



**REGULATIONS GOVERNING
AREAS AND ACTIVITIES
OF STATE INTEREST
IN ARAPAHOE COUNTY**

(1041 Regulations)

**Adopted by the Board of Commissioners
June 2, 2004
Readopted and Amended December 12, 2006**

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TABLE OF CONTENTS..... 1

I. INTRODUCTORY AND GENERAL PROVISIONS..... 3

A. Purpose and Intent 3

B. Authority..... 3

C. Definitions..... 3

D. Applicability..... 8

E. Exemptions..... 8

F. Relationship to Other Regulations..... 9

G. Severability..... 9

II. DESIGNATED AREAS AND ACTIVITIES OF STATE INTEREST..... 9

III. PERMIT APPLICATION PROCESS..... 10

A. Presubmittal Meeting and Submittal Requirements..... 10

B. Determination of Level of Permit Review..... 10

C. Application Submittal Requirements..... 12

D. Additional Submittal Requirements Applicable to Major Water & Sewer Projects..... 18

E. Additional Submittal Requirements Applicable to Major Facilities of a Public Utility..... 18

F. Additional Submittal Requirements Applicable to Solid Waste Disposal Sites..... 18

G. Additional Submittal Requirements Applicable to Airports..... 19

H. Additional Submittal Requirements Applicable to Arterial Highways, Interchanges and Collector Highways..... 19

I. Additional Submittal Requirements Applicable to Rapid or Mass Transit Facilities..... 20

J. Additional Submittal Requirements Applicable to New Communities..... 21

K. Completeness Determination..... 22

IV. APPROVING AND ISSUING A PERMIT 22

A. Permit Review and Hearing Procedures..... 22

B. Conduct of Hearings, Hearing Record, and Decision..... 23

C. Term of Permit..... 24

D. Renewal 24

E. Permit Does Not Exempt Development From Land Development Code & Other Requirements..... 24

F. Permit Amendment/Technical Review Amendment (TRA)..... 24

G. Intergovernmental Agreements..... 26

V. APPROVAL CRITERIA..... 26

A. General Approval Criteria..... 27

B. Additional Criteria Applicable to Major Water and Sewer Projects.....	28
C. Additional Criteria Applicable to Major Facilities of a Public Utility.....	29
D. Additional Criteria Applicable to Solid Waste Disposal Sites.....	29
E. Additional Criteria Applicable to Airports.....	29
F. Additional Criteria Applicable to Arterial Highways, Interchanges and Collector Highways.....	29
G. Additional Criteria Applicable to Rapid or Mass Transit Facilities.....	29
H. Additional Criteria Applicable to New Communities.....	32
VI. FINANCIAL GUARANTEE.....	34
A. Financial Guarantee May be Required.....	34
B. Amount of Financial Guarantee.....	34
C. Estimate.....	34
D. Form of Financial Guarantee.....	34
E. Release of Guarantee.....	34
F. Cancellation of the Financial Guarantee.....	35
G. Forfeiture of Financial Guarantee.....	35
H. Substitute of Financial Guarantee.....	35
VII. PERMIT ADMINISTRATION AND ENFORCEMENT.....	35
A. Enforcement and Penalties.....	35
B. Permit Suspension or Revocation.....	36
C. Transfer of Permits.....	
36D. Inspection.....	36
APPENDIX A:.....	37
GENERAL CONSIDERATIONS.....	37

I. INTRODUCTORY AND GENERAL PROVISIONS

A. Purpose and Intent

The purpose of the enactment of these Regulations governing Areas and Activities of State Interest pursuant to Section 24-65.1-101 et seq. C.R.S., commonly referred to as a “1041 Permit,” is to ensure that growth and development in Arapahoe County occur in a safe, efficient, planned and coordinated manner; and further to ensure that adequate community services and facilities are provided in a manner consistent with the constitutional rights of property owners, community goals and protection of the public welfare, and are consistent with legitimate environmental concerns.

B. Authority

These Regulations are authorized by Section 24-65.1-101, et seq. C.R.S.

C. Definitions

The words and terms used in these Regulations governing Areas and Activities of State Interest shall have the meanings set forth below.

Adverse: Unfavorable, harmful.

Affected Party: Any person with an interest in the outcome of the permit decision for the Proposed Project.

Agricultural Lands: Any land used primarily for the production of crops or livestock including irrigated meadows, irrigated and dry pasture, irrigation ditches, stock drive routes, lands used for barns, corrals and storage of crops or agricultural products, but not including lands used primarily for the production of commercial timber.

Applicant: A person submitting an application for a permit to engage in a development in a designated Area of State Interest or to conduct a designated Activity of State Interest, who is either the owner of the property to be developed, has written permission from the property owner for submittal of the project proposal, or has authority to condemn the property.

Aquifer Recharge Area: Any area where surface water may infiltrate to a water-bearing stratum of permeable rock, sand or gravel. This definition will also include areas around wells used for disposal of wastewater or toxic pollutants.

Arterial Highway: Any limited access highway that is part of the federal-aid interstate system or any limited access highway constructed under the supervision of the Colorado Department of Transportation.

Board/ Board of County Commissioners/ BOCC: The Arapahoe County Board of County Commissioners.

Building: Any structure having a roof supported by columns or walls and intended for supporting or sheltering any use or occupancy.

Building Permit: A permit which is issued by the Arapahoe County Building Division prior to the erection, construction, alteration, moving, relocation or change of use of any building or structure.

Code: Arapahoe County Land Development Code

Collection System: A network of pipes and conduits through which sewage flows to a sewage treatment plant.

Collector Highway: A major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers or recreation centers, or industrial centers and constructed under guidelines and standards established by, or under the supervision of, the Colorado Department of

Transportation. “Collector highway” does not include a city street or local service road or a county road designed for local service and constructed under the supervision of local government.

Commission: Arapahoe County Planning Commission.

Comprehensive Plan: A plan adopted by the County or a municipality within the County that guides land use, growth, and development decisions.

Cost: The total monetary amount to be paid for a development project, generally including all amounts to be paid for land acquisition, capital improvements, construction, fixtures, equipment, labor, materials, operation, financing, debt service, planning, permitting and similar purposes.

County: Arapahoe County.

Dedication: The conveyance or setting aside of land to the Board or its designee.

Designation: That legal procedure specified by §§ 24-65.1-401, et seq., C.R.S., for designating Matters of State Interest. It also includes the revocation and amendment of such designations.

Determination: Determination of Level of Permit Review or amendment by the Planning Division Manager.

Development: Any construction, activity and/or ongoing operation that changes the basic character or the use of the environment in which the construction, activity or operation occurs.

Development Area: Those geographic areas within the County, which will be developed or altered directly by construction or operation of the project.

Development Permit: Any Arapahoe County land use permits or approvals of any kind, including, but not limited to, building permits, special exception uses, use by special review permits, plat approvals, grading permits or land use permits.

Distribution System: A network of pipes and conduits through which water is piped for human consumption or a network of pipes and conduits through which water is piped in exchange or trade for water for human consumption. Also a network of distribution power lines, substations, and other associated equipment to convey electricity to the end-use consumer.

Domestic Water and Wastewater Treatment System: A wastewater treatment plant, water treatment plant, or water supply system. [See individual definitions]

Dwelling: Any building or part thereof designed or used for private residential purposes; also see “Dwelling Unit”.

Dwelling Unit: Any building or portion of a building, which contains living facilities, including provisions for sleeping, eating, cooking and sanitation, intended for occupancy by not more than one family.

Efficient Use of Water: The employment of methods, procedures, techniques, and controls to encourage use of water for purposes, and in amounts, which will yield the greatest possible benefit to the greatest number of people, while promoting, where feasible and appropriate, the conservation of water in particular uses. Such benefits will include economic, social, aesthetic, ecological, agricultural and recreational benefits.

Environment: All natural physical and biological attributes and systems including the atmosphere, climate, geology, soils, groundwater, surface water, wetlands, vegetation, animal life, physical features, natural hazards, topography and aesthetics.

Fixed Guideway: A transportation facility consisting of a dedicated separate right-of-way or rail line for the exclusive use of rapid or mass transit vehicles.

Floodplain: An area adjacent to a stream, which is subject to flooding as the result of the occurrence of an intermediate regional flood and which is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

- (a) Mainstream floodplains;
- (b) Debris-fan floodplains; and
- (c) Dry wash channels and dry wash floodplains.

Geologic Hazard: A geologic phenomenon, which is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:

- (a) Avalanches, landslides, rock falls, mudflows, and unstable or potentially unstable slopes;
- (b) Seismic effects;
- (c) Radioactivity; and
- (d) Ground subsidence.

Geologic Hazard Area: An area that contains or is directly affected by a geologic hazard.

Hazard: A significant source of risk, danger or peril resulting from natural phenomena or conditions including those precipitated or caused by activities of man.

Hearing: Public hearing.

Highway: State and federal highways.

Impact: The direct or indirect effect or consequence resulting from development. The term shall include physical, environmental, economic, visual, auditory or social consequences or effects.

Impact Area: Those geographic areas, including the Development Area, in which any impacts are likely to be caused by the project.

Include: Including without limitation.

Individual Sewage Disposal System (ISDS): Treatment of wastewater using septic tanks and leach fields.

Industrial: Any development of natural resources, business or trade, commercial activity, processing, fabrication, alteration or manufacture of raw or semi-processed materials, manufactured goods or any components thereof.

Interchange: The intersection of two or more highways, roads, or streets, at least one of which is an arterial highway or toll road where there is direct access to and from the arterial highway or toll road

Major Extension of Domestic Sewage Treatment System: Any modification to an existing wastewater treatment plant to increase hydraulic capacity or upgrade treatment capacity, or any extension of existing main collector lines, or any increase in capacity of existing main sewer lines or any extensions to serve a total development density of twenty five (25) or more residential dwelling units or the equivalent thereof in other uses

Major Extension of Domestic Water Treatment System: The expansion of a water treatment plant to increase capacity or storage, or the extension of a water supply system to service an additional development density of twenty five (25) or more residential dwelling units or the equivalent thereof in other uses

Major Facilities of a Public Utility: Major facilities of a public utility means:

- (a) Central Office buildings of telephone utilities;
- (b) Transmission lines, power plants, and substations of electrical utilities; and
- (c) Pipelines and storage areas of utilities providing natural gas or other petroleum derivatives.

Major New Domestic Sewage Treatment System: A new wastewater treatment plant that is designed to treat the wastewater generated by twenty five (25) or more residential dwelling units or the equivalent thereof in other uses.

Major New Domestic Water Treatment Systems: A new water treatment plant or water supply system if such system is designed to serve a total of twenty five (25) or more residential dwelling units or the equivalent thereof in other uses.

Major Water and Sewer Project: Major New Domestic Water and/or Sewage Treatment Systems; Major Extensions of Existing Water and/or Sewage Treatment Systems.

Mass Transit: A coordinated system of transit modes providing regular transportation for use by the general public.

Matter of State Interest: An Area of or an Activity of State Interest, or both, as listed in §§ 24-65.1-201(1) or 203(1), C.R.S.

Mitigation: An action that will have one or more of the following effects:

- (a) Avoiding an impact by not taking a certain action or parts of an action;
- (b) Minimizing impacts by limiting the degree or magnitude of the action or its implementation;
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the impact area, facility or service;
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations;
- (e) Compensating for the impact by replacing or providing suitable biological and physical conditions; and by replacing or providing suitable services and facilities.

Municipality: An incorporated city or town.

Natural Hazard: A natural phenomenon which so conflicts with construction or land use as to constitute a significant hazard to public health and safety or to property including, without limitation, geologic hazards, flood hazards, and wildfire hazards.

Net Effect: The impact of an action after mitigation.

New Community: The establishment of urbanized growth centers in unincorporated areas.

Permit Authority: The Board of County Commissioners, or its designee.

Person: Any individual, limited liability company, partnership, corporation, association, company, or other public or corporate body including the federal government, and includes any political subdivision, agency, instrumentality, or corporation of the State of Colorado or the United States.

Planning Division: The Arapahoe County Planning Division.

Planning Manager: The Arapahoe County Planning Division Manager or designee.

Project or Proposed Project: The site selection, construction, development, or operation of an activity or other development proposed under these Regulations throughout its life cycle including all ancillary structures, facilities, improvements, and activities, and all integrated components thereof, and any proposed land use directly related to such project if such project is to be located wholly or partially within the County. A project cannot be segmented to avoid the requirements of these Regulations. If a project is to be phased over time or is composed of distinguishable elements, the impacts of all phases or elements of the development must be considered together when reviewing the project hereunder and determining if it satisfies these Regulations.

Public Utility: A public utility as defined by state law.

Rapid or Mass Transit Facility: Rapid or mass transit terminals, stations, or fixed guideways.

Rapid Transit: The element of a mass transit system involving a mechanical conveyance on an exclusive lane or guideway, constructed solely for that purpose.

Recycling: The treatment and use of wastewater or water in a manner that will make it available for use again. Also included is the reuse of solid waste material.

Service Area: The primary geographic area to be served by the proposed project.

Service Road: A street or road meeting County specifications used to provide ingress and egress to a development located adjacent to a highway.

Shelter: A building or structure designed primarily to provide a waiting area for transit passengers.

Significant: Deserving to be considered; important; notable and not trifling.

Significantly Degrade: To lower in grade or desirability to a significant, as opposed to a trifling, degree.

Significantly Deteriorate: To make inferior in quality or value to a significant, as opposed to a trifling, degree.

Solid Waste Disposal Site: A site for the disposal of any garbage, refuse, sludge from a waste treatment plant, and any other discarded material including solid, liquid, semisolid, or contained gaseous materials resulting from domestic, industrial, commercial, mining and agricultural activities.

Station and/or Terminal: A facility constructed to provide and facilitate passenger access to and from a rapid or mass transit system including areas necessary for vehicle operations, and parking areas for commuters and roadways connecting to the general road and street system of Arapahoe County. "Stations" shall include any proposed regularly scheduled stop or planned optional or seasonal boarding point on a rapid transit system. Dedicated Park and Ride facilities with fifty or more parking spaces shall be deemed "stations" for the purposes of these regulations, with or without a shelter facility. Shelters alone, or as part of traditional bus stops and pull-outs lacking fifty dedicated spaces are not considered "stations or terminals" for the purposes of these regulations.

Stream Segment: An identifiable lake or reservoir or a stretch of a stream or tributary defined on the basis of common classified uses and similar physical, chemical and biological characteristics, up to the point at which the use or characteristic changes to another.

Terminal: See "Station and/or Terminal."

Transportation Corridor: Any County or municipal street or road, any State or federal highway, and any railroad operating as a common carrier.

Urbanized Growth Center: A proposed project that is located outside of the Urban Growth Boundary as of June 2, 2004, and that meets at least two of the following three criteria: 1) development that is planned for a minimum number of 100 dwelling units at the time of its full build-out; 2) development that requires formation of a special district (such as a water or sewer district, or a metropolitan district); or 3) development which, at full build-out is proposed to contain a complete mixture of land uses and densities typically found in an urban rather than a rural setting.

Use: The purpose or activity for which a parcel of land, a building or structure is designed, arranged, or intended, or for which it is occupied or maintained based on land use regulations.

Wastewater treatment plant: A facility or group of units, including any system of pipes, structures, and facilities through which wastewater is collected for treatment, that is used for treatment of wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units discharges into state waters.

Water Diversion: Removing water from its natural course or location, or controlling water in its natural course or location, by means of a ditch, canal, flume, reservoir, bypass, pipeline, conduit, well, pump, or other structure or device.

Water supply system: A system of wells, diversions, pipes, structures, and facilities, including impoundments and their associated structures, through which a water supply is obtained, stored, and sold or distributed for domestic uses; or the system of wells, diversions, pipes, structures, and facilities, including impoundments, through which a water supply is obtained which will be used directly or by trade, substitution, augmentation or exchange, for water which will be used for human consumption or household use. In determining whether a project is a domestic water supply system the Board will consider water rights decrees, pending water rights applications, intergovernmental agreements, water supply contracts, and any other evidence of the ultimate use of the water.

Water treatment plant: The facilities within the water supply system that regulate the physical, chemical, or bacteriological quality of the water.

Wildlife: Native or introduced wild vertebrates or invertebrates.

Wildlife Habitat: That natural or man-made environment which contains the elements of food, shelter, water and space in a combination and quantity necessary for the survival of one or more wildlife species.

Zoning: Land-use designation(s) imposed by the County on lands within the unincorporated portion of the County for purposes of regulating the use and development of land.

D. Applicability

1. Areas and Activities of State Interest. These Regulations shall apply to all matters of State Interest in the unincorporated areas of the County that have been or may hereafter be designated by the Board of County Commissioners, regardless of whether or not the proposed project is intended to serve residents of unincorporated Arapahoe County and regardless of whether or not the project is public or private. (See Section “Designated Areas and Activities of State Interest” below)
2. Public and Private Lands. These Regulations shall apply to all Matters of State Interest designated as such by the County whether located on private or public lands within the unincorporated areas of the County.

E. Exemptions

1. Statutory Exemptions. The provisions of these regulations shall not apply to any development in an Area of State Interest or any Activity of State Interest if any one of the following is true:
 - a. As of May 17,1974,
 - i. The specific development or activity was covered by a current building permit issued by the County; or
 - ii. The specific development or activity was directly approved by the electorate of the State or the County, provided that approval by the electorate of any bond issue by itself shall not be construed as approval of the specific development or activity; or
 - iii. The specific development or activity is to be on land which has been finally approved by the County for planned unit development or for a substantially the same as a planned unit development; or
 - iv. The specific development or activity is to be on land which was either zoned or rezoned for the use contemplated by such specific development or activity; or
 - v. The specific development or activity is on land with respect to which a development plan has been conditionally or finally approved by the County.
2. Specific Exemptions. The provisions of these regulations shall not apply to any of the following:
 - a. Replacement of an existing water diversion structure without change in the point of diversion or point of use of the water, or yield from the diversion.
 - b. Irrigation facilities used for agricultural purposes.
 - c. Major Water or Sewer Projects that are specifically approved by the Board of County Commissioners pursuant to an application under the “Rural Cluster Option” provisions of the Arapahoe County Land Development Code.

F. Relationship to Other Regulations

1. Inconsistencies or Conflict with Other County Regulations. If any of the provisions of these Regulations is deemed to be inconsistent or in conflict with the provisions of any other County regulations or requirements, then the more stringent regulation or requirement shall apply.
2. Compliance with Other Regulations. Compliance with these Regulations does not waive the requirement to comply with any other applicable State, local or federal law or regulation.
3. Coordinated Review and Permitting. Any applicant for a permit under these Regulations that is also subject to the regulations of other State or federal agencies may request that the County application and review process be coordinated with that of the other agency.
4. Overlap Between Matters of State Interest. When an Applicant engages in development or activity that implicates 1041 Permit requirements for more than one matter of State interest, the Applicant shall complete and submit a single 1041 Permit application that includes all affected areas and activities.

G. Severability

If any section, subsection, sentence, clause, or phrase of these Regulations is, for any reason, held to be invalid or unconstitutional by a court of law, such decision shall not affect the validity of these Regulations as a whole or any part other than the part declared invalid.

II. DESIGNATED AREAS AND ACTIVITIES OF STATE INTEREST

A permit is required to be obtained pursuant to these Regulations in order to conduct any of the following Activities of State Interest (unless otherwise exempted by these Regulations):

1. Site selection and construction of major new domestic water and sewage treatment systems.
2. Major extensions of existing domestic water and sewage treatment systems.
3. Site selection and construction of major facilities of a public utility.
4. Site selection and development of solid waste disposal sites.
5. Site selection of airports.
6. Site selection of arterial highways, interchanges and collector highways.
7. Site selection of rapid or mass transit terminals, stations and fixed guideways (“Rapid or Mass Transit Facilities”).
8. Site selection and development of new communities.

The Board may designate additional Matters of State Interest subsequent to the adoption of these Regulations. Any proposed development in any subsequently designated Area of State Activity and the conduct of any subsequently designated Activity of State Interest, shall also be subject to these Regulations and shall require a permit unless specifically exempted.

III. PERMIT APPLICATION PROCESS

A. Presubmittal Meeting and Submittal Requirements

1. Presubmittal Meeting. The Applicant shall schedule and attend a Presubmittal Meeting. Before submitting an application to the County for a permit under these Regulations, any person seeking to engage in an activity or development subject to these Regulations shall

meet with the Planning and Engineering Staff. At this meeting, Planning and Engineering Staff shall explain the regulatory process and requirements and submittal requirements.

2. Submittal. The applicant shall submit the following prior to the presubmittal meeting,
 - a. A Presubmittal application form
 - b. A map and/or sketch prepared at an easily readable scale showing:
 - i. Boundary of the proposed activity.
 - ii. Relationship of the proposed activity to surrounding topographic and cultural features such as roads, streams and existing structures.
 - iii. Proposed building, improvements and infrastructure.
 - c. A written summary of the project that describes the impacts of the proposed project as it relates to applicable approval criteria that are sufficient for determining the applicability of 1041 Permit Requirements that will be required for the application.
 - d. A copy of the latest approved Zoning and Subdivision Plans, a vicinity/zoning map, and a "Full Card Printout" of the parcel(s) that are proposed to be developed.

B. Determination of Level of Permit Review

1. Three Possible Levels of Permit Review: There are three (3) possible Levels of Permit Review for a Proposed Project: A FONSI; a minor permit review; and a major permit review. The Planning Director shall make the initial Determination of the appropriate Level of Permit Review based upon the preapplication meeting and submittals.
 - a. The Determination of Level of Permit Review shall be made by the Planning Director within a reasonable time (not to exceed 30 days) following the preapplication submittal.
 - b. Within five (5) days of the Determination of Level of Permit Review, the Planning Director shall provide notification of the Determination to (i) the applicant by phone and letter, and (ii) the BOCC and the County Attorney by e-mail and phone.
 - c. A notice of the Determination of the Level of Permit Review shall be published in the legal notice section of a legal newspaper of general circulation as soon as practicable.
2. Finding of No Significant Impact ("FONSI"): Based upon review of the preapplication submittals and the information obtained at the preapplication meeting, the Planning Director may determine that no significant impacts are likely to occur from the Proposed Project and therefore a permit under these Regulations will not be necessary. The Planning Director may make a FONSI if:
 - a. The construction or operation of the Proposed Project, without additional mitigation, in its proposed location is unlikely to have any significant adverse impact to the County in consideration of all of the approval criteria in Section V of these Regulations, or
 - b. The Proposed Project was reviewed and approved by the County in conjunction with a development application for a rezoning, PUD modification, subdivision or special use permit, etc., prior to June 2, 2004 and the following requirements have been satisfied:
 - i. The Proposed Project is located entirely within the boundaries of such development application;

- ii. The Approval Criteria in Section V of these Regulations have been satisfied in the course of the development application approval process; and
 - iii. No additional mitigation is necessary
- 3. Major and Minor Permit Review: If the Planning Director determines that a FONSI is not appropriate based upon review of the preapplication submittals and the information obtained at the preapplication meeting, then the Director shall determine whether the Proposed Project should be subject to the Major Permit Review or Minor Permit Review provisions of these Regulations.
 - a. Major Permit Review: The Planning Director shall determine that Major Permit Review is required if:
 - i. The Proposed Project is likely to have a significant adverse impact in two (2) or more categories of criteria as described in Section V (Approval Criteria); or
 - ii. The Proposed Project is likely to have severe adverse impact in any one (1) category of criteria as described in Section V.
 - b. Minor Permit Review: The Planning Director shall determine that Minor Permit Review is required unless the Proposed Project is determined to warrant Major Permit Review.
- 4. Reconsideration of Planning Director's Determination of Level of Permit Review:
 - a. Call-up by the BOCC: The BOCC may, at its discretion, review and amend any Determination of the Planning Director at the next regularly scheduled meeting of the BOCC for which proper notice can be accomplished following receipt of the notice of the Determination.
 - b. Request for Reconsideration: Within seven (7) days after publication in the newspaper of a Determination by the Planning Director, any Affected Party may request that the BOCC reconsider the Planning Director's Determination at the BOCC's next regularly scheduled meeting for which proper notice can be accomplished following the request. The BOCC shall review the Determination based on the provisions of this Section.
- 5. Change in Level of Permit Review: At any time prior to the final decision by the BOCC on the application for a permit under these Regulations, the County may decide that information received since the preapplication process indicates that the nature and scope of the impacts of the Proposed Project are such that a different Level of Permit Review is required.
 - a. If a different level of permit review is required, the Planning Director shall:
 - i. Notify the applicant immediately.
 - ii. Notify the BOCC and the County Attorney.
 - iii. A decision by the Planning Director to change the Level of Review shall be subject to the reconsideration provisions in subsection 4 above.

C. Application Submittal Requirements

The Planning Director, or designee, may waive one or more of the submittal requirements when the submittal information would not be relevant to a determination as to whether the Project complies with the applicable approval criteria. Unless waived the following submittal components are required:

1. Application Fee.
 - a. The application package must be accompanied by payment of the application fee for the 1041 Permit review. The County will establish and administer a schedule for such application fees.
 - b. The County will take no action on the application package until all fees and expenses related to the application review process have been paid.
 - c. The applicant will also be responsible to pay for any consultant that the County may need to retain to analyze, evaluate or provide information to the County regarding all or a portion of an application where County Staff does not have expertise.
2. Information describing the applicant.
 - a. The names, addresses, email address, fax number, organization form, and business of the applicant, and if different, the owner of the project.
 - b. The names, addresses and qualifications, including those areas of expertise and experience with projects directly related or similar to that proposed in the application package, of individuals who are or will be responsible for constructing and operating the project.
 - c. Authorization of the application by the project owner, if different than the applicant.
 - d. Documentation of the applicant's financial and technical capability to develop and operate the project, including a description of the applicant's experience developing and operating similar projects.
3. Information describing the project.
 - a. Detailed plans and specifications of the project.
 - b. Descriptions of at least 3 or more alternatives to the project that were considered by the applicant. (This shall not apply to any "New Community" application).
 - c. Schedules for designing, permitting, constructing and operating the project, including the estimated life of the project.
 - d. The need for the project, including existing/proposed facilities that perform the same or related function; and population projections or growth trends that form the basis of demand projections justifying the project.
 - e. Description of all conservation techniques to be used in the construction and operation of the project.
4. Property Rights, Permits and other Approvals.
 - a. A list and copies of all other federal, State and local permits and approvals that have been or will be required for the project, together with any proposal for coordinating these approvals with the County permitting process.
 - b. Copies of all official federal and State consultation correspondence prepared for the project; a description of all mitigation required by federal, State and local authorities; and copies of any draft or final environmental assessments or impact statement required for the project.
 - c. Description of the water to be used by the project and alternatives, including the source, amount, the quality of such water, the applicant's right to use the water, including adjudicated decrees, applications for decrees, proposed points of diversion, and the existing uses of water. If an augmentation plan has been filed in court, the applicant must submit a copy of that plan.

5. Regional Water Quality Management Plan. Provisions of the applicable regional water quality management plan that apply to the project and assessment of whether the project would comply with those provisions.
6. Financial Feasibility of the Project. (Only Applicable to Major Permit Review)
 - a. The estimated construction costs and period of construction for each development component.
 - b. Revenues and operating expenses for the project.
 - c. The amount of any proposed debt and the method and estimated cost of debt service.
 - d. Details of any contract or agreement for revenues or services in connection with the project.
 - e. Description of the persons or entity(ies) who will pay for or use the project and/or services produced by the development and those who will benefit from any and all revenues generated by it.
 - f. Cost of all mitigation measures proposed for the project.
 - g. Detailed description as to how the project will be financed to show that the applicant has the ability to finance the project.
7. Land Use.
 - a. Description of existing land uses within and adjacent to the Project Impact Area.
 - b. Description of provisions from local land use plans that are applicable to the project and an assessment of whether the Project will comply with those provisions.
Description of impacts and net effect that the project would have on land use patterns.
8. Local Government Services.
 - a. Description of existing capacity of and demand for local government services including roads, schools, water and wastewater treatment, water supply, emergency services, transportation, infrastructure, housing, law enforcement, and other services necessary to accommodate development.
 - b. Description of the impacts and net effect of the project on the demand for local government services and the capability of local governments to provide services.
9. Financial Burden on County Residents (Only Applicable to Major Permit Review).
Description of the existing tax burden and fee structure for government services including but not limited to assessed valuation, mill levy, rates for water and wastewater treatment, and costs of water supply.
10. Local Economy. (Only Applicable to Major Permit Review)
 - a. Description of the local economy including but not limited to revenues generated by the different economic sectors, and the value or productivity of different lands.
 - b. Description of impacts and net effect of the project on the local economy and opportunities for economic diversification, including the number and types of jobs created.
11. Recreational Opportunities. (Only Applicable to Major Permit Review)
 - a. Description of present and potential recreational uses, including the number of recreational visitor days for different recreational uses and the revenue generated by types of recreational uses.
 - b. Map depicting the location of recreational uses such as fishery stream segments, access points to recreational resources, and hiking and biking trails.
 - c. Description of the impacts and net effect of the project on present and potential recreational opportunities and revenues to the local economy derived from those uses.

12. Environmental Impact Analysis. Description of the existing natural environment and an analysis of the impacts of the project to the natural environment. Descriptions in this section shall be limited to the Impact Area, and shall include an analysis of existing conditions, supported with data, and a projection of the impacts of the project in comparison to existing conditions. The analysis shall include a description of how the applicant will comply with the applicable Approval Criteria in Section V.
- a. Air quality.
 - i. Description of the airsheds to be affected by the project, including the seasonal pattern of air circulation and microclimates.
 - ii. Map and description of the ambient air quality and State air quality standards of the airsheds to be affected by the project, including particulate matter and aerosols, oxides, hydrocarbons, oxidants and other chemicals, temperature effects and atmospheric interactions.
 - iii. Descriptions of the impacts and net effect that the project would have on air quality during both construction and operation under both average and worst case conditions.
 - b. Visual Quality.
 - i. Map and description of ground cover and vegetation, forest canopies, waterfalls and streams or other natural features.
 - ii. Description of viewsheds, scenic vistas, unique landscapes or land formations.
 - iii. Map and description of buildings, structure design and materials to be used for the project. Include elevations of proposed buildings and other structures.
 - iv. Descriptions of the impacts and net effect that the project would have on visual quality.
 - c. Surface Water Quality.
 - i. Map and description of all surface waters, including applicable State water quality standards, to be affected by the project.
 - ii. Descriptions of the immediate and long-term impact and net effects that the project would have on the quantity and quality of surface water under both average and worst-case conditions.
 - iii. Descriptions of the immediate and long-term impacts and net effects that the project would have on the meandering characteristics and limits of the streambed under both average and worst-case conditions.
 - d. Groundwater Quality and Quantity.
 - i. Map and description of all groundwater, including any and all aquifers that are affected by the proposed project. At a minimum, the description should include:
 - a) Seasonal water levels in each subdivision of the aquifer affected by the project.
 - b) Artesian pressure in aquifers.
 - c) Groundwater flow directions and levels.
 - d) Existing aquifer recharge rates and areas and the methodology used to calculate recharge to the aquifer from any recharge sources.

- e) For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of aquifer to impound groundwater and aquifer storage capacity.
- f) Seepage losses expected at any subsurface dam and at stream-aquifer interfaces and methodology used to calculate seepage losses in the affected streams, including description and location of measuring devices.
- g) Existing groundwater quality and classification.
- h) Location of all water wells and their uses.
- ii. Description of the impacts and net effect of the project on groundwater.
- e. Wetlands and Riparian Areas.
 - i. Map and description of all floodplains, wetlands, and riparian areas to be affected by the project, including a description of each type of wetlands, species composition, and biomass.
 - ii. Description of the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).
 - iii. Description of the impacts and net effect that the project would have on the floodplains, wetlands and riparian areas.
- f. Terrestrial and Aquatic Animals and Habitat.
 - i. Map and description of terrestrial and aquatic animals including the status and relative importance of game and non-game wildlife, livestock and other animals; a description of stream flows and lake levels needed to protect the aquatic environment; description of threatened or endangered animal species and their habitat.
 - ii. Map and description of critical wildlife habitat and livestock range to be affected by the project including migration routes, calving areas, summer and winter range, and spawning beds.
 - iii. Description of the impacts and net effect that the project would have on terrestrial and aquatic animals, habitat and food chain.
- g. Terrestrial and Aquatic Plant Life.
 - i. Map and description of terrestrial and aquatic plant life including the type and density, and threatened or endangered plant species and habitat.
 - ii. Descriptions of the impacts and net effect that the project would have on terrestrial and aquatic plant life.
- h. Soils, Geologic Conditions and Natural Hazards.
 - i. Map and description of soil, geologic conditions, and natural hazards including but not limited to soil types, drainage areas, slopes, avalanche areas, debris fans, mud flows, rock slide areas, faults and fissures, seismic history, and wildfire hazard areas.
 - ii. Descriptions of the risks to the project from natural hazards.

- iii. Descriptions of the impact and net effect of the project on soil and geologic conditions in the area, and their effects on streambed meander limits and aquifer recharge areas.
- 13. Nuisances.

Descriptions and maps showing the range of noise, glare, dust, fumes, vibration, and odor levels caused by the project, along with an indication of their significance.
- 14. Areas of Paleontological, Historic or Archaeological Importance.
 - a. Map and description of all sites of paleontological, historic or archaeological interest.
 - b. Description of the impacts and net effect of the project on sites of paleontological, historic or archaeological interest.
- 15. Hazardous Materials Description.
 - a. Description of all hazardous, toxic, and explosive substances to be used, stored, transported, disturbed or produced in connection with the project, including the type and amount of such substances, their location, and the practices and procedures to be implemented to avoid accidental release and exposure, and any foreseeable impacts to the environment of such substances.
 - b. Location of storage areas designated for equipment, fuel, lubricants, chemical and waste storage with an explanation of spill containment measures.
- 16. Balance Between Benefits and Losses. (Only Applicable to Major Permit Review)
 - a. Description of foreseeable benefits of natural, agricultural, recreational, range or industrial resources within the County and opportunities to develop those resources in the future.
 - b. Description of foreseeable losses of natural, agricultural, recreational, range or industrial resources within the County and loss of opportunities to develop those resources in the future.
- 17. Monitoring and Mitigation Plan.
 - a. Description of all mitigation for the Project.
 - i. Describe how and when mitigation will be implemented and financed.
 - ii. Describe impacts that are unavoidable that cannot be mitigated.
 - b. Description of methodology used to measure impacts of the project and effectiveness of proposed mitigation measures
 - c. Description, location and intervals of proposed monitoring to ensure that mitigation will be effective.
- 18. Transportation Impacts.
 - a. Describe what impacts the proposal will have upon transportation patterns in the area intended to be served or affected by the Proposed Project through the submittal of a traffic impact analysis. The traffic impact analysis should include but not be limited to the following:
 - i. Identify the transportation facilities required to support the existing and future land uses.
 - ii. Furnish the traffic model data verifying consistency with the regional transportation plan, the Colorado Department of Transportation (CDOT) Statewide Transportation Improvement Program (STIP) and the regional Transportation Improvement Program (TIP).
 - iii. Provide the existing and proposed traffic volume impacts to the adjacent road system, including local roads.

- iv. Provide the existing and future Level of Service (LOS) and capacity before and after the Proposed Project is completed.
 - v. All transportation access information as required by the CDOT State Highway Access Code, 1998 revisions or the most current edition thereof.
19. **Benefit/Cost Analysis. (Only Applicable to Major Permit Review)**
 Submittal of a benefit/cost analysis of the Proposed Project and identify the distribution of the burden of the cost for the proposed improvements, including cost to adjacent state or local jurisdiction.
20. **Engineering Studies.** Submittal of Phase III Drainage Study, GESC – Grading, Erosion, & Sediment Control Report/Plan and Traffic Study. If public improvements are required, the following items are also required: Collateral Letter of Intent, Cost Estimate for Public Improvements and Preliminary Construction Plans. If roadway improvements are required, a preliminary pavement design is required.
21. **Referrals to Outside Agencies and Response to Referral Comments.**
- a. The Planning Division will determine which outside referral agencies may be affected by the proposed development and should receive referral packets. Potential referral agencies may include, but not be limited to homeowner’s associations, local, regional, state and federal governmental entities, and service providers.
 - b. The Planning Division will review the referral packets in order to determine that there is sufficient information in the referral packet, including, but not limited to, 1041 permit information that pertains to the referral agency.
 - c. The applicant will be responsible for putting the referral packets together and addressing the envelopes, but the Planning Division will be responsible for mailing the packets.
 - d. The referral entities will have 30 days to respond. If a referral entity does not respond within the 30-day timeframe, the assumption will be made that the referral entity does not have an objection to the 1041 application.
 - e. The applicant will respond to all of the referral comments and that response will be included as part of the application.

This referral process needs to be done, along with all other application submittal requirements, in order for an application to be considered complete.

D. Additional Submittal Requirements Applicable to Major Water & Sewer Projects

In addition to the Submittal Requirements in Section III, Part C, above, the following additional requirements shall apply to Major Water and Sewer Projects:

- 1. Description of existing domestic water and wastewater treatment facilities in the vicinity of the project, including their capacity and existing service levels, location of intake and discharge points, discharge permit requirements, service fees and rates, debt structure and service plan boundaries and reasons for and against hooking on to those facilities.
- 2. Description of other water and wastewater management agencies in the project area and reasons for and against consolidation with those agencies.
- 3. Description of how project may affect adjacent communities and users on wells.
- 4. Description of demands that this project expects to meet and basis for projections of that demand.

5. Description of efficient water use, recycling and reuse technology the project intends to use.
6. Description of how the project will affect urban development, urban densities, and site layout and design of stormwater and sanitation systems.
7. Map and description of other municipal and industrial water projects in the vicinity and a discussion of how the project will compete with or duplicate those services in the County.

E. Additional Submittal Requirements Applicable to Major Facilities of a Public Utility

In addition to the Submittal Requirements in Section III, Part C, above, the following additional requirements shall apply to Major Facilities of a Public Utility:

1. Map and description of areas around the proposed major facilities of a public utility.
2. Potential likelihood of nearby activities that may disrupt utility services.
3. Description of how facilities will affect existing community patterns.
4. Description of applicable adopted comprehensive plans and whether facilities comply with those provisions.
5. Projections/forecasts of need for electricity or natural gas and the basis for the projections and forecasts.
6. Expected effect and impact on nearby property owners and on current land uses, compared with alternate locations.
7. Provide a Water Supply Plan using an aquifer life assumption of a 100-year supply, non-tributary groundwater classification only, assuming a 50 percent recovery factor to support operations.

F. Additional Submittal Requirements Applicable to Solid Waste Disposal Sites

In addition to the Submittal Requirements in Section III, Part C, above, the following additional requirements shall apply to Solid Waste Disposal Sites:

1. Analysis of capacity of existing landfills in the County and remaining life of existing landfill and the need for a new major solid waste disposal site.
2. Report on wind conditions for the site.
3. Description of potential pollution problems related to the site and how problems will be mitigated.
4. Description of efforts to recycle waste and conservation practices to be employed at the site.
5. Expected effect and impact on nearby property owners and on current land uses, compared with alternate locations.

G. Additional Submittal Requirements Applicable to Airports

In addition to the Submittal Requirements in Section III, Part C, above, the following additional requirements shall apply to Airports:

1. Map and description of nearby land uses. Expected impact of new airport on those land uses and nearby property owners from noise and traffic.
2. Map and description of flight patterns as related to other land uses. Description of potential public safety and property issues related to the airport and plane crashes.
3. Description of how the airport will affect existing communities, the environment and existing community services.
4. Description of how the airport will affect economic and transportation needs of the state and the area.

5. Description of applicable adopted master plans and whether facilities comply with these provisions.
6. Description of applicable FAA permits and regulations. Provide applicable FAA permits.
7. Description of how proposed airport relates to existing airports.

H. Additional Submittal Requirements Applicable to Arterial Highways, Interchanges and Collector Highways

In addition to the Submittal Requirements in Section III, Part C, above, the following additional requirements shall apply to arterial highways, interchanges and collector highways:

1. Description of how project will affect traffic patterns as well as non-motorized traffic.
2. Description of how the new roads will likely affect surrounding land uses and existing community patterns.
3. Description of how new roads will affect community, regional, and statewide traffic demands.
4. Description of how new roads will comply with other local, State and federal regulations and master plans.
5. A list of alternative corridor locations for the arterial highway, interchange or collector highway.
6. For each alternative corridor location being considered by the applicant, including the preferred alternative, provide the information specified below:
 - a. A general description of the alternative, with the advantages and disadvantages of the alternative.
 - b. Location map showing the corridor and general area.
 - c. Corridor location study, including:
 - (i) Type and scale of the improvement.
 - (ii) Cost estimate.
 - (iii) Approximate timetable for construction and right-of-way acquisition.
 - d. Demographic information in the impact area, including:
 - (i) Estimated current population number and density.
 - (ii) Total employment, occupation types, and major employer locations.
 - (iii) Family incomes.
 - (iv) Population projections in increments as determined by the applicant and approved by the permit authority, not to exceed a 20-year increment.
 - (v) Boundaries of neighborhoods in the impact area.
 - e. A description of the current and projected need for the Proposed Project.
 - f. A quantification of the amount of traffic by major traffic generator in the impact area.
 - g. A description of the planned level of service in relationship to projected user demand in ten (10) year intervals.
 - h. A map(s) and description of existing land use in the impact area in relationship to the existing circulation system and the Proposed Project.
 - i. A description of the impacts of the Proposed Project on accessibility to and from existing public facilities, commercial and industrial facilities and residential areas.
 - j. A description of safety hazards which may result from the location of the Proposed Project.

- k. A map(s) of the impact area showing planned, proposed, or expected land use with and without the Proposed Project.
 - l. A discussion of how the Proposed Project and its impact will be in conformance with the Comprehensive Plan, including each policy or goal furthered by the Proposed Project, and a description of where the Proposed Project is in conflict with a policy or goal.
 - m. A discussion of how the Proposed Project and its impact will be in conformance with any applicable regional and state plans, including without limitation each policy or goal furthered by the Proposed Project, and a description of where the Proposed Project is in conflict with a policy or goal.
 - n. A discussion of the development potential that would result in the impact area with and without the completion of the Proposed Project. Measure the development potential in terms of: land values, land availability, land use controls, vacancy rates and indices of accessibility to school/education, utility service, other public and quasi-public services, local and regional amenities and employment opportunities.
 - o. A description of projected number of users of the Proposed Project.
 - p. A description of plans for complementing and integrating with other modes of transportation.
- 7. A description of all federal highway standards that apply to the Proposed Project.
 - 8. Phasing of the Proposed Project.
 - 9. A description of plans for relocation and compensation of homes and businesses.

I. Additional Submittal Requirements Applicable to Rapid or Mass Transit Facilities In addition to the submittal requirements in Section III, Part C, above, the following additional requirements shall apply to Rapid or Mass Transit Facilities:

- 1. A list of alternative corridor locations considered for the facilities.
- 2. For each alternative corridor location being considered by the applicant, including the preferred alternative, provide the information specified below:
 - a. A general description of the alternatives, with the advantages and disadvantages of the alternatives.
 - b. Location map showing the corridor and general area.
 - c. Corridor location study showing:
 - i. Type and scale of the improvement.
 - ii. Cost estimate.
 - iii. Approximate timetable for construction and right-of-way acquisition.
 - d. Demographic information in the impact area:
 - i. Estimated current population number and density.
 - ii. Total employment, occupation types, and major employer locations.
 - iii. Family incomes.
 - iv. Population projections in increments as determined by the applicant and approved by the permit authority, not to exceed a 20-year increment.
 - v. Boundaries of neighborhoods in the impact area.
 - vi. Economic sectors in the service area that will use the facility for shipping materials.
 - e. A description of the current and projected need for the alternative.

- f. A description of the impacts of the Proposed Project on accessibility to and from existing public facilities, commercial and industrial facilities and residential areas.
 - g. A description of safety hazards which may result from the location of the Proposed Project.
 - h. A map(s) of the impact area showing planned, proposed, or expected land use with and without the Proposed Project.
 - i. A discussion of the development potential that would result in the impact area with and without the completion of the Proposed Project. Measure the development potential in terms of: land values, land availability, land-use controls, vacancy rates and indices of accessibility to school/education, utility service, other public and quasi-public services, local and regional amenities and employment opportunities.
 - j. A description of the projected number of users of the Proposed Project.
 - k. A description of plans for complementing and integrating with other modes of transportation.
- 3. A description of plans for relocation of and compensation for homes and businesses.
 - 4. A map and description of the existing and planned circulation system in the proposed service area, indicating the modes, level of service and any functional problems.

J. Additional Submittal Requirements Applicable To New Communities

In addition to the Submittal Requirements in Section III, Part C, above, the following additional requirements shall apply to New Communities:

- 1. One or more maps at sufficient scale (1-inch = 500-feet or 1-inch = 1000-feet) showing the location of the proposed development and its relationship to the adjacent communities or regional facilities.
- 2. A narrative indicating compliance/non-compliance with applicable County Comprehensive Plan sections relating to the proposed development.
- 3. A narrative discussing any applicable Intergovernmental Agreements that may be in effect for this area and Intergovernmental Agreements that may be required.
- 4. Demonstrate that this proposed facility complies with all County Land Development Codes and Design Guidelines.
- 5. Provide one or more maps that show the size, scale, density, traffic circulation, and open space provisions for the proposed development, at full build-out.
- 6. Provide estimates for the timing of the development, indicating if phasing is expected.
- 7. Provide evidence of applicant's ability to provide services, such as water, sanitation, schools, utilities, law enforcement, or fire.
- 8. Provide population growth estimates for the development and the area around the development.
- 9. Provide evidence that the applicant has the financial ability and expertise to complete the Development.
- 10. Provide examples of building elevations and streetscape design.
- 11. Provide plans, which demonstrate the percentages of open space, park areas, and trails.
- 12. Provide plans showing stream meandering characteristics, floodplain delineations and location of aquifer recharge.

K. Completeness Determination

An application shall not be accepted unless it is complete per the requirements of these Regulations. The Planning Division Manager shall determine whether the application is complete per the requirements contained in these regulations. If the Planning Division Manager determines that the application is incomplete, then the Planning Division Manager shall specify in writing the additional information that is required. Only when the application is determined to be complete shall the process set forth below in the Permit Review and Hearing Procedures commence.

IV. APPROVING AND ISSUING A PERMIT

A. Permit Review and Hearing Procedures

1. Permit Review Procedures

- a. **Staff Review and Staff Report.** The Planning Division shall review the application and prepare a report recommending approval, conditional approval, denial, or continuance of the permit.
- b. **Set Hearing Date.** The Planning Division shall set the hearing date for the Planning Commission Hearing not less than fourteen (14) days and the Board of County Commission Hearing not less than thirty days nor more than sixty (60) days after receipt of a complete application which will include referral responses and the applicant's response to the referrals.
- c. **Planning Commission Hearing and Recommendation.** Permit applications shall be reviewed by the Planning Commission.
 - i. **Planning Commission Hearing.** The Planning Commission shall conduct a hearing to determine whether the Proposed Project complies with the Approval Criteria in Section V.
 - ii. **Planning Commission Hearing Notice.** At least fourteen (14) days prior to the date set for the Planning Commission Public Hearing, the County shall publish notice of the hearing. Notice shall be published once in a newspaper of general circulation in the County.
 - iii. **Notice to Property Owners.** The applicant is responsible for written notice of the public hearing which shall be delivered or mailed, first-class postage prepaid, to adjoining landowners within a minimum of 500 feet of the entire boundary of the proposed activity, at least fourteen (14) days prior to the date set for the Planning Commission Hearing, except that the Planning Division Manager may extend the radius used for noticing based on the nature of the Proposed Project, its potential impacts and the general character of the area.
 - iv. The applicant will be responsible for public notice sign(s) per Arapahoe County Land Development Code specifications, at least fourteen (14) days before the date set for the Planning Commission Hearing.
 - v. If the Planning Commission determines that the Proposed Project complies with all the applicable provisions of these Regulations, then it shall recommend that the Board approve the application. If the Proposed Project does not comply with all the applicable provisions of these Regulations, then it shall recommend that the Board deny the application or approve the application with conditions to ensure compliance with the Regulations.
- d. **Board of County Commissioners Hearing and Decision.**

- i. Board Hearing. The Board shall conduct the hearing to determine whether the Proposed Project complies with the Approval Criteria in Section V.
- ii. Board of County Commissioner Hearing Notice. The County shall publish notice of the hearing. Notice shall be published once in a newspaper of general circulation in the County, not less than thirty (30) days nor more than sixty (60) days before the date set for the Board Hearing.
- iii. Notice to Property Owners. The applicant is responsible for written notice of the public hearing which shall be delivered or mailed, first-class postage prepaid, to adjoining landowners within a minimum of 500 feet of the entire boundary of the proposed activity, not less than thirty (30) days nor more than sixty (60) days before the date set for the Board Hearing, except that the Planning Division Manager may extend the radius used for noticing based on the nature of the Proposed Project, its potential impacts and the general character of the area.
- iv. The applicant will be responsible for public notice sign(s) per Arapahoe County Land Development Code specifications, not less than thirty (30) days nor more than sixty (60) days before the date set for the Board Hearing.
- v. If at the end of the hearing, after considering all information on the record, the Board finds that additional information is necessary for it to determine whether the Proposed Project will satisfy all of the Approval Criteria in Section V, the Board may deny the permit or continue the hearing, to accept additional information, for not more than sixty (60) days unless the applicant agrees to a longer period.
- vi. The Board may approve the application if it determines that the Proposed Project complies with all applicable provisions of these Regulations. If the Board determines that the application fails, or may fail, to comply with any one of the Approval Criteria, the Board, at its sole discretion, may either approve the permit application with reasonable conditions necessary to ensure compliance with the Regulations or deny the application.

B. Conduct of Hearings, Hearing Record, and Decision

1. Hearings shall be conducted in a manner to afford procedural due process to the applicant and any Affected Person. The rules of civil procedure do not apply to public hearings held pursuant to these Regulations.
2. The burden of proof is on the applicant to demonstrate with evidence on the record that the Proposed Project complies with all of these Regulations.
3. Any person may, at his own expense, provide for the recording of the hearing and transcription thereof, provided, however, that a copy of the transcript shall be furnished free of charge to the Board and become part of the record.
4. The Board's decision shall be made by resolution. A copy of the resolution shall be recorded in the Office of the County Clerk and Recorder.

C. Term of Permit

Approval of a permit shall lapse after twelve (12) months, unless:

1. Development permits for the Proposed Project for construction are obtained for commencement of construction, if such permits are required; and remain in effect, or
2. Activities described in the permit have substantially commenced; or

3. The Board specifies in its resolution granting or denying the permit a different time period in which building permits must be obtained or activities must commence.

D. Renewal

Permits issued under these Regulations may be renewed following the same procedure for approval of new permits. The Board may impose additional conditions at the time of renewal if necessary to ensure that the Project will comply with these Regulations.

E. Permit Does Not Exempt Development From Land Development & Other Code Requirements

Permits issued under these Regulations shall not exempt development from also complying with zoning and other requirements of the Arapahoe County Land Development Code. Notwithstanding the issuance of a permit under these Regulations, no building permit shall be issued until all requirements of the Code have been satisfied.

F. Permit Amendment/Technical Review Amendment (TRA)

Any change in the application, design, construction or operation of the Project from that approved by the Board shall require either a "Full Amendment" or a "Technical Review Amendment." The criteria for this determination will be based on the additional size of the area affected and/or the intensity of impact of the Project.

1. Full Amendment: If the proposed amendment does not qualify as a Technical Review Amendment under sub-paragraph 2 below, then it shall be deemed to be a full amendment and will need to meet all of the requirements and process for a 1041 Permit as outlined in these regulations for the particular Area or Activity of State Interest.
2. Technical Review Amendment: The process and requirements for a Technical Review Amendment apply when changes in the original 1041 Permit are of such a limited nature or scope that a formal 1041 Permit "Full Amendment" would be unnecessary. Such Technical Review Amendments may include, but are not limited to, minor changes to building facades, location and type of landscape material, relocation of light poles or fixtures that do not affect light levels at the property line, and the relocation of interior pedestrian walks and trails.
 - a. Prerequisites that need to be met for a Technical Review Amendment (TRA). The following factors will be used by the Planning and Zoning Division Manager to determine if an application is eligible for the TRA. These factors shall include, but not be limited to the following:
 - i. Proposed amendments do not fall within the criteria listed for a 1041 Permit "Full Amendment" as specified in these regulations.
 - ii. Proposed amendments do not violate existing zoning or subdivision regulations.
 - iii. Proposed amendments do not relate to any site, building, or sign detail that was a condition of approval through the public hearing process.
 - iv. Proposed amendments do not substantially change any of the original plans or items that may have been conditioned through the public hearing process.
 - b. Submittal Requirements for Technical Review Amendment (TRA). Submittal requirements for a TRA include:
 - i. Completed application (available in the Planning and Zoning Office).
 - ii. Application fee.

- iii. Proof of ownership or notarized letter of authorization from the landowner permitting a representative to process the application with a disclaimer that no other party's consent is required.
 - iv. A letter of intent indicating the purpose and need for the TRA.
 - v. The first and any other subsequently approved 1041 Permit, development plan exhibit and associated material. (Typically copied from the approved 1041 Permit and associated material).
 - vi. A revised blueline plan exhibit (24" x 36") with the proposed amendment highlighted. Font size shall be readable when reduced to an 11 x 17 inch size. No plans shall include copyright restrictions.
- b. Approval Criteria For a Technical Review Amendment (TRA). Prior to approval of a Technical Review Amendment, the Planning Division Manager or designee shall consider the following criteria:
- i. Will the TRA ensure the efficient development and preservation of the original 1041 Permit, and the underlying development plan or subdivision plat?
 - ii. Will the TRA adversely affect reasonable development expectation and the use and enjoyment of adjacent land or the public interest?
 - iii. Will the TRA preserve the spirit and intent of the original 1041 Permit and development plan and not weaken the purposes of these regulations?
 - iv. Will approval of the amendment adversely affect the public health, safety, and welfare?
- d. Technical Review Amendment Process: The following is the review process for a Technical Review Amendment (TRA).
- i. Upon receipt of all required information, the Planning and Zoning Division Manager or designee shall review the submittal and prepare comment.
 - ii. The applicant will be notified of any outstanding issues upon completion of a fourteen (14) calendar day staff review and referral process.
 - iii. The applicant shall resolve all outstanding issues raised through the referral process.
 - iv. The applicant shall submit a final mylar which shall be an original drawing in black ink on 24" x 36" single/double matte mylar or photographic blackline positive mylar of the same, or equivalent.
 - v. Upon acceptance of the final mylar by the Public Works and Development Department, the Planning Division Manager or designee will approve the Technical Review Amendment
 - vi. After the Planning Division Manager approves and signs the Technical Review Amendment, building permits may be applied for and/or obtained.
 - vii. If any person or entity is aggrieved by Planning Division Manager's determination to exempt a TRA application because it does not meet TRA requirements or if a TRA is denied by the Planning Division Manager, that person or entity may file an appeal to the Board of County Commissioners, no later than ten (10) working days after the date of the Planning Division Manager's written determination. The appeal shall thereafter be processed and governed by the general appeal procedures in the Administrative Amendment Section of the Land Development Code.

G. Intergovernmental Agreements

Upon request of the State of Colorado or a political subdivision of the State as defined by 29-1-202(1), C.R.S., proposing to engage in the following activities of state interest, 1) Site Selection of arterial highways, interchanges or collector highways, and 2) Site selection of rapid or mass transit facilities, the requirements of these regulations may be met by the approval of an intergovernmental agreement in lieu of a permit application and review as provided by these regulations. In the event such an agreement is approved by the Board, a permit may be issued provided that all of the following conditions are met:

1. The state or political subdivision and the County must both be authorized to enter into this agreement.
2. The purpose, intent and applicable criteria of Section 24-65.1-101, et seq., C.R.S. and of these regulations must be satisfied by the terms of the agreement.
3. A public hearing must be conducted by the Board to publicly review and approve of the proposed agreement. Notice of the public hearing shall be published once at least 30 and not more than 60 days prior to the hearing in a newspaper of general circulations in the County, and shall be given to the Colorado land use commission.
4. Both the Board and the governing body of the state or political subdivision must approve the agreement in the manner required of each of them by the Colorado Constitution, state statutes and any applicable charter, ordinance or resolution.
5. Exercise of the provisions of this section by the state or political subdivision will not prevent that entity from electing at any time to proceed under the permit provisions of these regulations. Additionally, any entity, which has previously proceeded under the permit provisions of these regulations, may at any time elect to proceed instead under this Section.

V. APPROVAL CRITERIA

A permit may be approved if the proposed activity complies with the following general criteria and any additional applicable criteria in Sections B through H. In determining whether the proposed activity complies with the criteria, the Board may take into consideration the construction, operation and cumulative impacts of the proposed activity. Also see Appendix A for some examples of these criteria.

If the Board determines at the public hearing that sufficient information has not been provided to it to allow it to determine if the applicable criteria have been met, the Board may continue the hearing until the specified additional information has been received.

A. General Approval Criteria

1. Documentation that prior to site disturbance associated with the Proposed Project, the applicant can and will obtain all necessary property rights, permits and approvals. The Board may, at its discretion, defer making a final decision on the application until outstanding property rights, permits and approvals are obtained.
2. The Proposed Project considers the relevant provisions of the regional water quality plans.
3. (Only Applicable to Major Permit Review)The applicant has the necessary expertise and financial capability to develop and operate the Proposed Project consistent with all requirements and conditions.

4. (Only Applicable to Major Permit Review) The Proposed Project is technically and financially feasible.
5. The Proposed Project is not subject to significant risk from natural hazards.
6. The Proposed Project is in general conformity with the applicable comprehensive plans.
7. The Proposed Project will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.
8. (Only Applicable to Major Permit Review) The Proposed Project will not create an undue financial burden on existing or future residents of the County.
9. (Only Applicable to Major Permit Review) The Proposed Project will not significantly degrade any substantial sector of the local economy.
10. The Proposed Project will not unduly degrade the quality or quantity of recreational opportunities and experience.
11. The planning, design and operation of the Proposed Project will reflect principals of resource conservation, energy efficiency and recycling or reuse.
12. The Proposed Project will not significantly degrade the environment. Appendix "A" includes the considerations that will be used to determine whether there will be significant degradation of the environment. For purposes of this section, the term environment shall include:
 - a. Air quality.
 - b. Visual quality.
 - c. Surface water quality.
 - d. Groundwater quality.
 - e. Wetlands, flood plains, streambed meander limits, recharge areas, and riparian areas.
 - f. Terrestrial and aquatic animal life.
 - g. Terrestrial and aquatic plant life.
 - h. Soils and geologic conditions.
13. The Proposed Project will not cause a nuisance.
14. The Proposed Project will not significantly degrade areas of paleontological, historic, or archaeological importance.
15. The Proposed Project will not result in unreasonable risk of releases of hazardous materials. In making this determination as to such risk, the Board's consideration shall include:
 - a. Plans for compliance with federal and State handling, storage, disposal and transportation requirements.
 - b. Use of waste minimization techniques.
 - c. Adequacy of spill prevention and response plans.
16. (Only Applicable to Major Permit Review)The benefits accruing to the County and its citizens from the proposed activity outweigh the losses of any resources within the County, or the losses of opportunities to develop such resources.
17. The Proposed project is the best alternative available based on consideration of need, existing technology, cost, impact and these regulations.
18. The Proposed Project will not unduly degrade the quality or quantity of agricultural activities.

19. Cultural Resources. The Proposed Project will not significantly interfere with the preservation of cultural resources, including historical structures and sites, agricultural resources, the rural lifestyle and the opportunity for solitude in the natural environment.
20. Land Use. The Proposed Project will not cause significant degradation of land use patterns in the area around the Proposed Project.
21. Compliance with Regulations & Fees. The applicant has complied with all applicable provisions of these regulations and has paid all applicable fees.

B. Additional Criteria Applicable to Major Water and Sewer Projects

In addition to the general criteria set forth in Section V, Part A, above, the following additional criteria apply to Major Water and Sewer Projects:

1. To the extent practicable, Domestic Water and Wastewater Treatment Systems shall be consolidated with existing facilities within the area. The determination of whether consolidation is practicable shall include but not be limited to the following considerations:
 - a. Distance to and capacity of nearest Domestic Water or Wastewater Treatment System.
 - b. Technical, legal, managerial and financial feasibility of connecting to existing Domestic Water or Wastewater Treatment System.
 - c. Scope of the Service Area for existing Domestic Water or Wastewater Treatment System.
 - d. Projected growth and development in the Service Area of existing Domestic Water or Wastewater Treatment System.
2. The Proposed Project will not result in duplicative services within the County.
3. The Proposed Project will be constructed in areas that will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities.
4. If the Proposed Project is designed to serve areas within the County, it is necessary that the Proposed Project meet community development and population demands in those areas.
5. The Proposed Project shall emphasize the most efficient use of water, including, to the extent permissible under existing law, the recycling, reuse and conservation of water.
6. The Applicant shall demonstrate sufficient managerial expertise and capacity to operate the facility.
7. Major extensions of domestic water and sewage treatment systems shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.

C. Additional Criteria Applicable to Major Facilities of a Public Utility

In addition to the general criteria set forth in Section V, Part A, above, the following additional criteria shall apply to major facilities of a public utility:

1. Areas around major facilities of a public utility shall be administered so as to minimize disruption of the service provided by the public utility.
2. Areas around major facilities of a public utility shall be administered so as to preserve desirable existing community and rural patterns.
3. Where feasible, major facilities of a public utility shall be located so as to avoid direct conflict with adopted local comprehensive, State and regional master plans.

4. Where feasible, major facilities of a public utility shall be located so as to minimize dedication of new right-of-way and construction of additional infrastructure (e.g., gas pipelines, roads, and distribution lines.)

D. Additional Criteria Applicable to Solid Waste Disposal Sites

In addition to the general criteria set forth in Section V, Part A, above, the following additional criteria apply to major solid waste disposal sites:

1. Solid waste disposal sites shall be developed in accordance with sound conservation practices and shall emphasize, where feasible, the recycling of waste materials. Considerations shall include, but not be limited to the following:
 - a. Longevity and subsequent use of waste disposal sites.
 - b. Wind conditions.
 - c. The potential problems of pollution inherent in the proposed site.
 - d. The impact on adjacent property owners, compared with alternate locations.
 - e. Proximity to surface water, groundwater, and groundwater recharge areas.

E. Additional Criteria Applicable to Airports

In addition to the general criteria set forth in Section V, Part A, above, the following additional criteria apply to airports:

1. Areas around airports shall be administered to encourage land use patterns that will separate uncontrollable noise sources from residential and other noise-sensitive areas.
2. Areas around airports shall be administered to avoid danger to public safety and health or to property due to aircraft crashes.
3. Airports shall be located or expanded in a manner that will minimize disruption to the environment, minimize the impact on existing community service, and complement the economic and transportation needs of the State and the area.

F. Additional Criteria Applicable to Arterial Highways, Interchanges and Collector Highways

In addition to the general criteria set forth in Section V, Part A, above, the following additional criteria apply to arterial highways, interchanges and collector highways:

1. Highways and interchanges shall be located so that:
 - a. Community traffic needs are met.
 - b. Desirable community patterns are not disrupted.
 - c. Direct conflicts with adopted local government, regional, and state master plans are avoided.
2. Other reasonable modes of transportation shall, to the extent feasible, be incorporated into the highway proposal, including bicycle, mass transit and pedestrian modes.
3. The location of the proposed highways and interchanges shall not significantly impede the delivery of essential community services and goods.
4. The location of the proposed highways and interchanges shall not unduly divide neighborhoods or isolate neighborhoods from public facilities including schools, hospitals, mass transit, pedestrian and bikeways, recreational areas and open spaces.
5. The location of the proposed highways and interchanges shall not create unreasonable safety hazards by causing or contributing to significant overuse, improper use or congestion on other roadways.
6. The proposed highways shall be integrated into the regional transportation network.

7. The applicant can demonstrate a clear and reasonable need for the highways and interchanges.
8. The proposed highways or interchanges will complement, to the extent feasible, mass transit facilities.
9. The proposed highways or interchanges will not have a significant adverse impact on prime or unique farmland.
10. The proposed highways or interchanges will not result in significant loss of fertile agricultural soil.
11. The proposed highways or interchanges shall avoid relocation of households. Where relocation of households cannot be avoided because of technical constraints, adequate housing inventory must exist to accommodate displaced households.
12. The proposed highways or interchanges shall avoid relocation of farms or businesses. Where relocation of farms or businesses cannot be avoided because of technical constraints, adequate sites must exist within the same market area to relocate farms or businesses.
13. The proposed highways and interchanges shall satisfy state and federal highway standards, including without limitation, any Federal Transportation Acts.
14. The proposed highways shall reasonably incorporate materials and design that complement features of the surrounding human and natural environment.
15. The construction of the highways and interchanges shall be phased to minimize interference with traffic movement.
16. Park and ride facilities shall be located in areas designated by the County.
17. Finance sources are adequate to ensure proper maintenance of the highways or interchanges.
18. Grants of access to and from the highway shall comply with applicable State highway access laws and regulations, intergovernmental agreements, and access control plans adopted by state or local entities that impose standards for granting access to the highway.

G. Additional Criteria Applicable Rapid or Mass Transit Facilities. In addition to the general criteria set forth in Section V, Part A, above, the following additional criteria apply to Rapid or Mass Transit Facilities:

1. Areas around rapid or mass transit facilities shall be administered to:
 - a. Promote the efficient utilization of the rapid or mass transit facility.
 - b. Facilitate traffic circulation patterns of roadways serving the mass transit facility.
 - c. Promote development that will include bike and pedestrian paths providing access to the rapid or mass transit facility.
2. Rapid or Mass transit facilities shall be located so as to preserve the value of buildings at the site and avoid demolition of businesses or residences to the extent possible. Proposed locations of rapid or mass transit terminals, stations, and fixed guideways which will not require the demolition of residences or businesses shall be given preferred consideration over competing alternatives.
3. Rapid or Mass transit facilities shall be located and such activities conducted with reasonable consideration, among other things, as to the character of the area and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the unincorporated area of Arapahoe County.
4. Stations, shelters and terminals shall be appropriately located to attract maximum ridership to the extent feasible and to meet transit needs.

5. Rapid or Mass transit facilities shall have adequate and safe ingress and egress for all transit modes and to maintenance and transit vehicle operations.
6. The location of fixed guideways shall maximize joint use of rights-of-way for trails and bikeways and other transportation alternatives.
7. Rapid or Mass transit facilities shall be designed and located in a manner that will reduce traffic congestion.
8. Guideway design and location shall not permit snow plumes from snow removal equipment on the guideway to reach the travel surface of a plowed public road except at intersections, nor shall guideways be placed or designed so that snow plumes from snow removal equipment on public roads will reach the guideway.
9. The parking areas associated with a terminal or station shall be capable of holding a number of automobiles that equals the number of passengers expected to park at the terminal or station during peak periods.
10. Access roads to a station or terminal shall be designed and located to accommodate, during a 15 minute period, the maximum number of automobiles anticipated to arrive before the scheduled departure of the mass transit conveyance without causing cars to back up onto the public road serving the facility.
11. The Manual on Traffic Control Devices shall apply to safety devices at intersections of a fixed guideway and other transportation corridors.
12. A proposed location of a rapid or mass transit facility that imposes a burden or deprivation on a local government cannot be justified on the basis of local benefit alone, nor shall a permit for such a location be denied solely because the location places a burden or deprivation on one local government.
13. Rapid or Mass transit facilities shall minimize the effects of noise and vibration on neighboring property owners, with particular emphasis on residential land uses.
14. Mass transit or rapid transit terminals, stations and fixed guideways shall be located in a coordinated manner with other transportation systems existing or planned.
15. A positive impact on bus operations must be established before location of an exclusive bus lane in a major travel corridor. The location of an exclusive bus lane must be justified by a sufficient ridership level, an effective enforcement plan and no significant increase in traffic congestion.

H. Additional Criteria Applicable to New Communities

In addition to the general criteria set forth in Section V, Part A, above, the following additional criteria apply to New Communities.

1. The health, welfare and safety of the citizens of this County will be protected and served.
2. The natural and socio-economic environment of this County will be protected and enhanced.
3. The applicant has presented and committed to a satisfactory program to mitigate and minimize adverse impacts.
4. The nature and location or expansion of the new community complies with the intent of all applicable provisions of the Comprehensive Plan of this County, and other applicable regional, metropolitan, state, and national plans.
5. The nature and location or expansion of the new community will not create an expansion of the demand for government services, beyond the reasonable capacity of the community or region to provide such services, as determined by the Board, and the new community contains adequate mitigation of such demands; in particular, the new community design

- shall, at a minimum, provide for transportation, waste disposal, schools, and other governmental services in a manner that will not overload facilities of existing communities in the impact area.
6. Priority is given to the development of a total sustainable community, which provides for commercial and industrial activity, as well as residences, and for internal transportation and circulation patterns, as well as livability and walkable communities as defined by “smart growth”.
 7. (a) The nature and location of the new community or expansion will not adversely affect the water quality or water rights of any upstream, downstream, or agricultural users, adjacent communities or other water users.
(b) Adequate water supplies are available for new community needs.
(c) The existing water quality of affected state waters will not be degraded below state and federal standards or established baseline levels.
(d) The proposed project will not have a significantly adverse net effect on the capacities or functioning of streams, lakes and reservoirs in the impact area, nor on the permeability, volume, recharge capability and depth of the aquifers in the impact area.
 8. Adequate electric, gas, telephone, water, sewage, and other utilities exist or shall be developed to service the site.
 9. The applicant has obtained, or will obtain, all property rights, permits and approvals necessary for the proposed project, including surface, mineral, and water rights and easements for drainage, disposal, utilities, access, etc. If the applicant has not obtained all necessary property rights, permits and approvals, the Board may, in its discretion, grant the permit, conditioned upon completion of the acquisition of such rights, prior to issuance of a zoning or building permit by the County.
 10. Compliance with the applicable Arapahoe County Land Development Code and all the provisions of the permit application procedure.
 11. Compatibility with existing and surrounding land uses, and existing natural environmental conditions of the site.
 12. The applicant has made provisions to preserve such natural features as water bodies, ridge lines, streambed meander limits, and steep slopes and to establish and maintain an accessible open-space network for conservation, natural beauty, and recreation, as well as to prevent environmental pollution, reduce potential natural hazards, and minimize noise problems.
 13. The proposal will not result in detrimental impacts to the existing or planned transportation system, and it has been demonstrated that adequate access has or will be constructed, including any external roadways, interchanges, and railroad crossings necessitated by the build-out of the development. Rural and urban classifications are determined by the Colorado Department of Transportation (state roads) and by the Arapahoe County Transportation Plan (all other roadways) and the land use and transportation circulation plans, and population density and distributions are planned in such a way as to promote adequate, internal accessibility.
 14. The proposed development is in compliance with the best management practices of the applicable basin authority and the corresponding basin water quality master plan.
 15. The nature and location of the development will not interfere with threatened or endangered wildlife habitats, or adversely affect any threatened wildlife species, unique natural resource or historic or archaeological landmark, within the development area unless it can be demonstrated that adequate mitigation measures will be taken.

16. The development plan utilizes current design and technology for resource conservation, including energy and water, with respect to land utilization
17. The applicant has the technical and financial capability to completely plan and develop the new community within a reasonable time, and the proposed new community is economically feasible. This is demonstrated by providing evidence of:
 - a. The technical and administrative capability of the applicant to plan and develop a new projects, and expertise and experience of personnel.
 - b. The financial capability of the applicant, including:
 - i) all anticipated costs of developing public and publicly financed services and facilities;
 - ii) the extent to which the development costs will be met by, financial resources of the developer, borrowing, and/or special districts, if any.
18. The project is in proximity to primary and secondary schools of adequate capacity, has the ability to provide for adequate educational facilities or has proposed an acceptable plan for mitigating the impact on schools with inadequate capacity.
19. Applicant has complied with all of the provisions of the permit application procedure.
20. In order to assure a long term water supply, and given the concern with dependence on bedrock ground water, and the difficulty in supplying future surface sources, the following shall apply: Be able to provide a Service Plan or Water Supply Plan using an aquifer life assumption of a 100-year supply, non-tributary groundwater classification only, assuming a 50 percent recovery factor. Water districts that are able to prove a redundant water supply and have a renewable water source agreement in place may be excluded from this requirement.
21. To efficiently utilize public and private investments in infrastructure and urban service areas, substantial build out must be demonstrated within Sub-Area Plans that are within 10 miles of the proposed development. Substantial shall be defined as 70% build out of residential, and 50% build out of industrial/commercial businesses.
22. The applicant has demonstrated that the socio-economic, or land use conditions of the County, either have changed, or are in the process of change, in such a manner to warrant approval.
23. If negative fiscal impacts to Arapahoe County or other units of government occur as a result of the project, either mitigation and monitoring of such negative fiscal impacts or particular benefits to Arapahoe County, must be demonstrated to the satisfaction of the Board of County Commissioners, to offset such impacts.

VI. FINANCIAL GUARANTEE

A. Financial Guarantee May Be Required

Before any permit is issued under these Regulations, the Board may (but shall not be required to) require the applicant to file a guarantee of financial security deemed adequate by the Board and payable to the County. The purpose of the financial guarantee is to assure the following:

1. That the Proposed Project is completed and, if applicable, that the Development Area is properly reclaimed.
2. That the applicant performs all mitigation requirements and permit conditions in connection with the construction, operation and termination of the Proposed Project.

3. That increases in public facilities and services necessitated by the construction, operation and termination of the Proposed Project are borne by the permittee.
4. That shortfalls to County revenues are offset in the event that the Proposed Project is suspended, curtailed or abandoned.

B. Amount of Financial Guarantee

In determining the amount of the financial guarantee, the County shall consider the following factors:

1. The estimated cost of completing the Proposed Project and, if applicable, of returning the Development Area to its original condition or to a condition acceptable to the County.
2. The estimated cost of performing all mitigation requirements and permit conditions in connection with the construction, operation, and termination of the Proposed Project, including:
 - a. The estimated cost of providing all public services necessitated by the proposed activity until two (2) years after the proposed activity ceases to operate; and
 - b. The estimated cost of providing all public facilities necessitated by the proposed activity until all such costs are fully paid.

C. Estimate

Estimated cost shall be based on the applicant's submitted cost estimate plus the Board's estimate of the additional cost to the County of bringing in personnel and equipment to accomplish any unperformed purpose of the financial guarantee. The Board shall consider the duration of the development or activity and compute a reasonable projection of increases due to inflation. The Board may require, as a condition of the permit, that the financial security be adjusted upon receipt of bids to perform the requirements of the permit and Regulations.

D. Form of Financial Guarantee

1. The financial guarantee may be in the form of a letter of credit or some other form acceptable to the Board.

E. Release of Guarantee

The financial guarantee shall be released when:

1. The permit has been surrendered to the Board before commencement of any physical activity on the site of the permitted Project; or
2. The Project has been abandoned and either (a) the site has been returned to its original condition or (b) to a condition acceptable to the County; or
3. The Project has been satisfactorily completed; or
4. A phase or phases of the Project have been satisfactorily completed allowing for partial release of the financial guarantee consistent with Project phasing and as determined appropriate by the Board; or
5. The applicable guaranteed conditions have been satisfied.

F. Cancellation of the Financial Guarantee

Any financial guarantee may be canceled only upon the Board's written consent.

G. Forfeiture of Financial Guarantee

1. If the Board determines that a financial guarantee should be forfeited because of any violation of the permit, mitigation requirements, conditions or any applicable Regulations adopted by the Board, it shall provide written notice to the surety and the permittee that the financial guarantee will be forfeited unless the permittee makes written demand to the Board, within thirty (30) days after permittee's receipt of notice, requesting a hearing before the Board. If no demand is made by the permittee within said period, then the Board shall order the financial guarantee forfeited.

The Board shall hold a hearing within thirty (30) days after the receipt of the demand by the permittee. At the hearing, the permittee may present for the consideration of the Board statements, documents, and other information with respect to the alleged violation. At the conclusion of the hearing, the Board shall either withdraw the notice of violation or enter an order forfeiting the financial guarantee³. If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, the County Attorney's Office shall take such steps as deemed proper to recover such costs where recovery is deemed possible.

H. Substitute of Financial Guarantee

If the license to do business in Colorado of any business issuing or holding a financial guarantee pursuant to this regulation is suspended or revoked by any State authority, then the applicant shall immediately, after receiving notice thereof, substitute a good and sufficient financial guarantee from a business licensed to do business in Colorado. Upon failure of the permittee to make substitution within the time allowed, the Board shall suspend the permit and/or take such other enforcement action until proper substitution has been made.

VII. PERMIT ADMINISTRATION AND ENFORCEMENT

A. Enforcement and Penalties

1. Any person engaging in a development in the designated Area of State Interest or conducting a designated Activity of State Interest who does not obtain a permit pursuant to these Regulations, who does not comply with permit requirements, or who acts outside the jurisdiction of the permit may be enjoined by the County from engaging in such development, and may be subject to such other criminal or civil liability as may be prescribed by law.
2. If the County determines at any time that there are material changes in the construction or operation of the Project from that approved by the County, the permit may be immediately suspended and a hearing shall be held to determine whether new conditions are necessary to ensure compliance with the Approval Criteria or if the permit should be revoked.

B. Permit Suspension or Revocation

1. The Board may temporarily suspend the permit for a period of thirty (30) days for any violation of the permit or the applicable Regulations. The permit holder shall be given written notice of the violation and will have a minimum of fifteen (15) days to correct the violation. If the violation is not corrected, the permit shall be temporarily suspended for thirty (30) days.

2. The County may revoke a permit granted pursuant to these Regulations if any of the activities conducted by the permittee violates the conditions of the permit or these Regulations, or the County determines that the project as constructed or operated has impacts not disclosed in the application. Prior to revocation, the permittee shall receive written notice and be given an opportunity for a hearing before the Board. The Board may revoke the permit or may specify a time by which action shall be taken to correct any violations for the permit to be retained.

C. Transfer of Permits

A permit may be transferred only with the written consent of the Board. Consent shall be in the sole discretion of the Board. The Board shall ensure, in approving any transfer, that the proposed transferee can and will comply with all the requirements, terms, and conditions contained in the permit and County Regulations; that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public; and that an adequate guarantee of financial security can be made.

D. Inspection

The Board, its employees and authorized agents may enter and inspect any property subject to these Regulations at reasonable hours for the purpose of determining whether the activity is in violation of the provisions of these Regulations.

APPENDIX A

This Appendix provides examples of the types of concerns that the Board of County Commissioners may take into consideration in determining whether an application for a permit has complied with the Approval Criteria contained in Section V of these Regulations.

GENERAL CONSIDERATIONS

A.1. The determination of technical and financial feasibility may include but is not limited to the following considerations:

- a. Amount of debt associated with the proposed activity.
- b. Debt retirement schedule and sources of funding to retire the debt.
- c. Estimated construction costs and construction schedule.
- d. Estimated annual operation, maintenance and monitoring costs.
- e. Market Conditions.
- f. Anticipated revenue generation

A.2. The determination of risk from natural hazards may include but is not limited to the following considerations:

- a. Faults and fissures.
- b. Unstable slopes including landslides and rock slides.
- c. Expansive or evaporative soils and risk of subsidence or upheaval.
- d. Wildfire hazard areas.
- e. Floodplains.

A.3. The determination of the effects of the proposed activity on the capability of local government to provide services or to exceed the capacity of service delivery systems may include but is not limited to the following considerations:

- a. Existing and potential financial capability of local governments to accommodate development related to the proposed activity.
- b. Current and projected capacity of roads, schools, infrastructure, housing, and other services and impact of the proposed activity upon the capacity.
- c. Changes caused by the proposed activity in the cost of providing education, transportation networks, water treatment and wastewater treatment, emergency services, or other governmental services or facilities.
- d. Changes in short or long term housing availability, location, cost or condition.
- e. Need for temporary roads to access the construction of the proposed activity.
- f. Change in demand for public transportation.
- g. Change in the amount of water available for future water supply in the County.

A.4. The determination of the effects of the proposed activity on the financial burden of existing or future residents of the County may include but is not limited to the following considerations:

- a. Changes in assessed valuation.
- b. Tax revenues and fees to local governments that will be generated by the proposed activity.
- c. Changes in tax revenues caused by agricultural lands being removed from production.
- d. Changes in costs to water users to exercise their water rights.
- e. Changes in costs of water treatment or wastewater treatment.
- f. Effects on wastewater discharge permits.
- g. Inability of water users to get water into their diversion structures.

- h. Changes in total property tax burden.
- A.5. The determination of the effects of the proposed activity on any substantial sector of the local economy may include but is not limited to the following considerations:
- a. Changes to projected revenues generated from each economic sector.
 - b. Changes in the value or productivity of any lands.
 - c. Changes in opportunities for economic diversification.
- A.6. The determination of effects of the proposed activity on recreational opportunities and experience may include but is not limited to the following considerations:
- a. Changes in quality and quantity of fishing.
 - b. Changes in access to recreational resources.
 - c. Changes to quality and quantity of hiking trails.
 - d. Changes to the rural experience or other opportunity for solitude in the natural environment.
 - e. Changes to hunting.
- A.7. The determination of effects of the proposed activity on air quality may include but is not limited to the following considerations:
- a. Changes to seasonal ambient air quality.
 - b. Changes in visibility and microclimates.
 - c. Applicable air quality standards.
- A.8. The determination of visual effects of the proposed activity may include but is not limited to the following considerations:
- a. Visual changes to ground cover and vegetation, waterfalls and streams, or other natural features.
 - b. Interference with viewsheds, ridgelines, and scenic vistas.
 - c. Changes in riparian tree canopies.
 - d. Changes in landscape character types or unique land formations.
 - e. Compatibility of building and structure design and materials with surrounding land uses.
 - f. Changes in appearances of grasslands, wooded areas, or riparian corridors.
 - g. Changes from rural to urban landforms and structures.
- A.9. The determination of effects of the proposed activity on surface water quality may include but is not limited to the following considerations:
- a. Changes to existing water quality, including patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color or taste of water.
 - b. Applicable narrative and numeric water quality standards.
 - c. Changes in point and nonpoint source pollution loads.
 - d. Increase in erosion.
 - e. Changes in sediment loading to waterbodies.
 - f. Changes in stream channel or shoreline stability.
 - g. Changes in streambed meander limits.
 - h. Changes in stormwater runoff flows.
 - i. Changes in trophic status or in eutrophication rates in lakes and reservoirs.
 - j. Changes in the capacity or functioning of streams, lakes or reservoirs.
 - k. Changes in flushing flows.
 - l. Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.
 - m. Increases in impervious surface areas.

- n. Changes in historic runoff patterns and velocity.
 - o. Use of de-icers, solvents, and salts.
 - p. Use of the Proposed Project to transport hazardous materials.
- A.10. The determination of effects of the proposed activity on groundwater quality may include but is not limited to the following considerations:
- a. Changes in aquifer recharge area extent, recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
 - b. Changes in capacity and function of wells within the impact area.
 - c. Changes in quality of well water within the impact area.
 - d. Draw-down of reservoir pressure or changes in recovery rate and reserves of nonrenewable water for water users.
- A.11. The determination of effects of the proposed activity on wetlands and riparian areas may include but is not limited to the following considerations:
- a. Changes in the structure and function of wetlands.
 - b. Changes to the filtering and pollutant uptake capacities of wetlands and riparian areas.
 - c. Changes to aerial extent of wetlands.
 - d. Changes in species' characteristics and diversity.
 - e. Transition from wetland to upland species.
 - f. Changes in function and aerial extent of floodplains.
 - g. Interference with flood control capacity.
- A.12. The determination of effects of the proposed activity on terrestrial or aquatic life may include but is not limited to the following considerations:
- a. Changes that result in loss of oxygen for aquatic life.
 - b. Changes in flushing flows.
 - c. Changes in species composition or density.
 - d. Changes in number of threatened or endangered species.
 - e. Changes to habitat and critical habitat, including calving grounds, mating grounds, nesting grounds, summer or winter range, migration routes, or any other habitat features necessary for the protection and propagation of any terrestrial animals.
 - f. Changes to habitat and critical habitat, including streambed and banks, spawning grounds, riffle and side pool areas, flushing flows, nutrient accumulation and cycling, water temperature, depth and circulation, stratification and any other conditions necessary for the protection and propagation of aquatic species.
 - g. Changes to the aquatic and terrestrial food webs.
- A.13. The determination of effects of the proposed activity on terrestrial plant life or habitat may include but is not limited to the following considerations:
- a. Changes to habitat of threatened or endangered plant species.
 - b. Changes to the structure and function of vegetation, including species composition, diversity, biomass, and productivity.
 - c. Changes in advancement or succession of desirable and less desirable species, including noxious weeds.
 - d. Changes in threatened or endangered species.
- A.14. The determination of effects of the proposed activity on soils and geologic conditions may include but is not limited to the following considerations:

- a. Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and floodplains.
 - b. Changes to stream sedimentation, geomorphology, and channel stability.
 - c. Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs.
 - d. Changes to mudflows and debris fans, and other unstable and potentially unstable slopes.
 - e. Exacerbation of seismic concerns and subsidence.
- A.15. The determination of the risks of a release of hazardous materials from the proposed activity may include but is not limited to the following considerations:
- a. Plans for compliance with federal and State handling, storage, disposal and transportation requirements.
 - b. Use of waste minimization techniques.
 - c. Adequacy of spill prevention and response plans.
 - d. Nature and extent of materials associated with the construction and operation of the Proposed Project.
- A.16. The determination of effects of the proposed activity on agricultural activities may include but is not limited to the following considerations:
- a. Changes in quality and quantity of farming.
 - b. Changes in access to agricultural activities.
 - c. Changes to quality and quantity of ranching.
 - d. Changes to the quality and quantity of water for agricultural uses.
- A.17. The determination of the effects of the proposed activity on land use(s), which may include but is not limited to the following considerations:
- a. Land use policies reflected in land use plans.
 - b. Likelihood that the Proposed Project will/will not cause or contribute to urban sprawl or “leapfrog” development.
 - c. Significant changes in the amount of impervious surfaces.
 - d. Contiguity of development associated with the Proposed Project to existing growth centers.