where BFE data has been provided, the following standards shall apply:

(b) Residential construction. New construction and substantial improvement of any residential structure shall have the lowest floor, including a basement, together with attendant utility and sanitary facilities, elevated to one (1) foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor shall be certified to the Floodplain Administrator by a registered Colorado professional engineer, architect or land surveyor.

(c) Nonresidential construction. With the exception of critical facilities, new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including a basement, together with attendant utility and sanitary facilities, elevated to one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that, at one (1) foot above the base flood elevation, the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered Colorado professional engineer or architect shall develop and review structural design, specifications and plans for the construction and shall certify to the Floodplain Administrator that the design and methods of construction are in accordance with accepted standards of practice as outlined in this Section.

(d) Enclosures. New construction and substantial improvements with 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 which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs shall be certified by a registered Colorado professional engineer or architect to meet or exceed the following minimum criteria:

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

(e) Manufactured homes and mobile homes. Manufactured homes and mobile homes that are placed or substantially improved within Zones A1-30, AH and AE on the FIRM on sites (i) outside of a manufactured or mobile home park, (ii) in a new manufactured or mobile home park or subdivision, (iii) in an expansion to an existing manufactured or mobile home park or subdivision, or (iv) in an existing manufactured or mobile home park or subdivision on which manufactured or mobile homes have incurred substantial damage as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured or mobile home, together with attendant utility and sanitary facilities, is elevated to

one (1) foot above the BFE and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Manufactured or mobile homes placed or substantially improved on sites in an existing manufactured or mobile home park or subdivision within Zones A1-30, AH and AE on the FIRM that are not subject to the subsections herein shall be elevated so that either:

- (1) The lowest floor of the manufactured or mobile home, together with attendant utility and sanitary facilities, is one (1) foot above the base flood elevation; or
 - (2) The manufactured or mobile home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (f) Recreational vehicles. Recreational vehicles placed on sites within Zones A1-30, AH and AE on the FIRM shall:
- (1) Be on the site for fewer than ninety (90) consecutive days;
 - (2) Be fully licensed and ready for highway use, meaning that it is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - (3) Meet the permit requirements of this Chapter and the elevation and anchoring requirements for mobile homes.
- (g) Prior approved activities. Any activity for which a Floodplain Development Permit was issued by the Town or a CLOMR was issued by FEMA prior to October 24, 2024 may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this Chapter if it meets such standards in place at the time of the permit or CLOMR issuance.

Sec. 15-3-30 – Standards for AO/AH zones.

- (a) Applicability. AO/AH zones are areas located within the SFHA that are designated as shallow flooding. Adequate drainage paths around structures on slopes shall guide flood waters around and away from proposed structures. The following standards shall apply to AO/AH zones:
- (b) Residential construction. New construction and substantial improvements of residential structures shall have the lowest floor, including a basement, together with attendant utility and sanitary facilities, elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the FIRM, or at least three (3) feet if no depth number is specified. Upon completion of the structure, the elevation of the lowest floor, including a basement, shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

(c) Nonresidential construction. With the exception of critical facilities, new construction and substantial improvements of nonresidential structures shall have the lowest floor, including a basement, together with attendant utility and sanitary facilities, elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the FIRM or at least three (3) feet if no depth number is specified or, together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one (1) 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 the effects of buoyancy. A registered Colorado professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Chapter are satisfied.

Sec. 15-3-40 – Floodways.

(a) Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard. 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 shall apply:

(b) Encroachments in floodways are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway, unless it has been demonstrated through hydrologic and hydraulic analyses performed by a registered 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 Town during the occurrence of the base flood discharge.

(c) If subsection (a) herein is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Chapter.

(d) Pursuant to 44 C.F.R. § 65.12 of the NFIP, the Town may permit encroachments within the adopted regulatory floodway that would result in an increase in BFEs, provided that the Town first applies for a CLOMR and floodway revision through FEMA.

Sec. 15-3-50 – Alteration of a watercourse.

(a) For a proposed development that alters a watercourse in a SFHA, the following standards in this Section shall apply:

(b) 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.

- (c) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
- (d) Any channelization or other stream alteration activity proposed by a project proponent shall be evaluated for its impact on the floodplain and maintain compliance with all applicable federal, State and Town floodplain rules and regulations.
- (e) Stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or certified professional hydrologist.
- (f) Activities within the floodplain shall meet all applicable federal, State and Town floodplain rules and regulations.
- (g) Within the floodway, stream alteration activities shall not be constructed unless the applicant 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 Town first applies for a CLOMR and floodway revision in accordance with Section 15-3-40 herein.
- (h) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

Sec. 15-3-60 – Properties removed from floodplain by fill.

- (a) 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 LOMR-F unless such new structure or addition complies with this Section.
- (b) For residential construction, the lowest floor, including a basement, together with attendant utility and sanitary facilities, is elevated to one (1) foot above the BFE that existed prior to the placement of fill.
- (c) For nonresidential construction, the lowest floor, including a basement, together with attendant utility and sanitary facilities, is elevated to one (1) foot above the BFE that existed prior to the placement of fill or is designed so that the structure or addition is watertight to at least one (1) foot above the BFE 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 effects of buoyancy.

Sec. 15-3-70 – Standards for new subdivisions.

- (a) All subdivision proposals including the placement of manufactured or mobile 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.

(b) All proposals for the development of subdivisions including the placement of manufactured or mobile home parks and subdivisions shall meet floodplain development permit requirements of Sections 15-2-20, 15-2-40 and this Article.

(c) BFE data shall be generated for subdivision proposals and other proposed development including the placement of manufactured or mobile home parks and subdivisions which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided by this Chapter.

(d) All subdivision proposals including the placement of manufactured or mobile home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(e) All subdivision proposals including the placement of manufactured or mobile 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.

Sec. 15-3-80 – Standards for critical facilities.

(a) Classification. Critical facilities are classified under the following categories:

(1) Essential services.

a. Essential service facilities include:

1. Public safety, including without limitation police stations, fire and rescue stations, emergency vehicle and equipment storage and emergency operation centers;

2. Emergency medical, including without limitation hospitals, ambulance service centers, urgent care centers having emergency treatment functions and non-ambulatory surgical structures, but excluding clinics, doctors' offices and nonurgent care medical structures that do not provide these functions;

3. Designated emergency shelters;

4. Communications, including without limitation 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, including 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. Airports, helicopter pads and structures serving emergency functions and associated infrastructure, including aviation control towers, air traffic control centers and emergency equipment aircraft hangars.

b. Exemptions. Specific exemptions to this category include wastewater treatment plants, non-potable water treatment and distribution systems and hydroelectric power generating plants and related appurtenances. A public utility plant facility may be exempt if it can demonstrate to the satisfaction of the Town that it is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall demonstrate that redundant facilities either owned by the same utility or available through an intergovernmental agreement or other agreement are available and connected, that the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Chapter, and that 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 Town upon request.

(2) Hazardous materials facilities.

a. Hazardous materials facilities include:

1. Chemical and pharmaceutical plants;
2. Laboratories containing highly volatile, flammable, explosive, toxic or water-reactive materials;
3. Refineries;
4. Hazardous waste storage and disposal sites; and
5. Aboveground gasoline or propane storage or sales centers.

b. Facilities shall be classified as 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 to keep an MSDS on file for any chemicals stored or used in the workplace and the chemicals are stored in quantities equal to or greater than the TPQ for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is: either five hundred (500) pounds or the TPQ listed, whichever is lower, for the three hundred fifty-six (356) chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances; or ten thousand (10,000) pounds for any other chemical. 40 C.F.R. § 302 (2010) and 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in

existence at the time of the promulgation of this Chapter, but exclude later amendments to or editions of the regulations.

c. Exemptions. Specific exemptions to this category include the following, unless the structures also function as critical facilities under another category of this Chapter:

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 Town by hazard assessment and certification by a qualified professional 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.

(3) At-risk population facilities. At-risk population facilities include medical care facilities, congregate care facilities, and schools. These facilities consist of elder care facilities, such as nursing homes; congregate care facilities, such as day care and assisted living facilities serving twelve (12) or more individuals; public and private pre-schools and K-12 schools; and before- and after- school care facilities serving twelve (12) or more children.

(4) Facilities vital to restoring normal services.

- a. Facilities vital to restoring normal services include essential government operations, including without limitation public records services, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers, and essential structures for public colleges and universities (dormitories, offices and classrooms only).

- b. Exemptions. These facilities may be exempt if it is demonstrated to the Town that the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, these facilities shall demonstrate that redundant facilities either owned by the same entity or available through an intergovernmental agreement or other contract are available, the alternative facilities are either located outside of the 100-year floodplain or are compliant with this Chapter, 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 Town on an as-needed basis upon request.

(b) Protection. All new and substantially improved critical facilities and new additions to critical facilities located within the SFHA shall be either located outside of the SFHA or elevated or floodproofed to at least two (2) feet above the BFE.

(c) Ingress and egress. New critical facilities shall, when practicable as determined by the Town, have continuous non-inundated ingress and egress for evacuation and emergency services during a 100-year flood event.

Section 2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one or part or parts be declared unconstitutional or invalid.

Section 3. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this 9th day of September, 2024.

Mark Lacis, Mayor

ATTEST:

Lydia Yecke, Town Clerk

TOWN OF SUPERIOR
ORDINANCE NO. O-12
SERIES 2024

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF
SUPERIOR REPEALING AND REENACTING CHAPTER 15 OF THE
SUPERIOR MUNICIPAL CODE REGARDING FLOOD REGULATIONS

WHEREAS, the Board of Trustees desires to update the Town's Flood Regulations.

NOW BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

Section 1. Chapter 15 of the Superior Municipal Code is hereby repealed in its entirety and reenacted as follows:

**ARTICLE I
GENERAL PROVISIONS**

Sec. 15-1-10 – Purpose and jurisdiction.

(a) Purpose. It is the purpose of this Chapter to promote the public health, safety, and 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 funds 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 caused by flooding;
- (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) 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) Ensure that potential buyers are notified that property is located in a flood hazard area.

(b) Jurisdiction. Pursuant to Title 29, Article 20, C.R.S., the State has delegated to local governments the responsibility to adopt regulations designed to minimize flood losses.

(c) Findings of Fact.

(1) The flood hazard areas of the Town are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety, and welfare of the public.

(2) These flood losses are created by the cumulative effect of obstructions in floodplain which cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands, because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(d) Methods of Reducing Flood Losses. ~~In order to~~ To accomplish its purposes, this Chapter uses the following methods:

(1) Restricts or prohibits uses that are dangerous to health, safety, or property in times of flood, or cause excessive increases in flood heights or velocities;

(2) Requires that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;

(3) Controls the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;

(4) Controls filling, grading, dredging, and other development which may increase flood damage; and

(5) Prevents or regulates the construction of flood barriers which will unnaturally divert flood waters, or which may increase flood hazards to other lands.

Sec. 15-1-20 — Applicability.

This Chapter shall apply to all SFHA and areas removed from the floodplain by the issuance of a LOMR-F in the Town.

Sec. 15-1-220. Definitions.

For purposes of this Chapter, the following terms shall have the following meanings:

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

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

500-year flood or two-tenths percent annual chance flood means a flood having a recurrence interval that has a two-tenths-percent (0.2%) chance of being equaled or

exceeded during any given. The term does not imply that the flood will necessarily happen once every five hundred (500) years.

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

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 or mobile home on a foundation or, for a substantial improvement, 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.

Addition means an 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, containing active stream channels and boulder bars and recently abandoned channels, and predominantly formed by alluvial deposits, and is modified by infrequent sheet flood, channel avulsions and other stream processes.

Area of shallow flooding means a designated Zone AO or AH on a FIRM with a one percent (1%) chance or greater annual chance of flooding to an average depth of one (1) to three (3) 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.

Base Flood means a 100-year flood. This term is used in the National Flood Insurance Program (the "NFIP") to indicate the minimum level of flooding to be used by the Town in floodplain management regulations.

Base Flood Elevation or (BFE) means the elevation shown on a FIRM 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 (1%) chance of equaling or exceeding that level in any given year.

Basement means an area of a building having its floor below ground level on all sides.

Channel means the physical confine of a 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.

Conditional Letter of Map Revision or (CLOMR) CLOMR means FEMA's comment on a proposed project, which does not revise an effective floodplain map, that 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, which, if flooded, may result in significant hazards to public health and safety or interrupt essential services and operations for the Town at any time before, during and after a flood.

CWCB means the Colorado Water Conservation Board.

Development means a man-made change in improved and unimproved real estate, including without limitation 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 the database containing data and analyses that accompanies DFIRMs. The FEMA Mapping Specifications and Guidelines outline requirements for the development and maintenance of DFIRM databases.

Digital Flood Insurance Rate Map or DFIRM ~~(DFIRM)~~ means the FEMA digital floodplain map which serves 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. I; ~~and~~, in the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X and D, it 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 lots on which the manufactured homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads, is completed before the effective date of the floodplain management regulations adopted by the Town.

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 the pouring of concrete pads.

Existing mobile home park or subdivision means a mobile home park or subdivision for which the construction of facilities for servicing the lots on which the mobile homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads,

is completed before the effective date of the floodplain management regulations adopted by the Town.

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

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

Flood means a temporary condition of partial or complete inundation of normally dry land areas from: the overflow of water from channels and reservoir spillways, the unusual and rapid accumulation or runoff of surface waters from any source, or 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 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, constructed in conformance with sound engineering standards.

Flood Insurance Rate Map or (FIRM) means an official map on which FEMA has delineated both the SFHA and the risk premium zones.

Flood Insurance Study or FIS (FIS) means the official report provided by FEMA containing the FIRM as well as flood profiles for studied flooding sources that can be used to determine the BFE for some areas.

Floodplain or Flood-prone area means a 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 Town official designated by title to administer and enforce the floodplain management regulations~~Manager or designee.~~

Floodplain development permit means a permit required before construction or development begins within any SFHA to ensure that proposed development projects meet the requirements of the NFIP and this Chapter.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage, including without limitation ~~but not limited to~~ emergency preparedness plans, flood control works and floodplain management regulations.

Floodproofing means any combination of structural or nonstructural 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 or 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, using the statewide standard for the designated height for all newly studied reaches, which is six (6) inches, provided that LOMRs 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, including docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include~~excluding~~ 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 a structure that is: listed individually in the National Register of Historic Places ~~(a listing maintained by the Department of the Interior)~~ or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; certified or preliminarily as 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; individually listed on a ~~State inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior~~ a State Inventory of Historic Places; or individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved State program as determined by the Secretary of the Interior or directly by the Secretary of the Interior in states without approved programs.

Letter of Map Revision or LOMR ~~(LOMR)~~ means FEMA's official revision of an effective FIRM or Flood Boundary and Floodway Map (the "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, or the Special Flood Hazard Area.

Letter of Map Revision Based on Fill or LOMR-F ~~(LOMR-F)~~ means FEMA's modification of the SFHA shown on the 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 shall meet the requirements set forth in 44 C.F.R. § 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 of a building, including the basement, ~~used for living purposes, which includes working, storage, sleeping, cooking and eating or recreation or any combination thereof, including any floor that could be converted to such a use such as a basement or crawl space,~~ but excluding an unfinished or flood-resistant enclosure usable solely for parking or vehicles, building access or storage in an area other than a basement area, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of § 60.3 of the NFIP Regulations.

Manufactured home means a single-family dwelling which is partially or entirely manufactured in a factory; is at least twenty-four (24) feet wide and thirty-six (36) feet long; is permanently affixed to and installed on an engineered permanent foundation at the entire perimeter of the dwelling; has a pitched or cosmetically equivalent roof of at least 4:12 pitch, and brick or cosmetically equivalent wood exterior siding; and is certified pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401, *et seq.*, as amended. ~~means a structure transportable in one (1) 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.~~

Manufactured home park or subdivision means a parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.

Material Safety Data Sheet or MSDS(MSDS) means a form with data regarding the properties of a particular substance, intended to provide workers and emergency personnel with procedures for handling or working with that substance in a safe manner, and that includes information such as physical data, toxicity, health effects, first aid, reactivity, storage, disposal, protective equipment and spill-handling procedures.

Mean sea level means, for purposes of the NFIP, the North American Vertical Datum (the "NAVD") of 1988 or other datum to which BFEs shown on a FIRM are referenced.

Mobile home means a structure, transportable in one (1) or more sections, which is eight (8) body feet or more in width and is thirty-two (32) body feet or more in length and which is built on a permanent chassis and designed to be used as a dwelling without permanent foundation when connected to required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein, but excluding factory-built homes, manufactured homes and recreational vehicles.

Mobile home park means a plot of land under single or unified ownership where two (2) or more mobile homes are located on pads on lots or spaces for permanent dwelling purposes.

National Flood Insurance Program or NFIP(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, 44 C.F.R. § 59.1, et seq.

New construction means the construction of a new structure, including the placement of a mobile home or facility or the replacement of a structure or facility which has been totally destroyed.

New manufactured home park or 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 a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads, is completed on or after the effective date of this Chapter.

New mobile home park or subdivision means a mobile home park or subdivision for which the construction of facilities for servicing the lots on which the mobile homes are to be affixed, including, at a minimum, the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads, is completed on or after the effective date of 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, which ~~shall~~must be supported by technical data and signed by a registered Colorado professional engineer, with supporting technical data based on the standard step-backwater computer model used to develop the 100-year floodway shown on the FIRM or Flood Boundary and Floodway Map.

Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets or walkways; nor does it include excavation for 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.

Physical Map Revision or PMR(PMR) means FEMA's action whereby one (1) or more map panels are physically revised and republished to change flood risk zones, floodplain or floodway delineations, flood elevations or planimetric features.

Recreational vehicle means a vehicle that is built on a single chassis; four hundred (400) square feet or less when measured at the largest horizontal projections; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. Any such vehicle placed on a site for greater than ninety (90) days, which is skirted, which has the wheels removed or is otherwise permanently affixed to the lot, is treated as a mobile home.

Special Flood Hazard Area or SFHA(SFHA) ~~means~~ means the land in the floodplain in the Town subject to a one percent (1%) or greater chance of flooding in any given year.

Start of construction means the date a building permit was issued, including substantial improvements, if the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement was within one hundred eighty (180) days of the permit date.

Structure means ~~a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home~~ anything which is built or constructed upon the ground.

Substantial damage means damage sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) of the market value of the structure immediately preceding the damage.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either before the improvement or repair is started; or if the structure has been damaged and is being restored, before the damage occurred.
A substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other part of the structure commences, whether or not that alteration affects the external dimensions of the structure or any act that requires a building permit. The term does not, however, include any project for improvement of a structure to comply with State, County or Town health, sanitary or safety code specifications which are solely necessary to assure safe conditions; or any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
~~any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure immediately preceding "Start of Construction" of the improvement, with the value of the structure being determined by the Town, and including structures that have incurred substantial damage, regardless of the actual repair work performed, but excluding: 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 any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.~~

Threshold Planning Quality or TPQ(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.

Violation means the failure of a structure or other development to be fully compliant with the Town's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other

evidence of compliance required in this Chapter is presumed to be in violation until such time as that documentation is provided.

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

Sec. 15-1-20 – Applicability.

This Chapter shall apply to all SFHA and areas removed from the floodplain by the issuance of a LOMR-F in the Town.

Sec. 15-1-40 – Interpretation.

This Chapter meets the minimum requirements as set forth by the CWCB and the NFIP. In the application of this Chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the Town, and deemed neither to limit nor repeal any other powers granted under State or federal law.

Sec. 15-1-50 – Violation; penalty.

- (a) It is unlawful to construct, locate, extend, convert or alter any land or structure in the Town except in compliance with this Chapter.
- (b) Violations of this Chapter shall be punished as provided in Chapter 1 of this Code.

**ARTICLE II
ADMINISTRATION**

Sec. 15-2-10 – Establishment of SFHAs.

The SFHAs identified by FEMA in a scientific and engineering report entitled *The Flood Insurance Study for Boulder County, Colorado and Incorporated Areas*, dated ~~October 24, 2024~~ August 15, 2019, with accompanying FIRMs or FBFMs and any revisions thereto, are hereby adopted by reference. These SFHAs identified by the FIS and attendant mapping are the minimum area of applicability of this Chapter and may be supplemented by studies designated and approved by the Town. The Floodplain Administrator shall keep a copy of the FIS, DFIRMs, FIRMs and FBFMs on file and available for public inspection.

Sec. 15-2-20 – ~~General provisions~~ Permit required.

- (a) Permit Required. No structure or land shall be located, altered or have its use changed within the SFHA without a floodplain development permit in compliance with this Chapter.
- (b) Compliance. No structure or land shall hereafter be located, altered, or have its use changed within the SFHA without full compliance with this Chapter and other applicable regulations. Nothing herein shall prevent the Town 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 CWCB and the NFIP.

(c) Other Restrictions. This Chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Chapter or another Chapter, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(d) Interpretation. In the interpretation of this Chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the Town, and deemed to neither limit nor repeal any other powers granted under State statutes.

(e) Disclaimer. The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This Chapter does not imply that land outside the SFHA or uses permitted within such areas will be free from flooding or flood damage. This Chapter shall not create liability on the part of the Town or any official or employee thereof for any flood damage that results from reliance on this Chapter or any administrative decision lawfully made thereunder.

Sec. 15-2-30 – Floodplain Administrator.

(a) The Town Manager or designee, is hereby appointed as the Floodplain Administrator, with the authority to administer, implement and enforce –this Chapter and other appropriate NFIP Regulations pertaining to floodplain management.

(b) The Floodplain Administrator shall: ~~include without limitation the following:~~

(1) Maintain and hold open for public inspection all records pertaining to ~~the provisions of~~ this Chapter, including the actual elevation, in relation to mean sea level, of the lowest floor, including a basement, of all new or substantially improved structures and any floodproofing certificate required by this Chapter.

(2) Review, approve or deny all applications for floodplain development permits.

(3) Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured and mobile homes, will be reasonably safe from flooding.

(4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, State or local governmental agencies, including § 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1334, for which prior approval is required.

(5) 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.

(6) Where interpretation is needed as to the exact location of the boundaries of the SFHA, the Floodplain Administrator shall make the necessary interpretation.

(7) When BFE data has not been provided in accordance with this Chapter, the Floodplain Administrator shall obtain, review and reasonably utilize any BFE data and floodway data available from a federal, State or other source.

(8) For waterways with BFEs 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 FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half ($\frac{1}{2}$) foot at any point within the Town.

(9) Pursuant to 44 C.F.R. § 65.12 of the NFIP, the Town may approve certain development in Zones A1-30, AE and AH on the FIRM that increases the water surface elevation of the base flood by more than one-half ($\frac{1}{2}$) foot, provided that the Town first applies for a CLOMR, fulfills the requirements of 44 C.F.R. § 65.12 and receives FEMA approval.

(10) In riverine situations, notify adjacent communities and the CWCB prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.

(11) Ensure that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

Sec. 15-2-40 – Permit procedures.

(a) An application for a floodplain development permit shall be submitted to the Floodplain Administrator and shall include all of the following:

(1) Plans drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured and mobile homes, and the location of the foregoing in relation to SFHA.

(2) Elevation in relation to mean sea level of the lowest floor, including a basement, of all new and substantially improved structures.

(3) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed.

(4) A certificate from a registered Colorado professional engineer or architect that the nonresidential floodproofed structure meets the floodproofing criteria of Section Paragraph 15-3-20(2) of this Chapter.

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

(6) Maintain a record of all such information in accordance with Section 15-2-30 of this Chapter.

(b) The Floodplain Administrator shall consider the following in determining whether to issue a floodplain development permit:

- (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 and the Comprehensive Plan;
- (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; and
- (9) The availability of alternative locations not subject to flooding or erosion damage for the proposed use.

Sec. 15-2-50 – Variance procedures.

(a) The Board of Trustees shall hear and decide on applications for variances from the requirements of this Chapter 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.

(b) Any person or persons aggrieved by the decision of the Board of Trustees may appeal ~~such the decision in to the courts~~ a court of competent jurisdiction.

(c) The Floodplain Administrator shall maintain a record of all ~~variances~~ actions involving an appeal and shall report variances to FEMA upon request.

(d) Variances may be issued for the repair, ~~or rehabilitation~~ or restoration 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.

(e) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, if the relevant criteria in ~~s~~Subsection 15-2-40(b) ~~above~~ have been fully considered. As the lot size increases beyond the one-half (1/2) acre, the technical justification required for issuing the variance increases.

(f) The Board of Trustees may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this Chapter.

(g) ~~Criteria.~~—Variances shall only be issued if the following criteria are satisfied:

(1) The variance is the minimum necessary, considering the flood hazard, to afford relief;

(2) ~~The variance is necessary for a good and sufficient cause;~~

(3) Failure to grant the variance would result in exceptional hardship to the applicant;

(4) The grant of the 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 ordinances; and

(5) The variance is not within any designated floodway if any increase in flood levels during the base flood discharge would result.

(h) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the 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.

(i) Variances may be issued by the Town for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use if the criteria outlined in ~~s~~Subsections (a)—(e) ~~hereof~~ are met and 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.

ARTICLE III FLOOD HAZARD REDUCTION

Sec. 15-3-10 – General standards.

In an SFHA, the following provisions are required for all new construction and substantial improvements; ~~standards shall apply:~~

(a+) 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.

(b2) New construction and substantial improvements shall be constructed by methods and practices that minimize flood damage, with materials resistant to flood damage, and with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(c3) Manufactured homes and mobile homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes ~~shall~~ must ~~and mobile homes shall~~ be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include ~~without limitation, but are not limited to,~~ use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(d4) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood ~~waters~~ water into the system.

(e5) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.

(f6) On-site waste disposal systems shall be located in such a way as to avoid impairment to them or contamination from them during flooding.

Sec. 15-3-20 – Specific standards.

(a) Applicability. In an SFHA where BFE data has been provided, the following standards shall apply:

(b4) Residential ~~construction~~ structures. New construction and substantial improvement of any residential structure shall have the lowest floor, including a basement, together with attendant utility and sanitary facilities, elevated to one (1) foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor shall be certified to the Floodplain Administrator by a registered Colorado professional engineer, architect or land surveyor.

(c2) Nonresidential ~~construction~~ structures. With the exception of critical facilities, new construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, ~~(including a basement)~~, together with attendant utility and sanitary facilities, elevated to one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that, at one (1) foot above the base flood elevation, the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered Colorado professional engineer or architect shall develop and review structural design, specifications and plans for the construction and shall certify to

the Floodplain Administrator that the design and methods of construction are in accordance with accepted standards of practice as outlined in this ~~Paragraph~~Section.

(d3) Enclosures. New construction and substantial improvements with 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 which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs shall be certified by a registered Colorado professional engineer or architect to meet or exceed the following minimum criteria:

(1) a.—A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided;

(2) b.—The bottom of all openings shall be no higher than one (1) foot above grade; and

(3) e.—Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(4e) Manufactured homes and mobile homes. Manufactured homes and mobile homes that are placed or substantially improved within Zones A1-30, AH and AE on the FIRM on sites (i) outside of a manufactured or mobile home park—~~or subdivision~~, (ii) in a new manufactured or mobile home park or subdivision, (iii) in an expansion to an existing manufactured or mobile home park or subdivision, or (iv) in an existing manufactured or mobile home park or subdivision on which manufactured or mobile homes have incurred substantial damage as a result of a flood, shall be elevated on a permanent foundation such that the lowest floor of the manufactured or mobile home, together with attendant utility and sanitary facilities, is elevated to one (1) foot above the BFE and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Manufactured or mobile homes placed or substantially improved on sites in an existing manufactured or mobile home park or subdivision within Zones A1-30, AH and AE on the FIRM that are not subject to the ~~provisions of the above subsections herein Paragraph~~ shall be elevated so that either:

(1) a.—The lowest floor of the manufactured or mobile home, together with attendant utility and sanitary facilities, is one (1) foot above the base flood elevation; or

(2) b.—The manufactured or mobile home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

(f5) Recreational vehicles. Recreational vehicles placed on sites within Zones A1-30, AH and AE on the FIRM shall:

(1) a.—Be on the site for fewer than ~~one hundred eighty~~ninety (90180) consecutive days;

(2) b.—Be fully licensed and ready for highway use, meaning that it is on wheels or a jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or

(3) e.—Meet the permit requirements of this Chapter and the elevation and anchoring requirements for ~~manufactured~~ mobile homes.

(g6) Prior approved activities. Any activity for which a Floodplain Development Permit was issued by the Town or a CLOMR was issued by FEMA prior to October 24, 2024 may be completed according to the standards in place at the time of the permit or CLOMR issuance and will not be considered in violation of this ordinanceChapter if it meets such standards in place at the time of the permit or CLOMR issuance.

Sec. 15-3-30 – Standards for AO/AH zones.

(a) Applicability. AO/AH zones are areas located within the SFHA that are designated as shallow flooding.; Adequate drainage paths around structures on slopes shall are required to guide flood waters around and away from proposed structures. The following standards shall apply to AO/AH zones:

(b1) Residential construction. New construction and substantial improvements of residential structures shall must have the lowest floor, including a basement, together with attendant utility and sanitary facilities, elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the FIRM, or at least three (3) feet if no depth number is specified. Upon completion of the structure, the elevation of the lowest floor, {including a basement,} shall be certified by a registered Colorado professional engineer, architect or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

(c2) Nonresidential construction. With the exception of critical facilities, new construction and substantial improvements of nonresidential structures shall have the lowest floor, {including a basement}, together with attendant utility and sanitary facilities, elevated above the highest adjacent grade at least one (1) foot above the depth number specified in feet on the FIRM or at least three (3) feet if no depth number is specified or, together with attendant utility and sanitary facilities, be designed so that the structure is watertight to at least one (1) 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 the effects of buoyancy. A registered Colorado professional engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Chapter are satisfied.

~~Adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.~~

Sec. 15-3-40 – Floodways.

(a) Floodways are administrative limits and tools used to regulate existing and future floodplain development. The State of Colorado has adopted Floodway standards that are more stringent than the FEMA minimum standard. 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 shall apply:

(ba) Encroachments in floodways are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway, unless it has been demonstrated through hydrologic and hydraulic analyses performed by a ~~licensed~~-registered 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 Town during the occurrence of the base flood discharge.

(cb) If ~~Subsection (a)~~ hereinabove is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this Chapter.

(de) Pursuant to 44 C.F.R. § 65.12 of the NFIP, the Town may permit encroachments within the adopted regulatory floodway that would result in an increase in BFEs, provided that the Town first applies for a CLOMR and floodway revision through FEMA.

Sec. 15-3-50 – Alteration of a watercourse.

(a) For a proposed development that alters a watercourse in a SFHA, the following standards in this Section shall apply:

(b1) 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.

(c2) Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

(d3) Any channelization or other stream alteration activity proposed by a project proponent ~~shall~~must be evaluated for its impact on the floodplain and ~~maintain~~be in compliance with all applicable federal, State and Town floodplain rules and regulations.

(e4) Stream alteration activity shall be designed and sealed by a registered Colorado professional engineer or certified professional hydrologist.

(f5) Activities within the floodplain shall meet all applicable federal, State and Town floodplain rules and regulations.

(g6) Within the floodway, stream alteration activities shall not be constructed unless the applicant 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 Town first applies for a CLOMR and floodway revision in accordance with Section 15-3-40 ~~hereinabove~~.

(h7) Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

Sec. 15-3-60 – Properties removed from floodplain by fill.

(a) ~~_____~~ 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 LOMR-F unless such new structure or addition complies with ~~the following~~ this Section.

(b1) For residential construction, the lowest floor, including a basement, together with attendant utility and sanitary facilities, is elevated to one (1) foot above the BFE that existed prior to the placement of fill.

(c2) For nonresidential construction, the lowest floor, including a basement, together with attendant utility and sanitary facilities, is elevated to one (1) foot above the BFE that existed prior to the placement of fill or is designed so that the structure or addition is watertight to at least one (1) foot above the BFE 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 effects of buoyancy.

Sec. 15-3-70 – Standards for new subdivisions.

(a) ~~New subdivisions~~ All subdivision proposals including the placement of manufactured or mobile 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.

(b) All proposals for the development of subdivisions including the placement of manufactured or mobile home parks and subdivisions shall meet floodplain development permit requirements of Sections 15-2-20, ~~15-2-25~~ 15-2-40 and this Article.

(c) BFE data shall be generated for subdivision proposals and other proposed development including the placement of manufactured or mobile home parks and subdivisions ~~which is~~ greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided by this Chapter.

(d) All subdivision proposals including the placement of manufactured or mobile home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(e) All subdivision proposals including the placement of manufactured or mobile 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.

Sec. 15-3-80 – Standards for critical facilities.

(a) Classification. Critical facilities are classified under the following categories:

(1) Essential services.

a. Essential service facilities include:

1. Public safety, including without limitation ~~(police stations, fire and rescue stations, emergency vehicle and equipment storage and emergency operation centers);~~

2. Emergency medical, including without limitation ~~(hospitals, ambulance service centers, urgent care centers having emergency treatment functions and non-ambulatory surgical structures, but excluding clinics, doctors' offices and nonurgent care medical structures that do not provide these functions);~~

3. Designated emergency shelters;

4. Communications, including without limitation ~~s (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, including 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. Airports, helicopter pads and structures serving emergency functions and associated infrastructure, including aviation control towers, air traffic control centers and emergency equipment aircraft hangars.

b. Exemptions. Specific exemptions to this category include wastewater treatment plants, non-potable water treatment and distribution systems and hydroelectric power generating plants and related appurtenances. A pPublic utility plant facilities may be exempted if it can be demonstrated to the satisfaction of the Town that the facility it 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 either owned by the same utility or available through an intergovernmental agreement or other agreement are available ~~(either owned by the same utility or available through an intergovernmental agreement or other contract)~~ and connected, that the alternative facilities are either located outside of the 100-year floodplain or are compliant with this

Chapter, and that 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 Town upon request.

(2) Hazardous materials facilities.

a. Hazardous materials facilities include:

1. Chemical and pharmaceutical plants;
2. Laboratories containing highly volatile, flammable, explosive, toxic or water-reactive materials;
3. Refineries;
4. Hazardous waste storage and disposal sites; and
5. Aboveground gasoline or propane storage or sales centers.

b. Facilities shall be ~~determined~~ classified as 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 to keep an MSDS on file for any chemicals stored or used in the ~~work place~~ workplace and the chemicals are stored in quantities equal to or greater than the TPQ for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is: either five hundred (500) pounds or the TPQ listed, whichever is lower, for the three hundred fifty-six (356) chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances; or ten thousand (10,000) pounds for any other chemical. 40 C.F.R. § 302 (2010) and 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation of this Chapter, but exclude later amendments to or editions of the regulations.

c. Exemptions. Specific exemptions to this category include the following, unless the structures also function as critical facilities under another category of this Chapter:

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 Town by hazard assessment and certification by a qualified professional 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.

(3) At-risk population facilities. ~~At-risk population facilities include:~~ medical care facilities, congregate care facilities, and schools. These facilities consist of: Elder care facilities, such as nursing homes; congregate care facilities, such as day care and assisted living facilities serving twelve (12) or more individuals; and public and private pre-schools and K-12 schools (pre-schools, K-12 schools); and before-school and after-school care facilities serving twelve (12) or more children.

(4) Facilities vital to restoring normal services, including government operations.

a. Facilities vital to restoring normal services include essential government operations, including without limitation —(public records services, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers,) and essential structures for public colleges and universities ((dormitories, offices and classrooms only)for public colleges and universities.

b. Exemptions. These facilities may be exempted if it is demonstrated to the Town 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 these facilities shall demonstrate that redundant facilities either owned by the same entity or available through an intergovernmental agreement or other contract 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 Chapter, 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 Town on an as-needed basis upon request.

(b) Protection. All new and substantially improved critical facilities and new additions to critical facilities located within the SFHA shall be ~~protected by one (1) of the following: location~~ either located outside of the SFHA, or elevated or floodproofed ~~ing of the structure to at least two (2) feet above the BFE.~~

(c) Ingress and egress. New critical facilities shall, when practicable as determined by the Town, have continuous non-inundated ingress and egress for evacuation and emergency services during a 100-year flood event.

Section 2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining

portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one or part or parts be declared unconstitutional or invalid.

Section 3. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this ____ day
of _____, 2024.

Mark Lacis, Mayor

ATTEST:

Lydia Yecke, Town Clerk

NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community SUPERIOR, Town of C.I.D 080203 State Colorado

Reviewed by: Doug Mahan, CWCB Date of Review: 06/18/2024

Community Floodplain Management Regulations Reviewed by (circle one): FEMA ☒ State ☐ Other: (Agency Name) _____

Reviewer's Determination: ☐ / ☐ The floodplain management regulations are compliant. ☐ / ☐ The floodplain management regulations are not compliant.

Approved by: _____ (FEMA only) Date of Approval: ____/____/____

The "Item Description" is a synopsis of the regulatory requirement and should not be construed as a complete description. Refer to the actual language contained in the National Flood Insurance Program Floodplain Management Regulations at Title 44 Code of Federal Regulations (CFR) Part 59 and 60 for the complete description of the required minimum criteria. Below the "Level of Regulations" column, you can indicate whether the community ordinance meets or exceeds the respective provision in the non-shaded areas.

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d ¹	e ¹	
ORDINANCES MUST CONTAIN THE FOLLOWING PROVISIONS:						
1. Citation of Statutory Authority						15-1-10.(b)
2. Framework for administering the ordinance (including permit system, establishment of the office for administering the ordinance, record keeping, etc.).						15-2-20. 15-2-30. 15-2-40.
3. Adequate enforcement provisions (including a violation and penalty section specifying actions the community will take to assure compliance).						15-1-50. Ch. 1, Article III “General Penalty”
4. Variance section with evaluation criteria and insurance notice. [60.6(a)]						15-2-50.
5. Effective Date: Adoption Date:						n/a
6. Signature of Appropriate Official and Certification Official.						n/a

¹ If a community has both floodways and coastal high hazard areas, it must meet the requirements of both level 60.3(d) and 60.3(e).

NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d ¹	e ¹	
OTHER PROVISIONS AND ACTIONS THAT MAY BE NECESSARY TO MAKE THE ORDINANCE LEGALLY ENFORCEABLE AND ENSURE THAT IT CAN BE PROPERLY ADMINISTERED:						
7: Purpose section citing health, safety, and welfare reasons for adoption.						15-1-10.(c)(1)
8: Disclaimer of Liability section advising that the degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection.						15-2-20.(e)
9. Abrogation and Greater Restriction section. (e.g., This Ordinance shall not in any way impair/remove the necessity of compliance with any other applicable laws, ordinances, regulations, etc. Where this Ordinance imposes a greater restriction, the provisions of this Ordinance shall control.)						15-2-20.(c)
10. Severability section. (e.g., If any section, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court, the remainder of the ordinance shall not be affected.)						1-2-80.
11. Public hearing (State/local laws may require hearings)						Multiple references in municipal code.
12. Publication (State/local laws may require public notices)						Multiple references in municipal code.

NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d ¹	e ¹	
MINIMUM NFIP CRITERIA:						
13. Definitions: [59.1] ☐ Base Flood; ☐ Base Flood Elevation; ☐ Development; ☐ Existing manufactured home park or subdivision; ☐ Expansion to an existing manufactured home park or subdivision; ☐ Flood Insurance Rate Map; ☐ Flood Insurance Study; ☐ Floodway; ☐ Lowest Floor; ☐ Manufactured Home; ☐ Manufactured Home Park or Subdivision; ☐ New Construction; ☐ New Manufactured Home Park or Subdivision; ☐ Recreational Vehicle; ☐ Special Flood Hazard Area; ☐ Start of Construction; ☐ Structure; ☐ Substantial Damage; ☐ Substantial Improvement; ☐ Violation; Other Definitions as appropriate such as ☐ Floodproofing; ☐ Highest adjacent grade for community's with mapped AO Zones; ☐ Historic Structures						15-1-30. Recommend including the following definition as it is referenced in Sec 15-3-20.(4): EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION- <i>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 the pouring of concrete pads).</i>
14. Adopt or reference correct Map and date. [60.3(b)] (If the community has an automatic adoption provision in its ordinance, is it valid?)						15-2-10. Draft includes compliant LFD date Oct. 24, 2024.

NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d ¹	e ¹	
15. Adopt or reference correct Flood Insurance Study and date. [60.3(c), (d), and/or (e)] (If the community has an automatic adoption provision in its ordinance, is it valid?)						15-2-10. Draft includes compliant LFD date Oct. 24, 2024.
16. Require permits for all proposed construction or other development including placement of manufactured homes to determine whether such construction or development is in a floodplain. [60.3(a)(1)]						15-2-20.(a) & (b)
17. Require permits for all proposed construction and other development within SFHAs. [60.3(b)(1)]						15-2-20.(a) & (b)
18. Assure that all other State and Federal permits are obtained. [60.3(a)(2)]						15-2-30.(4)
19. Review permits to assure sites are reasonably safe from flooding and require for new construction and substantial improvements in flood-prone areas [60.3(a)(3)]: (a) Anchoring (including manufactured homes) to prevent flotation, collapse, or lateral movement of the structure. [60.3(a)(3)(i)]						15-2-30.(3) 15-3-10.(1) 15-3-10.(3)
(b) Use of flood-resistant materials. [60.3(a)(3)(ii)]						15-3-10.(2)

NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d ¹	e ¹	
(c) Construction methods and practices that minimize flood damage. [60.3(a)(3)(iii)]						15-3-10.(2)
(d) Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities designed and/or located to prevent water entry to accumulation. [60.3(a)(3)(iv)]						15-3-10.(2)
20. Review subdivision proposals and other development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding [60.3(a)(4)]. If a subdivision or other development proposal is in a flood-prone area, assure that: (a) Such proposals minimize flood damage. [60.3(a)(4)(i)]						15-3-10.(1), (2), & (3) 15-3-70.(a)
(b) Public utilities and facilities are constructed so as to minimize flood damage. [60.3(a)(4)(ii)]						15-3-70.(e)
(c) Adequate drainage is provided. [60.3(a)(4)(iii)]						15-3-70.(d)
21. Require new and replacement water supply and sanitary sewage systems to be designed to minimize or eliminate infiltration. [60.3(a)(5) and 60.3(a)(6)]						15-3-10.(5)
22. Require onsite waste disposal systems be designed to avoid impairment or contamination. [60.3(a)(6)(ii)]						15-3-10.(6)
23. Require base flood elevation data for subdivision						15-3-70.(c)

NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d ¹	e ¹	
proposals or other developments greater than 50 lots or 5 acres. [60.3(b)(3)]						
24. In A Zones, in the absence of FEMA BFE data and floodway data, obtain, review, and reasonably utilize other BFE and floodway data as a basis for elevating residential structures to or above the base flood level, and for floodproofing or elevating non-residential structures to or above the base flood level. [60.3(b)(4)]						15-2-30.(7)
25. Where BFE data are utilized in Zone A, obtain and maintain records of the lowest floor and floodproofing elevations for new and substantially improved construction. [60.3(b)(5)]						15-2-30.(1) 15-2-40.(3), (4), & (6)
26. In riverine areas, notify adjacent communities of watercourse alterations and relocations. [60.3(b)(6)]						15-2-30.(10)
27. Maintain the carrying capacity of an altered or relocated watercourse. [60.3(b)(7)]						15-2-30.(11)
28. Require all manufactured homes to be elevated and anchored to resist flotation, collapse, or lateral movement. [60.3(b)(8)]						15-3-10.(3)
29. Require all new and substantially improve <u>residential</u> structures within A1-30, AE, and AH Zones have their						15-3-20.(1) State 1-foot freeboard requirement compliant.

NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d ¹	e ¹	
lowest floor (including basement) elevated to or above the Base Flood Elevation. [60.3(c)(2)]						
30. ² In AO Zones, require that new and substantially improved <u>residential</u> structures have their lowest floor (including basement) to or above the highest adjacent grade at least as high as the FIRM's depth number. [60.3(c)(7)]						15-3-30.(1) State 1-foot freeboard requirement compliant.
31. Require that new and substantially improved <u>non-residential</u> structures within A1-30, AE, and AH Zones have their lowest floor elevated or floodproofed to or above the Base Flood Elevation. [60.3(c)(3)]						15-3-20.(2) State 1-foot freeboard requirement compliant.
32. ² In AO Zones, require new and substantially improved <u>non-residential</u> structures have their lowest floor elevated or completely floodproofed above the highest adjacent grade to at least as high as the depth number on the FIRM. [60.3(c)(8)]						15-3-30.(2) State 1-foot freeboard requirement compliant.
33. Require that for floodproofed non-residential structures, a registered professional engineer/architect certify that the design and methods of construction meet requirements at 60.3(c)(3)(ii). [60.3(c)(4)]						15-2-40.(a)(4) 15-3-20.(2)

² Item 30 and 32 are not required if the community has no AO Zones.

NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

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Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d ¹	e ¹	
34. Require, for all new construction and substantial improvements, that fully enclosed areas below the lowest floor that are used solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing the entry and exit of floodwaters in accordance with the specifications in 60.3(c)(5). (Openings requirement)						15-3-20.(3)
35. ³ Until a regulatory floodway is designated, no encroachment may increase the Base Flood level more than 1 foot. [60.3(c)(10)]						15-2-30.(8)
36. ⁴ In Zones AO and AH, require drainage paths around structures on slopes to guide water away from structures. [60.3(c)(11)]						15-3-30.(2) Recommend separating the last sentence of this section from (2) <i>Nonresidential construction</i> text as drainage requirement applies to both residential and nonresidential

³ Item 35 is not required if all streams have floodways designated.

⁴ Item 36 is not required if the community has no AO or AH Zones.

NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d ¹	e ¹	
						development. Please see <i>Section C</i> of the state model ordinance as an example.
37. Require that manufactured homes placed or substantially improved within A1-30, AH, and AE Zones, which meet one of the following location criteria, to be elevated such that the lowest floor is to or above the Base Flood Elevation and be securely anchored: (i) outside a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; (iv) on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood. [60.3(c)(6)]						15-3-20.(4) State 1-foot freeboard compliant.
38. In A-1-30, AH, and AE Zones, require that manufactured homes to be placed or substantially improved in an <u>existing</u> manufactured home park to be elevated so that (i) the lowest floor is at or above the Base Flood Elevation; OR (ii) the chassis is supported by reinforced piers no less than 36 inches in height above grade and securely anchored. [60.3(c)(12)]						15-3-20.(4)
39. In A1-30, AH, and AE Zones, all recreational vehicles to be placed on a site must (i) be elevated and anchored; OR (ii) be on the site for less than 180 consecutive days; OR						15-3-20.(4)(a) & (b)

6/19/2024

NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d ¹	e ¹	
(iii) be fully licensed and highway ready. [60.3(c)(14)]						
40. Designate a regulatory floodway which will not increase the Base Flood level more than 1 foot. [60.3(d)(2)]						15-1-30. Floodway definition. State one-half foot higher standard compliant.
41. In a regulatory floodway, prohibit any encroachment, unless hydrologic and hydraulic analyses prove that the proposed encroachment would not cause an increase in flood levels during the Base Flood discharge. [60.3(d)(3)]						15-3-40.(a) 15-3-50.(6)
42. In V1-30, VE, and V Zones, obtain and maintain the elevation of the bottom of the lowest horizontal structural member of the lowest floor of all new and substantially improved structures. [60.3(e)(2)]						
43. In V1-30, VE, and V Zones, require that all new construction and substantial improvements: (a) Are elevated and secured to anchored pilings or columns so that the bottom of the lowest horizontal structural member is at or above the Base Flood Elevation. [60.3(e)(4)]						
(b) A registered professional engineer/architect certify that the design and methods of construction meet elevation and anchoring requirements at 60.3(e)(4)(i) and (ii). [60.3(e)(4)]						
(c) Have the space below the lowest floor either free of obstruction or constructed with breakaway walls. Any enclosed space shall be used solely for parking, building access, or storage. [60.3(e)(5)]						

NATIONAL FLOOD INSURANCE PROGRAM

COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community _____ C.I.D. _____ State _____

Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d ¹	e ¹	
(d) All new construction must be landward of mean high tide. [60.3(e)(3)]						
(e) Prohibit use of fill for structural support. [60.3(e)(6)]						
(f) Prohibit alterations of sand dunes and mangrove stands, which would increase potential flood damage. [60.3(e)(7)]						
44. Require that manufactured homes placed or substantially improved within V1-30, VE, and V Zones, which meet one of the following location criteria, meet the V Zone standards in 60.3(e)(2) through (e)(7): (i) outside a manufactured home park or subdivision; (ii) in a new manufactured home park or subdivision; (iii) in an expansion to an existing manufactured home park or subdivision; (iv) on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood. [60.3(e)(8)]						
45. In V1-30, VE, and V Zones, require that manufactured homes to be placed or substantially improved in an <u>existing</u> manufactured home park to be elevated so that (i) the lowest floor is at or above the Base Flood Elevation; OR (ii) the chassis is supported by reinforced piers that are not less than 36 inches in height above grade and						

NATIONAL FLOOD INSURANCE PROGRAM COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST

Community	C.I.D.	State
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Reviewed by: _____ Date of Review: _____

Item Description (Section reference to the NFIP Regulations follows)	Level of Regs					Applicable Ordinance Section/Comments
	a	b	c	d ¹	e ¹	
securely anchored. [60.3(e)(8)(iv)]						
46. In V1-30, VE, and V zones, all recreational vehicles to be placed on a site must (i) be elevated and anchored; OR (ii) be on the site for less than 180 consecutive days; OR (iii) be fully licensed and highway ready. [60.3(e)(9)]						

Comments

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

**NATIONAL FLOOD INSURANCE PROGRAM
COMMUNITY FLOODPLAIN MANAGEMENT REGULATIONS REVIEW CHECKLIST**

Community_____ **C.I.D.**_____ **State**_____

Reviewed by: _____ Date of Review: _____



Federal Emergency Management Agency

Washington, D.C. 20472

April 24, 2024

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:
19P

The Honorable Mark Lacis
Mayor, Town of Superior
124 East Coal Creek Drive
Superior, Colorado 80027

Community Name: Town of Superior,
Boulder County,
Colorado
Community No.: 080203
Map Panels Affected: See FIRM Index

Dear Mayor Lacis:

This is to notify you of the final flood hazard determination for Boulder, Colorado and Incorporated Areas, in compliance with Title 44, Chapter I, Part 67, Section 67.11, Code of Federal Regulations (CFR). This section requires that notice of final flood hazards shall be sent to the Chief Executive Officer of the community, all individual appellants, and the State Coordinating Agency, and shall be published in the *Federal Register*.

The statutory 90-day appeal period that was initiated for your community when the Department of Homeland Security's Federal Emergency Management Agency (FEMA) published a notice of proposed flood hazard determinations for your community in the local newspaper has elapsed. FEMA did not receive any appeals of the proposed flood hazard determinations or submittals regarding the Preliminary Flood Insurance Study (FIS) report and Flood Insurance Rate Map (FIRM) during that time.

Accordingly, the flood hazard determinations for your community are considered final. The final notice for flood hazard determinations will be published in the *Federal Register* as soon as possible. The FIS report and FIRM for your community will become effective on October 24, 2024. Before the effective date, we will send your community final printed copies of the FIS report and FIRM. For insurance purposes, the community number and new suffix code for the panels being revised are indicated on the FIRM and must be used for all new policies and renewals.

Because the FIS report for your community has been completed, certain additional requirements must be met under Section 1361 of the National Flood Insurance Act of 1968, as amended, within 6 months from the date of this letter.

It must be emphasized that all the standards specified in 44 CFR Part 60.3(d) of the National Flood Insurance Program (NFIP) regulations must be enacted in a legally enforceable document. This includes adoption of the current effective FIS report and FIRM to which the regulations

apply and other modifications made by this map revision. Some of the standards should already have been enacted by your community in order to establish initial eligibility in the NFIP. Your community can meet any additional requirements by taking one of the following actions in this Paragraph of the NFIP regulations:

1. Amending existing regulations to incorporate any additional requirements of 44 CFR Part 60.3(d);
2. Adopting all the standards of 44 CFR Part 60.3(d) into one new, comprehensive set of regulations; or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of 44 CFR Part 60.3(d).

Also, prior to the effective date, your community is required, as a condition of continued eligibility in the NFIP, to adopt or show evidence of adoption of the floodplain management regulations that meet the standards of 44 CFR Part 60.3(d) of the NFIP regulations by the effective date of the FIRM. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

Many states and communities have adopted building codes based on the International Codes (I-Codes); the model I-Codes (2009 and more recent editions) contain flood provisions that either meet or exceed the minimum requirements of the NFIP for buildings and structures. The model codes also contain provisions, currently found in an appendix to the International Building Code, that apply to other types of development and NFIP requirements. In these cases, communities should request review by the NFIP State Coordinator to ensure that local floodplain management regulations are coordinated (not duplicative or inconsistent) with the State or Local building code. FEMA's resource, *Reducing Flood Losses through the International Code: Coordinating Building Codes and Floodplain Management Regulations, 5th Edition (2019)*, provides some guidance on this subject and is available at <https://www.fema.gov/emergency-managers/risk-management/building-science/building-codes/flood>.

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the Flood Disaster Protection Act of 1973 (Public Law 93-234) as amended, and 44 CFR Part 59.24.

To assist your community in maintaining the FIRM, we reviewed our records to determine if any previous Letters of Map Change (LOMCs) (i.e., Letters of Map Amendment, Letters of Map Revision) will be superseded when the revised FIRM becomes effective. According to our records, no LOMCs were issued previously.

Once the FIS report and FIRM are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes,

insurance requirements, and many other planning applications. Copies of the digital files of the FIRM panels may be obtained by calling our FEMA Mapping and Insurance eXchange (FMIX), toll free, at (877) 336-2627 (877-FEMA MAP) or by visiting the Map Service Center at <https://www.msc.fema.gov>. In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

For assistance with your floodplain management ordinance or enacting the floodplain management regulations, please contact Doug Mahan, NFIP State Coordinator for Colorado by telephone at (303) 866-3441. If you should require any additional information, we suggest that you contact the Director, Mitigation Division of FEMA, Region 8 at (303) 235-4975 for assistance. If you have any questions concerning mapping issues in general or the enclosed SOMA, please call our FMIX at the telephone number shown above. Additional information and resources you may find helpful regarding the NFIP and floodplain management can be found on our website at <https://www.fema.gov/flood-maps>. Copies of these documents may also be obtained by calling our FMIX.

Sincerely,

A handwritten signature in black ink, appearing to read 'Luis V. Rodriguez', with a stylized flourish at the end.

Luis V. Rodriguez, P.E.
Director, Engineering and Modeling Division
Risk Management Directorate | Resilience

cc: Community Map Repository
Matt Magley, Town Manager, Town of Superior



ITEM NO. 3e

INFORMATION FOR MEETING OF THE SUPERIOR BOARD OF TRUSTEES

AGENDA ITEM NAME: Consideration of a Resolution for an Agreement with SavaTree to Provide the 2024 Holiday Lighting Decor for the Town

MEETING DATE: September 9, 2024

PRESENTED BY: Leslie Clark, PROS Director
Matt Rarick, PROS Superintendent
Rodney Bashaw, SavaTree

PRESENTED FOR: Action

BACKGROUND:

The Town has historically contracted with a vendor to provide and install a Town-wide Holiday Light Décor program. Prior to 2021, the Town partnered with the Rock Creek HOA to help fund the Town-wide lighting décor with the Rock Creek HOA covering \$45,000 in earlier years, and decreasing that amount to \$25,000 in 2020 and then ending their contribution in 2021. The cost to fund the Holiday Lighting Décor has increased over the years due to inflation, loss of the HOA participation and growth of the Town. In 2023 the Board asked staff to reduce the Holiday Light Décor program and approved expenditure of \$89,469. This was a reduction from the original proposal of \$113,969. After receiving feedback from residents, additional lighting was added bringing the total 2023 expenditure for Holiday Lighting Décor to \$102,430.

The 2024 proposed Holiday Lighting Décor agreement will follow the same pattern and volume of lights and displays that were provided in 2023 with minor adjustments of light colors along Main Street and full restoration of lighting along Coal Creek Dr.

BUDGET IMPLICATIONS:

- The 2024 Holiday Lighting Décor agreement cost is \$115,837.
- The General Fund (10-490-3130) has a 2024 budget of \$85,000. The 2024 estimate in the 2025 budget preparation increased this amount to \$116,000 after discussion with the Board.

RECOMMEDED ACTION:

- Approve SavaTree Agreement to provide the 2024 Holiday Lighting Décor for the Town of Superior.

ATTACHMENTS:

- Resolution
- Agreement
- 2024 Holiday Décor Map

TOWN OF SUPERIOR
RESOLUTION NO. R-50
SERIES 2024

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF
SUPERIOR APPROVING THE AGREEMENT WITH SAVATREE, LLC, FOR
THE INSTALLATION OF HOLIDAY LIGHTING

WHEREAS, the Town desires to install holiday lighting in the
Town.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF
THE TOWN OF SUPERIOR, as follows:

Section 1. The Agreement between the Town and SavATree,
LLC, is hereby approved in substantially the same form as attached
hereto, subject to final approval by the Town Attorney.

ADOPTED this 9th day of September, 2024.

Mark Lacis, Mayor

ATTEST:

Lydia Yecke, Town Clerk

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT FOR PROFESSIONAL SERVICES (the "Agreement") is made and entered into this _____ day of _____, 2024 (the "Effective Date"), by and between the Town of Superior, a Colorado municipal corporation with an address of 124 East Coal Creek Drive, Superior, CO 80027, (the "Town"), and SaveATree, an independent contractor with a principal place of business at _____, CO _____ ("Contractor") (each a "Party" and collectively the "Parties").

WHEREAS, the Town requires professional services; and

WHEREAS, Contractor has held itself out to the Town as having the requisite expertise and experience to perform the required professional services.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

I. SCOPE OF SERVICES

A. Contractor shall furnish all labor and materials required for the complete and prompt execution and performance of all duties, obligations, and responsibilities which are described or reasonably implied from the Scope of Services set forth in **Exhibit A**, attached hereto and incorporated herein by this reference.

B. A change in the Scope of Services shall not be effective unless authorized as an amendment to this Agreement. If Contractor proceeds without such written authorization, Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

II. TERM AND TERMINATION

A. This Agreement shall commence on the Effective Date, and shall continue until Contractor completes the Scope of Services to the satisfaction of the Town, or until terminated as provided herein.

B. Either Party may terminate this Agreement upon 30 days advance written notice. The Town shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached this Agreement, the Town shall have any remedy or right of set-off available at law and equity.

III. COMPENSATION

In consideration for the completion of the Scope of Services by Contractor, the Town shall pay Contractor \$115,837. This amount shall include all fees, costs and expenses incurred by Contractor, and no additional amounts shall be paid by the Town for such fees, costs and expenses.

Contractor shall not be paid until the Scope of Services is completed to the satisfaction of the Town.

IV. PROFESSIONAL RESPONSIBILITY

A. Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law. The work performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community. The work and services to be performed by Contractor hereunder shall be done in compliance with applicable laws, ordinances, rules and regulations.

B. The Town's review, approval or acceptance of, or payment for any services shall not be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

C. Because the Town has hired Contractor for its professional expertise, Contractor agrees not to employ subcontractors to perform any work under the Scope of Services.

D. Contractor shall at all times comply with all applicable law, including without limitation all current and future federal, state and local statutes, regulations, ordinances and rules relating to: the emission, discharge, release or threatened release of a Hazardous Material into the air, surface water, groundwater or land; the manufacturing, processing, use, generation, treatment, storage, disposal, transportation, handling, removal, remediation or investigation of a Hazardous Material; and the protection of human health, safety or the indoor or outdoor environmental, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq. ("CERCLA"); the Hazardous Materials Transportation Act, 49 U.S.C. § 1801, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq. ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. § 2601, et seq.; the Clean Water Act, 33 U.S.C. § 1251, et seq.; the Clean Air Act; the Federal Water Pollution Control Act; the Occupational Safety and Health Act; all applicable environmental statutes of the State of Colorado; and all other federal, state or local statutes, laws, ordinances, resolutions, codes, rules, regulations, orders or decrees regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

V. OWNERSHIP

All décor materials are leased by the Town. Any materials, items, and work specified in the Scope of Services, and any and all related documentation provided or developed by Contractor shall be exclusively owned by the Town. Contractor expressly acknowledges and agrees that all work performed under the Scope of Services constitutes a "work made for hire." To the extent, if at all, that it does not constitute a "work made for hire," Contractor hereby transfers, sells, and assigns to the Town all of its right, title, and interest in such work. The Town may, with respect to all or any portion of such work, use, publish, display, reproduce, distribute, destroy, alter, retouch, modify, adapt, translate, or change such work without providing notice to or receiving

consent from Contractor; provided that Contractor shall have no liability for any work that has been modified by the Town.

VI. INDEPENDENT CONTRACTOR

Contractor is an independent contractor. Notwithstanding any other provision of this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is a Town employee for any purposes.

VII. INSURANCE

A. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Agreement. At a minimum, Contractor shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the Town.

1. Worker's Compensation insurance as required by law.
2. Commercial General Liability insurance with minimum combined single limits of \$1,000,000 each occurrence and \$2,000,000 general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision, and shall include the Town and the Town's officers, employees, and contractors as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.
3. Professional liability insurance with minimum limits of \$1,000,000 each claim and \$2,000,000 general aggregate.

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least 30 days prior written notice to the Town. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the Town, its officers, its employees or its contractors shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Contractor shall provide to the Town a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Agreement.

VIII. INDEMNIFICATION

A. Contractor agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability,

damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor, or which arise out of a worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor. Contractor's liability under this indemnification provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor.

B. If Contractor is providing architectural, engineering, surveying or other design services under this Agreement, the extent of Contractor's obligation to indemnify and hold harmless the Town may be determined only after Contractor's liability or fault has been determined by adjudication, alternative dispute resolution or otherwise resolved by mutual agreement between the Parties, as provided by C.R.S. § 13-50.5-102(8)(c).

IX. MISCELLANEOUS

A. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.

B. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

C. *Integration.* This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

D. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

E. *Notice.* Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address set forth on the first page of this Agreement.

F. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. *Modification.* This Agreement may only be modified upon written agreement of the Parties.

H. *Assignment.* Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

EXHIBIT A SCOPE OF SERVICES

Contractor's Duties

During the term of this Agreement, Contractor shall perform the following duties, as directed by the Town:

- Contractor shall install, maintain and remove holiday lighting for the Town of Superior.

Contractor's Deliverables

In performance of the duties described above, Contractor shall deliver the following items to the Town, during the timeframes established by the Town:

- Contractor shall install lighting display and maintain in working order a minimum of 10 days prior to Thanksgiving each year.
- Contractor shall deactivate lighting on or near the second week of January and completely remove by the second week of February.
- Contractor is responsible for display purchase, installation, removal, replacement, maintenance, inspection, storage and upkeep of displays for working period.
- Contractor shall perform inspections weekly from date of installation to lighting deactivation to ensure fully operational displays.

Contractor shall focus Holiday Lighting on the following areas of Town:

Town Hall Ore Cart

- Outline outside edge with warm white 15" C-9s lights, double wrap on both sides (300 each).
- Wrap four (4) wheels with red mini lights (200).
- Lay 20' strand of RGB in the inside of cart on ore, set to fade orange, red, or amber (16 RGB plus set program).

Town Hall Building and Trees

- Install warm white lights on 15" center on the following building lines: north, south and east sides to include entire lower gutter edge, two gable ends on east side, and all on south side. **THIS DOES NOT** include ridge lines or the elevated area of roof over the main entry. (Approximately 511 linear feet /408 C-9 warm white bulbs). Glue tab inside gutter on east side over entrance every other/between clips to prevent hanging.
- One cottonwood located in Town Hall's North parking lot with warm white canopy scatter and red mini trunk wrap (250, C-9 warm white bulbs and 700 red mini

- lights) Light one remaining spruce on east side of parking lot red mini lights (1,500 mini red lights).
- One honey locust west of car charging station and one maple in parking lot median — customer shall provide power to these areas (600, C-9 warm white lights).
 - Signature Tree: autumn purple ash on east side strip near monument Town Hall sign with 650, C-9 canopy scatter multi-color lights, and trunk and branch wrap out three feet from trunk to scaffolding limbs with 2000 warm white mini lights.
 - Light one large crabapple near front, entrance walk with warm white canopy scatter with a mix of green and warm white trunk wrap (100, C-9 warm white bulbs and 900 green/white mini lights).

Coal Creek Drive Light Poles and Trees

- Wrap twenty-nine smaller light poles along Coal Creek Drive with warm white pre-lit garland. Owner or Town shall make sure to connect power to these elements. Last three poles are located on the south side of Coal Creek Drive with power duplex mounted on the poles (252 linear feet = 17 sticks of garland).
- Six pear trees in bump-outs along this area (one block is missing, will go all the way to large park with C-9 warm white canopy green mini trunk wrap (total 500 C-9 lights, 2,500 mini lights).

McCaslin Boulevard and Marshall Road (NW Corner)

- Install pre-lit garland along top of "Superior Marketplace" portion of monument sign (70' pre-lit garland = 15 sticks).
- Install two large, padded bows on each side of monument sign, street end.
- Light three spruces behind monument sign to west of the sign on south side with blue lights (750, C-9 warm white bulbs).
- Light three Austrian pines north of monument sign on southwest corner of east bound exit off HW36 to McCaslin Blvd. (300, C-9 cool white bulbs).
- Light two spruces in bed and one small spruce in turf of same area as above, blue canopy (200, C-9 blue bulbs).

McCaslin Boulevard and Marshall Road (SW Corner)

- Install 20, 2-D snowflakes in four cottonwoods located on south side of Marshall Road from McCaslin Blvd., west along Conoco side of sidewalk (power tap off Conoco sign) (12, 18" and 8, 24" snowflakes lit with warm white bulbs/climber).
- Install a total of seven faders on the above snowflakes.

Coalton and Rock Creek Parkway (NW Corner)

Rock Creek Village Sign:

- Light five spruce trees located behind monument sign and closest to it (625, C-9 cool white bulbs).
- Install two, 36" pre-lit wreaths on each side of monument sign for "Rock Creek Village" (Two, 36" pre-lit wreaths with padded bows).

Superior Community Center

- Fascia lighting along front street side and angle roof over and along west main entrance (110' of 90 warm white bulbs).
- Install 8' pre-lit wreath in iron grid structure over street side of main entrance. Bucket with pulley up and anchor (one 8' pre-lit wreath warm white with padded bow).
- Signature Tree: one crabapple in center parking lot island north center in front of building with 600, C-9 multicolor canopy scatter, and 1,000 mini trunk and branch wrap warm white – wrapping three feet out from trunk.

Rock Creek Circle and East Yarrow

- Install multi-color lights on one spruce on east end behind pillar
- Install 36" spray on pillar east end
- Install canopy scatter lights on 3 cottonwood trees to the west of the monument

McCaslin and Christenson (NE corner)

- Install 25, 36" and 24" warm white lit snowflakes in four Cottonwoods (25 snowflakes).
- Install 13 faders on the above snowflakes.
- Install four, 48" swarm white swag (teardrop) lit with bow on monument columns (four, 48" swag).

McCaslin and Christenson (SE corner)

- Install one, 48" lit wreath with bow installed on monument sign between "Rock Creek" and end of column, closer to end column (one, 48" wreath warm white with bow).
- Install 25, 36" and 24" warm white lit snowflakes in four larger Cottonwoods (25 snowflakes)
- Install 12 faders on the above snowflakes.

McCaslin and Indiana (SE corner)

- Install 48" lit wreath with bow installed between "Rock Creek" and column (one, 48" warm white wreath with bow).
- Light six spruces with warm white C-9 canopy (450 total C-9, warm white lights).

McCaslin and Indiana (NE corner)

- Install one, 48" lit warm white (teardrop) with bow on monument column (one, 48" swag).
- Light (6) Spruce from McCaslin side onto Indiana alternate entire tree colors from one tree ALL warm white to one tree ALL blue c9 canopy (100 each / total 300 blue c9 and 300 warm white c9).

Indiana and Coalton Road (SE Corner)

- Install two, 48" lit warm white wreath with bow – one on each side of "Rock Creek" sign (2, 48" wreaths with bows).
- Light four spruces behind "Rock Creek" sign with warm white C-9 canopy (475 total C-9).
- Light five spruces along sides of monument sign with blue C-9 canopy (600 total blue C-9).

Rock Creek Parkway and McCaslin

- Install two, 48" pre-lit LED wreaths with padded bows on each side of "Rock Creek" (two, 48" pre-lit wreaths lit with warm white bulbs with padded bows.)

South side

- Install 30, 36" and 10, 24" 2-D warm white lit snowflakes hung in random pattern throughout four cottonwoods behind "Rock Creek" sign. (40, 2-D snowflakes lit with warm white bulbs).
- Install approximately 12 faders to snowflakes above.
- Light four spruce trees south side canopy (500, C-9 blue bulbs).

North side

- Install 30, 36" and 10, 24" 2-D snowflakes hung in random pattern throughout five cottonwoods behind "Rock Creek" sign (40 snowflakes lit with warm white bulbs).
- Install approximately 13 faders to the snowflakes above.
- Light four spruce trees north side closest to monument sign with blue canopy (400, C-9 blue bulbs).

SW Corner of Indian and Rock Creek Parkway (pool area)

- Install two, 36" pre-lit wreaths and padded bows on each side of "Town of Superior" sign (Two, 36" pre-lit wreath with warm white bulbs and padded bow).
- Light four, large middle spruce trees behind the "Town of Superior" sign with warm white lights (800, C-9 warm white bulbs).
- Light two, outside edge spruce trees with blue lights (400, C-9 blue bulbs).

Coalton and Rock Creek Parkway, NW Corner Rock Creek Village Sign

- Light five (5) spruce trees behind monument sign and closest to it. (625 C-9 cool white bulbs).
- Install two (2) 36" pre-lit wreath on each side of monument sign "Rock Creek Village"(Two (2) 36" pre-lit wreaths with padded bows.)

Intersection of Marshall Rd and Sycamore (SE Corner)

- Install 18, 18" 2-D snowflakes in cottonwood trees behind Superior Marketplace sign (2-D pre-lit snowflakes warm white bulbs).
- Install above snowflakes on faders (3 faders).

Intersection of Marshall Rd and Sycamore (SW Corner)

- Install 12, 18" snowflakes in two cottonwood trees behind Superior Marketplace sign (12, 18" 2-D snowflakes with warm white bulbs).
- Install 3 faders on the above snowflakes.

Intersection of Marshall Rd and Sycamore Downtown Superior (NE Corner)

- Light four pine trees behind the Superior Marketplace sign on the northeast corner with warm white lights (800, C-9 warm white bulbs).
- Light four spruce trees north side closest to the Superior Marketplace sign with blue canopy (400, C-9 blue bulbs).

88th Street Roundabout Lighting

- Outside Circle – Canopy scatter on eight Austrian pine trees on top of wall
- Inside Circle - Three largest spruce trees in center of round-a-bout with 1,000 warm white C-9 lights.

Main Street Roundabout

Center:

- Light three spruce trees with multi-color mini lights (900 mini).

Outside:

- Light four, small Norway maple canopy and trunk in multicolor mini

Main Street to east through Marshall St to Promenade Lane

North side (trees with grates around them do not have electric and do not get lights)
(Amber C-9 canopy and trunk wrap multi-color)

North Side:

- Three crabapples
- One crabapple
- One oak
- One Kentucky coffee tree
- One oak
- One pear
- Two honey locust
- One pear
- Two honey locust
- One oak
- One crabapple

South side:

- Five honey locust
- One crabapple
- Two honey locust
- One oak
- One Kentucky coffee tree
- Two oak
- One pear
- Two honey locust
- One oak

Between Promenade Lane to Superior Drive (Sports Stable endpoint)
Amber C-9 canopy and trunk wrap multi-color

North side:

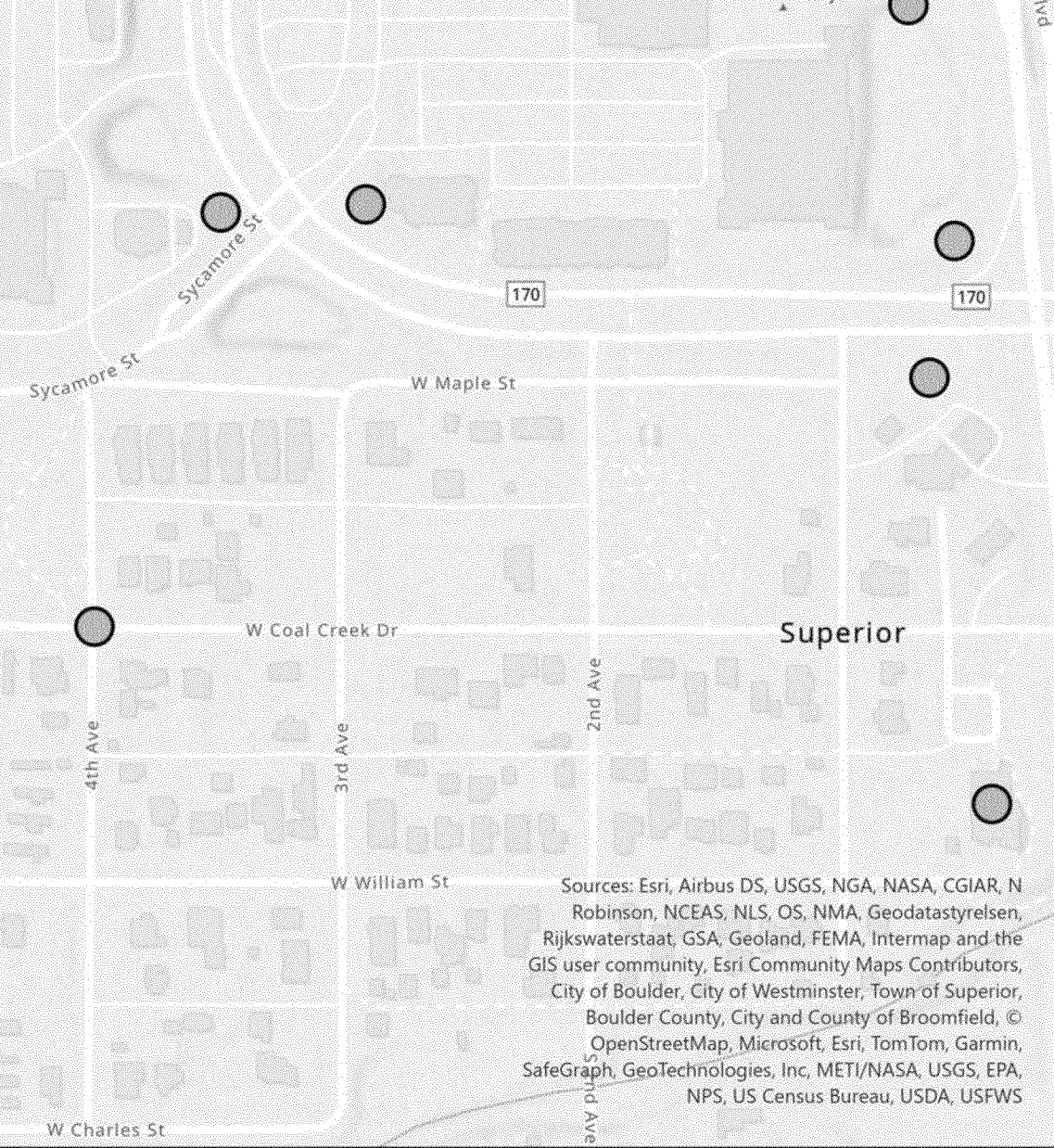
- Three crabapple
- Two maple
- One Pear
- One oak
- One hackberry

- One pear
- One Kentucky coffee tree
- One maple

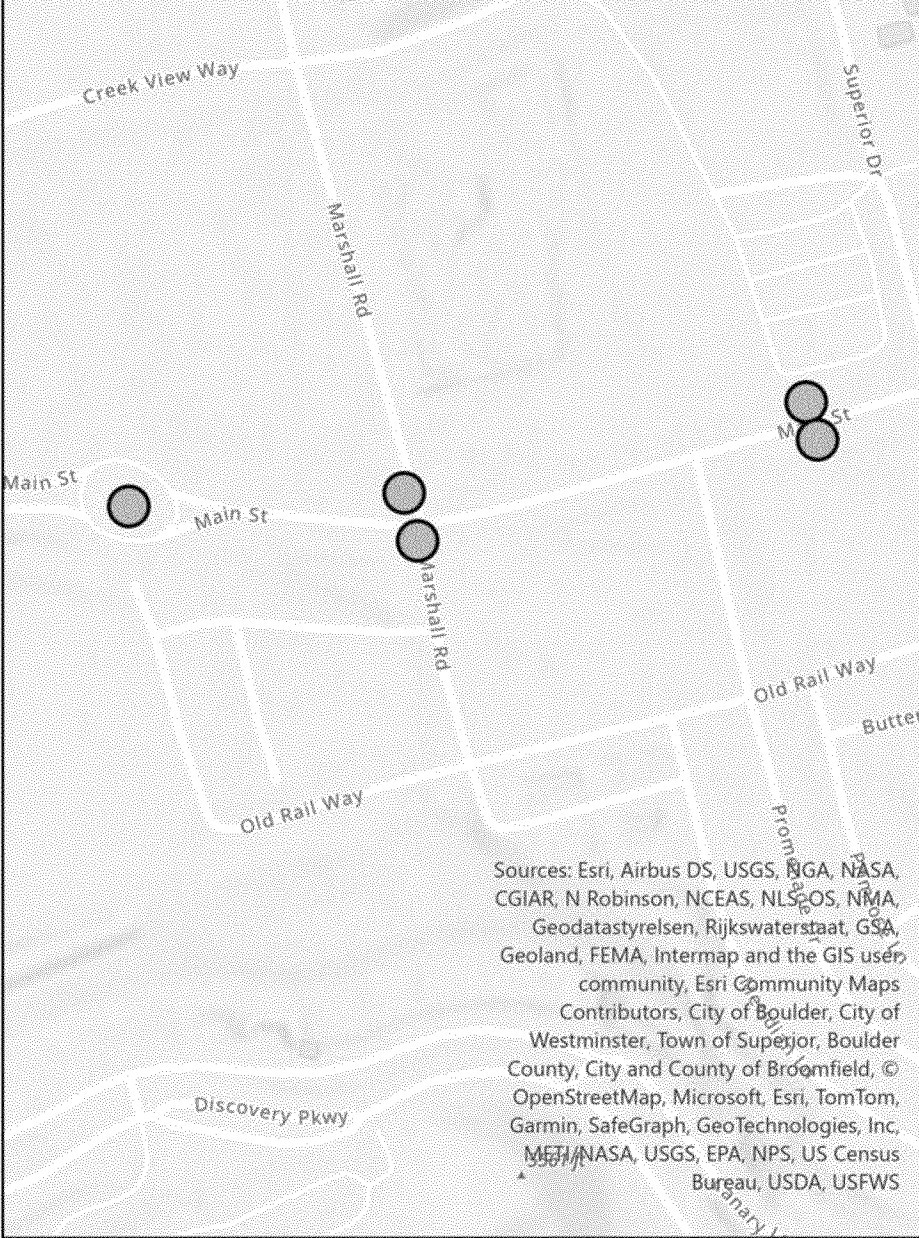
South side:

- Three Kentucky coffee tree
- One pear
- One oak
- One pear
- One Kentucky coffee tree
- One Maple
- One Kentucky coffee tree

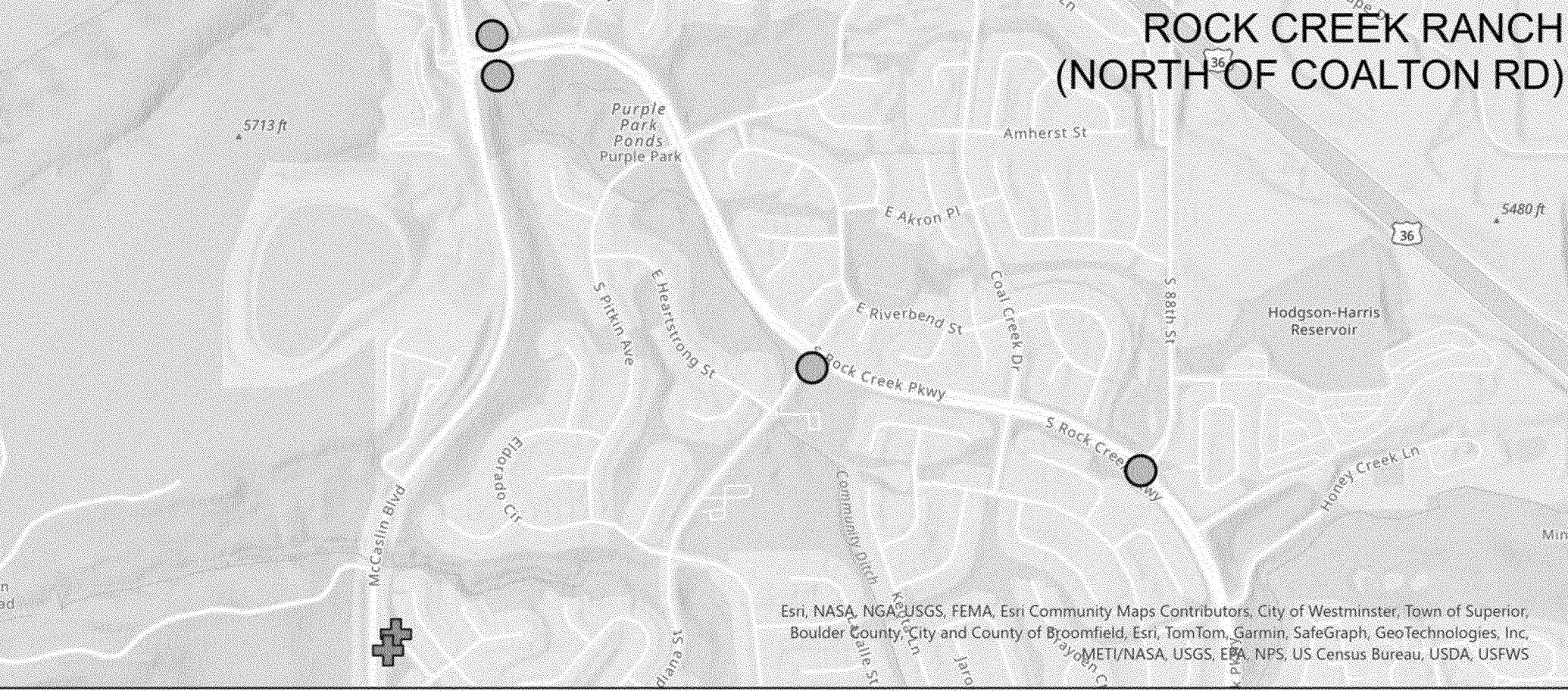
ORIGINAL TOWN /
SUPERIOR MARKETPLACE



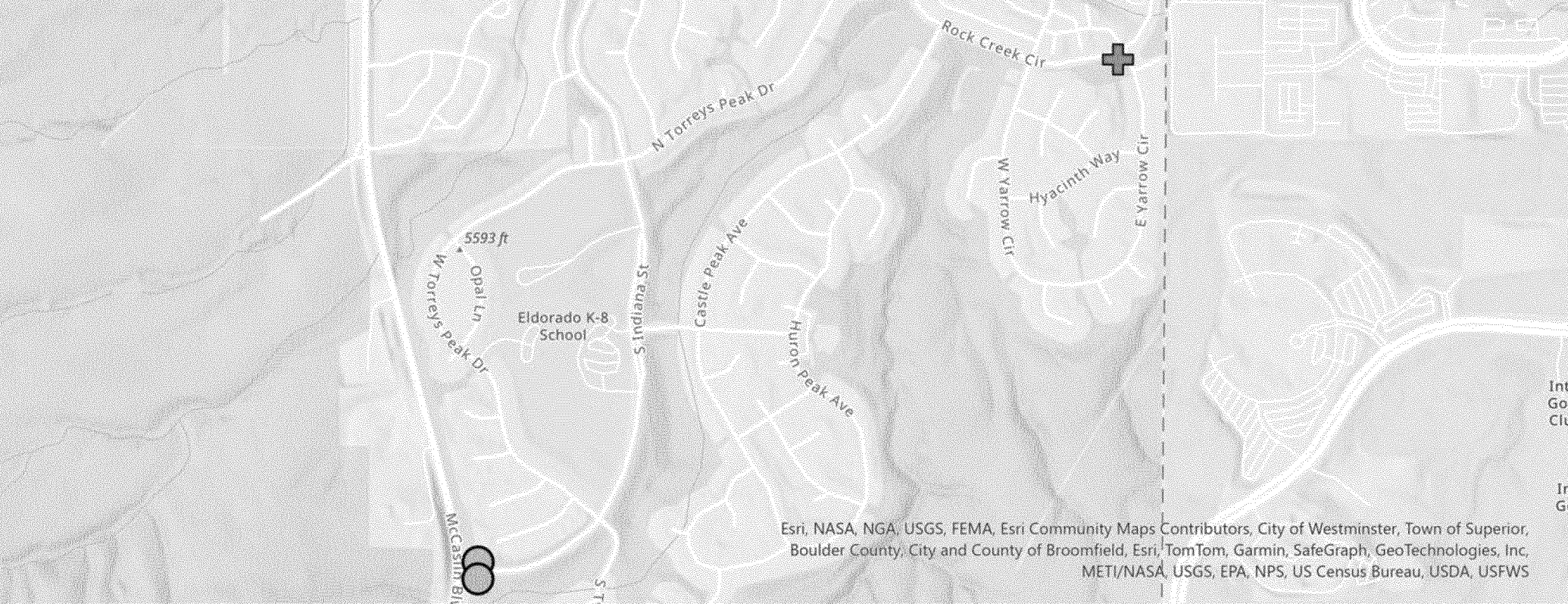
SUPERIOR TOWN CENTER /
DOWNTOWN SUPERIOR



ROCK CREEK RANCH
(NORTH OF COALTON RD)



ROCK CREEK RANCH
(SOUTH OF COALTON RD)



TOWN OF SUPERIOR HOLIDAY LIGHTING 2024



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ITEM NO. 4

INFORMATION FOR MEETING OF THE SUPERIOR BOARD OF TRUSTEES

AGENDA ITEM NAME: Ordinance – Amending Section 6-5-70 of the Superior Municipal Code to Update the Town’s Single Residential Waste Service Provider Area

MEETING DATE: September 9, 2024

PRESENTED BY: Matt Magley, Town Manager
Nicholas Hartman, Town Attorney
Alexis Bullen, Sustainability Manager
Martin Toth, Assistant Town Manager

PRESENTED FOR: Action – First Reading

BACKGROUND:

The Town began contracting through a third-party vendor to provide residential waste collection utility service in 2008. In order to initiate this service, the Town Board passed an Ordinance to establish the geographic location where the Town’s contracted vendor serves as the single provider in this service area. Prior to 2008, Superior residents entered into individual agreements with waste haulers to provide this service if they were not part an HOA who collectively entered into an agreement for their members. Following reports at the time from residents of significantly increasing prices to provide individual service, the Town Board decided to manage a single-provider waste contract to take advantage of economies of scale and secure a more competitive rate. The 2008 Ordinance excluded three HOA-managed areas from the requirement – Rock Creek Ranch, The Summit at Rock Creek and Saddlebrooke. These areas have remained outside of the Town’s service area since the 2008 Ordinance was passed, and have continued to provide waste collection through their own contract process. Scheduled under this agenda item is Board consideration on first reading an Ordinance amending the Code to eliminate the exclusion of these HOA-managed areas from the Town’s single-service residential waste service provider area.

The Town Board has discussed various options for the Town’s waste collection contract, which terminates at the end of this year, and whether including these HOA-managed

areas in the Town's single-provider service area will potentially support policy goals established through the Town's Sustainability Action Plan, which was approved in 2022. In order to meet the Town's climate goals and waste diversion goal of 65% residential single-family diversion from landfill by 2030, considering contract options to ensure year-round access to recycling and compost and transitioning to a Pay-As-You-Throw/volume-based model are primary tools to realize these standards.

The Colorado Revised Statutes (§ 30-15-401 [7.5]) established the statewide ability for local governments to require all residences, except multi-family residences of at least 8 units, to use a single provider as determined by the local government, or to impose a fee on the areas that choose not to utilize the single provider. Many municipalities in the region subsequently transitioned their waste collection utility to a single-service provider area, which has contributed significantly to meeting each community's diversion and greenhouse gas goals, while providing more choice for individual customers and industry adoption of cleaner fuels for trucks including electric vehicles. Additionally, including more customers under one contract provides greater economies of scale, makes customer communication easier and more consistent across neighborhoods, and enhances ability to negotiate potentially beneficial contract provisions for the municipality such as reducing the cost of service through allowing recycling center materials rebates to be retained by the hauler. Different communities have taken different approaches to expanding their single-service provider area boundaries. Some communities, such as the City of Lafayette, have opted to charge a fee equivalent to their lowest level of waste service fees to each resident who chooses not to participate in Lafayette's waste collection program.

If the Town Board chooses to eliminate the exclusion of the three neighborhoods from the Municipal Code's single-service provider area through this Ordinance, the timeframe of the Town's contract to assume provision of this service can be adjusted to start sooner. The Town Board has discussed waiting to initiate this until 2028 when the HOAs' current agreement expires.

RECOMMENDED ACTION:

Approval of Ordinance.

MOTION:

Move to approve an Ordinance amending Section 6-5-70 of the Superior Municipal Code to Update the Town's Single Residential Waste Service Provider Area.

ATTACHMENTS:

- Ordinance
- Attorney Memo (Confidential)

TOWN OF SUPERIOR
ORDINANCE NO. O-
SERIES 2024

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF
SUPERIOR AMENDING SECTION 6-5-70 OF THE SUPERIOR
MUNICIPAL CODE TO UPDATE THE TOWN'S SINGLE RESIDENTIAL
WASTE SERVICE PROVIDER AREA

WHEREAS, by Ordinance No. O-11, Series 2008, the Board of Trustees established a single residential waste service provider area pursuant to C.R.S. § 30-15-401(7.5); and

WHEREAS, the Board of Trustees desires to update the Town's Single Service Provider Area.

NOW BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

Section 1. Section 6-5-70 of the Superior Municipal Code is hereby amended as follows:

Sec. 6-5-70. – Single residential waste service provider area.

* * *

(b) Until July 1, 2028, All all areas of the Town, except for the Rock Creek Ranch Subdivision, the Summit at Rock Creek Subdivision and the Saddlebrooke Subdivision, are subject to a single residential waste services provider requirement pursuant to C.R.S. § 30-15-401(7.5), and the provision of residential waste services by any person other than the Town's approved residential waste services provider is prohibited.

(c) Beginning on July 1, 2028, all areas of the Town are subject to a single residential waste services provider requirement pursuant to C.R.S. § 30-15-401(7.5), and the provision of residential waste services by any person other than the Town's approved residential waste services provider is prohibited.

Section 2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one or part or parts be declared unconstitutional or invalid.

Section 3. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this ____ day
of _____, 2024.

Mark Lacis, Mayor

ATTEST:

Lydia Yecke, Town Clerk



ITEM NO. 5

INFORMATION FOR MEETING OF THE SUPERIOR BOARD OF TRUSTEES

AGENDA ITEM NAME: Consideration of an Ordinance of the Board of Trustees of the Town of Superior Repealing and Reenacting Section 10-5-90 of the Superior Municipal Code to Prohibit Outdoor Fires

MEETING DATE: September 9, 2024

PRESENTED BY: Matt Magley, Town Manager
Nicholas Hartman, Town Attorney

PRESENTED FOR: First Reading

BACKGROUND:

Due to the increasing fire danger and the impacts of past fires it's important to take the proper preparedness measures, in order to enhance community resilience, adaptability, and overall capacity to safeguard lives and assets, and foster a safer and more secure environment for all. Attached is an amendment to the Town Code to prohibit all outdoor fires in the Town, subject to exceptions. Under the new Code it will be unlawful to set, maintain, or allow the setting of any outdoor fire that uses a combustible or flammable material anywhere in town. Allowed exceptions to this include:

- The outdoor fire is contained to a covered grill or other covered cooking appliance;
- The outdoor fire is operated by an on/off switch; or
- The outdoor fire is set and maintained by Mountain View Fire Rescue solely for the purpose of fuel mitigation to alleviate wildland fire potential.

Mountain View Fire has reviewed the proposed new ordinance and staff has revised the ordinance based on those comments.

RECOMMENDED ACTION:

First reading of the ordinance.

MOTION:

None

ATTACHMENTS:

- Ordinance

TOWN OF SUPERIOR
ORDINANCE NO. O-
SERIES 2024

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF
SUPERIOR REPEALING AND REENACTING SECTION 10-5-90 OF THE
SUPERIOR MUNICIPAL CODE TO PROHIBIT OUTDOOR FIRES

WHEREAS, the Town currently has a prohibition on certain open fires in the Town; and

WHEREAS, the Board of Trustees desires to prohibit all outdoor fires in the Town, subject to exceptions.

NOW BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

Section 1. Section 10-5-90 of the Superior Municipal Code is hereby repealed in its entirety and replaced as follows:

Sec. 10-5-90. – Outdoor fires prohibited.

(a) It is unlawful for an individual to set, maintain or allow the setting or maintenance of an outdoor fire that consumes brush, paper, plants, trash, weeds, wood or other solid-phase combustible or flammable material as a fuel anywhere within the Town, except when:

- (1) The outdoor fire is contained to a covered grill or other covered cooking appliance;
- (2) The outdoor fire is operated by an on/off switch or valve; or
- (3) The outdoor fire is set and maintained by Mountain View Fire Rescue solely for the purpose of fuel mitigation to alleviate wildland fire potential.

(b) Any individual who lawfully sets, maintains or allows the setting or maintenance of an outdoor fire under this Section shall ensure that:

- (1) The outdoor fire is under constant supervision; and
- (2) The outdoor fire is immediately extinguished upon notification by a peace officer, code enforcement officer or fire official that, in their opinion, such fire constitutes a hazardous condition.

Section 2. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining

portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any one or part or parts be declared unconstitutional or invalid.

Section 3. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

**INTRODUCED, READ, PASSED AND ORDERED PUBLISHED this ____ day
of _____, 2024.**

Mark Lacis, Mayor

ATTEST:

Lydia Yecke, Town Clerk