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**Adopted by the
Board of Park County
Commissioners**

DECEMBER 18, 1997

RESOLUTION NO. 97- 104

A RESOLUTION AMENDING PARK COUNTY REGULATIONS FOR
SPECIAL DEVELOPMENT PROJECTS DESIGNATED AS
MATTERS OF STATE INTEREST

WHEREAS, pursuant to the Resolution 97-3, the Board of County Commissioners of Park County, State of Colorado has designated municipal and industrial water projects, site selection and construction of major new domestic water and sewage treatment systems and major extensions of existing domestic water and sewage treatment systems as activities of State Interest pursuant to Article 65.1, Title 24 of the Colorado Revised Statutes, 1973 as amended;

AND WHEREAS, the Board of County of Commissioners adopted Guidelines and Regulations that apply to activities of State Interest;

AND WHEREAS, the Board is interested in reaffirming the designations;

AND WHEREAS, the Board wishes to ensure that the Guidelines and Regulations contain easily-understood application submittal requirements and clearly articulated permit approval standards;

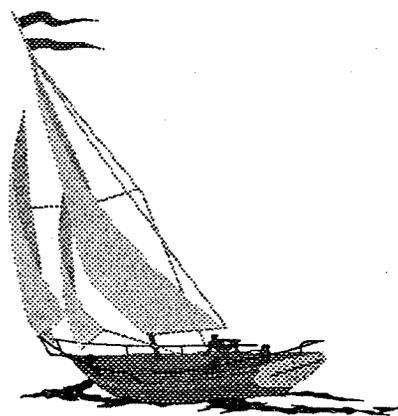
DOTH FIND AS FOLLOWS:

1. The present and foreseeable intensity of growth and development of Park County necessitate the adoption and amendment of the Guidelines and Regulations.
2. The site selection and construction of major new domestic water and sewage treatment systems and the development of municipal and industrial water projects, if uncontrolled, could result in duplicative service delivery systems, undue costs to county residents, and unacceptable impacts to the environment.
3. Development of such activities in a coordinated manner is necessary to protect the public health, safety, welfare and environment of Park County.

NOW, THEREFORE, BE IT RESOLVED:

"Guidelines and Regulations for Areas and Activities of State Interest of the County of Park" also know as PARK COUNTY REGULATIONS FOR SPECIAL DEVELOPMENT PROJECTS DESIGNATED AS MATTERS OF STATE INTEREST are hereby amended as set forth in Exhibit 1 attached hereto.

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**PARK COUNTY REGULATIONS
FOR
SPECIAL DEVELOPMENT PROJECTS
DESIGNATED AS MATTERS OF
STATE INTEREST**

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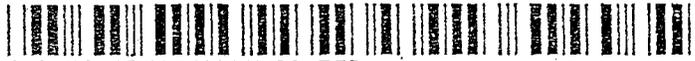
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**PARK COUNTY REGULATIONS
FOR SPECIAL DEVELOPMENT PROJECTS
DESIGNATED AS MATTERS OF STATE INTEREST**

CHAPTER 1

GENERAL PROVISIONS AND PROCESS FOR DESIGNATION

ARTICLE 1

INTRODUCTORY AND GENERAL PROVISIONS

1-101. Title and Citation.

These various chapters and articles that are organized into a comprehensive set of regulations are entitled and may be cited as the "Park County Regulations for Special Development Projects Designated as Matters of State Interest."

1-102. Purpose and Intent.

The general purpose of these regulations is to facilitate identification, designation, and administration of Special Development Projects of State Interest consistent with the statutory requirements and criteria set forth in § 24-65.1-101, et seq., C.R.S., 1973, and Guidelines for Identification and Designation of areas and activities of State Interest approved by the Colorado Land Use Commission.

The specific purposes and intent of these regulations are as follows:

- (1) To promote the health, safety, and general welfare of the citizens of Park County and to protect the environment;
- (2) To encourage and strengthen the established industries of agriculture, mining, tourism, recreation and education;
- (3) To plan for adequate transportation, water, wastewater treatment, electricity, telephone, schools, parks and other similar services and facilities, and to provide for the phased development of such services and facilities;
- (4) To protect the beauty of the landscape and the rural character of the County, to enhance recreational opportunities for residents and visitors, to preserve important archeological and historic sites and significant wildlife



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habitat, to protect air and water quality, and to conserve soil, water and forestry resources;

(5) To protect and enhance the economic strength of the private and governmental sectors of the County;

(6) To regulate projects that would otherwise cause excessive noise, water, and/or air pollution, or which would otherwise degrade or threaten the existing environmental quality within the County;

(7) To ensure, to the maximum extent practicable; that growth will pay for itself, and to ensure that the present residents do not have to subsidize new growth and development through increased taxes and/or degradation of their existing quality of life;

(8) To plan for and regulate the site selection construction, development, and operation of Special Development Projects and to provide for the planned and orderly use of land and the protection of the environment; and

(9) To ensure that Special Development Projects are sited, constructed, developed, and operated in a manner that is consistent with the land use policies set forth in the Park County Comprehensive Plan and Zoning resolution.

1-103. Findings.

The Board finds that:

(1) All applicable notice and public hearing requirements have been followed;

(2) These regulations are necessary because of the intensity of current and foreseeable development pressures on and within the County;

(3) These regulations are necessary to fulfill the purposes and intentions specified in section 1-102 above;

(4) These regulations apply to the entire unincorporated territory of the County;

(5) These regulations are necessary for the health, welfare and safety of the people of the County and the State of Colorado, and for the protection of the environment of the County and the State of Colorado;



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1-104. Authority.

These regulations are authorized by, inter alia, §§ 24-32-111, 24-65.1-101, et seq., 30-28-101, et seq., 30-28-201, et seq., 29-20-101, et seq., 30-30-101, et seq., and 30-11-101, et seq., C.R.S., 1973.

1-105. Scope, Application and Designation.

These guidelines and regulations shall apply to municipal and industrial water projects, site selection and construction of major new domestic water and sewage treatment systems and major extensions of existing domestic water and sewage treatment systems ("Special Development Projects") which are hereby designated matters of state interest.

1-106. Exemptions.

The portions of these regulations authorized exclusively under §24-65.1-101, et seq., C.R.S. 1973, shall not apply to any development in an area of state interest or any activity of state interest if, on the effective date of their adoption:

- (1) The specific development or activity was covered by a current building permit issued by the County;
- (2) 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;
- (3) The specific development or activity is on land which had been finally approved, with or without conditions, for planned unit development and the planned unit development or other use specifically contemplated said specific development or activity;
- (4) The specific development or activity is on land which was either zoned or rezoned in response to an application which specifically contemplated said specific development or activity; or
- (5) The specific development or activity is on land for which a final plat for a subdivision had been approved, with or without conditions, pursuant to the provisions of §§30-28-101, 110, 133, 136, and 137, C.R.S. 1973, and said subdivision approval specifically contemplated the specific development or activity.

1-107. Interpretation with Other Enactments and Plans.

(1) Whenever the Board finds that the provisions of these regulations are inconsistent with any other resolution, ordinance, code, regulation, other enactment or master plan of the County, the enactment imposing the more restrictive standards or requirements shall control.

(2) If the Board finds that any portion of these regulations authorized exclusively under § 24-65.1-101 et seq., C.R.S., is less stringent than the statutory criteria for administration of matters of state interest set forth in §§24-65.1-202, -204, C.R.S. 1973, the statutory criteria shall control.

(3) If the Board finds that any portion of these regulations authorized exclusively under § 24-65.1-101 et seq., C.R.S. is more stringent than the statutory criteria for administration of matters of state interest set forth in §§ 24-65.1-202, -204 C.R.S., then such portion of these regulations shall apply pursuant to § 24-65.1-402(3), C.R.S.

(4) Nothing in these regulations exempts an applicant from any other County requirements or other local, state or federal, requirements.

1-108. Relationship of Regulations to Other State and Federal Requirements.

(1) Nothing in these regulations shall be construed as exempting an applicant from any other requirements of this County or other state or federal laws and regulations.

1-109. Duties of the Administrator.

Unless otherwise specifically provided, it shall be the duty of the Administrator to perform all functions set forth in these regulations.

1-110. Severability.

If any section, clause, provision, or portion of these regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of this regulation shall not be affected thereby and is hereby declared to be necessary for the public health, safety, and welfare. Nor will such a finding affect the validity of any permit previously issued, financial security previously accepted, or action previously taken by the County, except as specifically adjudicated by the Court.



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1-111. Definitions.

The words and terms used in these guidelines and regulations for administration of areas and activities of state interest shall have the meanings set forth below unless the context requires otherwise:

ADMINISTRATOR. The County Administrator.

ADVERSE. Unfavorable, harmful.

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 wells used for disposal of wastewater or toxic pollutants.

BOARD. The Board of County Commissioners of Park County.

COLLECTOR SYSTEM. A network of pipes and conduits through which sewage flows to a sewage treatment plant.

COMMISSION. The Planning Commission of Park County.

COST. The total monetary amount to be paid, 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. Park County.

DESIGNATION. That legal procedure specified by §§ 24-65.1-401, -402, -406, C.R.S., for designating matters of state interest. It also includes the revocation and amendment of such designations. The process of designation is carried out by the Board.

DEVELOPMENT. Any construction, activity and/or ongoing operation which 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 proposed project.

DISTRIBUTION SYSTEM. Network of pipes and conduits through which



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water is piped to the public for human consumption or a network of pipes and conduits through which water is piped to the public in exchange or trade for water for human consumption.

DOMESTIC WATER AND WASTEWATER TREATMENT SYSTEM. A wastewater treatment plant, water treatment plant, or water supply system.

(a) "Wastewater treatment plant" means the 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 industrial or domestic 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.

(b) "Water supply system" means the 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 exchanged 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.

(c) "Water treatment plant" means the facilities within the water supply system which regulate the physical, chemical, or bacteriological quality of the water.

EFFICIENT USE OF WATER. The employment of methods, procedures, techniques, and controls to encourage use of water in the County 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.

IMPACT. Any alteration or change resulting from a special development project whether beneficial or harmful.

IMPACT AREA. Those geographic areas, including the development area, in which any impacts are likely to be caused by the proposed project. Provided that, areas within another political subdivision will be included only if such political subdivision has entered into an agreement with the County under which it will cooperate in regulating development that may impact both jurisdictions.

INCLUDE. Including without limitation.

INDUSTRIAL USES. Manufacturing, mineral extraction or processing, commercial agricultural operations, commercial recreational services and facilities and similar activities in which water use is an integral component.

LAYMAN'S DESCRIPTION. A general, nonlegal description and the popular name, if any, of the tract of land upon which the activity or development is to be conducted. The term "general description" means "layman's description."

LUR. The Park County Land Use Regulations.

MAJOR EXTENSION OF AN EXISTING DOMESTIC WATER TREATMENT SYSTEM. The expansion of existing domestic water treatment plants, or any extension of existing water supply systems to service an additional population equivalent of five (5) single family dwelling units or the equivalent thereof.

MAJOR EXTENSION OF AN EXISTING SEWAGE SYSTEM. Any modification of an existing sewage treatment plant to increase hydraulic capacity or upgrade treatment capability or any extension of existing main collector sewer lines or any increase in capacity of existing main sewer lines or any extension to service a population of five (5) or more single family residential dwelling units or the equivalent thereof.

MATTER OF STATE INTEREST. An area of or an activity of state interest or both as listed in §§ 24-65.1-201(1), -203(1), C.R.S.

MITIGATION means:

- (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; and

(e) compensating for the impact by replacing or providing suitable biological and physical conditions; and by replacing or providing suitable services and facilities.

MUNICIPAL OR INDUSTRIAL WATER PROJECT. Systems and all related components thereof that provide or may provide in the future, water supply, either directly or by exchange, for municipal or industrial uses.

NET EFFECT. The impact of an action after mitigation.

PERMIT AUTHORITY. The Board of County Commissioners, or its designee.

PERSON. Any individual, entity, partnership, corporation, association, company, municipality, or other public or corporate body, including the federal government, or any political subdivision, agency, instrumentality, or corporation of the State or the United States.

PROPOSED PROJECT. The construction and operation of a proposed special development project 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.

PUBLIC SERVICES AND FACILITIES. Those services and facilities provided by a political subdivision of the State or by a federal agency.

RECEIPT OF APPLICATION. The time at which an application is accepted as complete by the Permit Authority.

RECYCLING. The treatment of wastewater in a manner that will restore its quality to the water supply standard established by the Colorado Department of Health where permissible by Colorado water law.

SERVICE AREA. The primary geographic area to be served by the proposed project.

SIGNIFICANTLY DEGRADE. To lower in grade or desirability.

SIGNIFICANTLY DETERIORATE. To make inferior in quality or value.

SPECIAL DEVELOPMENT PROJECT. A proposed development, including all of its components and associated elements:

(1) that involves either:

- (a) a municipal or industrial water project,
- (b) a major new domestic water or wastewater treatment system,
- (c) a major extension of an existing domestic water or wastewater treatment system, or
- (d) any matter of state interest as hereafter designated by the Board pursuant to these Regulations.

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 determining whether the project constitutes a special development project and whether it satisfies these regulations.

SOURCE AREA. A geographic area or region where moisture falls and drains through natural processes to either streams or lakes or permeates to the groundwater table, analogous to catchment basin or watershed.

SOURCE DEVELOPMENT AREA. That geographic area or region wholly or partially within the unincorporated territory of this County which will be developed or altered in connection with the development of a municipal or industrial water project as these terms are defined herein.

CHAPTER 1

GENERAL PROVISIONS and PROCESS FOR DESIGNATION

ARTICLE 2

DESIGNATION OF MATTERS OF STATE INTEREST

1-201. Scope.

This Article 2 sets forth the process for designating matters of state interest,

1-202. Board of County Commissioners of County to Make Designations.

Designations and amendments or revocations of designations may be initiated in three ways:

- (1) The Board may in its discretion designate and adopt regulations for the administration of any matter of state interest.
- (2) If the Colorado Land Use Commission submits a formal request to the Board with regard to a specific matter which the Colorado Land Use Commission considers to be of state interest within the County, the Board shall publish notice and conduct a hearing pursuant to §24-65.1-407(l)(a), C.R.S. 1973.
- (3) The electorate within the County may propose a designation by submitting a petition to the Board signed by the number of qualified electors equal to at least fifty percent (50%) of the total number of votes cast for all candidates for governor in the last general election in the County, provided that the Board has not denied a substantially similar petition within the preceding twenty-four (24) months, and the petition does not seek amendment or repeal of a designation that was adopted within the preceding twenty-four (24) months.

1-203. Moratorium.

After the Board has received a formal request to take action with regard to a specific matter which the Colorado Land Use Commission considers to be of state

interest within the Board's jurisdiction, no person shall engage in development in the area or conduct the activity specifically described in said request until the Board has held its hearing and issued its order relating thereto.

1-204. Public Hearing Required.

(1) The Board shall hold a public hearing before designating any matter of state interest and adopting regulations for the administration thereof. Said hearing shall be held not less than thirty (30) days nor more than sixty (60) days after the giving of public notice of said hearing.

(2) In the event that the Colorado Land Use Commission submits a formal request to take action, such public hearing for designation shall be held within ninety (90) days after receipt of the formal request.

1-205. Notice of Public Hearing, Mailing List, Publication.

(1) The Permit Authority shall prepare a notice of the designation hearing which shall include:

(a) The time and place of the hearing,

(b) The place at which materials relating to the matter to be designated and any guidelines and regulations for the administration thereof may be examined,

(c) The telephone number where inquiries may be answered.

(d) A description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to property which would be included or the activity that would be subject to the designation. The notice should include, when practicable, both the legal description of the property as well as any general or popular names of the property.

(2) The Permit Authority may maintain a mailing list of the names of those persons requesting that their names and addresses be placed on the list and paying an annual fee, the amount of which shall be determined from time to time by the Permit Authority. In order to have his name and address retained on said mailing list the person shall resubmit his name and address and pay such fee before January 31 of each year.

(3) At least thirty (30) days, but no more than sixty (60) days before the

public hearing, the Administrator shall publish the notice in a newspaper of general circulation in the County, and shall mail the notice by first class mail to each of the following:

- (a) The Colorado Land Use Commission and other State and Federal agencies, as deemed appropriate in the discretion of the Administrator.
- b) Persons on the mailing list.
- (c) In the discretion of the Administrator, members of the news media and any other person considered to be likely to be affected by the proposed designation.
- (d) If any other local governmental jurisdiction would be directly or indirectly affected, the proposed designation similarly may be mailed to such government and to the Regional Planning Commission and/or Council of Governments.

1-206. Matters to be Considered at Designation Hearings.

(1) At the public hearing described above, the Board shall consider such evidence as may appear appropriate including, as a minimum:

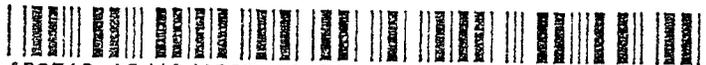
- (a) The intensity of current and foreseeable development pressures;
- (b) The matters and considerations set forth in any applicable guidelines for identification and designation;
- (c) The boundaries of the proposed area;
- (d) Reasons why the particular area or activity is of State interest; the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner; and
- (e) Any master or comprehensive plan pertaining to or affected by the matter under consideration.

(2) The Board shall hear testimony and receive evidence, including:

- (a) The recommendations of the County Planning Commission.
- (b) Relevant testimony and documents presented.
- (3) The Board may impose reasonable time limitations on testimony.
- (4) The Colorado Rules of Civil Procedure will not govern the conduct of the hearing.
- (5) The Board may continue the hearing for a period not to exceed sixty (60) days. If the hearing is continued, no further notice of the hearing need be given under Section 1-204 above.
- (6) No additional public input, either oral or written, shall be accepted for the record by the Board or commission after the hearing is closed, unless specifically permitted by the Board.

1-207. Record of Designation Proceeding.

- (1) The Administrator will collect and preserve the following record of the public hearing, as a minimum:
 - (a) Notice of the hearing;
 - (b) Certificate of publication of the notice;
 - (c) Names and addresses of persons who presented written or oral statements;
 - (d) Evidence of the identification of the matter of State interest proposed to be designated;
 - (e) Written findings concerning each of the matters referred to in 1-206, above.
- (2) Any person may, at his own expense, provide for the recording of the hearing and transcription thereof, provided, however, that a copy of the recording or transcript thereof, if transcribed, shall be furnished free of charge to the Administrator and shall become part of the records.



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1-208. Adoption of Designation and Regulations.

- (1) At the conclusion of such hearing, or within thirty (30) days thereafter, the Board may adopt, adopt with modification, or reject the proposed designation that was the subject of public hearing; if designation and regulation under §24-65.1-101, et seq, C.R.S. 1973, is rejected, the Board may require regulation of the matter under any other available land use control authority or it may reject the regulation of the matter entirely,
- (2) Such action shall be taken by resolution.
- (3) In the event that the Board finally determines that any matter is a matter of state interest, it shall be the Board's duty to designate such matter and adopt regulations for the administration thereof.
- (4) Each designation order adopted by the Board shall, at a minimum:
 - (a) Specify the boundaries of the designated area of state interest or the boundary of the area in which an activity of state interest has been designated.
 - (b) State reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.
 - (c) Specify the regulations applicable to the designated matter of state interest.

1-209. Submission of Material to Land Use Commission.

Upon adoption of a designation order, all relevant materials including the record of any public hearing relating to the designation and regulation, as described in 1-206, above, shall be forwarded by the Board to the Colorado Land Use Commission for review. If within thirty (30) days after receipt of a designation order and regulation the Land Use Commission has notified the Board that modification of the designation or regulations is required, the Board shall, within thirty (30) days after receipt of the recommended modification:

- (1) Modify the original order in a manner consistent with the recommendations of the Colorado Land Use Commission and resubmit the order to the Colorado Land Use Commission; or

(2) Notify the Colorado Land Use Commission that the Colorado Land Use Commission's recommendations are rejected and the reasons therefor.

1-210. Recording of Notice of Designation.

A notice of the designation shall be certified by the Board to the County Clerk and Recorder for filing in the same manner as any document affecting real property.

1-211. Effect of Designation Moratorium Until Final Determination.

After a matter of State interest is designated pursuant to Section 2-208, no person shall engage in development in such area and no such activity shall be conducted until the designation and regulations for such area or activity are finally determined as required by §24-65.1-404(4), C.R.S.

CHAPTER 2

PERMIT PROCESS

ARTICLE 1

PERMIT AUTHORITY

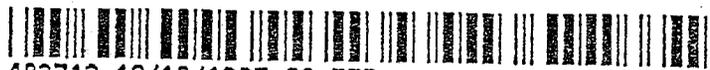
2-101. Permit Authority Established.

(1) The Park County Permit Authority is hereby established, the members of which shall be the Board of County Commissioners.

(2) The Permit Authority shall exercise all powers and duties granted it by these Regulations.

2-102. Judicial Review.

Any action seeking judicial review of a final decision of the Permit Authority shall initiated within thirty (30) days after the decision is made, in the District Court in and for the County, pursuant to Rule 106 of the Colorado Rules of Civil Procedure.



CHAPTER 2

PERMIT PROCESS

ARTICLE 2

APPLICATION AND REVIEW PROCESS

2-201. Scope.

The permitting process set forth in this Article 2 will apply to all Special Development Projects. Developers are encouraged to consult informally with the Administrator regarding the proposed project and the requirements under these regulations.

2-202. Permit Required for Special Development Projects.

(1) No person may engage in a development in a designated area of State interest or conduct a designated activity of State interest without first obtaining a permit from the Permit Authority.

(2) No building permit for a special development project shall be issued within the unincorporated areas of the County without the applicant's first having obtained a permit pursuant to these regulations.

2-203. Application Fee.

(1) The application shall be accompanied by an application fee in the amount(s) set forth in the regulation(s) for the matter(s) of State interest involved in the application or in such lesser amount as may be determined by the Permit Authority.

(2) The application fee will be set by the Board and shall reflect the cost of reviewing and processing the application package, including to costs of copying, mailings, publications, labor, and overhead, all hearings and meetings on the application package, and the retention of such consultants, experts, and attorneys as the County deems advisable.

(3) The application package must be accompanied by an initial payment of twenty-five thousand dollars (\$25,000.00) toward the application fee. The Administrator, in consultation with the Board, will establish and administer a schedule for the payment of subsequent installments of the



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application fee, which installments will be structured so that, throughout the application process, the County retains a balance of at least ten thousand dollars (\$10,000.00) for covering future processing costs and expenses, If the balance falls below ten thousand dollars (\$10,000.00), the County may cease processing the application package pending receipt of additional installments bringing the balance to at least ten thousand dollars (\$10,000.00).

(4) The County will deposit that portion of the application fee which is not necessary to cover current costs and expenses in an interest-bearing account. The County will obligate, encumber or use such funds, from time to time, at its discretion, when necessary to cover the cost of processing the application, Interest earned on the account will belong to the applicant and will be applied by the County toward subsequent installments of the application fee.

(5) The County will maintain accurate records of the manner in which the application fee is used and will make such records available for inspection by the applicant and the public at reasonable times as determined by the County,

(6) Any portion of the application fee submitted by the proponent, or any interest earned on such fee pursuant to paragraph (3) of this section, which is not necessary to cover the cost of processing the application package will be reimbursed to the applicant.

(7) The Board will take no action on the application package until all fees and expenses related to the application review process have been paid.

2-204. Notice of Permit Hearing.

Not later than thirty (30) days after receipt of a complete application for a permit, the Permit Authority shall set and publish notice of a date, time, and place for a hearing on said application. Such notice shall be published once in a newspaper of general circulation in the County, not less than thirty (30) nor more than sixty (60) days before the date set for hearing and shall also be given to other persons and entities in the same manner as set forth above for the notice of a designation hearing in Section 1-205.

2-205. Application Procedure.

Prior to submittal of a complete application:

- (1) The applicant shall meet with the Administrator for the purpose of providing information on the nature and scope of the proposed project. The Administrator will provide the applicant with an overview of the applicable provisions of these regulations.
- (2) Following the pre-application conference, the applicant will submit the application package to the Administrator.
- (3) An application shall not be accepted unless it is complete. If the Administrator determines that the application is incomplete, the Administrator shall specify the additional information that is required. When an application is deemed complete, the Administrator shall note upon the application the date and hour of receipt.
- (4) Once the Administrator has determined that the application is complete, the applicant shall submit twelve (12) copies to the Administrator.

2-206. Application Submittal Requirements.

These submittal requirements shall apply to applications for all Special Development Projects. Additional materials may be required for each type of Special Development Project.

The application package shall include the following information:

- (1) The applicant:
 - (a) The names, addresses, organizational form, and business, of the applicant and, if different, the owner of the proposed project.
 - (b) The names, addresses, and qualifications, including those areas of expertise and experience with projects directly related or similar to that proposed in this application package, of individuals who are or will be responsible for constructing and operating the development.
 - (c) Authorization of the application package by the project owner, if different than the applicant.
- (2) The proposed project:
 - (a) Detailed plans and specifications of the proposed project and alternatives.

- (b) Schedules for designing, permitting, constructing and operating the project, including the estimated life of the project.
 - (c) A list of all other federal, state, and local permits and approvals that will be required for the proposed project, together with any proposal for coordinating these approvals with the County permitting process.
 - (d) Copies of all official federal and state consultation correspondence prepared for the project, a list of all mitigation required by federal, state, and local authorities, and copies of any draft or final environmental assessments or impact statements required for the proposed project.
 - (e) A description of the water to be used by the proposed 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 changes in points of diversion, and the existing uses of the water. If an augmentation plan for the proposed project has been decreed or an application for such plan filed with the court, the applicant must submit a copy of that plan for filing.
 - (f) A description of all hazardous, toxic, and explosive substances to be used, stored, transported, disturbed or produced in connection with the proposed 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.
- (3) The need for the proposed project in the County, particularly in relation to existing and/or permitted facilities which perform a function similar or identical to that of the proposed project.
- (4) A description of the technical and financial feasibility of the proposed project, including:
- (a) The estimated construction costs and period of construction for each development component and the total mitigation costs for the proposed project and alternatives.
 - (b) Revenues and operating expenses for the proposed project and alternatives.

- (c) The amount of and security for 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 proposed project.
- (e) A description of the persons or entity(ies) who will pay for or use the projects and/or services produced by the development and those who will benefit from any and all revenues generated by it.
- (f) Documentation of financial and technical capabilities of the person(s) and/or entity(ies) proposing the project, to demonstrate that the project will be completed in a reasonable length of time and will comply with County requirements.

(5) Description of Affected Environment and Impacts of the Project.

Descriptions in this section shall be limited to the impact area and shall include an analysis of the existing structure and function of each significant element and system in the impact category being described, shall identify and explain the assumptions and methodologies employed in preparing the analysis, and shall be supported by data. Submittal of such information, or portions thereof, may be waived by written resolution of the Board only if the Board finds that the cost of obtaining it is prohibitive, the means to obtain it are not known, or it would not be helpful in reaching a reasoned decision on the application.

(a) Surface Water:

- (1) A map and description of all surface waters to be affected by the proposed project, including:
 - (a) Daily streamflows and lake and reservoir levels for a typical year, one-in-ten wet year, and one-in-ten dry year.
 - (b) Monthly streamflows, lake and reservoir levels for a historical period of record of at least 20 consecutive years, the final year being within the five years immediately prior to the date of the project application.
 - (c) Physical stream, lake and reservoir features, including dimensions, capacities, and functions.

- (d) The present uses and use classifications and designations of surface waters.
 - (e) Existing chemical and biological quality for all applicable water quality parameters as defined in the Colorado Water Quality Control Commission Basic Standards and Methodologies for each stream, lake or reservoir.
 - (f) All instream flow requirements that apply to the surface waters, including all instream flow filings by the Colorado Water Conservation Board and all minimum bypass requirements of the U.S. Forest Service or other state or federal agency.
- (2) Descriptions of the immediate and long-term impact and net effects that the proposed project would have on the quantity and quality of surface water under both average and worst case conditions. The impacts and effects of the proposed project should include, at a minimum, a description of the following:
- (a) Changes in patterns of water circulation, depth, water fluctuation, velocity, flow and temperature.
 - (b) Changes to the substrate.
 - (c) Increases in or changes to extent and persistence of levels of suspended particulates.
 - (d) Changes in clarity, odor, color or taste of water.
 - (e) Changes in levels of man-made or naturally occurring pollutants.
- (b) Ground Water.
- (1) A map and description of all aquifers to be affected by the proposed project, including:
 - (a) The surface and subsurface extent of the aquifers and well log (geological and geophysical) or other data used to determine the physical extent of the aquifers.

- (b) Seasonal water levels in each subdivision of the aquifer affected by proposed project.
 - (c) Artesian pressure in aquifers.
 - (d) Groundwater flow directions.
 - (e) Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.
 - (f) 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.
 - (g) 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.
- (2) Description of the impacts and net effect the proposed project would have on groundwater.
- (c) Floodplains, Wetlands, and Riparian Areas:
- (1) A map and description of all floodplains, wetlands, and riparian areas to be affected by the proposed project, and identification of the present structural and functional values of each floodplain and wetland including species composition, diversity, biomass, productivity, filtering and nutrient uptake capacities.
 - (2) Description of the source of water interacting with the surface system to create each wetland (i.e. side-slope run-off, over-bank flooding, groundwater seepage, etc.).
 - (3) Descriptions of the impacts and net effect that the proposed project would have on the floodplains, wetlands and riparian areas.

(d) Air Quality:

- (1) A map and description of the air quality classification of the airsheds to be affected by the proposed project.
- (2) A description of the airsheds to be affected by the proposed project, including the seasonal pattern of air circulation and microclimates.
- (3) A map and description of the ambient air quality of the airsheds to be affected by the proposed project, including particulate matter and aerosols, oxides, hydrocarbons, oxidants and other chemicals, temperature effects and atmospheric interactions.
- (4) Descriptions of the impacts and net effect that the proposed project would have on ambient air quality, visibility and microclimates during both construction and operation, and under both average and worst case conditions.

(e) Terrestrial and Aquatic Vegetation:

- (1) An ecological land classification as used by the U.S. Forest Service, or an equivalent system.
- (2) A map of terrestrial and aquatic vegetation including a description of the type and density of vegetation including: 1) deciduous trees, 2) coniferous trees, 3) shrubs, 4) sage grassland, and 5) agricultural crops.
- (3) Descriptions of the impacts and net effect that the proposed project would have on terrestrial and aquatic vegetation.

(f) Terrestrial and Aquatic Animals and Animal Habitat:

- (1) A map and description of terrestrial and aquatic animals and habitat to be affected by the proposed project, including the status and relative importance of game and non-game wildlife, livestock and other animals. The map and description should delineate the development area.
- (2) Descriptions of the aquatic and terrestrial food webs to

be affected by the proposed project.

(3) A map and description of critical wildlife habitat and livestock range to be affected by the proposed project, both terrestrial and aquatic (including migration routes, calving areas, summer and winter range, and spawning beds).

(4) A description of streamflows and lake levels needed to protect the aquatic environment.

(5) A map and description of any gold medal and wild trout waters, or other waters receiving special designation by the Colorado Division of Wildlife and/or the U.S. Fish and Wildlife Service.

(6) A description of any other fisheries to be affected by the proposed project.

(7) Descriptions of the impacts and net effect that the proposed project would have on terrestrial and aquatic animals and habitat.

(g) Threatened or Endangered Species:

(1) A map and description of any threatened or endangered plant or animal species and any species that are unique in their Colorado distribution, including a description of their structural and functional values, which will be affected by the proposed project.

(2) Descriptions of the immediate and long-term impacts and net effects that the proposed project would have on any species that are unique in their Colorado distribution and on threatened and endangered species.

(h) Visual Quality:

(1) A description of the current visual qualities of the development area.

(2) A map of all travel routes, public areas, recreational trails and residential, resort or other recreational facilities and areas that would have a view of the proposed project.



(3) Descriptions of the impacts and net effect that the proposed project would have on visual quality.

(i) Noise, Vibration and Odors:

(1) A map and description of the current levels of noise, vibration and odors which will be affected by the proposed project.

(2) Descriptions of the impacts and net effect that the proposed project would have on noise, vibration, and odor levels.

(j) Soils and Geology:

(1) A map and description of the soil and geologic conditions to be affected by or that will affect the proposed project, including topography, soil morphology, soil productivity, natural drainage, avalanche areas, rockslide areas, landslide/earthflow area, mud flows and debris fans, unstable and potentially unstable slopes, special seismic considerations, areas of high radioactivity, subsidence areas, expansive soils and rock, soil erosion potential, stream sedimentation and geomorphology, lake/reservoir sedimentation, safety of existing reservoirs, and the stability of stream channels and lake and reservoir banks.

(2) Descriptions of the impact and net effect of the proposed project on soil and geologic conditions in the development area.

(3) Descriptions of the impact and net effect of the soil and geologic conditions in the development area on the proposed project, including the impact and net effect of earthquakes, floods, fires, snow slides, avalanches, rockslides, landslides, subsidence and expansive soils and rocks.

(k) Socioeconomic Impacts:

A comprehensive socioeconomic impact analysis including the following areas. Include an identification and explanation of assumptions and methodologies employed in the preparation of such analysis.

(1) Recreation and tourism:

(a) A map and descriptions of present and potential recreational uses, with and without the proposed project, and waters to be affected by the proposed project, including existing and projected direct and indirect costs incurred and economic benefits derived, or to be derived from such uses.

(b) A description of streamflows and lake levels needed for minimum and optimum recreational use.

(c) A description of visitor population in the impact area allocated by season and recreational user days.

(d) Descriptions of the impact and net effect of the proposed project on present and potential recreational uses and on County, municipal, and special district revenues derived from recreational uses.

(2) Agriculture and Grazing:

(a) A map and descriptions of the present and potential agricultural operations and grazing uses on both public and private lands, together with a description of the existing and potential direct and indirect economic benefits derived from such operations and uses.

(b) Descriptions of the impact and net effect of the proposed project on present and potential agricultural operations, and on County and municipal revenues derived from such operations and uses.

(3) Transportation:

(a) A map and description of the transportation network to be affected by the proposed project, including current and projected road locations, conditions and capacities, and maintenance provisions and costs.

(b) A map and description of current commuting patterns, traffic volumes and types of vehicle use.

- (c) Descriptions of the impact and net effect of the proposed project on the transportation network, including the cost of any necessary improvements required in order for the project to proceed, as a result of project construction and/or operation.
- (4) Employment:
 - (a) A description of current and past (to within five years prior to the date of the application) employment characteristics in the impact area.
 - (b) Descriptions of the impacts and net effect of the proposed project on each employment sector.
- (5) Public Service and Facilities:
 - (a) A description of the existing levels, demand for, adequacy, and the operational and maintenance costs of public services and facilities affected by the project, including services and facilities of the County, municipalities, school districts and special districts.
 - (b) Descriptions of the impacts and net effect of the proposed project on public services and facilities, including the levels of population and use that will require increased levels of service and additional facilities.
- (6) Housing:
 - (a) A description of existing seasonal and permanent housing, including numbers of dwelling units, conditions, types, costs and locations in the impact area.
 - (b) Descriptions of the impacts and net effect of the proposed project on housing during construction and operation stages, including numbers of dwelling units, types, costs, locations and, average number of persons per household that would be required to serve populations generated by this project both during construction and for the life of the project, and the means of providing this housing.

(l) Land Use and Property Rights:

Maps and/or descriptions, as applicable, shall be provided for the following:

(1) A description of all property rights, including water rights, surface rights, mineral rights, rights-of-way and easements, which must be obtained, or will be affected, in order to construct and operate the project; the identity of the owners of these rights, and the anticipated method(s) of acquiring these rights.

(2) An assessment of whether the proposed project is consistent with the County's land use policies as set forth in applicable comprehensive plans, master plans, area plans, resource plans and land use regulations adopted by the County, municipalities and state or federal land managers.

(3) A map and description of existing land uses within the area to be affected by and adjacent to the proposed project.

(4) A description of the impacts and net effect of the proposed project on property rights, including water rights, surface rights, mineral rights, rights-of-way and easements.

(5) Descriptions of the impacts and net effect of the proposed project on existing and proposed land uses.

(m) Wastewater treatment:

(1) A description of each wastewater treatment facility to be affected by the proposed project including the service area and percentage of capacity at which the facility operates, plant investment changes and annual operating and capital budget.

(2) Descriptions of the impacts and net effect of the proposed project on wastewater treatment facilities, within the County.

(n) Impacts on special areas unique or special areas:

(1) A map and description of all areas of historical, geological, paleontological, ecological and/or archeological

significance to be affected by the proposed project.

(2) Descriptions of the impacts and net effect of the proposed project on areas of historical, geological, paleontological, ecological and/or archeological significance.

(6) Mitigation:

(a) A description of all mitigation that is proposed to avoid, minimize, rectify, compensate for or eliminate adverse impacts and to maximize positive impacts resulting from a proposed project for each impact category to be affected by the proposed project.

(1) Description of how and when this mitigation will be implemented and financed.

(2) Descriptions of those impacts and net effects resulting from the proposed project which are irreversible and irretrievable.

(b) Monitoring:

(1) Description of the methodology, including mathematical equations, to be used to project and measure impacts of the proposed project and effectiveness of mitigation.

(2) Description and location of any monitoring devices to be used to measure impacts and effectiveness of mitigation of the proposed project.

2-207. Additional Application Requirements for Municipal and Industrial Water Projects.

(1) The applicant will include as part of the description of the proposed project, as required by Section 2-206(2), the following:

(a) Location of and engineering design drawings for wells, diversion structures, reservoirs, or other storage facilities, whether surface or subsurface.

(b) Description of the operational regime for wells, diversion structures, reservoirs and storage structures including the rate and amount of water to be pumped or diverted from each facility.

- (c) Aquifer tests (methodology and results) used to determine the ability of any underground dam to impound groundwater and to calculate the storage capacity of the aquifer.
- (2) For any municipal or industrial water project that will serve areas of the County, as part of the description of the proposed project required by Section 2-206 (2), the applicant will include:
- (a) A description of the proposed system capacity, treatment methods and technologies, proposed budget, service plan and service area of the system.
 - (b) A map of the service area.
- (3) If the proposed project would serve all or part of the County, the applicant will include as part of the description of the need for the proposed project, as required by Section 2-206(2), the following:
- (a) The design capacity of each such system in the County, the excess capacity of each such system and the percentage of capacity at which each such system operates.
 - (b) The age, state of repair, and level of treatment for each existing system in the County.
 - (c) An inventory of the commitments already made for the services to be offered by the proposed project.
 - (d) The predominant types of developments to be served by the proposed project.
 - (e) Whether present facilities in the County can be upgraded to accommodate adequately a ten (10) year projected increase in demand for services to be offered by the proposed project.
 - (f) A description of proposed methods of ensuring efficient use of water resources, metering of all users, examination of rate structures to discourage waste, and recycling of water for reuse where permissible by Colorado water law.
 - (g) An assurance that the proposed project is capable of supplying water of a quality which meets current standards of the Colorado Department of Health.

(h) Any documents describing the engineering and architecture of relevant impoundment structures whether surface or subsurface and associated facilities, including any submittals to the Office of the State Engineer.

2-208. Additional Application Requirements for New Domestic Water and Wastewater Treatment Systems and Extensions of Existing Domestic Water and Sewage Treatment Systems.

- (1) As part of the description of the proposed project, the need for the proposed project, the feasibility of the proposed project, and land use, the applicant will include information required by Section 2-207 (1) thru (4).
- (2) If applicable, in addition to the application requirements set forth in Sections 2-206 and 2-207, the applicant will complete and attach a copy of the site application form required by the Colorado Water Quality Control Commission.

2-209. Conduct of Permit Application Hearing.

- (1) The Permit Authority shall conduct the public hearing in a manner to afford procedural due process to the applicant as well as all other participants in the hearing.
- (2) The Permit Authority shall hear testimony and receive evidence, including but not limited to:
 - (a) The recommendations of the Commission, if it has reviewed and considered the application;
 - (b) Relevant testimony and documents presented at the hearing, including those presented by the applicant, county staff, referral agencies, and the public; and
 - (c) Recommendations of advisors to the County Commissioners on environmental issues.
- (3) Although the Colorado Rules of Civil Procedure do not govern the conduct of the hearing, all persons appearing at the hearing, in person or by counsel, shall be afforded the right of cross-examination as well as reasonable opportunity to offer evidence in rebuttal.
- (4) Any person may, at his own expense, provide for the recording of the



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hearing and transcription thereof, provided, however, that a copy of the recording or transcript thereof, once transcribed, shall be furnished free of charge to the Administrator and shall become part of the record.

(5) The Administrator shall collect and preserve the following record of the public hearing:

- (a) The permit application;
- (b) Any written statements or documents presented in support of or in opposition to the permit application;
- (c) The names and addresses of all persons making oral or written statements, appearing as witnesses, or offering documentary evidence;
- (d) Any recording or transcript, if any, of the hearing as provided in subsection (4) above;
- (e) Written minutes of the Permit Authority relating to the public hearing;
- (f) The resolution of the Permit Authority granting or denying the permit application; and
- (g) A copy of the permit, if issued.

CHAPTER 2

PERMIT PROCESS

ARTICLE 3

PERMIT APPROVAL AND ISSUANCE

2-301. Procedure for Approval or Denial of Permit Application.

(1) If information presented at the hearing leads the Board to find that additional information concerning the proposed project must be submitted, before the Board can determine whether all criteria have been met, the Board may continue the hearing for not more than sixty (60) days unless a longer time is agreed to by the applicant, or the Board may, at its discretion, deny the permit.

(2) The Board may approve a permit application if it determines that the applicant has proven that the project complies with all applicable requirements of these regulations. If the applicant fails to meet any one of the applicable requirements, the permit may either be approved with conditions to ensure compliance with such requirements, or it shall be denied.

(3) The Board will prepare a written resolution that addresses each of the applicable requirements of these regulations and the reason for its decision.

2-302. Issuance of Permits.

(1) The permit shall be issued on the form adopted by the Board.

(2) The permit may be issued for an indefinite term, or for a specific period of years. If the Board determines at any time there are any material changes in the construction or operation of the project from that described in the application, the permit shall immediately be suspended and a hearing shall be held to determine whether new conditions will be required or if the permit should be revoked.

(3) Copies or notices of the permit shall be sent to the Colorado Land Use Commission and, at the Board's discretion, may be sent to any regional planning commission and to any other person requesting a copy upon payment of the cost of reproduction.

(4) A copy of the permit shall be certified by the Permit Authority to the County Clerk and Recorder for recording in the same manner as any other document relating to real property, and the certified copy of the permit shall be presented by the Permit Authority to the Clerk and Recorder for recording.

(5) To the fullest extent allowed by state statute, the permittee's rights in the permit will vest, if at all, only after the permit has been issued.

2-303. Financial Security.

(1) Before any permit is issued, the Permit Authority shall require the applicant to file a guarantee of financial security deemed adequate by the Permit Authority and payable to the County.

(2) The purpose of said financial security guarantee is to assure that the applicant/permittee will faithfully perform all requirements of the permit and applicable regulations adopted by the Board.

(3) The amount of said financial guarantee shall be established by the Permit Authority upon consideration of the following applicable criteria:

(a) The estimated cost of returning the site or the permitted development or activity to its original condition or to a condition acceptable to the County in accordance with standards adopted by the County for the matter of state interest for which the permit is being granted;

(b) The estimated cost of completing the permitted development or activity; and

(c) The estimated cost of complying with any conditions of the permit.

(4) Estimated cost shall be based on the applicant's submitted cost estimate plus the Permit Authority'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 Permit Authority shall consider the duration of the development or activity and compute a reasonable projection of increases due to inflation. The Permit Authority 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.

(5) Unless otherwise specified by the Permit Authority, the financial guarantee shall be in cash deposited with the County Treasurer and shall be placed in an earmarked escrow account mutually agreeable to the County and applicant.

(6) The financial guarantee may be released only when:

(a) The permit has been surrendered to the Permit Authority before commencement of any physical activity on the site of the permitted development or activity;

(b) The development or activity has been abandoned and the site has been returned to its original condition or to a condition acceptable to the County in accordance with standards adopted by the County for the matter of state interest for which the permit is being granted;

(c) The project has been satisfactorily completed, or

(d) applicable guaranteed conditions have been satisfied.

(7) Any security may be canceled by a surety only upon receipt of the Permit Authority's written consent which may be granted only when such cancellation will not detract from the purposes of the security.

(8) If the licenses to do business in Colorado of any surety upon a security filed pursuant to this regulation is suspended or revoked, then the applicant or permittee, within sixty (60) days after receiving notice thereof, shall substitute a good and sufficient surety licensed to do business in the state. Upon failure of the permittee to make substitution of surety within the time allowed, the Permit Authority shall suspend the permit until proper substitution has been made.

(9) (a) If the Permit Authority determines that a financial guarantee should be forfeited because of any violation of the permit 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 forfeit unless the permittee makes written demand to the Permit Authority within thirty (30) days after permittee's receipt of notice, requesting a hearing before the Permit Authority. If no demand is made by the permittee within said period, then the Permit Authority shall order the financial guarantee forfeited.

(b) The Permit Authority 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 Permit Authority statements, documents, and other information with respect to the alleged violation. At the conclusion of the hearing, the Permit authority shall either withdraw the notice of violation or enter an order forfeiting the financial guarantee.

(c) The deposit described in subsection (5), above, may be used by the Permit Authority of the County in the event of the default or allowed default of the permit holder only for the purposes of recovering on the surety or fulfilling the permit obligations of the permit holder. In the event that the ultimate reviewing court determines that there has been on default by the permit holder, that portion of any moneys expended by the County from the escrow funds relating to such default shall be replace in the escrow account by the Board immediately following such determination. The County may arrange with a lending institution, which provides money for the permit holder, that said institution may hold in escrow any finds required for said deposit. Funds shall be disbursed out of escrow by the institution to the County upon County's demand for the purpose specified in this section.

(10) If the forfeiture results in an inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, this County's attorney shall take such steps as she deems proper to recover such costs where recovery is deemed possible.

CHAPTER 2
PERMIT PROCESS

ARTICLE 4

ADMINISTRATION, ENFORCEMENT, AND PENALTIES

2-401. Enforcement and Penalties.

Any person engaging in a development in a 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 authority of the permit, may be enjoined by the County or the Land Use Commission from engaging in such development or conducting such activity, and may be subject to such other criminal or civil liability as may be prescribed by law.

2-402. Mapping Disputes.

Where interpretation is needed as to the exact location of the boundary of any designated area and where there appears to be a conflict between a mapped boundary and actual field conditions, the Permit Authority shall make the necessary determination of the boundary. Any person contesting the location of the boundary shall be given an opportunity to present his case to the Permit Authority.

2-403. Inspection.

(1) The Permit Authority or its authorized representative is empowered and directed to inspect and examine the use, occupation or development of or activity in each and every area or activity subject to these Regulations for the purpose of determining from time to time whether or not any use, occupation, development or activity is in violation of any of the provisions of this Regulation or of any permit issued or required pursuant to this or other applicable regulations,

(2) If a violation is found to exist, the Permit Authority or its authorized representative shall by written order direct that such remedial action be taken immediately as will result in full compliance with the applicable regulations; provided, however, that the issuance of such order shall in no way or manner be deemed a prerequisite to the institution of other



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enforcement proceedings as are set forth in the Regulations; and provided further, that compliance with such order shall not necessarily be deemed to be a defense to any alleged violation of this or other applicable regulations in any court action instituted seeking full compliance with the order.

2-404. Failure to Provide Notice.

The failure of the County to provide written notice to any person as required by these Regulations shall not constitute a material violation of the Regulations or invalidate any action taken at or in connection with the proceeding or event which was the subject of the notice; provided, that the Board has made a reasonable effort to provide written notice and has published a notice of the pertinent proceeding or event as required by the Regulations.

CHAPTER 3
APPROVAL STANDARDS and CRITERIA
ARTICLE 1
GENERAL STANDARDS AND CRITERIA

3-101. Permit Approval Criteria.

(1) A permit application for a special development project may be approved if the applicant demonstrates that the net effect of the proposed project, as evaluated after implementation of all mitigation measures, will comply with the following criteria. If the applicant has not demonstrated to the Permit Authority that the proposed project, after implementation of all mitigation measures, does not comply with any one or more of such criteria, the permit may either be approved with conditions that ensure compliance with all such criteria, or it shall be denied.

(a) The applicant has obtained or will obtain all property rights, permits, and approvals necessary for the proposed project. If the applicant has not obtained all necessary property rights, permits and approvals, the Board may, at its discretion, defer approving the application until the outstanding property rights, permits and approvals are obtained.

(b) The construction and operation of all dams and other impoundment structures will comply with the engineering requirements specified by the Colorado Water Conservation Board and the Office of the State Engineer.

(c) The proposed project is not subject to significant risk from earthquakes, floods, fires, subsidence, expansive soils and rocks, avalanches, landslides and other natural hazards.

(d) The proposed project will not present an unreasonable risk of exposure to or release of toxic or hazardous substances within the impact area.

(e) The proposed project will not have an adverse net effect on

private property rights.

(f) The construction and operation of the proposed project will not significantly degrade surface or ground water quality within the impact area. The determination of the net effects of the project shall include the following considerations:

- (1) Changes to existing water quality, including patterns of water circulation, conditions of the substrate, extent and persistence of suspended particulates, and clarity, odor, color or taste of water.
- (2) Applicable water quality standards.
- (3) Levels of point and nonpoint source pollution.

(g) The proposed project will not significantly deteriorate the capacity or functioning of streams, lakes or reservoirs. The determination of the net effects of the project on these resources shall include the following considerations:

- (1) Changes in seasonal flow rates and temperature for affected streams.
- (2) Changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
- (3) Changes in circulation patterns, seasonal water levels and temperature of lakes or reservoirs.
- (4) Applicable water quality standards.

(h) The proposed project will not significantly deteriorate floodplains, wetlands and riparian areas in the impact area. The determination of net effects of the project shall include the following considerations:

- (1) Changes to the structure and function of wetlands and to unique, rare, delicate or irreplaceable riparian areas, vegetation, forest or woodlands.
- (2) Changes to the filtering and nutrient uptake capacities of

wetlands and riparian areas.

(3) Changes to aerial extent of wetlands and evolution of wetland species to upland species.

(i) The proposed project will not significantly degrade air quality in the impact area. The determination of net effects shall include changes to seasonal ambient air quality, visibility and microclimates.

(j) The proposed project will not significantly deteriorate vegetation in the impact area. The determination of net effects of the project shall include the following considerations:

(1) Changes to the structure and function of vegetation, including species composition, diversity, biomass, and productivity.

(2) Changes in advancement or succession of desirable and less desirable species.

(k) The proposed project will not significantly deteriorate terrestrial and aquatic animals, including wildlife and livestock, and on their habitats in the impact area. The determination of net effects of the project shall include the following considerations:

(1) 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.

(2) Changes to habitat and critical habitat, including stream bed and banks, spawning grounds, riffle and side pool areas, flushing flows, nutrient accumulation and cycling, water temperature, depth and circulation, stratification, water quality conditions, and any other features necessary for the protection and propagation of aquatic species.

(3) Changes to the aquatic and terrestrial food webs.

(4) Changes to stream systems and reservoir operation which may affect establishment, maintenance, and long term management of fisheries.

(5) Changes to waters specially designated by federal or state agencies.

(l) The proposed project will not significantly deteriorate the threatened and endangered plants or animals, or species unique in their Colorado distribution within the impact area. The determination of net effects of the project shall include changes to the habitat of any threatened or endangered species or species unique in their Colorado distribution.

(m) The proposed project will not significantly degrade existing visual quality, noise and vibration levels, and odor levels in the impact area. The determination of net effects of the project shall include the following considerations:

- (1) Visual changes to ground cover and vegetation, waterfalls, and streams, or any other natural feature.
- (2) Noises or odors generated during construction or operation of the project in relation to noises from other existing uses within the impact area.
- (3) Visual changes resulting from construction activities and from the existence and operation of the proposed project.
- (4) Levels of fumes, glare, dust and heat.
- (5) Incompatible human access.

(n) The proposed project will not significantly deteriorate soils and geologic conditions within the impact area. The determination of the net effects of the project shall include the following considerations:

- (1) Changes to the topography, natural drainage, soil morphology and productivity, soil erosion potential, and floodplains.
- (2) Changes to stream sedimentation, geomorphology, and channel stability.
- (3) Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs.

- (4) Avalanche areas, mudflows and debris fans, unstable and potentially unstable slopes.
 - (5) Special seismic considerations and subsidence.
- (o) The proposed project will not significantly degrade existing land uses, public services and facilities, government revenues and expenditures, housing and/or education within the impact area. The determination of net effects of the project shall include the following considerations:
- (1) The costs to local governments of providing services or facilities required by the project.
 - (2) Revenue to the County and other local governments that will be generated by the project.
 - (3) Changes in the quality of publicly-funded education as evidenced by changes in student/teacher ratios and facility capacities.
 - (4) Changes in housing availability.
 - (5) The proposed project will not encourage strip development within the County.
- (p) The proposed project will not significantly degrade any segment of the local economy within the County or any portion of the impact area. The determination of net effects of the project shall include the following considerations:
- (1) Changes to projected revenues generated from each economic sector (including recreation, tourism, agriculture, mining and education).
 - (2) Changes in the quality or quantity of the recreation experiences available in the impact area.
 - (3) Changes in the value of agricultural grazing, recreational, and other lands, and the loss of tax revenues caused by such lands being removed from production or becoming unavailable for those uses.



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(4) Changes in opportunities for economic diversification.

(q) The proposed project will not significantly degrade areas of geological, paleontological, ecological, historic, or archaeological importance within the impact area.

(r) The proposed project is technically and financially feasible.

(s) The applicant has the technical and financial ability to develop and operate the proposed project in a manner that is consistent with the permit conditions and public health, safety and welfare.

(t) The benefits accruing to the County and its citizens from the proposed project outweigh the losses of any natural, agricultural, recreational, tourist-oriented, range, municipal, or industrial resources within the County, or the losses of opportunities to develop such resources.

(2) The Board may impose additional mitigation requirements and conditions on an applicant as follows:

(a) The Board shall make written findings that each such requirement and condition is necessary to ensure that the proposed project will satisfy applicable criteria.

(b) The Board shall find in writing that each such requirement and condition is necessitated by the impacts of the project.

(c) All such findings shall be based on material in the administrative record.

(d) The Board shall base the additional requirements and conditions on applicable design standards as adopted by the County, to the extent that such standards then exist.

CHAPTER 3

APPROVAL STANDARDS AND CRITERIA

ARTICLE 2

ADDITIONAL STANDARDS FOR SPECIFIC DEVELOPMENT PROJECTS

3-201. Additional Criteria for Approving Municipal and Industrial Water Projects.

(1) In addition to the general criteria set forth in Section 4-101, the following additional criteria apply to permit applications for municipal and industrial water projects:

(a) The proposed project shall emphasize the most efficient use of water, including, to the extent permissible under existing law, the recycling and reuse of water.

(b) The scope and nature of the proposed project will not compete with existing water or wastewater treatment services or create duplicate services within the County.

(c) Area and community development and population trends demonstrate clearly a need for such development within the County if the purpose and need for the project is to meet the needs of business, residents and visitors to the County.

3-202. Additional Criteria for Approving Domestic Water and Wastewater Treatment Systems and Extensions of Existing Domestic Water and Wastewater Treatment Systems.

(1) In addition to the general criteria set forth in Section 4-101, the following additional criteria apply to any permit applications for development of domestic water and wastewater treatment systems or major extensions of existing domestic water and wastewater treatment systems:

(a) New domestic water and wastewater treatment systems and major extensions of existing domestic water and wastewater treatment systems proposed to serve areas of the County shall be



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constructed in areas to maximize use of existing treatment plants and ensure the orderly development of domestic water and wastewater treatment systems of adjacent communities within the County.

(b) Those existing domestic water treatment systems which are located within the County and supply the service area must be at or near operational capacity, or will be within ten (10) years from the date construction of the project is initiated.

(c) Those existing domestic wastewater treatment facilities which are located within the County and supply the service area must be at or above eighty percent (80%) of operational capacity.