



# Land Use

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**BOULDER COUNTY  
BOARD OF COUNTY COMMISSIONERS  
PUBLIC HEARING**

**February 21, 2013 – 9:00 A.M.  
Hearing Room, Third Floor  
Boulder County Courthouse**

**Staff: Abby Shannon, AICP**

**RE: DC-11-0003: Land Use Code Text Amendments – Agricultural Uses**

This docket proposes text amendments to the Boulder County Land Use Code Articles 4 and 18 related to principal and accessory agricultural uses including but not limited to definitions, allowed zone districts, use-specific criteria, and required land use processes. In addition, proposes new use classifications and to modify existing classifications.

*Public Hearing – Action Requested: Final Approval of Docket Text (following direction given by Board of County Commissioners at its January 3, 2013 public hearing on the Docket)*

*Public testimony will be taken, **but only on the provisions on which the Board of County Commissioners at its January 3 public hearing requested further Land Use staff consideration** (impact of factors such as water availability and weather on agricultural production; allowance for new Farm Events use to occur on parcels that are not legal building lots). Public comments will be limited to 3 minutes per speaker.*

**SUMMARY**

On January 3, 2013, the Board of County Commissioners unanimously approved docket DC-11-0003 as recommended by staff and the Planning Commission with a few minor conditions:

- The Board suggested staff reconsider the recommended stipulation that “on-site” be defined as within Boulder County only;
- The Board recommended staff reconsider the requirement that Farm Events occur on Building Lots only;
- They recommended staff allow farmers to share commercial kitchens (should farmers chose to do so) in order to create value-added products from their farms; and
- They recommend staff add language to the Code that recognizes variation in crop production due to weather or water availability as it relates to Accessory Agricultural Sales.

Following internal staff discussions regarding the reasons for our initial recommendations and the implications of changing them, we have proposed a number of modifications to the approved regulations to address these concerns.

Only the recommended reconsiderations will be discussed in this staff memo. The entire package of Land Use Code amendments are included in Exhibit A of this staff report. Previous staff reports from

Planning Commission and the Board of County Commissioners meetings can be found on our website: <http://www.bouldercounty.org/property/build/pages/lucodeupdateag.aspx>

**PROPOSED MODIFICATION:** *The Board suggested staff reconsider the recommended stipulation that “on-site” be defined as within Boulder County only.*

The term “on-site” is specifically defined within some use classifications in a broader manner than the term might imply at first blush.

Under Accessory Agricultural Sales, Additional Provision (a) currently states,

*For purposes of this use, the term "on-site" means agricultural and horticultural products that are grown on parcels under the same ownership, lease or control as the parcel where the Accessory Agricultural Sales use is located.*

The Code includes this provision out of recognition that some farms (from a business standpoint) are comprised of more than one parcel. These parcels may be privately owned or they may be leased from another private owner or a public entity such as Boulder County Parks and Open Space. The intent is to allow farmers to bring all of their produce for sale to one location on their farm rather than require sales only occur on the specific parcel where the food is grown.

Staff and Planning Commission recommended clarifying that “on-site” needed to occur within Boulder County. The Board of County Commissioners, based on testimony from the public, did not think this clarification was necessary and, perhaps, was too limiting for farmers who owned property in other counties.

Staff is comfortable retaining the language as it is currently written under Accessory Agricultural Sales and not adding “in Boulder County” to the Additional Provision defining “on-site” (see Art. 4-516.A.5.a. beginning on page 10 of this staff report for recommended language). We have also added this same provision to the new use classification called Accessory Farm Stand (see Art. 4-516.H.5.a. on page 12). A similar definition of “on-site” also appears in the Additional Provisions for Open Agricultural Use (beginning on page 8) and Accessory Agricultural Structure (page 11).

**PROPOSED MODIFICATION:** *The Board recommended staff reconsider the requirement that Farm Events occur on Building Lots only.*

Farm Events will be a new use classification which will allow, you guessed it, events on farms. These events are mostly likely to be farm-to-table dinners but they could also include weddings, wedding receptions, corporate events, or, “any other gathering where eating and socializing occurs.” Staff and Planning Commission recommended limiting Farm Events to Building Lots. Building Lot is a defined term in the Code (see Art. 18-121) – basically it means a parcel that has development rights. There are a number of reasons a parcel might not be a building lot. Perhaps:

- The parcel did not meet County subdivision regulations or minimum lot standards at the time it was created;
- Development potential was not bestowed on the parcel at the time of subdivision (such as outlots which may or may not have conservation easements); or
- Development rights have been removed or transferred to another parcel through the Transferrable Development Credits (TDC) program, the Transferrable Development Rights (TRD) program, through a Subdivision Exemption process, or through purchase (typically with a Conservation Easement).

Staff recommended requiring a Building Lot for Farm Events due to the potential impacts of such a use – up to 99 people on a parcel 6 times per year without any sort of review process – on a piece of land which was likely created without any allowance or expectation of an activity of this magnitude.

After further consideration, staff can support allowing only farm-to-table dinners on parcels that are not building lots, but not other types of social events such as weddings or wedding receptions. Farm-to-table dinners showcase farms, farmers, and the agricultural products grown there, and many outlots were platted for the purpose of farming and maintaining the County’s agricultural heritage. Adding this new use and allowing farm-to-table dinners to occur on, most notably on NUPUD outlots, directly relates to two of the stated project goals: Consider agriculturally-based activities that supplement and support farming; and Consider local food production, sales, marketing, and production of value-added products while continuing to remain compatible with rural character.

For these reasons, staff recommends the following (underlined) sentence be added to Farm Events:

5. *Additional Provisions*

a. *This use requires a building lot.*

i. *Parcels that are not building lots may host farm-to-table dinners only.*

See Exhibit A, pages 13-14 for the full text of this use classification.

**PROPOSED MODIFICATION:** *The Board recommended staff allow farmers to share commercial kitchens (should farmers chose to do so) in order to create value-added products from their farms.*

Staff and Planning Commission recommended the following Additional Provision under the Accessory Agricultural Sales and Accessory Farm Stand use classifications:

*A commercial kitchen for the express purpose of processing agricultural products grown on-site may be constructed. It may not be utilized by others who are not the producers of the products grown on-site, for example catering businesses, restaurants, or other uses not expressly authorized through a Land Use review process. It may be used in association with a Demonstration Farm use.*

The Board was concerned that the language would cause every farmer interested in creating value-added food products on their farms to have their own commercial kitchens rather than allowing farmers the ability to share in the expense of such a major investment. Staff has reconsidered this language and suggests deleting “grown on-site” from the first sentence and deleting the second sentence entirely. The provision now reads:

*A commercial kitchen for the express purpose of processing agricultural products may be constructed. It may be used in association with a Demonstration Farm use.*

Farmers should still be aware that the kitchens may only be used for processing agricultural products and may not be used as a catering kitchen or as a restaurant. Please be aware that commercial kitchens must be reviewed and approved by Boulder County Public Health and by Building Safety and Inspection Services. See Art. 4-516.A.5.c. Accessory Agricultural Sales and Art. 4-516.H.5.b. Accessory Farm Stand in Exhibit A (pages 10 and 12).

**PROPOSED MODIFICATION:** *The Board recommended staff add language to the Code that recognizes variation in crop production due to weather or water availability as it relates to Accessory Agricultural Sales.*

Variation in crop production is a major concern for farmers. Hail storms, too much rain, not enough rain, extreme heat, and lack of snow (which impacts irrigation water), can all result in poor yields. Based on public testimony at the January 3, 2013 hearing, the Board recommended staff consider adding language to the Code to recognize the implications of bad yields – namely that farmers might not have enough product on their own farms to sell to customers so they might supplement their own products at their farm stands with products from other farms.

Land Use staff is very sympathetic to the risks associated with farming. We also would not be surprised to learn that some farmers may already engage in such a practice when the need arises. At the same time, we do not want to create loopholes for folks who might be looking for loopholes. Before the Board approved these Land Use Code amendments on January 3, there were two categories for agricultural sales (not including temporary sales):

1. Accessory Agricultural Sales – requires that 90% of the sales come from products grown on-site. Process: use-by-right in all zone districts.
2. Farm Stand – no minimum requirement for products grown on-site. Process: Limited Impact Special Review in Ag and RR (unsubdivided) zone district.

In this docket, we have added another category called Accessory Farm Stand which requires only 60% of the sales to come from products grown on-site through the Limited Impact Waiver process which, unlike the regular Limited Impact process, is an administrative review. Adopting this third category for sales and retaining the broader definition of “on-site” (coupled with the fact that crop variation is only now being brought forward as a concern despite the fact that agricultural uses have been described in the Code for at least 20 years) leads staff to recommend the Board not add a crop variation policy into Accessory Agricultural Sales.

#### **STAFF RECOMMENDATION**

**STAFF RECOMMENDS THE BOARD OF COUNTY COMMISSIONERS APPROVE THESE MINOR CHANGES TO APPROVED DOCKET DC-11-0003, LAND USE CODE TEXT AMENDMENTS – AGRICULTURAL USES.**

#### **Attachments**

- |           |   |
|-----------|---|
| Exhibit A | Colorado Department of Human Services – Legal Exemption from a Child Care License |
| Exhibit B | Public Comments   |

**Article 3-100 Processes****D. Special Authorization of the Building Official or Zoning Administrator**

1. Approvals for certain temporary uses require special authorization of the Building Official or Zoning Administrator. The Building Official or Zoning Administrator will require information, as appropriate, concerning traffic, parking, sanitary facilities, water availability, hours of operation, and other information necessary to determine the impacts of the proposed use. The uses requiring special authorization are defined in Section 4-500 and listed in the Zoning District regulations Section 4-100.
2. Application forms and processing information for special authorization are available from the Boulder County Land Use Department, Building ~~Division~~ Safety & Inspection Services Team. Property owners should apply for special authorization at least 30 days in advance of the desired approval in order to allow for adequate processing time. If the owner applies for authorization less than 30 days in advance, Land Use may not be able to review and approve the application.

**Article 4-101 Forestry District****F. Additional Requirements**

4. No parcel shall be used for more than one principal use, except for allowed ~~agricultural~~ Agricultural uses, ~~forestry~~ Forestry uses, ~~mining~~ Mining uses, or any combination thereof; for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark; or for second principal uses approved though Special Review under 4-101.F.2.e, above.

**Article 4-102 Agricultural District****F. Additional Requirements**

4. No parcel shall be used for more than one principal use, except for allowed ~~agricultural~~ Agricultural uses, ~~forestry~~ Forestry uses, ~~mining~~ Mining uses, or any combination thereof; for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark; or for second principal uses approved though Special Review under 4-102.F.2.e, above.

**Article 4-103 Rural Residential District****F. Additional Requirements**

4. No parcel shall be used for more than one principal use, except for allowed ~~agricultural~~ Agricultural uses, ~~forestry~~ Forestry uses, ~~mining~~ Mining uses, or any combination thereof; for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark; or for second principal uses approved though Special Review under 4-103.F.2.e, above.

**Article 4-104 Estate Residential District****F. Additional Requirements**

4. No parcel shall be used for more than one principal use, except for allowed ~~agricultural~~ Agricultural uses, ~~forestry~~ Forestry uses, ~~mining~~ Mining uses, or any combination thereof; for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the

Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark;<sub>z</sub> or for second principal uses approved through Special Review under 4-104.F.2.e, above.

**Article 4-105 Suburban Residential District**

F. Additional Requirements

4. No parcel shall be used for more than one principal use, except for allowed ~~agricultural~~ Agricultural uses, ~~forestry~~ Forestry uses, ~~mining~~ Mining uses, or any combination thereof;<sub>z</sub> for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark;<sub>z</sub> or for second principal uses approved through Special Review under 4-105.F.1.e, above.

**Article 4-106 Multifamily District**

F. Additional Requirements

5. No parcel shall be used for more than one principal use, except for allowed ~~agricultural~~ Agricultural uses, ~~forestry~~ Forestry uses, ~~mining~~ Mining uses, or any combination thereof;<sub>z</sub> for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark;<sub>z</sub> or for second principal uses approved through Special Review under 4-106.F.2.e, above.

**Article 4-107 Manufactured Home Park District**

F. Additional Requirements

3. No parcel shall be used for more than one principal use, except for allowed ~~agricultural~~ Agricultural uses, ~~forestry~~ Forestry uses, ~~mining~~ Mining uses, or any combination thereof;<sub>z</sub> for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark;<sub>z</sub> or for second principal uses approved through Special Review under 4-107.F.1.e, above.

**Article 4-108 Transitional District**

F. Additional Requirements

4. No parcel shall be used for more than one principal use, except for allowed ~~agricultural~~ Agricultural uses, ~~forestry~~ Forestry uses, ~~mining~~ Mining uses, or any combination thereof, unless approved through special review;<sub>z</sub> or for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark;<sub>z</sub> or for second principal uses approved through Special Review under 4-108.F.2.e, above.

**Article 4-109 Business District**

F. Additional Requirements

5. No parcel shall be used for more than one principal use, except for allowed ~~agricultural~~ Agricultural uses, ~~forestry~~ Forestry uses, ~~mining~~ Mining uses, or any combination thereof, unless approved through special review;<sub>z</sub> or for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark.

**Article 4-110 Commercial District**

F. Additional Requirements

5. No parcel shall be used for more than one principal use, except for allowed ~~agricultural~~ Agricultural uses, ~~forestry~~ Forestry uses, ~~mining~~ Mining uses, or any combination thereof, unless approved through special review;<sup>z</sup> or for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark.

**Article 4-111 Light Industrial District**

F. Additional Requirements

5. No parcel shall be used for more than one principal use, except for allowed ~~agricultural~~ Agricultural uses, ~~forestry~~ Forestry uses, ~~mining~~ Mining uses, or any combination thereof, unless approved through special review;<sup>z</sup> or for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark.

**Article 4-112 General Industrial District**

F. Additional Requirements

5. No parcel shall be used for more than one principal use, except for allowed ~~agricultural~~ Agricultural uses, ~~forestry~~ Forestry uses, ~~mining~~ Mining uses, or any combination thereof, unless approved through special review;<sup>z</sup> or for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark.

**Article 4-117 Mountain Institutional District**

F. Additional Requirements

4. No parcel shall be used for more than one principal use, except for allowed ~~agricultural~~ Agricultural uses, ~~forestry~~ Forestry uses, ~~mining~~ Mining uses, or any combination thereof;<sup>z</sup> for multiple principal uses on properties that have been designated as historic landmarks by Boulder County where the Boulder County Commissioners and Historic Preservation Advisory Board determine that the multiple uses serve to better preserve the landmark;<sup>z</sup> or for second principal uses approved though Special Review under 4-117.F.2.e, above.

**Article 4-501 Agri-Business Uses**

C. Commercial Nursery

1. Definition: A use, which may be wholly or partially contained within one or more greenhouses, where trees, shrubs, flowers, or vegetable plants are grown and sold ~~either wholesale or retail.~~  
The dominant characteristic of this use includes sales of products not necessarily grown onsite.
2. Districts Permitted: By right in A, LI, and GI; by special review in RR on unsubdivided land
3. Parking Requirements: One space per 1,000 square feet of floor area.
4. Loading Requirements: One space per 10,000 square feet of floor area.
5. Additional Provisions:

- a. No more than ten percent of sales may be from nonagricultural or nonhorticultural products.
- b. One single family dwelling, occupied by the owner, operator, or manager of the nursery will be considered customary and incidental as a part of this use.

[Moved from 4-502.A. to 4-501.C. – re-letter Custom Meat or Poultry Processing Facility and Keeping of Non-Domestic Animals]

**Article 4-502 Agricultural Uses**

[Commercial Nursery moved from 4-502.A. to 4-501.C. Re-letter Equestrian Center to 4-502.A.]

**B. ~~C.~~ Farm ~~Stand~~ Store**

- 1. Definition: A location for the sale of agricultural and horticultural products for more than 42 days in a calendar year. The products for sale may include, but are not limited to, the sale of seasonal produce, which does not have to be grown on-site.
- 2. Districts Permitted: By right in B, C, and GI; by limited impact special review in A, and in RR on unsubdivided land.
- 3. Parking Requirements: One space per 200 square feet of floor area.
- 4. Loading Requirements: One loading space for 10,000 or more square feet of floor area.
- 5. Additional Provisions:
  - a. One single family dwelling, occupied by the owner, operator, or manager of the business will be considered customary and incidental as a part of this use.
  - b. No more than ten percent of the Farm ~~Stand~~ Store sales may be of nonagricultural or nonhorticultural products.
  - c. This use requires a building lot.

**C. ~~D.~~ Intensive Agriculture**

- 1. Definition: Agricultural uses where the ~~principal nonresidential use of the property is contained within~~ use predominantly occurs inside one or more structures, including but not limited to agricultural storage facilities, ~~accessory~~ greenhouses, indoor riding facilities, and storage for accessory sales of agricultural or horticultural products.
- 2. Districts Permitted: By right in A, LI, and GI; by special review in F and RR
- 3. Parking Requirements: ~~One space per 1,000 square feet of floor area.~~ Sufficient to accommodate the use
- 4. Loading Requirements: ~~One space per 1,000 square feet of floor area.~~ Sufficient to accommodate the use
- 5. Additional Provisions:
  - a. Accessory Sales associated with Intensive Agricultural Uses shall conform to the requirements of ~~section 4-516.A.~~ Accessory Agricultural Sales.
  - b. One single-family dwelling, ~~occupied by the owner, operator, or manager, of the farm,~~ would ~~will~~ be considered customary and incidental as a part of this use.

**D. ~~E.~~ Open Agricultural Uses**

- 1. Definition: Agricultural uses which predominantly occur outside ~~which do not have structures, other than accessory structures, associated with their operation,~~ including but not limited to the grazing, keeping and use of livestock, the production, harvesting, and selling of agricultural or horticultural products, and accessory storage. Accessory structures such as hoophouses or high

tunnels used to extend the growing season, or for storage or maintenance of items that support the agricultural use are allowed as part of this use.

2. Districts Permitted: By right in F, A, RR, ER, LI, GI, and MI
3. Parking Requirements: ~~One space per 1,000 square feet of floor area.~~ Sufficient to accommodate the use
4. Loading Requirements: ~~One space per 1,000 square feet of floor area.~~ Sufficient to accommodate the use
5. Additional Provisions:
  - a. This use is not required to be located on a building lot, or comply with the minimum lot size requirement for the district in which it is located unless it has an associated principal or accessory dwelling.
  - b. Accessory Sales associated with ~~Intensive~~ Open Agricultural Uses shall conform to the requirements of ~~section 4-516.A~~ Accessory Agricultural Sales.
  - c. One single family dwelling, ~~occupied by the owner, or manager of the farm,~~ will be considered customary and incidental as a part of this use. Single family dwellings must be located on building lots.
  - d. Boarding of horses is permitted. Improved riding facilities may be provided in connection with boarding and made available to fewer than 15 different individual people per month, in addition to the owner or manager of the property.
    - i. Limited impact special review is required for any equestrian center with amplified sound and/or lighted outdoor riding, driving, or showing of horses. Special review is required for competitive events open to participants outside of those who board or train at the facility.
  - e. Any accessory structures must be ~~predominately~~ accessory to the use of the property on which the structure is located except for storage of associated agricultural equipment and agricultural and horticultural products grown on-site. On-site means agricultural and horticultural products that are grown on parcels under the same ownership, lease or contract as the parcel on which the accessory structure is located.
    - i. ~~On-site means agricultural and horticultural products that are grown on parcels under the same ownership, lease or contract as the parcel on which the accessory structure is located. [Moved into paragraph e.]~~
  - f. ~~A demonstration farm (as defined in section 4-516) may be allowed as an accessory use by limited impact special review in A, and in RR on unsubdivided land.~~
  - g. Structures that support the residential use on the property shall be considered Residential Floor Area.
  - h. Structures that support the agricultural use shall not be considered Residential Floor Area.

[Temporary Farm Stand moved from 4-517.G. to 4-502.E. and renamed.]

#### E. ~~Temporary~~ Seasonal Farm Stand

1. Definition: A location for the sale of agricultural and horticultural products, for a period not to exceed 42 days in any calendar year. Nonagricultural and nonhorticultural products ~~and products which are not grown on-site~~ may comprise no more than ten percent of sales. This use includes Christmas tree sales and pumpkin sales.
2. Districts Permitted: By right in B, C, and GI; by limited impact special review in A, and in RR on unsubdivided land.

3. Parking Requirements: ~~One space per 200 square feet of floor area~~ Vehicles should be accommodated onsite. On street parking may be permissible with review and approval from the Transportation Department.
4. Loading Requirements: ~~One loading space for 10,000 or more square feet of floor area~~ Sufficient to accommodate the use on site
5. Additional Provisions:
  - a. ~~The Temporary Farm Stand~~ This use may include agriculturally based recreation activities.

#### **Article 4-507 Lodging Uses**

##### **A. Bed and Breakfast**

1. Definition: An owner-occupied or tenant-occupied single family dwelling unit offering transient lodging accommodations within that dwelling where meals may be provided.
2. Districts Permitted: By limited impact special review in F, A, RR, SR, and MI
3. Parking Requirements: ~~To be determined through special review~~ One space per guest room in addition to the two spaces required for the single family dwelling
4. Loading Requirements: None
5. Additional Provisions:
  - a. A Bed and Breakfast may have no more than three guest rooms or serve no more than six guests per night.

#### **Article 4-512 Retail and Personal Service Uses**

##### **F. Eating or Drinking Place, without drive through service**

1. Definition: An establishment for the sale and consumption of food and beverages on the premises, which does not include drive through service. This may include small scale accessory beverage processing such as wineries, nanobreweries and microdistilleries.
2. Districts Permitted: By right in B, C, and GI; by special review in T
3. Parking Requirements: One space per 75 square feet of public seating area
4. Loading Requirements: One loading space for 10,000 or more square feet of floor area
5. Additional Provisions: None
  - a. Small scale food and beverage processing means less than 3,000 square feet of processing or manufacturing area.

#### **Article 4-516 Accessory Uses**

##### **A. Accessory Agricultural Sales**

1. Definition: A location for the retail sale or wholesale of agricultural or horticultural products which are grown on-site. Nonagricultural and nonhorticultural products and products which are not grown on-site may comprise no more than ten percent of total annual sales.
2. Districts Permitted: By right in F, A, RR on unsubdivided land, ER, LI, GI, and MI; By Limited Impact Special Review in RR (subdivided) unless waived by the Director.
3. Parking Requirements: ~~None~~ Vehicles should be accommodated onsite. On street parking may be permissible with review and approval from the Transportation Department.
4. Loading Requirements: ~~None~~ Sufficient to accommodate the use
5. Additional Provisions:

- a. For purposes of this use, the term "on-site" means agricultural and horticultural products that are grown on parcels under the same ownership, lease or control as the parcel where the Accessory Agricultural Sales use is located.
- b. Agricultural or horticultural products grown on the farm may be processed on the farm to create a value-added product provided the majority of the ingredients are grown on-site.
- c. A commercial kitchen for the express purpose of processing agricultural products may be constructed. It may be used in association with a Demonstration Farm use.
- d. Value-added products can be sold on-site. This may require a license from Boulder County Public Health.
- e. The requirement for limited impact special review in RR subdivisions may be waived if the Director determines the Accessory Agricultural Sales will not have a negative impact on the neighborhood and that there is no potential for any significant conflict with the criteria listed in Article 4-601 of this Code. In considering this determination, the Director shall notify adjacent property owners. The Director shall not issue the determination for seven days and shall consider any comments received from the public.

#### B. Accessory Agricultural Structure

1. Definition: A structure that is accessory to a principal agricultural use.
2. Districts Permitted: By right in F, A, RR, ER, LI, GI, and MI
3. Parking Requirements: None
4. Loading Requirements: None
5. Additional Provisions:
  - a. Accessory agricultural structures are subject to the minimum requirements of the zoning district in which they are located.
  - b. Accessory agricultural structures must be of a size and scale that relates to the size and scale of the agricultural use on-site. Property owners may be asked to demonstrate the agricultural use including the area where the agricultural use will take place, describe how the structure will be utilized, and discuss how the structure and its proposed size is necessary to support the agricultural use on-site. Property owners may be required to sign a zoning affidavit restricting the structure to agricultural uses.
  - c. For purposes of this use, the term "on-site" means parcels under the same ownership, lease or control as the parcel where the Accessory Agricultural Structure is located.
  - d. Structures that support the agricultural use shall not be considered Residential Floor Area. Structures that do not support an agricultural use are considered Accessory Structures and will contribute to the total Residential Floor Area on the subject parcel.
  - e. Agricultural structures may include barns that store animals or agricultural implements, detached greenhouses, hoopouses, indoor riding arenas, farm stands, or other accessory structures depending on their demonstrated use.

#### C. Accessory Beekeeping

1. Definition: Raising domestic honey bees for the purpose of collecting honey.
2. Districts permitted: By right in F, A, RR, ER, SR, LI, GI, and MI
3. Parking Requirements: None
4. Loading Requirements: None

5. Additional Provisions:
  - a. Beekeeping is an Open Agricultural use.
  - b. Two (2) colonies are allowed per building lot in the SR zone district. (A queen and her worker bees are considered one colony.)

#### D. Accessory Chicken Keeping

1. Definition: Raising chicken hens primarily for the people living on the parcel.
2. Districts permitted: By right in F, A, RR, ER, SR, LI, GI, and MI
3. Parking Requirements: None
4. Loading Requirements: None
5. Additional Provisions:
  - a. Keeping chickens is an agricultural use. For the F, A, RR, ER, LI, GI, and MI zone districts, the maximum number of animals on a parcel shall be determined by the animal units allowed in that zone district.
  - b. Building lots in the SR zone district are permitted to have as many as eight (8) hens.
  - c. Roosters are prohibited in the SR zone district.
  - d. Chicken coops are considered Accessory Agricultural Structures. See Art. 17-300.A. to determine if a building permit is required.

#### H. Accessory Farm Stand

1. Definition: A location for the retail sale or wholesale of seasonal agricultural products, the majority of which are grown on-site. Agricultural products grown on-site must comprise at least 60% of total annual sales. Nonagricultural products may comprise no more than ten percent of total annual sales.
2. Districts Permitted: By Limited Impact Special Review in A, RR on unsubdivided land, ER, LI, and GI
3. Parking Requirements: Vehicles should be accommodated onsite. On street parking may be permissible with review and approval from the Transportation Department.
4. Loading Requirements: Sufficient to accommodate the use
5. Additional Provisions:
  - a. For purposes of this use, the term "on-site" means agricultural and horticultural products that are grown on parcels under the same ownership, lease or control as the parcel where the Accessory Farm Stand use is located.
  - b. Agricultural or horticultural products grown on the farm may be processed on the farm to create a value-added product provided the majority of the ingredients are grown on-site.
  - c. A commercial kitchen for the express purpose of processing agricultural products may be constructed. It may be used in association with a Demonstration Farm use.
  - d. Sales of value-added products may require a license from Boulder County Public Health.
  - e. The requirement for limited impact special review may be waived if the Director determines the Accessory Farm Stand will not have a negative impact on the neighborhood or Significant Agricultural Lands and that there is no potential for any significant conflict with the criteria listed in Article 4-601 of this Code. In considering this determination, the Director shall notify adjacent property owners. The Director shall not issue the determination for seven days and shall consider any comments received from the public.

#### M. 4. Demonstration Farm or Farm Camp

1. Definition: An area of agricultural land including accessory structures, used to demonstrate farming, ranching and agricultural practices, to assist in the evaluation of farming practices and technologies, and to increase public awareness of food production and preparation practices. This accessory use must be accessory to Open Agricultural Uses. Overnight classes and overnight camps are not permitted as part of this use.
2. Districts Permitted: By limited impact special review or by right in A and in RR on unsubdivided land (see Additional Provisions below).
3. Parking Requirements: To be determined through limited impact special review. Vehicles should be accommodated onsite. On street parking may be permissible with review and approval from the Transportation Department.
4. Loading Requirements: To be determined through limited impact special review. Sufficient to accommodate the use on site
5. Additional Provisions:
  - a. Classes or farm camps for 8 or fewer people per day are allowed by right.
  - b. Classes or farm camps for more than 8 people are allowed by limited impact special review.
  - c. A related educational facility structure, including a classroom or kitchen for food preparation, may be approved as part of the Demonstration Farm use.
  - d. ~~This use does not include commercial, institutional, lodging, or recreational uses such as hay rides, petting zoos, corn mazes, day care centers, or summer camps.~~
  - d. A building lot is required for this use.
  - e. All farm camps for children must provide a copy of their child care license or a written exemption from the Colorado Department of Human Services to the Land Use Department regardless of the number of children participating in the camp.

#### N. Farm Events

1. Definition: A use accessory to a farm consisting of any group between 26 and 99 individuals assembled for or participating in an event where the farm is used as a venue. The purpose of this use is to allow commercial farms the opportunity to showcase their farm and crops, introduce their customers to the farm, demonstrate their farming practices, and host community-oriented events that provide marketing opportunities to the farm and help diversify farmers' incomes in a way that is low-impact on the land and neighboring property owners. This includes farm-to-table dinners, weddings, wedding receptions, and any other gathering where eating and socializing occurs where the majority of the food served at the event is made with ingredients grown or raised in Boulder County or by the host farmer(s).
2. Districts Permitted: By right or Limited Impact in A, RR unsubdivided
3. Parking Requirements: Vehicles should be accommodated onsite. On street parking may be permissible with review and approval from the Transportation Department.
4. Loading Requirements: None
5. Additional Provisions
  - a. This use requires a building lot.
    - i. Parcels that are not building lots may host farm-to-table dinners only.
  - b. Open Agriculture must be the principal use of the parcel.
  - c. The review process required is based on the frequency of events:

- i. By right: No more than six (6) Farm Events per calendar year.
- ii. By right: If Home Events also occur on a parcel where Farm Events occur, not more than 12 total events (including a maximum of six Farm Events) may occur per calendar year.
- iii. By Limited Impact Special Review: Seven (7) to 12 Farm Events per calendar year.
- iv. Thirteen (13) or more Farm Events per calendar year will be considered a Reception Halls and Community Meeting Facilities use.
- d. This use must occur on a parcel large enough to accommodate the use, parking, and sanitary facilities in a manner that does not negatively impact the neighboring parcels and traffic and the principal use of the parcel itself.
- e. No event will occur before 9 am or after 10 pm.
- f. Building new Floor Area or utilizing existing Floor Area for these events is prohibited under this use classification. Utilization of structures that meet the definition of Floor Area would be considered a Reception Halls and Community Meeting Facilities use.
- h. This use shall also be granted and maintain all applicable local, state, and federal permits. It is possible separate permits or approvals may be required by County or State agencies for any food or drink provided. The applicant should contact the applicable agencies well in advance of the event to ensure adequate time for processing any applications, including Boulder County Public Health regarding requirements for food service handling and the County Commissioners' Office regarding requirements for Liquor Permits, County Transportation Department for Special Events that utilize or impact County Right-of-Way, and Parks and Open Space for Events or Group Gatherings on Parks and Open Space -owned property.

O. J. Grading of more than 500 Cubic Yards

- 1. Definition: Movement of more than 500 cubic yards of material, with the following exceptions:
  - a. normal grading activity associated with agriculture, allowed mining activity, or foundation construction.
  - b. normal grading activity associated with trail or road construction by a governmental entity on publicly acquired open space land in accordance with an open space management plan approved by the Board of County Commissioners.
- 2. Districts Permitted: By limited impact special review in all districts
- 3. Parking Requirements: None
- 4. Loading Requirements: None
- 5. Additional Provisions:
  - a. While it may be exempt from these provisions, grading which impacts a floodplain is not exempt from applying for and receiving a Floodplain Development Permit.
  - b. Normal agricultural grading that is exempt from the definition of this use includes but is not limited to: tilling fields, creating or altering irrigation ditch laterals, field leveling, field access roads for agricultural purposes, and other activities associated with farming and agricultural operations. Agricultural grading does not include terraforming for aesthetic purposes, landscaping ponds, altering wetlands, or other non-essential grading.
  - c. Ponds to be constructed at a depth of more than 24" must obtain a grading permit prior to construction. Ponds used to store/hold water for agricultural purposes (stock ponds,

irrigation ponds) shall be exempt from the Site Plan Review or Limited Impact Special Review process (unless they require a Floodplain Development Permit).

#### **Article 4-517 Temporary Uses**

##### **C. Group Gathering/Special Events**

1. Definition: Any group of ~~25~~ 50 or more persons assembled on a parcel as a venue for a meeting, festival, social gathering, or other similar purpose for a period of time which exceeds ~~10~~ 8 hours in a single day or is extends over multiple days a maximum of three consecutive days. A parcel may not accommodate more than two (2) Group Gatherings per calendar year as this is a Temporary Use. Additional events could be reviewed under the Reception Hall and Community Meeting Facility use.
2. Districts Permitted: By special authorization of the ~~Building Official~~ Zoning Administrator in all districts
3. Parking Requirements: To be determined by the ~~Building Official~~ Zoning Administrator
4. Loading Requirements: To be determined by the ~~Building Official~~ Zoning Administrator
5. Additional Provisions: ~~None~~
  - a. Exceptions:
    - i. Events that meet the Definition and Additional Provisions of Home Events or Farm Events do not fall within this use classification.
    - ii. Events occurring within, or upon the grounds of a private property where the property owner receives no compensation for hosting the event and guests/attendees are not charged an admission fee, are allowed by right without Special Authorization of the Zoning Administrator.
  - b. This use must occur on a parcel large enough to accommodate the use, parking, and sanitary facilities in a manner that does not negatively impact the neighboring parcels, or the principal use of the parcel itself.
  - c. A parcel may not accommodate more than two (2) Group Gatherings per calendar year. A group gathering which occurs over multiple days cannot exceed (3) consecutive days. Additional events could be reviewed under the Reception Hall and Community Meeting Facility use.
  - d. Any tent (other than personal camping tents or recreational vehicles), trailer, or structure subject to the requirements of these regulations and intended or used for human occupancy shall comply with the International Codes, as amended by the County, as well as with any County Health Department requirements, and shall not be used or occupied until approved by the Chief Building Official.
  - e. Permanent alterations to the subject site are prohibited.
  - f. Any activities or ground disturbance must not have adverse impacts on agricultural or environmental resources as mapped in the County Comprehensive Plan or otherwise identified on site.
  - g. The site must be returned to its original condition prior to the establishment of the use within 48 hours of its discontinuance.
  - h. It is the applicant's responsibility to notify adjacent property owners of the Group Gathering/Special Event in writing at the time of application to the Zoning Administrator. If the applicant wishes to notify a larger surrounding area of the proposed event, they should contact the Land Use Department and request a mailing list of all property owners within 1500 feet of the property.

- i. This use shall also be granted and maintain all applicable local, state, and federal permits. It is possible separate permits or approvals may be required by County or State agencies for any food or drink provided. The applicant should contact the applicable agencies well in advance of the event to ensure adequate time for processing any applications, including Boulder County Public Health Department regarding requirements for food service handling and wastewater treatment, Colorado Department of Public Health and Environment as a potential water supplier to more than 25 people, the County Commissioners' Office regarding requirements for Liquor Permits, County Transportation Department for Special Events that utilize or impact County Right-of-Way, and Parks and Open Space for Events or Group Gatherings on Parks and Open Space-owned property.

#### Temporary Farm Stand

[Delete from Temporary Uses (4-517.G.); Add to Agricultural Uses (4-502.E.)]

#### **Article 4-604 Limitation of Uses by Special Review**

- A. Subject to vested rights, no use by special review shall commence operation or construction later than five years from the date of the Board approval or conditional approval.
- B. Any approved use by special review that does not significantly commence operation or construction as described and approved in a building permit on any portion of the special use permit within five calendar years after the Board has approved the use, shall lapse, and shall be of no further force and effect unless a new discretionary approval is granted under this Code. If a vesting period of longer than five years is expressly approved as part of the special use permit, the approval shall lapse if operation or construction is not commenced within the vesting period.
- C. Any approved use by special review which commences operation or construction as required under Subsection (B), immediately above, shall lapse, and shall be of no further force and effect, if the use is inactive for any continuous five-year period or such shorter time as may be prescribed elsewhere in this code or in a condition of a specific docket's approval. If this period of inactivity occurs, the use may not be recommenced without a new discretionary approval granted under this Code. An approved special use shall be deemed inactive under this Subsection (c) if there has been no activity under any portion of the special use permit for a continuous period of five years or more as a result of causes within the control of the special use permittee or agent.
- D. The Land Use Director may declare a special review and limited impact special review application withdrawn if more than 24 months have passed without any public hearings or submittals from the applicant. The 24 month time frame may be extended should the Director determine that circumstances beyond control of the applicant prevent a timely completion of the application. If the application is withdrawn, a new application and new fee must be submitted in order to continue the project.

#### **Article 17-300 Zoning Regulation Enforcement**

##### A. Building Permit Requirements

2. The Building Official shall not issue any building or grading permit unless the following requirements are met:

- a. The plans for the proposed erection, construction, reconstruction, alteration, or use fully conform to all applicable provisions of this Code, including but not limited to any existing

approval granted under this Code. A zoning affidavit may be required prior to issuance of a building permit or Land Use approval to ensure the structure or use conforms to the planning or building review and approval of the proposal. The approved use may not change without approval from the Director, and a revised affidavit reflecting any changes may be required. Zoning affidavits shall be recorded with the Boulder County Clerk and Recorder and shall apply to subsequent owners of the property;

- b. ~~the Boulder County Public Health Department~~ has issued a permit for or has otherwise approved the sanitation system to serve the proposed structure or use, if applicable;
- c. The County Engineer has approved the access for the proposed structure or use pursuant to this Code and the Transportation Standards and Specifications; and
- d. The proposed plans comply with all applicable provisions of the Building Code.

#### **Article 18-189.D. Residential Floor Area**

For the purposes of Site Plan Review and the presumptive size thresholds associated with the Expanded Transfer of Development Rights Program, Residential Floor Area includes all attached and detached floor area (as defined in 18-162) on a parcel including principal and accessory structures used or customarily used for residential purposes, such as garages, studios, pool houses, storage sheds, home offices, and workshops. (Exemptions: Gazebos, ~~and~~ carports, detached greenhouses and hoopouses up to a total combined size of 400 square feet.)

## Shannon, Abigail

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**From:** Dick Schillawski <rschillawski@earthlink.net>  
**Sent:** Tuesday, February 05, 2013 4:52 PM  
**To:** Shannon, Abigail  
**Subject:** Re: Ag Hearing - Last Time (I promise)!

Hi Abby,

Thanks for the advance copy. I just gave it a brief look-through and have a couple of comments, subject to possible change or addition:

- 1) The "Catch 22" of house rental precluding continued farming in "Open Agricultural Uses" appears to have been eliminated. Thank you.
- 2) It appears that "maintenance of items that support the agricultural use" would definitely be allowed in hoopouses and high tunnels under OAU, but it is not completely clear that maintenance would be allowed in permanent structures. I'd suggest modifying the preceding sentence to end "horticultural products, and accessory storage ***or maintenance***. As I've indicted previously, this issue has a sad history, so I'm more than a bit concerned about getting it crystal clear in the future.
- 3) The prohibition of use of excess capacity in ag buildings by non-owners for storage of equipment, hay, crops, etc., or for maintenance. This doesn't seem to have been addressed, and was a topic brought up at a recent PLAN-Boulder County forum as an example of undesirably restrictive county regulation.

That's it for now. Thanks again,  
Dick

----- Original Message -----

**From:** [Shannon, Abigail](#)  
**To:** [Shannon, Abigail](#)  
**Sent:** Tuesday, February 05, 2013 2:52 PM  
**Subject:** Ag Hearing - Last Time (I promise)!

Hi everyone,

As I wrote to you on January 4, the Board of County Commissioners approved amendments to the Land Use Code for agricultural uses but they did recommend staff reconsider a few of our recommendations. We discussed, reconsidered, and proposed a few very minor tweaks which will be presented to the Board on [Thursday, February 21 at 9:00 am](#). I will send you a staff report next week which will fully describe the clarifications and why staff chose to address the concern in the manner selected. Until then, I have attached a draft which highlights the wording that has changed since January 3. (See pages 7-9.)

You are encouraged to attend the February 21 meeting in the Commissioners 3<sup>rd</sup> floor hearing room. Public testimony will be taken on the changes since January 3 ONLY. More info to follow next week. Please let me know if you have any questions.

Abby

**From:** Shannon, Abigail  
**Sent:** Friday, January 04, 2013 3:56 PM  
**To:** Shannon, Abigail  
**Subject:** Ag Land Use Code Amendments Approved by the BOCC

Hi everyone,

The Board of County Commissioners approved changes to the Land Use Code related to agricultural uses. For a complete (and well-written) description, please see the County's press release:

<http://www.bouldercounty.org/apps/newsroom/templates/bc12.aspx?articleid=3429&zoneid=1>

The Board did recommend staff consider some minor changes before the amendments become effective. The staff recommendation limited Farm Events to Building Lots and Board would like us to reconsider this limitation. Under Accessory Agricultural Sales, we will allow commercial kitchens in order to process/create value-added products from the farms – the Commissioners want to give farmers the ability to share one kitchen between different farms/farmers. And they want staff to consider and recognize variation in crop production due to weather or irrigation water availability as it relates to Accessory Ag Sales (and the requirement that 90% of sales come from products grown on-site).

We will be working on these items in the next few weeks and we hope to present the Resolution for final adoption to the Board at a Business meeting by the end of the month. Feel free to contact me if you have any questions. Thanks for all your hard work on this project!

Abby

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