

Board of County Commissioners of Lincoln County
Agenda for August 28, 2024

- 9:00 Call to order and Pledge of Allegiance
- 9:30 Public hearing to review and act upon a proposed development permit regarding the Xcel Energy Public Pathway Transmission Line
- 11:00 Public hearing on a request from the Rotary Club of Limon, Colorado, for a Special Events Permit for the September 14, 2024, annual mouse races at 459 Indiana Avenue in Limon
- 11:30 Public hearing to review and act upon proposed Resolution #1132; a resolution to adopt the Lincoln County Floodplain Damage Prevention Ordinance and Regulations
- 11:45 Kelly Meier, Public Health Director, to provide a Public Health update

-To be completed as time permits-

1. Approve the minutes from the August 15, 2024, meeting
2. Review the July 2024 reports from the Colorado Counties Casualty and Property Pool and Workers' Compensation Pool
3. Review and act upon Resolution #1133; a resolution certifying costs of prosecuting crimes alleged to have been committed by persons in custody of the Department of Corrections
4. Review and act upon a letter of support for the Colorado Opportunity Scholarship Initiative on behalf of Morgan Community College
5. County Commissioner reports
6. County Attorney's report
7. County Administrator's report
8. Old Business
9. New Business
10. Approve Payroll

The Board of Lincoln County Commissioners met at 9:00 a.m. on August 28, 2024. Chairman Steve Burgess, Commissioners Wayne Ewing and Doug Stone, County Administrator Jacob Piper, County Attorney Stan Kimble, Clerk of the Board Corinne M. Lengel, Limon Leader reporter Stephanie Zwick, and commissioner candidate Terry Jaques attended. Land Use Administrator Ty Stogsdill, Limon Rotary Club Secretary Charlie Kendrick, and landowner Dwight Bevans were there when the meeting started.

Chairman Burgess called the meeting to order, led the Pledge of Allegiance, and then asked Mr. Ewing for a short prayer.

Mr. Ewing moved to approve the meeting minutes for August 15, 2024. Mr. Stone seconded the motion, which carried unanimously.

The Board reviewed the July 2024 reports from the Colorado Counties Casualty and Property and Workers' Compensation Pools; Mr. Piper said there were no changes from last month.

Mr. Stogsdill left, and Hugo Town Clerk Administrator Sara Lancaster arrived at approximately 9:10 a.m.

Since Mr. Kendrick was present for the 11:00 a.m. hearing, Mr. Burgess said he would proceed to the public hearing on the Rotary's Special Events Permit. However, Mr. Kimble advised against it since the time appeared on the agenda; public input might occur at the allotted time. Mr. Kendrick said he would come back.

Mr. Piper noted that although the Board might have to table the decision to adopt the resolution, they could review the information from the Department of Corrections regarding the annual reimbursement for certifying costs of prosecuting crimes allegedly committed by persons in DOC's custody. The reimbursement amount is \$101.02.

Mr. Stone moved to sign a letter of support for the Colorado Opportunity Scholarship Initiative on behalf of Morgan Community College. Mr. Ewing seconded the motion, which carried unanimously.

Mr. Burgess called for commissioner reports. After the last commissioner meeting, Mr. Stone talked to Judd Kravig; the District 3 road crew kept working on the washouts. He visited the shop on August 19 to look at the new truck. Mr. Stone reported they'd gotten about half an inch of rain. He also noted that the state inspection of the landfill on August 15 went well. On August 21, Mr. Stone spoke with Judd Kravig about the crew's activities; they continued hauling material to the washouts and grading. He checked the "Taylor road," stating that it washed out, and while almost two miles needed work, they'd fixed the worst spots. Mr. Stone talked to Mr. Kravig again on August 26; a grader and a CAT truck broke down. They took the truck back to Burlington on August 27 to have it fixed since it was still under warranty.

Mr. Ewing reported checking roads on August 16 and 17. He spoke with Chris Monks on August 20. They discussed the mower they would get on August 21 and putting it to work on August 22. They also discussed the road damage south of Arriba, the same area where the mower's gearbox went out. Mr. Ewing attended the Genoa town board meeting that evening; they had an emergency water shutoff while installing the line to the Genoa Tower, and a lack of communication caused problems. Other discussion items were the use of town equipment, possibly hiring a code enforcement officer, and how to help the new town clerk "get up to speed." Mr. Ewing attended the Capstone project fair with Mr. Burgess, Ken Stroud, and Bruce Walters at the Colorado School of Mines in Golden on August 22. They discussed the Ewing bridge project with several engineering students and were optimistic the team would accept it. They would complete a hydrology study, an engineered structure design, and alternative crossing options. Mr. Ewing attended the hospital board meeting that evening. Lora White and Julie Witt attended to discuss the Early Childhood Council Taskforce. Staffing the daycare continues to be their most challenging issue. Mr. Ewing noted that the hospital decided to use cloth wipes instead of disposable wipes because of sewer problems. On August 23, Mr. Ewing spoke with Mr. Burgess and called Sheila Nessler with Columbia Sanitation, who gave him Jason Culp's contact information. Mr. Culp provided analytics of several septage reports, which he shared with the other commissioners. Earlier this morning, Mr. Ewing talked to Chris Monks about County Road 24; they will start on it next Tuesday. One of their trucks has transmission problems, and they're having the loader diagnosed; they might look into trading it.

On August 16, Mr. Burgess spoke with Amy Brooks of Castle Rock Construction about crushing concrete and asphalt for Districts 1 and 2; she said they could provide a price. Mr. Burgess talked to Limon Town Administrator Greg Tacha about using the town's dump site for asphalt crushing. Mr. Burgess sent pictures of the County Road 33 bridge to Ken Stroud for use at the August 22 School of Mines presentation. On August 17, Mr. Burgess looked at roads north of Limon where water ran across them. He talked to Joe Linnebur about fencing. The District 2 road crew repaired damaged pipes on County Road 3N on August 19. Mr. Burgess signed the annual Abstract of Assessment for the Assessor and then picked up some shovels for District 2 from Town and Country Hardware. Sheriff Nestor called him about meeting with a company that leases patrol cars; Mr. Burgess thought it sounded favorable. The road crew continued working on County Road 3N on August 20.

The "low oil" light keeps coming on in their CAT 950 loader; Mr. Burgess called the dealer, who will send a mechanic to look at it. Mr. Burgess talked to Mr. Piper about the roundhouse bat problem. Roxie Devers had voiced concerns about the door sweeps meeting historical requirements. He mentioned a mandatory walkthrough for the bridge project on September 4. Mr. Burgess attended the Economic Development meeting at Mountain View Electric on August 21; Karval hoped to build a couple of new homes near the school. Mr. Burgess talked to Travis Miller about the County Highway 109 bridge detour material, which must reach an R40 soil classification. According to Mr. Kimble, the county couldn't charge more for material than it paid. Mr. Burgess suggested having the material tested before the bid walkthrough. On August 22, Mr. Burgess, Mr. Ewing, Mr. Stroud, and Mr. Walters went to Golden to present the County Road 33 bridge project to students at the Colorado School of Mines; it went well. Fifty to

seventy-five students expressed interest; the school would have to choose a team of four to ten students to work on it. They will work out schedules and a Scope of Work on September 5. District 2 had trouble with a John Deere motor grader's hydraulics. Mr. Walters called a mechanic, who would come out and look at it. Mr. Burgess spoke with Ty Stogsdill on August 23 about a business in a subdivision north of Limon on State Highway 71, and Mr. Stogsdill agreed to look into it. Mr. Stogsdill mentioned the Land Use Board's setback questions. Mr. Burgess talked to Mr. Ewing about having Columbia Sanitation provide information so they could better understand septage. He then went to the Limon Library to celebrate Lucy Reimer's twenty-four years of service.

On August 26, the District 2 crew hauled gravel and cleaned up the gravel pit. Mr. Burgess checked several roads, noting the rain was sporadic. The John Deere grader would need a new hydraulic pump costing between \$8,000 and \$9,000, plus labor; they intended to submit another oil sample to determine further damage. Mr. Burgess picked up crushed concrete samples from Castle Rock Construction's crusher east of Arriba. Gary Beedy called and expressed his concerns about floodplain adaptation, noting that the state didn't believe it addressed roads. He also requested that the commissioners write a letter of support regarding shallow wells. Mr. Burgess spoke with Ken Stroud about the jury assembly restroom project; he wondered if the School of Mines could design that project in addition to the bridge project.

The group moved to the jury assembly room, where Mr. Burgess opened the public hearing to review and act on a proposed development permit regarding the Xcel Energy Power Pathway transmission line project. The hearing recording will remain in the County Clerk's vault for the statutory period. Mr. Burgess directed that anyone wishing to speak should state their name for the record; he would give each speaker four minutes to ask questions, which the group would answer after hearing all questions.

Mr. Stogsdill stated that the Land Use Board denied Development Permit #24-03, which encompassed four miles of Xcel's Power Pathway Project in Lincoln County, based on two facts: the first was that the company didn't adhere to the 800' setback from occupied structures requirement, and the second was that Xcel hadn't acquired signed easements from all seven landowners in the proposed area.

Mr. Kimble asked if Xcel had submitted a complete application; Mr. Stogsdill affirmed it had. He also said that he couldn't find the setback requirement in his version of the Zoning Resolution, last revised on November 9, 2017. However, Mr. Stogsdill located Resolution #1010, adopted by the county commissioners on February 18, 2020, amending the setback requirement to 250' from occupied structures. Mr. Kimble added that Mr. Stogsdill had determined that the proposed transmission line route in Segment 5 was not within 250' of any occupied structures, thus eliminating the setback problem. His concern was that the county doesn't have the authority to determine property values when landowners negotiate with utility companies, nor has it historically required them to obtain landowner easements before approving the development permit.

Jennifer Chester with Xcel Energy gave a PowerPoint presentation regarding the 550-mile Colorado Power Pathway with an estimated completion date of 2027. She cited positive impacts such as tax revenue, temporary jobs, revenue to local establishments such as hotels and restaurants, and the long-term benefit of increased energy capacity. They have approval for slightly less than four hundred of the five hundred and fifty miles. Ms. Chester explained the routing process and what the company considered regarding Lincoln County from the beginning. There were constraints in the original study area, including Air Force Academy training areas, forcing them to push further east. Twenty-three structures with 140' to 150' poles would support the 345-kV double-circuit electric transmission line through Lincoln County's four-mile stretch. Ms. Chester noted that some of the company's primary concerns when starting a project are existing homes, land use patterns, and water sources. Xcel started the Power Pathway Project late in 2020 and received PUC approval in 2022. They are now constructing Segments 2, 3, and 1 (out of order) and have scheduled Segment 5 for next year. Ms. Chester concluded her presentation by saying they had identified no occupied structures within 250' of the proposed transmission line, thus meeting the setback requirement. Xcel would have all land rights in place before construction started; the project met all zoning resolution requirements.

Mr. Burgess asked for comments from others, and Dwight Bevans stated he had a couple of questions for the commissioners. Mr. Burgess said Mr. Piper would write them down, and they would answer them after hearing questions from all audience members.

Mr. Bevans asked what the tax benefit was to Lincoln County and if the three commissioners had wind towers or solar panels on their property. The right to condemn a person's land without due process disturbed him, and he stated that Xcel Energy wouldn't admit how much the transmission line would devalue the properties along the route, but it was by fifty percent or more. Mr. Bevans said the big companies felt they could run over the "country bumpkins" in Lincoln County, but the commissioners had the authority to keep them out. He asked how many landowners favored the developments based on the number of meetings the commissioners held or attended. He also asked how many of them would sell their land to him and let him tell them what he'd pay. Mr. Bevans said not many people had the money to fight Xcel and that the company would continue to want more if the commissioners gave in. Indicating the room full of people, Mr. Bevans asked how many of the individuals were Xcel employees and how they could justify the numbers. When he began questioning their integrity and morals, Mr. Burgess told Mr. Bevans his four minutes were up.

Mr. Burgess asked if there were any other questions from the audience, and hearing none, he asked Mr. Piper to repeat the questions Mr. Bevans asked. To the first question regarding which commissioners had wind towers or solar panels on their property, Mr. Burgess said he owned land in Kansas but had no wind towers or solar on it. Mr. Ewing responded that he had wind towers on Lincoln County land, and Mr. Stone said he had neither.

To the second question, the tax benefit to Lincoln County, Ms. Chester noted that while the state set the process, Xcel had paid over \$560,000 to Lincoln County for other projects. However, the state had yet to determine the tax assessment for this project.

Mr. Piper asked if the project would be subject to the two percent county use tax, but Mr. Kimble didn't believe utility companies fell into that category.

Mr. Burgess asked how deep Xcel would set the poles. Ms. Chester said they were on concrete foundations but referred to the company's transmission engineer, Josh Peterson, to elaborate. Mr. Peterson explained most were thirty feet deep, with larger structures being forty to forty-five feet deep. He noted they do soil borings at each location and investigate water flow properties.

When asked about the right-of-way requirements, Ms. Chester said they have a seventy-five-foot right-of-way on either side of every pole.

Mr. Ewing asked Mr. Bevans where he got the information that the transmission line would devalue property by over fifty percent. Mr. Bevans responded it was common sense; he'd spent a lifetime creating a pristine homestead and didn't want to have to see or hear the transmission lines.

Mr. Kimble stated that condemnation or eminent domain was constitutional and that the judicial system would take over if the parties couldn't negotiate an agreement or price.

Mr. Burgess asked him what legal ramifications could occur if the commissioners denied the permit. Mr. Kimble said that without an executive session, he couldn't speak specifically to that question but generalized that if a company determined the county didn't have reasonable grounds for denial, they could challenge the decision through a court Rule 106 action, resulting in possible fines or penalties to the county.

Mr. Burgess asked Ms. Chester about the landowner easements; she noted that they had signed agreements with two of the seven as of today. Xcel would continue to work with the remaining landowners to reach agreements, although some often waited until closer to the construction timeframe to sign them. She noted that they would continue to acquire voluntary rights so that they didn't have to file condemnation on those landowners.

Mr. Burgess and Mr. Ewing asked if Xcel had considered a different route, possibly along section lines; Ms. Chester said they looked at section lines and parcel boundaries first, which they did with this project. However, it didn't always work out. She noted that they had considered alternatives but had already determined the proposed route that appeared in their development permit application.

Mr. Stone asked Mr. Bevans if he'd met with the Xcel representatives, but Mr. Bevans said they never contacted him. Mr. Stogsdill interjected that the company sent Mr. Bevans a certified letter, but he never accepted it.

Gary Strickland said he owned land north of Mr. Bevans and had heard from Xcel a little over a year ago, but nothing since. He asked why the PUC had the authority to set land values.

Ms. Chester told him the PUC regulates utilities and facilities to determine the best areas for power but deferred to Heather Brickey, the company’s power director, for clarification. Ms. Brickey said they received the PUB certification, which said the Power Pathway project would benefit the state and electrical grid, allowing them to move forward. They must be prudent with funding and offer fair market value to property owners.

Mr. Ewing reluctantly moved to approve Xcel’s development permit, and Mr. Stone agreed, stating he felt for the landowners but didn’t think the commissioners had a choice. Mr. Piper noted that if the commissioners wanted to place any conditions on the project, they would have to do so during their approval of the development permit and adopt the proposed resolution.

Mr. Ewing amended his motion to include approval of Development Permit #24-03: the Xcel Energy Power Pathway Transmission Line and adoption of Resolution #1131 with the conditions that Xcel obtain all landowner easements, either signed or by order of the court before construction started. Mr. Stone seconded the motion, and Mr. Burgess called for a voice vote. Mr. Stone voted yes, Mr. Ewing voted yes, and Mr. Burgess voted yes.

At a regular meeting of the Board of County Commissioners of Lincoln County, Colorado, held in Hugo, Colorado, on August 28, 2024, there were present:

Steve Burgess, Chairman	Present
Wayne Ewing, Vice Chairman	Present
Douglas D. Stone, Commissioner	Present
Stan Kimble, County Attorney	Present
Corinne Lengel, Clerk of the Board	Present
Jacob Piper, County Administrator	Present

when the following proceedings, among others, were had and done to-wit:

RESOLUTION #1131 It was moved by Commissioner Ewing and seconded by Commissioner Stone to adopt the following resolution:

A RESOLUTION GRANTING THE APPROVAL OF A USE BY SPECIAL REVIEW AND DEVELOPMENT PERMIT #24-03 FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A TRANSMISSION LINE, AND ANCILLARY FACILITIES, WHICH MAY INCLUDE BURIED AND OVERHEAD CABLE, SUBSTATIONS, PRIVATE GRAVEL ROADS, METEOROLOGICAL TOWERS, OPERATIONS AND MAINTENANCE FACILITIES, RELATED EQUIPMENT AND STRUCTURES, RIGHTS-OF-WAY, BATCH PLANT, IN EACH CASE AS APPLICABLE, AND USES LOCATED AT APPROXIMATELY ALL OF SECTION 6 AND 7, AND PART OF SECTION 18, TOWNSHIP 14S RANGE 59W; ALL OF SECTION 6, AND PART OF SECTION 7, TOWNSHIP 15S, RANGE 59W.

WHEREAS, Xcel Energy, Inc. has applied for the approval of a Use By Special Review and Development Permit ("Project Approvals") to construct, operate, and maintain approximately 4-miles of 345 kilovolt (kV) transmission line in Lincoln County (the "Transmission Line") in accordance

with the Lincoln County Application for Use By Special Review Permit submitted by Xcel Energy, Inc., dated May 4, 2024 (the "Application"). The property subject to the Project Approvals is described in the attached Exhibit A (the "Property").

WHEREAS, the Property is currently zoned Agricultural under the Lincoln County Zoning Resolution; and

WHEREAS, Section 2-220 of the Lincoln County Zoning Resolution allows for the approval of a Use By Special Review and Development Permit within the Agricultural Zoning District in accordance with the provisions of Article 3 of the Lincoln County Zoning Resolution; and

WHEREAS, Lincoln County staff conducted a review of the Application on July 10, 2024 and recommended approval of a Use By Special Review and Development Permit for the Transmission Line with certain limited conditions; and

WHEREAS, at a public hearing held on August 22, 2024, the Lincoln County Land Use Board recommended denial of the Use By Special Review and Development Permit; and

WHEREAS, pursuant to Section 3-110 of the Lincoln County Zoning Resolution the Lincoln County Board of County Commissioners chose to review the Application, together with the staff report and the Decision of the Land Use Board; and

WHEREAS, at a meeting of the County Board of County Commissioners held on August 28, 2024, the Lincoln County Board of County Commissioners held a public meeting at which it considered the Application, the staff report on such Application, the recommendation of the Land Use Board, the record of proceedings before the Land Use Board, and such other information as was brought before the Board of County Commissioners at such hearing; and

NOW BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LINCOLN COUNTY, COLORADO:

I. APPROVAL:

The Application of Xcel Energy, Inc., for a Use By Special Review and Development Permit is GRANTED, subject to the conditions set forth below. The Use By Special Review and Development Permit, including the applicant's right to construct, operate, and maintain approximately 4-miles of 345 kilovolt (kV) transmission line, shall remain valid until such time as Xcel Energy, Inc., its transferees, successors and assigns no longer own, lease, or otherwise occupy an interest in the Property described in Exhibit A, whether by lease, easement, or otherwise, whichever occurs last.

II. FINDINGS OF FACT:

1. That proper notice has been provided as required by law for the public hearing before the Board.
2. That the information contained in the record of proceedings and presented to the Board at the public hearing is extensive and complete, and that all pertinent facts, matters and issues were submitted and considered by the Board.
3. That the Transmission Line, as described in the Application, is consistent with the minimum zoning requirements set forth in the Lincoln County Zoning Resolution.
4. That the Transmission Line is consistent with the goals and strategies set forth in Lincoln County's Comprehensive Plan.
5. That the Transmission Line will be compatible with the character of the surrounding neighborhood and will not have negative impacts on adjacent properties. The Transmission Line has been designed to mitigate any potential noise, odor, vibration, glare and similar impacts associated with the proposed land use.
6. That the Transmission Line will not cause undue traffic, congestion, dangerous traffic conditions, or other vehicle-related impacts due to the implementation of project-wide Best Management Practices and effective traffic control measures during construction.
7. That the Transmission Line will not require a level of community services or facilities that is not available, and the Applicant will provide the necessary improvements to address any deficiencies to facilities and services that the use would cause. All public roads, utilities and bridges to be developed in connection with the Transmission Line will comply with County standards.
8. The operating characteristics of the Transmission Line shall not create a nuisance and the project has been designed to minimize impacts on neighboring properties with respect to noise, odor, vibrations, glare, and similar conditions.
9. That the Transmission Line does not require a water supply.
10. That the Transmission Line will not cause significant deterioration of surface or groundwater resources. The Transmission Line has been designed and will be constructed to:
 - a) Prevent any changes to patterns of water circulation, conditions of the substrate, extent and persistence of suspended particulates, and the clarity, odor, color or taste of water,

- b) Comply with applicable water quality standards,
 - c) Control levels of point and nonpoint source pollution,
 - d) Prevent any changes in seasonal flow rates and temperature for affected streams,
 - e) Prevent changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces; and
 - f) Prevent changes in circulation patterns, seasonal water levels and temperature of lakes or reservoirs.
11. That the Transmission Line will not significantly degrade wetlands or other aquatic habitat and riparian areas. The Transmission Line is designed to avoid such areas or to minimize disturbance in these areas. Specifically, the Transmission Line will not:
- a) Cause any significant changes to the structure and function of wetlands and to unique, rare, delicate or irreplaceable riparian areas, vegetation, forest or woodlands,
 - b) Cause any significant changes to the filtering and nutrient uptake capacities of wetlands and riparian areas; and
 - c) Cause any significant changes to aerial extent of wetlands and evolution of wetland species to upland species.
12. That the Transmission Line will not cause significant deterioration of grasslands or farmland.
13. That the Transmission Line will preserve the integrity of existing and natural drainage patterns.
14. That the Transmission Line will not require a wastewater treatment system.

III. CONDITIONS:

1. This Project Approval does not materially limit private property rights of mineral owners to reasonably access and use the surface of the permit area for the purpose of exploring for, developing and/or producing oil, gas and other minerals in accordance with Colorado law.
2. Prior to commencement of construction of the Transmission Line and/or prior to obtaining any building or construction permits, as applicable, Xcel Energy, Inc. must provide proof of executed easement option agreements, easement agreements, or

court orders (including orders stayed on appeal), indicating that Xcel Energy, Inc. has control over the entire Transmission Line easement area. Further, Xcel

Energy Inc. will use every reasonable effort to obtain options or easements from all affected property owners by negotiation.

3. Prior to construction of the Transmission Line and/or prior to obtaining any building or construction permits, as applicable, there shall be in place a fully executed development/roadway agreement between Lincoln County and Xcel Energy Inc.
4. All vehicles (excluding emergency vehicles) accessing the project must observe Lincoln County Road speed limits.
5. All construction debris (including concrete truck clean out) and trash cannot be buried nor burned on site but must be disposed of at a properly permitted landfill on a regular basis. Suitable containers/dumpsters shall be utilized to prevent the debris from becoming wind-blown.
6. All reclamation materials: native seed mixtures, mulch and erosion control materials shall be certified as weed free.
7. Reclamation and restoration shall be performed according to applicable state stormwater permit requirements and as agreed to by private agreement between the applicant and the landowner.
8. Xcel Energy, Inc. will use commercially reasonable efforts to the extent feasible in order to avoid erosion at the base of each transmission line structure.
9. Prior to the issuance of any building or construction permits, the Board of Lincoln County Commissioners shall enter into a written agreement which includes resolution of the fees to be paid by the Applicant relative to a combined permitting and sales and use tax assessment.

BE IT THEREFORE RESOLVED that a Use By Special Review and Development Permit is granted to Xcel Energy, Inc., to construct a transmission line in accordance with the terms of the Application, subject to the conditions set forth above. The Lincoln County Board of County Commissioners retains continuing jurisdiction over the permit to address future issues concerning the site and to ensure compliance with the conditions of the permit. The applicant is responsible for complying with all of the forgoing conditions and all other county zoning or other land use regulations. Noncompliance with any of the conditions may be cause for revocation of the permit.

Upon roll call the vote was:

Commissioner Stone, Yes; Commissioner Ewing, Yes; Commissioner Burgess, Yes.

The Chairman declared the motion carried and so ordered.

Board of County Commissioners
of Lincoln County

ATTEST:

Clerk of the Board

EXHIBIT A

The Property

ALL OF SECTION 6 AND 7, AND PART OF SECTION 18, TOWNSHIP 14S RANGE 59W; ALL OF SECTION 6, AND PART OF SECTION 7, TOWNSHIP 15S, RANGE 59W

Mr. Burgess concluded the hearing and turned off the tape recorder at 10:27 a.m.

After the room cleared, Mr. Kimble reported attending a Zoom call with the Karval Water Authority the previous week. The Karval Water Users had an agreement with the supplier assigned to the Authority, but its attorney wanted the Karval Water Authority to own the water rights. Mr. Kimble didn't know if they'd worked anything out with the Colorado Agricultural Water Alliance but noted that the state's water attorney wanted to investigate it further.

Mr. Kimble also reported speaking with Mr. Stogsdill about the septage regulations; they still hadn't received anything from Weld County regarding penalties.

Regarding the transmission line hearing, Mr. Kimble said that while he understood that the Land Use Board members sympathized with landowners because most of the volunteer members were landowners, the commissioners had to look at the big picture. He assumed they didn't like overturning those decisions but noted it was sometimes necessary to protect the county. Mr. Kimble said it might be time to add a business owner or two to the land board.

Brenda Toft commented that it was hard on those volunteers, especially knowing that their decisions affected fellow landowners' pocketbooks. However, everyone knew there were rules to follow.

Terry Jaques asked if the county required land board members to take specific training, but Mr. Kimble said it was hard enough to get people to volunteer for the various boards.

Mr. Burgess asked Mr. Stogsdill if he'd found anything in the zoning resolution regarding operating a business in a subdivision. Mr. Stogsdill said he'd seen nothing that allowed more than living there or having a few animals. Mr. Kimble wondered if it was a community overlay and asked Mr. Stogsdill to give him the information.

Mr. Kimble asked if the Board had considered his suggestion to have John DeWitt update the Zoning Resolution since the latest version was November 9, 2017. The commissioners agreed and asked Mr. Piper to contact Mr. DeWitt.

Mr. Burgess asked Mr. Kimble if he'd sent a certified letter to the landowner who damaged County Road 109; he said he did but hadn't received a response.

Mr. Piper reported that the power purchaser in El Paso County didn't approve Triple Oak Power's Sentinel Wind Project; although they hadn't abandoned it, it was on hold.

Mr. Piper clarified that the pre-bid meeting for the County Highway 109 bridge project on September 4 wasn't a walkthrough but a Zoom meeting at 10:00 a.m. The commissioners didn't need to attend, as Travis Miller and RockSol Consulting would handle the discussion. They would then have to ensure prospective contractors had all the same information.

Mr. Piper and Mr. Stone planned to attend the County Health Pool meeting at 10:00 a.m. on September 12, after which the commissioners would hold a work session at 1:00 p.m. to open bids on the bridge project. Mr. Piper said the Board would only have to decide how much (if any) they were willing to contribute in county funds. Once the commissioners ensured the bids met all specifications, they would accept the lowest one and then send it to the state for review and approval.

Since they had discussed it last year, Mr. Piper asked if the commissioners wanted to look into different Workers' Compensation insurance. CTSI later lowered the cost, and Mr. Piper said he wasn't advocating for a change but giving them options. Mr. Burgess said it was worrisome when a company offered a much lower rate to start and felt they should stick with CTSI. The others agreed.

At 11:00 a.m., Mr. Burgess opened the public hearing to act on a request from the Rotary Club of Limon, Colorado, for a Special Events Permit for the September 14, 2024, mouse races at 459 Indiana Avenue in Limon. No one attended the hearing, and Mr. Ewing moved to approve the Special Events Permit. Mr. Stone seconded the motion, which carried unanimously.

Mr. Piper had let Public Health Director Kelly Meier know that the commissioners could meet with her early, so she arrived at 11:00 a.m.

Mr. Stogsdill informed the group that the COSSA event would occur on September 17 at 3:00 p.m. at the Ellis Allen building. He said he would take care of the notices and left.

The chairman recessed the Board of County Commissioner meeting and opened the Lincoln County Board of Public Health meeting.

Mrs. Meier presented the \$32,980 WIC contract for FY25. Mr. Stone moved to approve the contract, Mr. Ewing seconded the motion, and it carried unanimously.

Mr. Ewing moved to approve the EPR contract amendment regarding invoice deadlines. Mr. Stone seconded the motion, which carried unanimously.

Mrs. Meier said that they updated the MOU between Kit Carson and Lincoln counties due to changes in the WIC application. They would still provide the same services. Mr. Stone moved to approve the updated WIC Memorandum of Understanding between Kit Carson and Lincoln counties. Mr. Ewing seconded the motion, which carried unanimously.

Lastly, Mrs. Meier presented the Third Party Entity/Organization Certification for Access to PII through a Database or Automated Network. She said it meant they would not use or disclose personal identifying information (PII). Mr. Stone moved to sign the document, Mr. Ewing seconded the motion, and it carried unanimously.

Mr. Burgess asked Mrs. Meier about the refrigerator. She said Braden Kappel found a part to fix the old one, so they planned to move it to the hospital and use it as a backup. She also ordered a device that would notify her cell phone if the power went out and the generator didn't kick on.

After Mrs. Meier left, the chairman adjourned the Board of Public Health meeting and reconvened the Board of County Commissioners meeting.

Mrs. Lengel asked if they could discuss the generator for the election equipment and surveillance system while they were on the subject. Sheriff Nestor communicated to her via text message that he didn't know what the restrictions on the old generator were and would talk with Dale at Standby Power about it. The unit is the original courthouse complex generator that has been here since 1992. The sheriff indicated it was likely time to replace the courthouse complex generator to keep up with modern technology, but it would be expensive. Mrs. Lengel said the IT Director, James Martin, met with electrician Leo Hurtado, but she hadn't had a chance to speak with Mr. Martin. While replacing the complex unit was probably a good idea, Mrs. Lengel said it wouldn't help her for the upcoming presidential election. Since Emergency Manager Ken Stroud was still in the room, she asked if he had other ideas, and he said he would discuss the subject with Mr. Martin.

Mrs. Lengel also asked if the commissioners had discussed moving the accessible parking spaces in the front of the courthouse to the east side of the parking lot. Mr. Burgess said John Mohan didn't favor it because people would have to cross the asphalt, which might be slick in the wintertime. Mr. Piper thought having both might be the best option. Mrs. Lengel hadn't received the letter from the Secretary of State's office that they had promised after the June 22 assessment, but she said she'd give it to the commissioners as soon as she did.

At 11:30 a.m., Mr. Burgess opened the public hearing to review and act on a proposed resolution to adopt the Lincoln County Floodplain Damage Prevention Ordinance and Regulations. The hearing recording will remain in the County Clerk's vault for the statutory period. No one other than those already in the room attended the hearing.

Mr. Burgess said that Ms. Lancaster had told him CDOT indicated the county shouldn't adopt the resolution because it didn't include roads. Mr. Stroud said the county already participated in the program, and Mr. Piper said it had for some time. Mr. Stogsdill thought it had to do with flood insurance. Mr. Stroud told him that was correct; if a landowner builds in the floodplain, participation in the NFIP (National Floodplain Insurance Program) would allow them to obtain flood insurance. They have created new maps, which the ordinance referenced. The county had to adopt the resolution and updated maps by September 12 to continue participating in the NFIP.

Mr. Kimble asked if it hurt anything to adopt it; Mr. Stroud said it would not. Mr. Piper asked if the county could get out of the program anytime, and Mr. Stroud told him it could. When Mr. Stone said he wouldn't want to have to fix county roads according to CDOT regulations in the case of washouts, Mr. Stroud said that adopting this ordinance wouldn't add restrictions and might help landowners save money.

Mr. Stone moved to approve a resolution adopting the Lincoln County Floodplain Damage Prevention Ordinance and Regulations. Mr. Ewing seconded the motion, which carried unanimously.

At a regular meeting of the Board of County Commissioners of Lincoln County, Colorado held in Hugo, Colorado on August 28, 2024, there were present:

Steve Burgess, Chairman	Present
Wayne Ewing, Vice Chairman	Present
Douglas D. Stone, Commissioner	Present
Stan Kimble, County Attorney	Present
Corinne Lengel, Clerk of the Board	Present
Jacob Piper, County Administrator	Present

when the following proceedings, among others, were had and done, to-wit:

RESOLUTION #1132 It was moved by Commissioner Stone and seconded by Commissioner Ewing to adopt the following resolution:

A RESOLUTION TO ADOPT THE LINCOLN COUNTY FLOODPLAIN DAMAGE PREVENTION ORDINANCE AND REGULATIONS

WHEREAS, The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses; and

WHEREAS, the flood hazard areas of Lincoln County 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 general welfare of the public; and

WHEREAS, flood losses are created by the cumulative effect of obstructions in floodplains 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; and

WHEREAS, The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Lincoln County," dated September 12th, 2024, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this resolution and accompanying ordinance; and

WHEREAS, the Board of County Commissioners of the County of Lincoln finds that it is in the best interest of the public health, safety and welfare of the citizens of Lincoln County to adopt the following resolution:

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of Lincoln County, State of Colorado, that the attached Floodplain Damage Prevention Ordinance, to be effective September 12, 2024.

Upon roll call the vote was:

Commissioner Stone, Yes; Commissioner Ewing, Yes; Commissioner Burgess, Yes.

The Chairman declared the motion carried and so ordered.

Board of County Commissioners
of Lincoln County

Attest:

Clerk of the Board

DEPARTMENT OF NATURAL RESOURCES
COLORADO WATER CONSERVATION BOARD

**LINCOLN COUNTY FLOODPLAIN DAMAGE
PREVENTION ORDINANCE**



PREFACE

The purpose of this model ordinance is to assist local officials in adopting floodplain management regulations that adhere to the minimum standards of both the National Flood Insurance Program (NFIP) and the State of Colorado.

For a community to participate in the NFIP, it must adopt and enforce floodplain management regulations that meet or exceed the minimum NFIP standards and requirements. These standards are intended to prevent loss of life and property, as well as economic and social hardships that result from flooding. In return for the local adoption and enforcement of floodplain management regulations, the Federal Emergency Management Agency (FEMA) provides the availability of flood insurance coverage within the community. The State of Colorado adopted higher standards for floodplain management, which are outlined in the Rules and Regulations for Regulatory Floodplains in Colorado (Rules), 2 CCR 408-1, effective January 14, 2011, and updated January 14, 2022. The Rules are the effective minimum standards for the State of Colorado.

The Colorado Water Conservation Board supports the NFIP and serves as the state liaison with FEMA to coordinate activities and provide support, technical assistance, training, and outreach to local officials in the execution of their duties to identify, prevent, and resolve floodplain management issues.

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ARTICLE I - TITLE AND PURPOSE

SECTION A. STATUTORY AUTHORIZATION

The Legislature of the State of Colorado has, in Title 29, Article 20 of the Colorado Revised Statutes, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Board of County Commissioner of Lincoln County, Colorado, does hereby adopt the following floodplain management regulations:

SECTION B. FINDINGS OF FACT

- (1) The flood hazard areas of Lincoln County 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 general welfare of the public.
- (2) These flood losses are created by the cumulative effect of obstructions in floodplains 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.

SECTION C. STATEMENT OF PURPOSE

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

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

SECTION D. METHODS OF REDUCING FLOOD LOSSES

In order to accomplish its purposes, this ordinance uses the following methods:

1. Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
2. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
3. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
4. Control filling, grading, dredging and other development which may increase flood damage;
5. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

ARTICLE II - DEFINITIONS

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

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

100-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a one-hundred-year flood.

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

500-YEAR FLOODPLAIN - The area of land susceptible to being inundated as a result of the occurrence of a five-hundred-year flood.

ADDITION - Any activity that expands the enclosed footprint or increases the square footage of an existing structure.

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

AREA OF SHALLOW FLOODING - A designated Zone AO or AH on a community's Flood Insurance Rate Map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

BASE FLOOD – The flood which has a one percent chance of being equaled or exceeded in any given year (also known as a 100-year flood). This term is used in the National Flood Insurance Program (NFIP) to indicate the minimum level of flooding to be used by a community in its floodplain management regulations.

BASE FLOOD ELEVATION (BFE) - The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE

that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

BASEMENT - Any area of a building having its floor sub-grade (below ground level) on all sides.

CHANNEL - The physical confine of stream or waterway consisting of a bed and stream banks, existing in a variety of geometries.

CHANNELIZATION - The artificial creation, enlargement or realignment of a stream channel.

CODE OF FEDERAL REGULATIONS (CFR) - The codification of the general and permanent Rules published in the Federal Register by the executive departments and agencies of the Federal Government. It is divided into 50 titles that represent broad areas subject to Federal regulation.

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

CONDITIONAL LETTER OF MAP REVISION (CLOMR) - 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 – A structure or related infrastructure, but not the land on which it is situated, as specified in Article 5, Section H, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Article 5, Section H.

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

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

DIGITAL FLOOD INSURANCE RATE MAP (DFIRM) - FEMA digital floodplain map. These digital maps serve as “regulatory floodplain maps” for insurance and floodplain management purposes.

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

during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - 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 a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION- The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEDERAL REGISTER - The official daily publication for Rules, proposed Rules, and notices of Federal agencies and organizations, as well as executive orders and other presidential documents.

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

FLOOD OR FLOODING - A general and temporary condition of partial or complete inundation of normally dry land areas from:

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

FLOOD INSURANCE RATE MAP (FIRM) – An official map of a community, on which the Federal Emergency Management Agency has delineated both the Special Flood Hazard Areas and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY (FIS) - The official report provided by the Federal Emergency Management Agency. The report contains the Flood Insurance Rate Map as well as flood profiles for studied flooding sources that can be used to determine Base Flood Elevations for some areas.

FLOODPLAIN OR FLOOD-PRONE AREA - Any land area susceptible to being inundated as the result of a flood, including the area of land over which floodwater would flow from the spillway of a reservoir.

FLOODPLAIN ADMINISTRATOR - The community official designated by title to administer and enforce the floodplain management regulations.

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

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

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

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

FLOODPROOFING - Any combination of structural and/or non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY (REGULATORY FLOODWAY) - The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. The Colorado statewide standard for the designated height to be used for all newly studied reaches shall be one-half foot (six inches). Letters of Map Revision to existing floodway delineations may continue to use the floodway criteria in place at the time of the existing floodway delineation.

FREEBOARD - 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 - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

HISTORIC STRUCTURE - Any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior;
or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior or;
 - b. Directly by the Secretary of the Interior in states without approved programs.

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

LETTER OF MAP REVISION BASED ON FILL (LOMR-F) – FEMA’s modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway.

LEVEE – A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control, or divert the flow of water so as to provide protection from temporary flooding. For a levee structure to be reflected on the FEMA FIRMs as providing flood protection, the levee structure must meet the requirements set forth in 44 CFR 65.10.

LEVEE SYSTEM - 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 - The lowest floor of the lowest enclosed area (including basement). Any floor used for living purposes which includes working, storage, sleeping, cooking and eating, or recreation or any combination thereof. This includes any floor that could be converted to such a use such as a basement or crawl space. The lowest floor is a determinate for the flood insurance premium for a building, home or business. An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood insurance Program regulations.

MANUFACTURED HOME - A structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".

MANUFACTURED HOME PARK OR SUBDIVISION - A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MEAN SEA LEVEL - For purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

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

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

NEW CONSTRUCTION – 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 - 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 floodplain management regulations adopted by a community.

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

PHYSICAL MAP REVISION (PMR) - FEMA’s action whereby one or more map panels are physically revised and republished. A PMR is used to change flood risk zones, floodplain and/or floodway delineations, flood elevations, and/or planimetric features.

RECREATIONAL VEHICLE - means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;

3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

SPECIAL FLOOD HAZARD AREA – The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year, i.e., the 100-year floodplain.

START OF CONSTRUCTION - The date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation.

Permanent

construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

STRUCTURE - A walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure just prior to when the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "Start of Construction" of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred "Substantial Damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary conditions or
2. Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure."

THRESHOLD PLANNING QUANTITY (TPQ) – A quantity designated for each chemical on the list of extremely hazardous substances that triggers notification by facilities to the State that such facilities are subject to emergency planning requirements.

VARIANCE - A grant of relief to a person from the requirement of this ordinance when specific

enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this ordinance. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations).

VIOLATION - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

WATER SURFACE ELEVATION - The height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

ARTICLE III - GENERAL PROVISIONS

SECTION A. LANDS TO WHICH THIS ORDINANCE APPLIES

The ordinance shall apply to all Special Flood Hazard Areas and areas removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F) within the jurisdiction of Lincoln County, Colorado.

SECTION B. BASIS FOR ESTABLISHING THE SPECIAL FLOOD HAZARD AREA

The Special Flood Hazard Areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Lincoln County," dated September 12th, 2024, with accompanying Flood Insurance Rate Maps and/or Flood Boundary-Floodway Maps (FIRM and/or FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance. These Special Flood Hazard Areas identified by the FIS and attendant mapping are the minimum area of applicability of this ordinance and may be supplemented by studies designated and approved by the Board of County Commissioners. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT

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

SECTION D. COMPLIANCE

No structure or land shall hereafter be located, altered, or have its use changed within the Special Flood Hazard Area without full compliance with the terms of this ordinance and other applicable regulations. Nothing herein shall prevent the Board of County Commissioners from taking such lawful action as is necessary to prevent or remedy any violation. These regulations meet the minimum requirements as set forth by the Colorado Water Conservation Board and the National Flood Insurance Program.

SECTION E. ABROGATION AND GREATER RESTRICTIONS

This ordinance is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, nor deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

SECTION F. INTERPRETATION

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

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

SECTION G. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this ordinance 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 ordinance does not imply that land outside the Special Flood Hazard Area or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of the Community or any official or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

SECTION H. SEVERABILITY

This ordinance and the various parts thereof are hereby declared to be severable. Should any section of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any portion thereof other than the section so declared to be unconstitutional or invalid.

ARTICLE IV - ADMINISTRATION

SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR

The Lincoln County Land Use Administrator is hereby appointed as Floodplain Administrator to administer, implement and enforce the provisions of this ordinance and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

SECTION B. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR

Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:

1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Article 4, Section C.
2. Review, approve, or deny all applications for Floodplain Development Permits required by adoption of this ordinance.
3. Review Floodplain Development Permit applications to determine whether a proposed building site, including the placement of manufactured 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 Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from 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 ordinance, including proper elevation of the structure.
6. Where interpretation is needed as to the exact location of the boundaries of the Special Flood Hazard Area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
7. When Base Flood Elevation data has not been provided in accordance with Article 3, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any Base Flood Elevation data and Floodway data available from a Federal, State, or other source, in order to administer the provisions of Article 5.
8. For waterways with Base Flood Elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's 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 foot at any point within the community.

9. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
10. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, 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.

SECTION C. PERMIT PROCEDURES

Application for a Floodplain Development Permit shall be presented to the Floodplain Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to Special Flood Hazard Area. Additionally, the following information is required:

1. Elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;
2. Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
3. A certificate from a registered Colorado Professional Engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Article 5, Section B(2);
4. Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.
5. Maintain a record of all such information in accordance with Article 4, Section B.

Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance and the following relevant factors:

1. The danger to life and property due to flooding or erosion damage;
2. The susceptibility of the proposed facility and its contents to flood damage and the effect

of such damage on the individual owner;

3. The danger that materials may be swept onto other lands to the injury of others;
4. The compatibility of the proposed use with existing and anticipated development;
5. The safety of access to the property in times of flood for ordinary and emergency vehicles;
6. The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
7. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
8. The necessity to the facility of a waterfront location, where applicable;
9. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
10. The relationship of the proposed use to the comprehensive plan for that area.

SECTION D. VARIANCE PROCEDURES

1. The Appeal Board, as established by the Community, shall hear and render judgment on requests for variances from the requirements of this ordinance.
2. The Appeal Board shall hear and render judgment on an appeal only 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 ordinance.
3. Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.
4. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
5. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.
6. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section C of this Article have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
7. Upon consideration of the factors noted above and the intent of this ordinance, the

Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance as stated in Article 1, Section C.

8. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
9. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
10. Prerequisites for granting variances:
 - a. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
 - b. Variances shall only be issued upon:
 - i. Showing a good and sufficient cause;
 - ii. A determination that failure to grant the variance would result in exceptional hardship to the applicant, and
 - iii. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
 - c. 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.
11. Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a Functionally Dependent Use provided that:
 - a. The criteria outlined in Article 4, Section D (1)-(9) are met, and
 - b. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

SECTION E. PENALTIES FOR NONCOMPLIANCE

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ordinance and other applicable regulations. Violation of the

provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor

Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined or imprisoned as provided by the laws of Lincoln County. Nothing herein contained shall prevent Lincoln County from taking such other lawful action as is necessary to prevent or remedy any violation.

ARTICLE V - PROVISIONS FOR FLOOD HAZARD REDUCTION

SECTION A. GENERAL STANDARDS

In all Special Flood Hazard Areas the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
5. All manufactured homes shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
6. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
7. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
8. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

SECTION B. SPECIFIC STANDARDS

In all Special Flood Hazard Areas where base flood elevation data has been provided as set forth in (i) Article 3, Section B, (ii) Article 4, Section B(7), or (iii) Article 5, Section G, the following provisions are required:

1. RESIDENTIAL CONSTRUCTION

New construction and Substantial Improvement of any residential structure shall have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. NONRESIDENTIAL CONSTRUCTION

With the exception of Critical Facilities, outlined in Article 5, Section H, new construction and Substantial Improvements of any commercial, industrial, or other nonresidential structure shall either have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that at one 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 effects of buoyancy.

A registered Colorado Professional Engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. Such certification shall be maintained by the Floodplain Administrator, as proposed in Article 4, Section C.

3. 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 for meeting this requirement must either be certified by a registered Colorado Professional Engineer or architect or meet or exceed the following minimum criteria:

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

4. MANUFACTURED HOMES

All manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of 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, or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

All manufactured homes placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of the above paragraph, shall be elevated so that either:

- a. The lowest floor of the manufactured home, electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), are one foot above the base flood elevation, or
- b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

5. RECREATIONAL VEHICLES

All recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:

- a. Be on the site for fewer than 180 consecutive days,
- b. Be fully licensed and ready for highway use, or
- c. Meet the permit requirements of Article 4, Section C, and the elevation and anchoring requirements for "manufactured homes" in paragraph (4) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

SECTION C. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)

Located within the Special Flood Hazard Area established in Article 3, Section B, are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of 1 to 3 feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

1. RESIDENTIAL CONSTRUCTION

All new construction and Substantial Improvements of residential structures must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado Professional Engineer, architect, or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. NONRESIDENTIAL CONSTRUCTION

With the exception of Critical Facilities, outlined in Article 5, Section H, all new construction and Substantial Improvements of non-residential structures, must have the lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three 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 foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado Professional Engineer or architect shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article 4, Section C, are satisfied.

Within Zones AH or AO, adequate drainage paths around structures on slopes are required to guide flood waters around and away from proposed structures.

SECTION D. FLOODWAYS

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 (see definition of Floodway in Article 2). Located within Special Flood Hazard Area established in Article 3, Section B, are areas designated as Floodways. Since the Floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments 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 Colorado Professional Engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.
2. If Article 5, Section D (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
3. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in Base Flood Elevations, provided that the community first applies for a CLOMR and floodway revision through FEMA.

SECTION E. ALTERATION OF A WATERCOURSE

For all proposed developments that alter a watercourse within a Special Flood Hazard Area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.
3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
4. Any stream alteration activity shall be designed and sealed by a registered Colorado Professional Engineer or Certified Professional Hydrologist.
5. All activities within the regulatory floodplain shall meet all applicable Federal, State and Lincoln County floodplain requirements and regulations.
6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a Floodway analysis and report, sealed by a registered Colorado Professional Engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions Floodway resulting from the project, otherwise known as a No-Rise Certification, unless the community first applies for a CLOMR and Floodway revision in accordance with Section D of this Article.
7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

SECTION F. PROPERTIES REMOVED FROM THE FLOODPLAIN BY FILL

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

1. RESIDENTIAL CONSTRUCTION

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill.

2. NONRESIDENTIAL CONSTRUCTION

The lowest floor (including basement), electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities (including ductwork), must be elevated to one foot above the Base Flood Elevation that existed prior to the placement of fill, or together with attendant utility and sanitary facilities be designed so that the structure or addition is watertight to at least one foot above the base flood level that existed prior to the placement of fill with walls

substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

SECTION G. STANDARDS FOR SUBDIVISION PROPOSALS

1. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
2. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article 3, Section C; Article 4, Section C; and the provisions of Article 5 of this ordinance.
3. Base Flood Elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article 3, Section B or Article 4, Section B of this ordinance.
4. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

SECTION H. STANDARDS FOR CRITICAL FACILITIES

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

1. CLASSIFICATION OF CRITICAL FACILITIES

It is the responsibility of the Floodplain Administrator to identify and confirm that specific structures in their community meet the following criteria:

Critical Facilities are classified under the following categories: (a) Essential Services; (b) Hazardous Materials; (c) At-risk Populations; and (d) Vital to Restoring Normal Services.

- a. Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines.

These facilities consist of:

- i. Public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
- ii. Emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
- iii. Designated emergency shelters;
- iv. Communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
- v. Public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
- vi. Air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

Specific exemptions to this category include wastewater treatment plants (WWTP), non-potable water treatment and distribution systems, and hydroelectric power generating plants and related appurtenances.

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

- b. Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials.

These facilities may include:

- i. Chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
- ii. Laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- iii. Refineries;
- iv. Hazardous waste storage and disposal sites; and
- v. Above ground gasoline or propane storage or sales centers
- vi.

Facilities shall be determined to be Critical Facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or

used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a Critical Facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation “Designation, Reportable Quantities, and Notification,” 40 C.F.R. § 302 (2010) and OSHA regulation “Occupational Safety and Health Standards,” 29 C.F.R. § 1910 (2010) are incorporated herein by reference and include the regulations in existence at the time of the promulgation this ordinance, but exclude later amendments to or editions of the regulations

Specific exemptions to this category include:

- i. Finished consumer products within retail centers and households containing hazardous materials intended for household use, and agricultural products intended for agricultural use.
- ii. Buildings and other structures containing hazardous materials for which it can be demonstrated to the satisfaction of the local authority having jurisdiction by hazard assessment and certification by a qualified professional (as determined by the local jurisdiction having land use authority) that a release of the subject hazardous material does not pose a major threat to the public.
- iii. Pharmaceutical sales, use, storage, and distribution centers that do not manufacture pharmaceutical products.

These exemptions shall not apply to buildings or other structures that also function as Critical Facilities under another category outlined in this Article.

- c. At-risk population facilities include medical care, congregate care, and schools.

These facilities consist of:

- i. Elder care (nursing homes);
- ii. Congregate care serving 12 or more individuals (day care and assisted living);
- iii. Public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);

- d. Facilities vital to restoring normal services including government operations.

These facilities consist of:

- i. Essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers); Essential structures for public colleges and universities (dormitories, offices, and classrooms only).

These facilities may be exempted if it is demonstrated to the Board of County Commissioners that

the facility is an element of a redundant system for which service will not be interrupted during a flood. At a minimum, it shall be demonstrated that redundant facilities are available (either owned by the same entity or available through an intergovernmental agreement or other contract), the alternative facilities are either located outside of the 100-year floodplain or are compliant with this ordinance, and an operations plan is in effect that states how redundant facilities will provide service to the affected area in the event of a flood. Evidence of ongoing redundancy shall be provided to the Board of County Commissioners on an as-needed basis upon request.

2. PROTECTION FOR CRITICAL FACILITIES

All new and substantially improved Critical Facilities and new additions to Critical Facilities located within the Special Flood Hazard Area shall be regulated to a higher standard than structures not determined to be Critical Facilities. For the purposes of this ordinance, protection shall include one of the following:

- a. Location outside the Special Flood Hazard Area; or
- b. Elevation of the lowest floor or floodproofing of the structure, together with attendant utility and sanitary facilities, to at least two feet above the Base Flood Elevation.

3. INGRESS AND EGRESS FOR NEW CRITICAL FACILITIES

New Critical Facilities shall, when practicable as determined by the Board of County Commissioners, have continuous non-inundated access (ingress and egress for evacuation and emergency services) during a 100-year flood event.

CERTIFICATION

It is hereby found and declared by the Board of County Commissioners of Lincoln County, State of Colorado

that flooding has occurred in the past within its jurisdiction and will certainly occur within the future; that flooding is likely to result in infliction of serious personal injury or death, and is likely to result in substantial injury or destruction of property within its jurisdiction; in order to effectively comply with minimum standards for coverage under the National Flood Insurance Program; and in order to effectively remedy the situation described herein, it is necessary that this ordinance become effective immediately.

Therefore, an emergency is hereby declared to exist, and this ordinance, being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

APPROVED; _____
(Board of County Commissioners, Chairman)

PASSED: _____
(date)

I, the undersigned, _____, do hereby certify that the above is a true and correct copy of an ordinance duly adopted by the Board of County Commissioners of Lincoln County, State of Colorado at a regular meeting duly convened on August 28, 20024.

(Clerk of the Board)

(SEAL)

Mr. Stone moved to adopt a resolution certifying the costs of prosecuting crimes alleged to have been committed by persons in the custody of the Department of Corrections. Mr. Ewing seconded the motion, which carried unanimously.

At a regular meeting of the Board of County Commissioners of Lincoln County, Colorado, held in Hugo, Colorado, on August 28, 2024, there were present:

Steve Burgess, Chairman	Present
Wayne Ewing, Vice Chairman	Present
Douglas D. Stone, Commissioner	Present
Stan Kimble, County Attorney	Present
Corinne Lengel, Clerk of the Board	Present
Jacob Piper, County Administrator	Present

when the following proceedings, among others, were had and done, to-wit:

**A RESOLUTION CERTIFYING COSTS OF PROSECUTING CRIMES
ALLEGED TO HAVE BEEN COMMITTED BY PERSONS IN THE CUSTODY
OF THE DEPARTMENT OF CORRECTIONS**

RESOLUTION #1133 It was moved by Commissioner Stone and seconded by Commissioner Ewing to adopt the following resolution:

WHEREAS, C.R.S. § 16-18-101(3) provides that the Colorado Department of Corrections (CDOC), from annual appropriations made by the general assembly, shall reimburse the county or counties in a judicial district for the costs of prosecuting any crime alleged to have been committed by a person in the CDOC; and

WHEREAS, C.R.S. § 16-18-101(3) provides that the county or counties shall certify these costs to the CDOC; and

WHEREAS, C.R.S. § 16-18-101(3) provides that the provisions of C.R.S. § 16-18-101(3) shall apply to costs that are not otherwise paid by the State; and

WHEREAS, Exhibit A to this resolution summarizes the costs of prosecuting crimes alleged to have been committed by persons in the custody of the CDOC, in matters prosecuted by the Office of the District Attorney for the Eighteenth Judicial District, which serves Arapahoe, Douglas, Elbert and Lincoln Counties; and

WHEREAS, the Office of the District Attorney for the Eighteenth Judicial District has confirmed the accuracy of these costs to Arapahoe, Douglas, Elbert and Lincoln Counties, and the Counties are now forwarding and certifying such costs to the CDOC relying on such District Attorney confirmation.

NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners of the County of Lincoln, State of Colorado, as follows:

1. The costs in Exhibit "A" are certified to the CDOC.
2. The costs in Exhibit "A" have not otherwise been paid by the state.

Upon roll call the vote was:

Commissioner Stone, Yes; Commissioner Ewing, Yes; Commissioner Burgess, Yes.

The Chairman declared the motion carried and so ordered.

Board of County Commissioners
of Lincoln County

ATTEST:

Clerk of the Board

Mr. Burgess brought up Gary Beedy's request for a letter of support regarding legislation concerning shallow wells. Mr. Jaques commented that it added extensive requirements and would be costly to drill wells in the future. Mr. Piper said he would draft a letter.

Mr. Kimble, Mrs. Zwick, and Mr. Jaques left at 11:50 a.m. when the group broke for lunch.

When the meeting reconvened at 1:00 p.m., the commissioners approved the August 2024 payroll and called Chris Monks to ask him to obtain fuel prices for the 2025 budget.

With no further business to discuss, Mr. Burgess adjourned the meeting at 1:35 p.m. The next meeting will be at 9:00 a.m. on September 6, 2024.

Corinne M. Lengel, Clerk of the Board

Steve Burgess, Chairman