

RESOLUTION 2012-29

A RESOLUTION APPROVING BOULDER COUNTY LAND USE DOCKET #DC-12-0001: PROPOSED TEXT AMENDMENTS TO ARTICLE 18 (DEFINITIONS) OF THE BOULDER COUNTY LAND USE CODE, TO INCREASE THE FLEXIBILITY OF THE EXEMPTIONS IN ARTICLE 18-189D (THE DEFINITION OF "RESIDENTIAL FLOOR AREA" ORIGINALLY ADOPTED AS PART OF DOCKET #DC-05-002H, "EXPANDED TRANSFER OF DEVELOPMENT RIGHTS PROGRAM, INCLUDING STRUCTURE SIZE CONSIDERATIONS")

WHEREAS, pursuant to C.R.S. Sections 30-28-112 and -116, as amended, the Board of County Commissioners of Boulder County ("the Board") is authorized to amend the text of County's Zoning Regulations in accordance with the procedures set forth in those provisions and the applicable County regulations; and

WHEREAS, pursuant to C.R.S. Section 30-28-133, as amended, the Board is authorized to amend the text of the County's Subdivision Regulations in accordance with the procedures set forth in those provisions and the applicable County regulations; and

WHEREAS, pursuant to other statutory authority, the Board is empowered to adopt additional regulations which are related to the control of land use, including but not limited to Article 65.1 of Title 24 (Areas and Activities of State Interest); Articles 67 and 68 of Title 24 (Planned Unit Developments and Vested Rights, respectively); Article 20 of Title 29 (Local Land Use Enabling Act); Articles 11 and 15 of Title 30 (County Powers and Police Power, respectively); Article 1 of Title 32 (Special District Control); and Article 2 of Title 43 (County Highways), C.R.S.; and

WHEREAS, pursuant to the above-referenced authority, by Resolution 94-185 adopted October 18, 1994, effective October 19, 1994, the Board approved a unified Boulder County Land Use Code ("the Land Use Code"), which the Board first amended by Resolution 95-27 effective March 9, 1995, and has amended on subsequent occasions thereafter; and

WHEREAS, in the present Docket (#DC-12-0001) ("the Docket"), the Boulder County Land Use Department staff proposed amendments to the exceptions to the definition of "Residential Floor Area" originally adopted into the Land Use Code as Article 18-189D (as part of Docket #DC-05-002H effective August 8, 2008), in response to a request by the Board for greater flexibility in the exceptions following a public hearing on April 14, 2011 on a Site Plan Review approval appeal, all as set forth in the memorandum and recommendation of the County Land Use Department on the Docket dated March 13, 2012, with its attachments ("the Staff Recommendation"); and

WHEREAS, the Docket would make the exemptions to the "Residential Floor Area" definition more flexible, by allowing up to 400 square feet total, proposed as any combination of carport and/or gazebo area, to be exempt, as opposed to the original definition which limited the exemption to up to 200 square feet total of carport only, and 200 square feet total of gazebo only; and

WHEREAS, the Boulder County Planning Commission ("the Planning Commission") held a duly-noticed public hearing on the Proposed Amendments on February 15, 2012, and recommended approval of the proposed amendments in the Docket, and certified the Docket for action to the Board; and

WHEREAS, on March 13, 2012, the Board held a duly noticed public hearing on the Docket as certified to it by the Planning Commission ("the Public Hearing"), at which time the Board considered the documents and testimony presented by the County Land Use Department staff, with no members of the public being present to speak to the Docket, all as further reflected on the official record of the Public Hearing; and

WHEREAS, based on the Public Hearing, the Board finds that the proposed amendments in the Docket, specifically as set forth in this Resolution, below, meet the criteria for text amendments contained in Article 16 of the Land Use Code, in that the existing text is in need of amendment; the Proposed Amendments are not contrary to the intent and purpose of the Land Use Code; and the Proposed Amendments are in accordance with the Boulder County Comprehensive Plan, all as set forth in and supported by the record of the Public Hearing; and

WHEREAS, the Board further determines that the proposed amendments in the Docket, as presented to and approved by the Board herein, do not constitute or contain any substantial departure from the Docket as certified to the Board by the Planning Commission, and thus do not warrant any re-referral of the Docket to the Planning Commission; and

WHEREAS, the Board thus concludes that the proposed amendments in the Docket, as set forth in this Resolution, below, should be approved for incorporation into the Land Use Code, **effective on the date of adoption of this Resolution.**

NOW, THEREFORE, BE IT RESOLVED that the following proposed amendments in the Docket are hereby approved for incorporation into the Land Use Code, to be effective beginning on the date of adoption of this Resolution:

18-189D Residential Floor Area

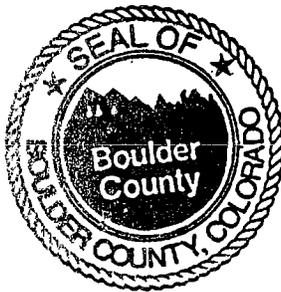
For the purposes of Site Plan Review and the presumptive size thresholds associated with the Expanded Transfer of Development Rights Program, Residential Floor Area includes all attached and detached floor area (as defined in 18-162) on a parcel including principal and accessory structures used or customarily used for residential purposes, such as garages, studios, pool houses, home offices, and workshops. (Exemptions: Gazebos and carports ~~under 200 square feet each up to a total combined size of 400 square feet total~~ [delete ending "total" reference].)

BE IT FURTHER RESOLVED that, pursuant to C.R.S. Section 30-28-125, the Board authorizes the Clerk to the Board to arrange for the immediate transmittal of this Resolution, with its Exhibit A, to the County Clerk and Recorder, for filing and appropriate indexing with that official, so that the Clerk and Recorder may make this Resolution, with its Exhibit A, accessible to the public. This transmittal should state recording Reference **No. 2735571**, the recording of the Boulder County Land Use Code on November 4, 2005, which this transmittal supplements and amends.

A motion to approve the proposed amendments in the Docket (#DC-12-0001), as set forth above, was made at the Public Hearing by Commissioner Gardner, seconded by Commissioner Toor, and passed by a 2-0 vote, with Commissioner Domenico being excused.

ADOPTED as a final decision of the Board on, and to be effective as of, this 22nd day of March, 2012.

**BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:**



Cindy Domenico, Chair

Will Toor, Vice Chair

Deb Gardner, Commissioner

ATTEST:

Cecilia J. Lacey
Clerk to the Board