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**GUIDELINES AND REGULATIONS FOR MATTERS OF STATE INTEREST  
(Also known as “1041 Regulations”)**

**CHAPTER 1. ADMINISTRATIVE PROVISIONS AND DEFINITIONS**

**A. TITLE AND CITATION**

These Regulations are entitled and may be cited as the “Clear Creek County Guidelines and Regulations for Matters of State Interest.”

**B. PURPOSE AND FINDINGS**

1. The general purpose of these regulations is to facilitate identification, designation and administration of matters of state interest consistent with the statutory requirements and criteria set forth in §24-65.1-101, et seq., CRS.
2. The specific purposes of these Regulations are:
  - a. To promote the health, safety and general welfare of the citizens of, and to protect the environment of, Clear Creek County.
  - b. To protect the beauty of the landscape and natural scenic characteristics, to conserve natural and cultural resources including to preserve historical assets and resources, to protect and enhance wildlife habitat, air and water quality, and to conserve natural resources.
  - c. To promote safe, efficient and economic use of public resources in developing and providing needed community and area wide infrastructure, facilities and services in a manner that will not overload facilities of existing government service providers.
  - d. To ensure that new development will pay for itself to the maximum extent practicable, and to ensure that present residents of Clear Creek County will not have to subsidize new development through increased cost of public services and/or degradation of the quality of life.
  - e. To plan for and regulate the site selection, construction, expansion, and operation of matters of state interest to facilitate the planned and orderly use of land in accordance with their character and adaptability and as recommended by the Clear Creek County Master Plan.
  - f. To regulate the use of land on the basis of the financial and environmental impact thereof on the community or surrounding areas within the development area and source development area.
3. The Board of County Commissioners of Clear Creek County finds that:
  - a. The notice and public hearing requirements of §24-65.1-404, CRS, have been followed.
  - b. These regulations are necessary because of the intensity of current and foreseeable development pressures on and within Clear Creek County.
  - c. These regulations were adopted after taking into consideration applicable guidelines adopted and issued by the former Colorado Land Use Commission.
  - d. These regulations apply to the entire unincorporated Clear Creek County.

**C. AUTHORITY**

These regulations are authorized by, inter alia, §24-65.1-101, et seq., CRS, and §29-20-101, et seq., CRS.

**D. APPLICABILITY**

1. These Regulations shall apply to the designation and regulation of any area and activity of state interest wholly or partially in the unincorporated areas of Clear Creek County whether on public or private land that has been or may hereafter be designated by the Board of County Commissioners of Clear Creek County.
2. Designations in effect as of the date of these Regulations – originally adopted June 7, 1976 (“A Resolution and Order Concerning Matters of State Interest Under House Bill 1041 (1974)”), June 12, 1989 (R-89-36, “Adoption of A Clear Creek County Flood Damage Prevention Regulation, Flood Insurance Rate Maps”), August 19, 1997 (Res. 97-60, “Clear Creek County Review for Activities of State Interest”), January 6, 1998 (Res. 97-108, “Clear Creek County Review for Areas and Activities of State Interest”), September 19, 2006 (Res. 06-92, “Clear Creek County Review for Activities of State Interest”), March 7, 2007 (R-07-06, “Adoption of A Clear Creek County Flood Damage Prevention Regulation, July 14, 2010 (Res. 10-23, “Clear Creek County Review for Activities of State Interest”), July 9, 2012 (R-12-76, “Adoption of A Clear Creek County Flood Damage Prevention Regulation and December 3, 2012 (R-12-131, “Adoption of A Clear Creek County Flood Damage Prevention Regulation, – are:
  - a. activities of state interest
    - i. Site selection and construction of major new domestic water and sewage treatment systems and major extensions of existing domestic water and sewage treatment systems;
    - ii. Site selection of airports;
    - iii. Site selection of rapid or mass transit terminals, stations, and fixed guideways;
    - iv. Site selection of arterial highways and interchanges and collector highways;
    - v. Site selection and construction of major facilities of a public utility;
    - vi. Site selection and development of new communities; and
    - vii. Efficient utilization of municipal and industrial water projects; and
  - b. areas of state interest
    - i. Natural hazard areas;
    - ii. Areas containing, or having a significant impact upon cultural resources; and
    - iii. Areas around key facilities in which development may have a material effect upon the key facility or the surrounding community.
  - c. In adopting these Regulations, the Board of County Commissioners ratifies the prior designations and designates as matters of state interest those matters previously designated.
3. Any proposed development being processed for or requiring any other land use approval under the Clear Creek County Zoning Regulations, Subdivision Regulations, Transferrable Development Rights Regulations, Building Code, or Roadway Design and Construction Manual, is not thereby exempt from these Regulations.

**E. INTERPRETATION WITH OTHER ENACTMENTS AND PLANS**

1. Whenever the provisions of these Regulations are found to be inconsistent with or less stringent than any other resolution, ordinance, code, regulation, or other enactment, including the Clear Creek County Master Plan, the enactment imposing the more restrictive standards or requirements

shall control.

2. If these Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in §§24-65.1-202, 204, CRS, the statutory criteria shall control.
3. Nothing in these Regulations shall be construed as exempting an applicant from any other applicable County requirements or other federal, state or local requirements.
4. No federal, state or local approval to carry out a development or activity shall preempt or otherwise obviate the need to comply with these Regulations.

**F. MAPS**

1. Each map referred to in the designation of any matter of state interest or in these Regulations is deemed incorporated herein as if set out in full.
2. Maps referred to in the designation of any matter of state interest or in these Regulations shall be filed with and be available for review in the Clear Creek County Planning Department and the office of the Clear Creek County Clerk & Recorder.

**G. DUTIES OF THE BOARD OF COUNTY COMMISSIONERS**

Unless otherwise specifically provided, it shall be the duty of the Board of County Commissioners to perform all functions set forth in these Regulations.

**H. PERMIT AUTHORITY ESTABLISHED**

1. The Board shall serve as the Permit Authority.
2. The Permit Authority shall exercise all powers and duties granted it by these Regulations.

**I. 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 these Regulations shall not be affected thereby and are hereby declared to be necessary for the public health, safety and welfare.

## **CHAPTER 2. DESIGNATION OF MATTERS OF STATE INTEREST**

### **A. MATTERS DESIGNATED**

The designation process set forth in this Chapter 2 shall apply to the designation of any matter of state interest after the effective date of these Regulations. The designation process shall not apply to those matters of state interest designated by the Board of County Commissioners before the effective date of these Regulations, which designations shall remain in effect. Designations in effect are:

1. Site selection and construction of major new domestic water and sewage treatment systems and major extensions of existing domestic water and sewage treatment systems (originally denoted as two separate designations).
2. Site selection of rapid or mass transit terminals, stations, and fixed guideways.
3. Site selection of arterial highways and interchanges and collector highways.
4. Site selection and construction of major facilities of a public utility.
5. Site selection and development of new communities.
6. Efficient utilization of municipal and industrial water projects (originally denoted as "Site selection of and major extensions to municipal and industrial water projects").
7. Site selection and construction of airports.
8. Natural hazard areas.
9. Areas containing, or having a significant impact upon cultural resources.
10. Areas around key facilities in which development may have a material effect upon the key facility or the surrounding community.

### **B. EXEMPTIONS**

The portions of these Regulations or modification of existing permit authorized exclusively under Section 24-65.1-101, et seq., C.R.S. shall not apply to any development in an area of state interest or to any activity of state interest which meets any one of the following conditions:

1. As of May 17, 1974:
  - a. The development or activity is covered by a current building permit issued by Clear Creek County;
  - b. The specific development or activity was directly approved by the electorate of the state or of Clear Creek 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;
  - c. The specific development or activity is to be on land (I) which has been conditionally or finally approved by Clear Creek County for planned unit development or for a use substantially the same as planned unit development and the rights in such development plan remain vested; (II) which has been zoned by Clear Creek County for the use contemplated by such development or activity; or (III) with respect to which a development plan has been conditionally or finally approved by Clear Creek County and the rights in such development plan remain vested.

2. Other Exemptions:  
As of the effective date of these Regulations, rights have vested pursuant to County regulations or statute to engage in the activity or pursue the development in an area of state interest.
3. Exempt major facilities of a public utility:
  - a. New natural gas or other petroleum derivative transmission lines that are designated to serve less than ten (10) year round dwelling units and are located entirely within an approved service area.
  - b. Extensions to natural gas or other petroleum derivative transmission line that:
    - i. have distribution or transmission lines that have an inside diameter of less than six (6) inches;
    - ii. are parallel to and located more than 100 feet from any other line;
    - iii. are located entirely within an approved service area.

**D. DESIGNATIONS OF MATTERS OF STATE INTEREST**

Designations, including amendments or revocations of designations, may be initiated in two ways:

1. By the Board of County Commissioners proposing, on its own initiative, with or without participation of the Planning Commission.
2. By recommendation of the Planning Commission to the Board of County Commissioners.

**E. MORATORIUM PENDING DESIGNATION**

After a recommendation from the Planning Commission for the designation or amendment of a designation of a matter of state interest, or after the Board of County Commissioners initiates the process for designation or amendment of a designation of a matter of state interest, no person shall engage in development in the area or conduct the activity described in the proposal until the Board of County Commissioners has held its public hearing with respect to the designation and issued its order relating thereto.

**F. MORATORIUM FOLLOWING DESIGNATION**

After a matter of state interest has been designated, no person shall engage in development in the designated area of state interest or conduct the designated activity of state interest until the designation and regulations for such area or activity are finally determined.

**F. PLANNING COMMISSION PUBLIC HEARING**

1. If the Planning Commission initiates consideration of a recommendation for the designation, amendment or revocation of the designation of a matter of state interest or regulations with respect thereto, or if the Planning Commission elects to consider a recommendation for the designation, amendment or revocation of the designation of a matter of state interest or regulations with respect thereto initiated by the Board of County Commissioners, it shall hold a public hearing therefor.
2. The Administrator shall publish notice of the Planning Commission hearing which shall include, at a minimum, the time and place of the public hearing, the place at which materials relating to the matter to be designated and any regulations for the administration thereof may be reviewed, the telephone number or address to which inquiries and comments may be directed, and a description of the matter of state interest proposed to be designated in sufficient detail to provide reasonable

notice as to the property to be included in the designation or the type of activity to be designated. Such notice shall be published once in a newspaper of general circulation in the County not less than fourteen (14) days before the date set for hearing.

**G. BOARD OF COUNTY COMMISSIONERS PUBLIC HEARING - PUBLIC NOTICE**

1. The Board of County Commissioners shall hold a public hearing before designating and adopting regulations for any matter of state interest or amending or revoking said designation or regulations.
2. The Board of County Commissioners shall set a date for the public hearing.
3. The Administrator shall prepare a notice of the designation hearing, which shall include, at a minimum, the time and place of the hearing, the place at which materials relating to the matter to be designated and any guidelines and regulations for the administration thereof may be examined, the telephone number or address to which inquiries and comments may be directed, and a description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to the property to be included in the designation or the type of activity to be designated.
4. The Administrator shall publish the notice once in a newspaper of general circulation in the County not less than thirty (30) days and not more than sixty (60) days before the date set for hearing.

**H. MATTERS TO BE CONSIDERED AT DESIGNATION HEARING**

At the designation hearing, the Board of County Commissioners shall consider such evidence as may appear appropriate, including, at a minimum, but not limited to:

1. The intensity of current and foreseeable development pressures;
2. The matter and considerations set forth in any applicable guidelines for identification and designation of matters of state interest;
3. Recommendations from state agencies and other referral agencies, if appropriate;
4. The boundaries of the proposed area of state interest;
5. 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
6. Any master plan or comprehensive plan pertaining to or affected by the area or activity under consideration.

The Board of County Commissioners shall hear testimony and receive evidence, including the Planning Commission recommendation, if any, and relevant testimony and documentary evidence presented.

**I. RECORD OF DESIGNATION PROCEEDINGS**

1. The Administrator will collect and preserve the following record of the public hearing, at 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, appearing as witnesses or offering documentary evidence;
  - 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 Section H above;
  - f. Written minutes of the Board of County Commissioners relating to the public hearing; and
  - g. The electronic recording of the public hearing, provided that the County is under no obligation to transcribe such recording unless paid for by the requesting party.
2. Any person may, at his own expense, provide for the recording and transcription of the hearing and a copy of the recording and transcript shall be furnished free of charge to the Board of County Commissioners and shall become part of the record.

**J. ADOPTION OF DESIGNATION AND REGULATIONS**

- 1. Within thirty (30) days after completion of the public hearing, the Board of County Commissioners may adopt, adopt with modification, or reject the proposed designation. If the designation and/or regulation thereof under §24-65.1-101, et seq., CRS, is rejected, the Board of County Commissioners may at its discretion regulate the matter under any other available land use control authority.
- 2. Such action shall be taken by written resolution.
- 3. Whenever the Board of County Commissioners 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 of County Commissioners shall, at a minimum:
  - a. Specify the boundaries of the designated area 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.
- 5. The resolution shall be recorded in the office of the Clear Creek County Clerk & Recorder.

**K. COMBINED DESIGNATION AND PERMIT HEARING**

If a person proposes to engage in development in an area of state interest or to conduct an activity of state interest not previously identified, designated, or for which regulations for the administration thereof have

not been adopted, the Board of County Commissioners may hold one hearing for determination of identification, designation, and adoption of regulations for the administration thereof, as well as for granting or denying the permit. No permit that is granted at the conclusion of any such hearing shall authorize the applicant to engage in development or to conduct an activity until the identification and designation of the matter of state interest and adoption of regulations for the administration thereof are finally determined.

## CHAPTER 3. PERMIT APPLICATION FOR ACTIVITIES OF STATE INTEREST

### A. PERMITS REQUIRED

1. Any person desiring to conduct an activity of state interest, or engage in development of an area of state interest designated hereunder, designated hereunder shall first apply for and obtain a permit from the Board of County Commissioners.

### B. PRE-APPLICATION PROCEDURE

1. A pre-application conference is required of all applicants. The pre-application conference shall be held between the applicant and the Administrator. The purpose of the conference is to provide an understanding of the applicable procedures, requirements and standards, and to provide information pertinent to the application and the geographical area affected by the Project.
2. At or before the pre-application conference, the applicant shall provide the Administrator with a written summary of the Project including:
  - a. The applicant's name, address, and phone number;
  - b. A map prepared at an easily readable scale showing
    - i. the boundary of the proposed activity;
    - ii. the relationship of the proposed activity to surrounding topographic and cultural features such as roads, streams and existing structures;
    - iii. proposed buildings, improvements and infrastructure; and
  - c. Information that is sufficient for determining the nature of the proposal and the degree of impacts associated with it.
3. Any comments or commitments made by the Administrator or any member of the County staff during the pre-application conference are only preliminary in nature and should not be relied upon by applicant. Formal comments cannot be made by the Administrator or County staff until after the application is submitted and nearby property owners and referral agencies have had an opportunity to respond.

### C. FONSI (Finding of No Significant Impact)

If requested by the Applicant, the Permit Authority may evaluate whether a Finding of No Significant Impact (FONSI) is warranted or that a 1041 Permit is required based upon review of the pre-application submittals and the information obtained at a public hearing. Such determination may be made by the Permit Authority at such time as sufficient information is provided by the Applicant after the public hearing.

1. Fees  
Within ten (10) days of the pre-application meeting, the Administrator shall establish an estimate in an amount necessary to cover costs of determining whether a FONSI or a 1041 Permit is required. The estimate will include the costs of copying, mailing, publications, labor, overhead and retention of consultants, experts and attorneys that the County deems necessary to advise in making the determination.
2. Public Notice Requirements
  - a. Not later than thirty (14) days after receipt of sufficient information is submitted by the Applicant, the Permit Authority shall set a date for the public hearing on the application.

- b. The Administrator shall publish a notice of the date, time and place for the Permit Authority hearing. Such notice shall be published once in the County legal newspaper, not less than thirty (30) days or more than sixty (60) days before the date set for the hearing.
  - c. No less than seven (7) days before the hearing before the Permit Authority, the Administrator shall prepare a staff report that summarizes the request and comments from review agencies, if any, and public comment, if any, and that identifies whether a FONSI should be issued as per #3 below. A copy of the staff report shall be provided upon completion to the applicant.
3. FONSI  
The Permit Authority may determine that a FONSI should be issued if the construction or operation of the Project, without mitigation, in its proposed location is unlikely to have any significant adverse impact to the County in consideration of the Permit Application Approval Criteria found in Chapter 4 and the other chapters relating to additional provisions for specific Matters of State Interest of these Regulations. If the Permit Authority makes a FONSI, the applicant does not need to submit a 1041 Permit application.
4. 1041 Permit Required  
If the Permit Authority determines that a FONSI is not appropriate based upon review of the pre-application submittals and the information obtained at the hearing, then the applicant must obtain a 1041 Permit.

**D. APPLICATION FEE**

- 1. Within ten (10) business days after the pre-application conference, the Administrator shall establish an estimate of the amount necessary to cover costs of reviewing and processing the application, including the costs of copying, mailings, publications, labor, overhead and retention of consultants, experts and attorneys that the County deems necessary to advise it on the application.
- 2. Once the estimate is established, the Administrator shall notify the Applicant and the Permit Authority in writing of the fee and its amount. Until the fee is paid, the application shall be incomplete and shall not be further processed.
- 3. The amount of the fee determined under Section D.1 hereof may be increased at any time if it is determined by the Administrator that the fee is not sufficient to cover all costs associated with the application. If the Administrator so determines, s/he shall notify the applicant in writing of the amount of the increase. Not later than ten (10) days following the notice, the applicant shall pay the amount of the increase. If the increase is not timely paid, the application shall be deemed withdrawn by the applicant.
- 4. The Permit Authority may in its sole discretion waive all or a portion of the fees if the applicant demonstrates a special need or such waiver of fees is found to be in the best interests of the citizens of Clear Creek County.

**E. APPLICATION**

- 1. An application for a Permit shall be submitted to the Administrator.
- 2. An application for a Permit shall not be accepted unless it is complete and is in form and content

as required by state law and these Regulations, and the appropriate fees have been paid. If the application is determined incomplete by the Administrator, the Administrator shall specify what additional information is required. When a submitted application is determined to be complete, the Administrator shall note upon the application the date it is considered complete.

3. The Administrator shall determine the number of copies of the application required, and the applicant shall provide such copies before the application is formally scheduled for hearing.

**F. APPLICATION SUBMITTAL REQUIREMENTS**

The Administrator may waive one or more of the submittal requirements when the submittal information would not be relevant to whether the Project complies with the Permit Application Approval Criteria. Additional materials may be required under chapters applicable to a particular type of Project.

1. Application:
  - a. The application must include an application form designating any persons authorized to act as agent for the applicant in connection with the application, exhibit the applicant's signature, and supply all required information. The form shall be accompanied by all fees, maps, plans, and reports required by these Regulations.
  - b. The signature on an application form evidences the applicant's approval of and concurrence with all statements and commitments contained in the application.
  - c. The application shall provide a written description of the development or activity, including any capital improvements plan, facilities plan, or other planning document which the applicant has prepared for its use, covering at a minimum a period of five years from the date of application.
2. Information describing the applicant.
  - a. The names, addresses, telephone, email address and fax number, organizational 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, 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.
  - e. Written qualifications of report preparers.
3. Information describing the Project (*Site Selection of Arterial Highways and Interchanges and Collector Highways may skip this section*).
  - a. Plans and specifications of the Project in sufficient detail to evaluate the application against the Permit Application Approval Criteria.
  - b. Descriptions of alternatives to the Project considered by the applicant.

- c. Schedules for designing, permitting (including federal, state, or other local permitting), constructing and operating the Project, including the estimated life of the Project.
  - d. The need for the Project, including a discussion of alternatives to the Project that were considered and rejected; 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.
  - f. List of adjacent property owners within 300 feet of the project and their mailing addresses (See Chapter 10(A)(1)(a) for additional requirements).
4. Property rights, other permits and approvals.
- a. A list of all other federal, state and local permits and approvals that will be required for the Project, together with any proposal for coordinating these approvals with the County permitting process. Include copies of all permits or approvals that have been obtained, and copies of applications for all such permits or approvals that have been applied for but not yet obtained at time of this permit application.
  - 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 statements required for the Project.
  - c. Description of the water to be used by the Project and alternatives, including: the source, amount and quality of such water; the applicant's right to use the water, including adjudicated decrees and applications for decrees; proposed points of diversion and changes in the points of diversion; and the existing uses of the water. If an augmentation plan for the Project has been decreed or an application for such plan has been filed in the court, the applicant must submit a copy of that plan or application.
  - d. The planned access to the project site and the means the applicant intends to use to obtain a legal right to utilize such access, including copies of any access or right-of-way agreements which have been entered into by the date of the application for such access.
  - e. The names and addresses of persons or entities with an interest in any real property proposed to be physically disturbed or crossed by the activity or development which is the subject of the application, excluding mineral interests but including those holding mortgages, judgments, liens, easements, contract rights, rights-of-way, reservations, exceptions or other encumbrances, at least to the extent shown in the records of the County Clerk and Recorder or of which applicant has actual knowledge.
  - f. If the application anticipates new surface development, it shall include written certification of compliance with the provisions of Article 65.5. of Title 24, CRS, that require examination of public records to determine the existence and identity of owners and lessees of severed mineral interests in the property covered by the application. The application shall inform the County of the results of such examination. If such examination reveals the existence of any such owners or lessees, the application shall

include a complete list of the names and addresses of such persons and describe the severed mineral interests owned or leased by each. Public hearing on the application will not be held unless the applicant furnishes the County with signed certification confirming that the applicant has, at least thirty (30) days before the public hearing, transmitted to the Administrator and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, CRS.

5. Description of the technical and financial feasibility of the Project (*Site Selection of Arterial Highways and Interchanges and Collector Highways may skip this section*).
  - a. The estimated construction costs and period of construction for each development component and the total mitigation costs for the Project.
  - 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.
6. Description of Decommissioning  
Description of decommissioning and site reclamation, and cost estimate, including,
  - a. Identify all properties to be reclaimed in whole or in part.
  - b. Estimated costs of material removal, at surface and above and below ground to a depth of 18 inches.
  - c. Estimated costs of road repair, regrading, and revegetation.
  - d. Provide an estimate of time that decommissioning and reclamation will take.
7. Socioeconomic impacts  
A comprehensive socioeconomic impact analysis that addresses the manner in which the applicant will comply with the relevant Permit Application Approval Criteria. The impact analysis shall be limited to the impact area and shall include the following information:
  - a. Land Use
    - i. A map and description of existing land uses and zoning within and adjacent to the impact area.
    - ii. 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.
    - iii. Description how the Project will utilize existing easements or rights-of-way for any associated transmission, distribution or collector networks.
    - iv. Description of the agricultural productivity capability of the land affected by the proposal.
    - v. Description of impacts to and mitigation with respect to public lands.

- vi. Description of impacts and net effect that the Project would have on land use patterns.
- b. Local Government Services
  - i. Description of existing capacity of and demand for local government services including but not limited to transportation, roads/ highways, mass transit, trails, schools, water and wastewater treatment, water supply, emergency services, health services, infrastructure, and other services necessary to accommodate development within Clear Creek County.
  - ii. Description of the impacts and net effect of the Project to the capability of local governments that are affected by the Project to provide services.
- c. Housing
  - i. Description of existing seasonal and permanent housing including number, condition and cost of dwelling units.
  - ii. Description of the impact and net effect of the Project on housing during construction and operation stages of the Project.
- d. Financial Burden on County Residents
  - i. 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.
  - ii. Description of impacts and net effect of the Project on financial burdens of residents.
  - iii. Description of estimated county taxes and other revenue to be generated by the County resulting from the project.
- e. Local Economy
  - i. 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.
  - ii. Description of impacts and net effect of the Project on the local economy and opportunities for economic diversification.
- f. 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, not to exceed a ten-year increment, for fifty (50) years. Data sources such as the Denver Regional Council of Governments, the U.S. Census, and the Colorado State Demographer's office should be used.
- g. Recreational Opportunities
  - i. Description of present and potential recreational uses, including but not limited to the number of recreational visitor days for different recreational uses and the revenue generated by types of recreational uses.
  - ii. Map depicting the location of recreational uses such as fishery stream segments, access points to recreational resources, hiking and biking trails, and wilderness areas.

- iii. 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.
  - h. Areas of Paleontological, Historic or Archaeological Importance
    - i. Map and/or description of all sites of paleontological, historic or archaeological interest.
    - ii. Provide a state historical site survey form completed by a qualified professional acceptable to the State Historic Preservation Officer for all cultural resources affected by the Project.
    - iii. Describe the mitigation to be undertaken to preserve designated resources that may be impacted.
    - iv. Provide plans and procedures for notification to the State Historical Society, State Archaeologist, and to applicable local historical societies/organizations upon discovery of historical or archaeological resources during the implementation of the Project.
    - v. Description of the impacts and net effect of the Project on sites of paleontological, historic or archaeological interest.
  - i. Nuisance
 

Description of noise, glare, dust, fumes, vibration, and odor levels caused by the Project (See additional requirements in Chapter 9(A)(10)).
- 8. Environmental Impacts
 

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. That analysis shall include a description of how the applicant will comply with the applicable Permit Application Approval Criteria.

  - 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/or 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, and under both average and worst case conditions.
 

(See additional requirements in Chapter 9(A)(11))
  - b. Visual Quality
    - i. Map and/or description of ground cover and vegetation, forest canopies, waterfalls and streams and other natural features.
    - ii. Description of viewsheds, scenic vistas, unique landscapes or land formations.
    - iii. Description of any significant deterioration of existing natural aesthetics, creation of visual blight which may arise from the Project.
    - iv. Identify and describe any structures (including structure design and materials), excavations and embankments that may be visible from off-site.
    - v. Descriptions of the impacts and net effect that the Project would have on visual quality.

- vi. Visual simulations of how the completed project will look from significant locations such as populated locations, designated scenic byways, historic districts and national historic landmarks.
- c. **Surface Water Quality**
    - i. Map and/or description of all surface waters to be affected by the Project, including:
      - (a) Description of provisions of the applicable regional water quality management plan that applies to the Project and assessment of whether the Project would comply with those provisions.
    - ii. Existing data monitoring sources.
    - iii. 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.
  - d. **Groundwater Quality**
    - i. Map and/or description of all groundwater, including any aquifers. 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.
      - © Groundwater flow directions and levels.
      - (d) Existing aquifer recharge rates and 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.
  - e. **Water Quantity**
    - i. Map and/or description of existing stream flows and reservoir levels.
    - ii. Map and/or description of existing Colorado Water Conservation Board held minimum stream flows.
    - iii. Descriptions of the impacts and net effect that the Project would have on water quantity.
    - iv. Statement of methods for efficient utilization of water to be employed in the Project (see Chapter 7(A)(1) for Municipal and Industrial Water Projects).
  - f. **Floodplains, Wetlands and Riparian Areas**
    - i. Map and/or description of all floodplains, wetlands, and riparian areas to be affected by the Project, including a description of the types 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.

- g. Terrestrial, Aquatic, and Avian Animals and Habitat
  - i. Map and/or description of terrestrial, aquatic, and avian animals including the status and relative importance of game and non-game wildlife, livestock and other animals; a description of streamflows 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 calving/spawning beds.
  - iii. Description of the impacts and net effect that the Project would have on terrestrial and aquatic animals, habitat and food chain.
  - iv. Where appropriate, surveys for bats, raptors, and general avian use shall be conducted.
  - v. The description shall indicate whether a post construction wildlife mortality study will be conducted and, if not, justification why such a study does not need to be conducted.
  
- h. Terrestrial and Aquatic Plant Life
  - i. Map and/or 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.
  
- i. Soils, Geologic Conditions and Natural Hazards
  - i. Map and/or description of soils, 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. Map and/or description of any flood hazard area associated with the Project. Documentation of historical flooding activity on the parcel where the activity or development will be located, and on other property affected by the Project. Detail potential, adverse impacts related to the associated flood hazard area.
  - ii. Descriptions of the impacts and net effect of the Project on soil and geologic conditions in the area.
  
- j. Hazardous Materials
  - i. 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.
  - ii. Location of storage areas designated for equipment, fuel, lubricants, and chemical and waste storage with an explanation of spill containment structures.
  - iii. Describe any health and safety hazards, including exposure to hazardous materials, which may result from the Project.

9. Monitoring and Mitigation Plan

- a. Description of all mitigation that is proposed to avoid, minimize or compensate for adverse impacts of the Project and to maximize positive impacts of 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.

10. Maps

- a. The following are general requirements for any map or plan required as part of the application. Minimum requirements include:
  - i. The name of the proposed development or use and total number of acres under consideration;
  - ii. Because all maps and plans may be used for public presentation, the map scale and size should be large enough for effective presentation and should accurately illustrate the application;
  - iii. Name, address, and telephone number of the applicant, designer, engineer, surveyor, and any other consultants assisting in the preparation;
  - iv. Date of preparation, revision box, written scale, graphic scale, and north arrow for each map.
  
- b. Permit Map
 

The applicant shall submit a Permit Map with the application, and a final Permit Map following approval of the Permit. The Permit Map shall constitute a part of the Permit. (Additional requirements for Site Selection and Construction of Major Facilities of a Public Utility are identified at Chapter 10(A)(2)(b).

  - i. The map shall be delineated on reproducible material approved by the Administrator.
  - ii. The dimensions of the map shall be thirty-six (36) inches wide by twenty-four (24) inches high.
  - iii. The map shall include the legal description of the property under consideration.
  - iv. The map shall include certificates for the property owner's signature (excepting linear facilities), the Board of County Commissioners and the Clerk to the Board. The required content of the certificates shall be established by the Administrator.
  - v. The Permit Map shall contain a Vicinity Map.
    - (1) The exact scale of the vicinity map shall be determined at the time of the pre-application conference, taking into consideration the type and size of the Project, as well as the type and complexity of the information to be mapped.
    - (2) The vicinity map shall delineate all of the required information within a one-half-mile radius of the property (one thousand feet for linear facilities) on which the development or activity will occur.
    - (3) The following information will be shown on the vicinity map:
      - Section, township and range.
      - Scale and north arrow.
      - Outline of the perimeter of the parcel proposed for the site (for linear facilities, the proposed centerline and width of any corridor to be considered for the Project).
      - Existing land use in the impact area.
      - Locations and names of all key roads and water features (including water ditches).

- Locations of all residences within a one-half-mile radius, existing and proposed accesses to the Project, any abutting subdivision outlines and names, and the boundaries of any adjacent municipality.
  - Any other relevant information within a one-half-mile distance of the perimeter of the property as may be reasonably required by the Administrator to meet the intent and purpose of these Regulations.
- vi. The Permit Map shall contain a Site Plan.
- (1) The exact scale of the site plan shall be determined at the time of the pre-application conference, taking into consideration the type and size of the Project, as well as the type and complexity of the information to be mapped.
  - (2) The Site Plan shall outline the boundaries and identify the total acreage of the parcel being considered for the Project.
  - (3) The Site Plan shall include the location and identification of all of the following items which are presently existing within a two-hundred-foot radius of the boundaries of the Project area as well as within the area itself; it shall also include the proposed features and structures of the Project:
    - All public rights-of-way of record, including names.
    - All existing and proposed structures, utilities, earthwork and site modification including electrical lines, facilities and other types of existing and proposed utility infrastructure, above and below ground.
    - All utility easements or rights-of-way for telephone, gas, electric, water and sewer lines.
    - Water ditches.
    - Adjacent property lines and respective owners' names (may be shown on vicinity map instead).
    - All hydrographic features including streams, rivers, ponds, and reservoirs (including names).
    - Topography at two-foot contour intervals or at intervals as determined appropriate by the Administrator. (Linear facilities shall include appropriate topographic data derived from USGS maps or an equivalent database.)
    - Location of areas of moderate or severe soil limitations as defined by the Natural Resources Conservation Service or by a soil survey and study prepared by a soils engineer or scientist for the uses and associated structures proposed for the parcel.
    - Location and design of storm water management devices or structures.
    - Complete traffic circulation and parking plan showing locations and sizes.
    - Location, amount, size and type of any proposed landscaping, fencing, walls, berms or other screening.
    - Location of any natural hazard area.
    - Such additional information as may be reasonably required by the Administrator or the Permit Authority in order to determine that the application meets the Permit Application Approval Criteria.

- Location, grades, and dimensions of all temporary and permanent onsite roads.
- Location of all lighting with lighting descriptions.
- Location of meteorological towers and anemometers (if applicable).

11. Roads/Access

Plan for ingress and egress to the project site identifying the following:

- a. A map of the access route through the County
- b. A description of the access route through the County to include:
  - i. All state, County, municipal, and/or federal (USFS or other) roads
  - ii. An inventory of existing road conditions. Identify road surface materials stating type and amount of surface cover.
- c. Dust control procedures
- d. Road maintenance schedule or program
- e. If new access routes, or improvements to existing access routes are proposed that would be under the authority of the County Roadway Design and Construction Manual, the plan shall demonstrate that such routes conform to the relevant requirements identified in the County Roadway Design and Construction Manual.

12. Professional Qualifications

- a. A professional consultant may not be necessary for all applications. Only the following will require professional assistance:
  - i. Improvement plans and reports for water supply, sanitation, drainage, utilities, soils, grading, roads, structures, transportation modeling, transportation planning, transit planning, air quality planning or modeling, floods and floodplains, and other civil engineering work must be certified by a registered Colorado Professional Engineer, or other qualified professional engineer exempted from licensing requirements by state statute.
  - ii. All documents containing land survey descriptions must be certified by a registered Colorado Professional Land Surveyor, or other qualified professional surveyor exempted from licensing requirements by state statute.
  - iii. Geology reports shall be prepared by either a member of the American Institute of Professional Geologists, a member of the Association of Engineering Geologists, an individual registered as a geologist by a state, or other qualified professional geologist exempted from licensing requirements by state statute.
- b. All documents described in the previous section submitted for review must show the formal education and relevant experience of the individual in charge of the work.

13. Additional Information as required by the Administrator or the Board because of issues specific to the Project.

The Administrator may request that the applicant supply additional information related to the Project if the Permit Authority will not be able to make a determination on one of the Permit Application Approval Criteria without additional information.

**G. AGENCY REFERRALS AND ADJACENT PROPERTY OWNERS; NOTICE OF FILING**

When a complete application is filed with the County, the Administrator shall send a copy of the complete application to and seek review comments from any local, state or federal agency that may have expertise in or an interest in impact that may be associated with the Project, including, but not limited to the agencies

listed below. Based on the specifics of the application, the Administrator may waive referrals that are not necessary to a complete review of the application, or refer the application to other agencies that he deems necessary or appropriate to a complete review of the application.

1. Clear Creek Fire Authority;
2. Clear Creek County Open Space Commission;
3. Colorado Geological Survey;
4. Colorado Public Utilities Commission;
5. Colorado Natural Areas Council;
6. Colorado Department of Public Health & Environment;
7. Colorado Division of Water Resources;
8. Colorado State Historical Society;
9. Colorado Division of Wildlife;
10. Colorado State Forest Service;
11. Colorado State Patrol;
12. Colorado Department of Transportation;
13. County departments;
14. Evergreen Fire Protection District;
15. Denver Regional Council of Governments;
16. Historic District Public Lands Commission;
17. Homeowners' associations which may be affected by the Project;
18. Local historic preservation agencies
19. Municipalities within three (3) miles of the Project area;
20. Natural Resources Conservation District (formerly Soil conservation Service);
21. Planning Commission (one copy for each member and associate member).
22. Special Districts which may be affected by the Project;
23. United States Forest Service;
24. Upper Clear Creek Watershed Association;
25. Upper Bear Creek Watershed Association.

Additionally, the Administrator shall send notice of the permit hearing to all adjacent property owners within 300 feet of the property for which the application is for. Additional notification to other affected property owners may be sent at the discretion of the Administrator on a case by case basis.

#### **H. NOTICE OF PERMIT HEARING**

1. Not later than thirty (30) days after receipt of a complete application for a Permit, the Permit Authority shall set a date for the public hearing on the application.
2. The Administrator shall publish a notice of the date, time and place for the Permit Authority hearing. Such notice shall be published once in the County legal newspaper, not less than thirty (30) days or more than sixty (60) days before the date set for the hearing.
3. No less than seven (7) days before the hearing before the Permit Authority, the Administrator shall prepare a staff report that summarizes the application and comments from review agencies, if any, and public comment, if any, and that identifies whether the permit application adequately demonstrates that the Project will comply with each of the applicable Permit Application Approval Criteria. The Administrator shall include in his report the reason why any approval criterion has not been satisfied and may recommend conditions to ensure that the Project will satisfy each criterion. A copy of the staff report shall be provided upon completion to the applicant.

**I. CONDUCT OF PERMIT HEARING**

1. The Permit Authority shall conduct the hearing in a manner to afford procedural due process to the applicant and any person who opposes the issuance of the Permit.
2. The Permit Authority shall hear relevant testimony and receive relevant evidence and may impose reasonable time limits on presenters and witnesses.
3. All persons appearing as parties at the hearing shall be afforded the right of cross-examination and a reasonable opportunity to offer evidence in rebuttal.
4. 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 Permit Authority and become part of the record.

**J. APPROVAL OR DENIAL OF THE PERMIT APPLICATION BY THE PERMIT AUTHORITY**

1. The burden of proof shall be on the applicant to show compliance with the provisions of these Regulations.
2. If information presented at the hearing leads the Permit Authority to find that additional information is necessary for it to determine whether the Permit Application Approval Criteria herein have been met, the Permit Authority may continue the hearing for not more than sixty (60) days unless a longer period is agreed to by the applicant, or it may deny the Permit.
3. The Permit Authority may approve the application with reasonable conditions necessary to ensure compliance with the Regulations, if it determines that the applicant has proven that the Project complies with all applicable provisions of these Regulations. If the Permit Authority determines that the applicant has failed to prove that the Project complies with any applicable provision of these Regulations, the Permit Authority shall deny the Permit.
4. If the Permit Authority decides to approve the Permit with conditions, the Permit Authority shall make written findings that each condition is necessary to ensure that the Project will comply with the Permit Application Approval Criteria herein, and that each condition is necessitated by impacts caused by the Project.
5. The Administrator shall collect and preserve the following record of the public hearing:
  - a. the permit application;
  - b. The names and addresses of all persons making oral or written statements, appearing as witnesses, or offering documentary evidence;
  - c. All documentary evidence and written statements or testimony presented in support of or in opposition to the permit application;
  - d. The electronic recording of the public hearing, provided that the County is under no obligation to transcribe such recording unless paid for by the requesting party;
  - e. The written minutes of the hearing;

- f. The resolution granting or denying the application;
  - g. The Permit, if issued.
6. A 1041 Permit may be granted subject to obtaining necessary approval from any approving authorities and to utility acceptance of any interconnection.

**K. ISSUANCE OF THE PERMIT**

- 1. The Permit shall be issued in writing by the Permit Authority.
- 2. The Permit may be issued for an indefinite period or for a term of years, depending on the nature of the Project.
- 3. The Permit is valid only for the construction and operation of the Project described in the application, together with conditions of approval, if any, imposed by the Permit Authority.
- 4. A copy of the Permit shall be certified by the Permit Authority and presented to the County Clerk & Recorder for recording in the same manner as any document relating to real property.
- 5. Upon reasonable notice, County officials or their designated representatives may enter land on which a 1041 Permit has been granted for the purpose of monitoring impacts related to the conditions of the Permit which may arise. Twenty-four (24) hours advance notice shall be deemed reasonable notice.

**L. PUBLIC HEARINGS OF OTHER LAND USE MATTERS**

In cases in which the development or activity must also comply with other provisions of the County zoning or subdivision regulations, the permit hearings required by these Regulations may be held at the same time as the public hearings on such other land use matters.

**M. PERMIT AMENDMENT**

- 1. Any material change in the construction or operation of a Project from that approved by the Permit Authority shall require a permit amendment or a new permit.
- 2. A permit amendment shall be processed like an original permit, following the regulations applicable at the time of the application for the amendment.

## CHAPTER 4. PERMIT APPLICATION APPROVAL CRITERIA

### A. PERMIT APPLICATION APPROVAL CRITERIA FOR MATTERS OF STATE INTEREST

A Permit to conduct a designated activity of state interest or to engage in development in a designated area of state interest shall be approved if the Project complies with the following general criteria and any additional applicable criteria in chapters related to a particular Project. If the Project does not comply with any one or more of these criteria, the Permit shall be denied or approved with conditions which will ensure compliance. In determining whether the Project complies with these criteria, or if conditions should be imposed, the Permit Authority may utilize the considerations of Appendix "A".

1. Documentation that prior to site disturbance for the Project the applicant will have obtained 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 applicant has the necessary expertise and financial capability to develop and operate the Project consistent with all requirements and conditions.
3. The Project is technically and financially feasible.
4. The Project will not impair property rights held by others.
5. The Project, or the location of the Project, will not have a significant adverse effect on the capability of local governments affected by the Project to provide services, or exceed the reasonable capacity of service delivery systems and public utilities.
6. The Project will not create an undue financial burden on existing or future residents of the County.
7. The benefits accruing to the County and its citizens from the Project outweigh the losses of any natural, agricultural, recreational, grazing, commercial or industrial resources within the County, or the losses of opportunities to develop such resources.
8. The Project will not significantly degrade any current or foreseeable future sector of the local economy.
9. The Project will not have significant adverse effect on the quality or quantity of recreational opportunities and experience.
10. Master Planning/Vision/Direction
  - a. The Project will not have a significant adverse effect on desired local and community land use patterns.
  - b. The Project is consistent with applicable local, regional, and state master/comprehensive plans, including, but not limited to transportation plans, the Clear Creek County Master Plan 2030, and the Intercounty Non-Motorized Routes Master Plan.
11. Natural Hazards

The Project should avoid areas subject to natural hazards. Natural hazards include geologic hazards, wildfire hazards, and flood. If such hazards exist, they must be eliminated or adequately mitigated. If hazards cannot be adequately mitigated, such areas shall be reserved where development is prohibited.
12. Air Quality

The Project will not significantly degrade air quality (see Chapter 9(B)(19) for additional

standards).

13. Water Quality and Aquatic Life

- a. The Project will not increase water pollution levels in violation of applicable federal, state, and local surface water and groundwater quality control standards and will result in no net loss of wetland values and functions.
- b. The Project will not significantly degrade terrestrial or aquatic animal life or its habitats.
- c. The Project will not significantly degrade terrestrial plant life or plant habitat.

14. Wildlife

The Project will avoid or mitigate significant adverse impacts on critical wildlife habitat, including breeding grounds, nesting areas, migration routes, and wintering areas. Rare and endangered species habitat protection shall also be addressed.

15. Cultural/Historical Resource Considerations

- a. The Project will not significantly degrade areas of paleontological, historic or archaeological importance.
- b. The Project will have no unmitigated significant adverse impact on cultural resources.

16. The Project will not significantly degrade soils or geologic conditions.

17. Design Standards

- a. The planning, design and operation of the Project shall reflect principals of resource conservation, energy efficiency and recycling or reuse (see Chapter 7(B)(1) for additional standards).
- b. The Project will not significantly degrade existing visual quality (see Chapter 9(B)(21) for additional standards).
- c. Exterior building design materials used in constructing buildings or structures in commercial centers shall complement the county's mountain environment or historic mining heritage. Natural materials should be used such as wood siding, native stone, masonry, or glass. Materials that complement the County's historic mining heritage are also encouraged. Variations in roof lines and in building facades are encouraged. Architectural designs shall complement and coordinate with one another, and shall create interest through varied roof lines, treatment of building facades, and use of covered walkways and entrances.

18. Landscaping/Erosion Control

- a. Landscaping shall demonstrate water conservation by requiring xeriscaping concepts. The use of native species should be maximized so that native species continue to dominate the County's mountain environment. Plant species that the County has determined are invasive, noxious, or otherwise a nuisance are prohibited. The impacts of site development shall be mitigated with landscape designs that will buffer or screen the development from abutting properties and from public rights-of-way. Buffering and screening features shall complement the existing natural character and context of the site and blend with the setting. Landscaping shall demonstrate the long term health and success of required landscaping through appropriate maintenance practices, including replacing landscaping that may have perished and keeping irrigation systems operable.
- b. The Project will meet the standards of the County's Best Management Practices for

control of stormwater runoff.

19. Nuisances/Hazards
  - a. The Project will not cause a nuisance.
  - b. The Project will not result in unreasonable risk of releases of hazardous materials.
20. Mineral Resources

The Project will not impede or interfere with existing mining operations, nor will there be a significant adverse impact on mineral resources in the County.
21. Roads/Access

Adequate legal and physical access shall be demonstrated, and the applicant shall demonstrate it has secured, or can secure, all necessary access approvals from the County, the Colorado Department of Transportation, and other applicable government agencies. The applicant agrees to confine construction traffic to agreed-upon routes.

**B. ADDITIONAL PERMIT APPLICATION APPROVAL CRITERIA**

In addition to meeting the Permit Application Approval Criteria in this Chapter, certain Projects must meet the additional Permit Application Approval Criteria set forth in Chapters 7 - 10 of these Regulations.

## **CHAPTER 5. FINANCIAL ASSURANCE**

### **A. FINANCIAL GUARANTEE REQUIRED**

Before any Permit is issued, the Permit Authority may, at its discretion, require the applicant to file a guarantee of financial security deemed adequate by the Permit Authority and payable to the County. The purpose of the financial guarantee is to assure the following:

1. Faithful performance of the requirements of the Permit and applicable Regulations.
2. That the Project or activity is completed and, if applicable, that the development area is properly reclaimed.
3. That the applicant performs all mitigation requirements and Permit conditions in connection with the construction, operation and termination of the Project.
4. That increases in public facilities and services necessitated by the construction, operation and termination of the Project are borne by the permit holder.
5. That shortfalls to County revenues are offset in the event that the Project is suspended, curtailed or abandoned.

### **B. AMOUNT OF GUARANTEE**

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

1. The estimated cost of completing the Project or activity 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 Project, including:
  - a. The estimated cost of providing all public service necessitated by the Project until two (2) years after the Project ceases to operate; and
  - b. The estimated cost of providing all public facilities necessitated by the Project until all such costs are fully paid.

### **C. ESTIMATE**

1. 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 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 these Regulations.
2. Revisions to the estimate may be required based on information available to the County.

### **D. FORM OF GUARANTEE**

1. The guarantee may be in the form of cash, federally-issued certificates of deposit, irrevocable letters of credit issued by a bank acceptable to the Board, or any other form, or combination of forms, established by the Board.

2. At least ten percent (10%) of the amount of the financial guarantee must be in cash deposited with the County's treasurer and placed in an earmarked escrow account mutually agreeable to the Board and applicant.
3. Financial guarantees in the form of performance bonds shall provide a financial guarantee that the permit holder will fulfill all obligations under the terms of the Permit. The surety issuing a performance bond shall have at least an "A" rating from Moody's or an equivalent rating as designated by a nationally recognized rating firm, and shall additionally be included in the most recent listing of companies holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, Department of Treasury, Circular 570 (or its successor).
4. The surety issuing an irrevocable letter of credit must maintain an office or corresponding bank within fifty (50) miles of Georgetown, and shall have a current rating of 125 or better from IDS Financial Services, Inc., or otherwise be approved by the County's Director of Finance.
5. The permit holder shall not have greater than a twenty percent (20%) ownership or managerial control over the surety issuing any financial guarantee.

**E. RELEASE OF GUARANTEE**

1. 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 criteria adopted by the County for the matter of state interest for which the Permit is being granted;
  - c. The Project has been satisfactorily completed;
  - d. 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 of County Commissioners; or
  - e. The applicable guaranteed conditions have been satisfied.

**F. CANCELLATION OF THE GUARANTEE**

Any security may be canceled 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.

**G. FORFEITURE OF GUARANTEE**

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

2. The Permit Authority shall hold a hearing within thirty (30) days after the receipt of the demand by the permit holder. At the hearing, the permit holder 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.
3. A financial guarantee shall be deemed forfeited if it is not renewed in a form acceptable to the Board not later than fifteen (15) business days before its expiration date.
4. The deposit described above may be used by the Permit Authority of the County in the event of the default or alleged default of the permit holder, only for the purposes of recovering on the surety or fulfilling the permit obligation of the permit holder. In the event that the ultimate reviewing court determines that there has been a default by the permit holder, that portion of any moneys expended by the County from the escrow funds relating to such default shall be replaced 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 funds 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.
5. If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, the County's attorney shall take such steps as deemed proper to recover such costs where recovery is deemed possible including costs and attorney fees.

**H. SUBSTITUTE GUARANTEE**

If the license to do business in Colorado of any surety upon a security filed pursuant to this regulation is suspended or revoked by any State authority, then the applicant shall within thirty (30) days after receiving notice thereof, substitute a good and sufficient surety licensed to do business in Colorado. Upon failure of the permit holder to make substitution within the time allowed, the Board of County Commissioners shall suspend the Permit until proper substitution has been made.

## **CHAPTER 6. PERMIT ADMINISTRATION AND ENFORCEMENT**

### **A. ANNUAL REVIEW**

1. Within thirty (30) days before each annual anniversary date of the granting of a Permit, the permit holder shall submit a report to the Board of County Commissioners, via the Administrator, detailing all past activities conducted by the permit holder pursuant to the permit including a satisfactory showing that the permit holder has complied with all conditions of the Permit and applicable regulations. The permit holder need not inform the Board of activities, such as operational changes, which are not the subject of a permit condition.
2. The Board shall review the report within thirty (30) days from the date of submittal thereof. If the Board determines, based upon its review, that the permit holder is likely to have violated the provisions of the Permit or applicable regulations, it shall consider the matter at a scheduled public hearing. If the Board determines at the public hearing that the permit holder has violated the provisions of the Permit or applicable regulations, the Board may suspend or revoke the Permit in accordance with these Regulations.
3. Upon notice to the Board of the fulfillment of all Permit conditions, and the Board's concurrence therein, the Board may terminate any annual review requirements.
4. The Board of County Commissioners may waive or modify the annual review requirements on its own initiative and discretion or upon petition of the permit holder and upon a showing of good cause therefor.

### **B. PERMIT SUSPENSION OR REVOCATION**

1. The Permit Authority may temporarily suspend the Permit for a period of thirty (30) days for any violation of the Permit or these Regulations. Prior to any permit suspension, the Permit Authority shall provide the permit holder with 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. If the permit holder does not concur that there is a violation, he shall, within fifteen (15) days after the date of the notice, show cause to the Board why temporary suspension should not be ordered. A hearing shall be held within the thirty-day period pursuant to the following subsection.
2. Before or after a temporary suspension, the Permit Authority may, following notice and hearing, revoke or permanently suspend a Permit granted pursuant to these Regulations, if the Permit Authority finds:
  - a. A violation of any provision of the Permit or these Regulations; or
  - b. The permit holder has failed to take substantial steps to initiate the permitted development or activity within twenty-four (24) months from the date of the Permit, or, if such steps have been taken, the permit holder has failed to complete the development or activity with reasonable diligence. "Substantial steps" do not require construction activity and may include, among other things, legal or administrative proceedings and activities directly associated with the Project. An extension of the time within which substantial steps to initiated the permitted development or activity need be taken may be granted by the Permit Authority upon the request of the permit holder and a showing of good cause therefor.
3. Upon good cause shown by the permit holder, any revoked or suspended permit may be reinstated,

effective immediately upon such reinstatement, within twelve (12) months after revocation or suspension.

4. When the Permit Authority is considering the revocation or suspension of a permit, it shall consider evidence and statements in mitigation and in aggravation of the violation or failure to act before determining the appropriate penalty.
5. No less than thirty (30) days before the revocation hearing, the Permit Authority shall provide written notice to the permit holder setting forth the violation and the time and date for the revocation hearing. Public notice of the revocation hearing shall be published in a newspaper of general circulation not less than thirty (30) days or more than sixty (60) days prior to the hearing. Following the hearing, the Permit Authority 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. 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 conditions or these Regulations, or who acts outside of the jurisdiction of the Permit may be enjoined by the County from engaging in such development or conducting such activities 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 shall be immediately suspended and a hearing shall be held to determine whether new conditions are necessary to ensure compliance with Permit Application Approval Criteria or if the Permit should be revoked.
3. The remedies set forth here are cumulative of all other remedies, legal and equitable, provided by law.

**D. TRANSFER OF PERMITS**

A permit may be transferred only with the written consent of the Permit Authority. The Permit Authority must ensure, in approving any transfer, that the proposed transferee can and will comply with all requirements, terms and conditions contained in the Permit and these 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.

**E. INSPECTION**

The Permit Authority and its agents and consultants may enter and inspect any property subject to these Regulations at reasonable hours for the purpose of determining whether the Project is in violation of the provisions of these Regulations.

**F. JUDICIAL REVIEW**

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

**CHAPTER 7. ADDITIONAL PROVISIONS APPLICABLE TO MUNICIPAL AND INDUSTRIAL WATER PROJECTS**

**A. ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO MUNICIPAL AND INDUSTRIAL WATER PROJECTS**

1. Description of efficient water use, recycling and reuse technology the Project intends to use.
2. Map and description of other municipal and industrial water projects in the vicinity of the Project, including their capacity and existing service levels, location of intake and discharge points, service fees and rates, debt structure and service plan boundaries and reasons for and against hooking on to those facilities.
3. Description of demands that this Project expects to meet and basis for projections of that demand.

**B. ADDITIONAL CRITERIA APPLICABLE TO MUNICIPAL AND INDUSTRIAL WATER PROJECTS**

In addition to the general criteria set forth in Chapter 4 of these Regulations, the following additional criteria apply to municipal and industrial water projects:

1. The Project shall emphasize the most efficient use of water, including the recycling, reuse and conservation of water.
2. The Project will not result in excess capacity in existing water or wastewater treatment services or create duplicate services.
3. The Project shall be necessary to meet community development and population demands in the areas to be served by the Project.
4. Urban development, population densities, and site layout and design of storm water and sanitation systems shall be accomplished in a manner that will not degrade groundwater quality.

**CHAPTER 8. ADDITIONAL PROVISIONS APPLICABLE TO MAJOR NEW DOMESTIC WATER AND WASTEWATER TREATMENT SYSTEMS AND MAJOR EXTENSIONS OF EXISTING DOMESTIC WATER AND WASTEWATER TREATMENT SYSTEMS**

**A. ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO MAJOR NEW DOMESTIC WATER AND WASTEWATER TREATMENT SYSTEMS AND MAJOR EXTENSIONS OF EXISTING DOMESTIC WATER AND WASTEWATER TREATMENT SYSTEMS**

1. Description of existing and approved proposed 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, service fees and rates, debt structure and service plan boundaries, and reasons for and against connecting to those facilities.
2. A detailed inventory of total commitments already made for current water or sewage services in terms of taps or other appropriate measurement;
4. Description of how the Project will affect development, densities, and site layout and design of stormwater and sanitation systems.
5. Description of other water and wastewater management agencies in the Project area and reasons for and against consolidation with those agencies (“Consolidation” may include the physical connection for service delivery, and/or consolidation of management, without physical connection to the service).
6. Description of how the Project may affect adjacent communities and users on wells.

**B. ADDITIONAL CRITERIA APPLICABLE TO MAJOR NEW DOMESTIC WATER AND WASTEWATER TREATMENT SYSTEMS AND MAJOR EXTENSIONS OF EXISTING DOMESTIC WATER AND WASTEWATER TREATMENT SYSTEMS**

In addition to the general criteria set forth in Chapter 4 of these Regulations, the following additional criteria shall apply to any development of major new domestic water and wastewater treatment systems or major extensions of existing domestic water and wastewater treatment systems:

1. The Project shall be reasonably necessary to meet projected community development and population demands in the areas to be served by the Project, or to comply with regulatory or technological requirements.
2. When determined to be appropriate, wastewater and water treatment facilities shall be consolidated with existing facilities within the area.
3. New domestic water and sewage treatment systems shall be constructed in areas which 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. 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 economical and environmental capacity of the area to sustain such growth and development.

**CHAPTER 9. ADDITIONAL PROVISIONS APPLICABLE TO SITE SELECTION OF ARTERIAL HIGHWAYS AND INTERCHANGES AND COLLECTOR HIGHWAYS**

**A. ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO SITE SELECTION OF ARTERIAL HIGHWAYS AND INTERCHANGES AND COLLECTOR HIGHWAYS**

In addition to the general submittal requirements herein, provide a narrative describing the proposed Site Selection of the Arterial Highway, Collector Highway, or Interchange, and any proposed mitigation. For the proposed and all reasonable alternative corridor locations and designs or all reasonable alternative Interchange locations and designs, the narrative shall address the following:

1. A general description of the proposed corridor location or interchange location and design, with a discussion of the advantages and disadvantages of this alternative.
2. A location map showing the corridor or interchange location and general area.
3. Corridor location study that describes the following:
  - a. Type, scale, and appearance of the Project;
  - b. Cost estimate and funding source;
  - c. Financing plan and tolling feasibility study, where appropriate;
  - d. Approximate timetable for right-of-way acquisition and construction;
  - e. Plan and profile for the Project;
  - f. Elevation drawings for any proposed structures.
4. Identify major traffic generators in the impact area.
5. Traffic Demand Modeling Study that describes the increased demand that the proposal will place on other arterial highways, collector highways, frontage roads and interchanges, and showing consistency with the most current DRCOG regional plan, the Colorado Department of Transportation (CDOT) Statewide Transportation Improvement Program (STIP) and the DRCOG Transportation Improvement Program (TIP).
6. The existing level of service (LOS), the planned LOS in relationship to projected user demand in five (5) year increments for fifty (50) years, and the capacity of impacted transportation facilities before and after the Project is completed.
7. A map of the impact area showing planned, proposed, or expected land use at each year of population projection, with and without the impacts of the Project.
8. Describe the approximate number of users of the proposed Highway or Interchange in terms of existing County residents, projected County residents, and non-County persons.
9. Describe plans for promoting the use of alternative modes of transportation.
10. Describe impacts of the Project on accessibility to and from existing public facilities, commercial and industrial facilities and residential areas.
11. Describe anticipated noise levels resulting from the Project, including noise levels expressed

through 8-hour and 24-hour Equivalent Sound Level metrics, as well as single event noise metrics.

12. Describe the local and regional air quality impacts of the Project, including the risk to human health and the environment posed by air pollutants, including, but not limited to, formaldehyde, benzene, 1,3-butadiene, diesel particulates and other fuel combustion by-products.
13. Describe impacts resulting from any highway surface application, such as chemicals, sand, etc.
14. Describe alternatives which may be utilized by Clear Creek County, and any municipalities within the impact area, in planning for and controlling adjacent land use.
15. A traffic operations and safety study.
16. All feasible alternatives for mitigating adverse effects of the Project including, but not limited to, effects on the level of public services, access to public services, division of existing communities, water quality, air quality, noise levels, and scenic, historical, recreational, archaeological, and natural resources. Mitigation alternatives to be considered include, but are not limited to:
  - a. Alternative locations, configurations and access, including but not limited to, grade separated interchanges and complete or partial construction below grade with cover and landscaping suitable for recreational use or for construction of streets, bike paths or pedestrian walkways;
  - b. Alternative pavement types;
  - c. Alternative Highway maintenance and snow removal methods;
  - d. Sound walls and other sound mitigating structures, such as transparent noise barriers;
  - e. Berms and/or landscaping;
  - f. Speed limits;
  - g. Speed control devices;
  - h. Limits on the use of compression brakes, including but not limited to jake brakes;
  - I. Wildlife crossings and pedestrian bridges.
17. Describe the costs and benefits to the community resulting from the land use commitment necessitated or facilitated by the proposed construction compared to alternative projected land uses in terms of land suitability, community services, utilities and revenues.
18. Less harmful alternatives.
  - a. If the Administrator determines that the nature or extent of the Project involves the potential for significant harmful to cultural or historic resources, or for significant environmental harmful, or for significant socioeconomic harm, and warrants examination of one or more specific, less harmful alternatives, or appropriate mitigation, the Administrator may request that the Board of County Commissioners require the applicant to evaluate and present information on such alternatives or mitigation as part of the application.

- b. Required information on alternatives or mitigation measures may include, but shall not be limited to, information on the impacts, effectiveness of mitigation and the cost-effectiveness of the alternative or mitigation measure in relationship to the Project.

**B. ADDITIONAL CRITERIA APPLICABLE TO SITE SELECTION OF ARTERIAL HIGHWAYS AND INTERCHANGES AND COLLECTOR HIGHWAYS**

In addition to the general criteria set forth in Chapter 4 of these Regulations, the following additional criteria shall apply to any site selection of arterial highways and interchanges and collector highways:

1. The Project will be located so that local traffic needs are met and will preserve at grade access from locally-maintained roads to the extent necessary to meet local traffic needs and to avoid unacceptable division of existing communities.
2. The Project will be located only in a corridor for which a clear and reasonable local and regional need for such facility(ies) has/have been demonstrated.
3. Reasonable alternative modes of transportation shall be incorporated into the highway proposal.
4. The proposed location and access limitation for the Project will not isolate community neighborhoods from public facilities, and where practicable, will enhance access from community neighborhoods to public facilities including those located within incorporated municipalities, hospitals, mass transit, and pedestrian walkways, bikeways, recreational areas, and open spaces.
5. The proposed location and access limitations for the Project will not restrict access via other roadways, mass transit facilities, pedestrian walkways, and bikeways to local commercial services, business, and employment centers, and public facilities including schools, hospitals, recreational areas and open spaces.
6. The Project will not create safety hazards to motorists, pedestrians, or bicyclists by causing or contributing to overuse, improper use, or congestions, or cause unnecessary diversion of regional traffic onto local roadways or inappropriate or inadequate connections to pedestrian and bicycle routes.
7. The Project will be located so as to complement the compact and efficient extension of planned public services, utilities, urban-density commercial & residential development, and development in general to full-service communities and their identified growth areas, both regionally and within Clear Creek County.
8. The Project will adhere to the plan, process, procedure, and requirements of the State of Colorado and the Federal Highway Administration and such construction, expansion, or modification will be included in the Denver Metropolitan Regional Transportation Plan.
9. The benefits of the Project, including expected development in the regional and local impact areas, will outweigh the social, fiscal, and environmental impact and the loss of any scenic, historical, archeological, or natural resources rendered unavailable as a result of the location of the Project.
10. If a Project consists of or includes adding toll lanes to an existing Arterial Highway, Collector Highway, or Interchange, whether by replacing existing free lanes with toll lanes, or by adding toll lanes to existing free lanes, the effects and utility of adding toll lanes have been reasonably demonstrated to be superior to the effects and utility of adding the same number of free lanes to the same stretch of Highway for both the Highway to which the toll lanes are added retroactively and for the area affected; and existing state roads which have historically provided free access

within Clear Creek County will continue to provide free, non-tolled access.

11. **Air Quality**  
The maximum anticipated use over the next twenty (20) years of the Project will not increase air pollution levels beyond applicable federal or state ambient air standards or to levels that pose unacceptable risks to human health and the environment, and will conform to the vehicle emissions budget of the State Implementation Plan.
12. **Noise Pollution**  
Noise levels caused by the Project will not exceed 55 decibels as measured by a 24-hour Equivalent Sound Level metric at any residence, school, church, noise-sensitive public facilities such as museums, courts, libraries, etc.\*, or other noise-sensitive location, unless the Board of County Commissioners determines that meeting such sound level is infeasible, that all feasible avoidance or mitigation measures will be incorporated, and the public benefit of any new or modified arterial highway or interchange or collector highway necessitates the Project.  
\* noise-sensitive public facilities typically would not include water and sewage treatment facilities, and other facilities typically not frequented by the public.
13. **Visual Quality/Scenic Resources**
  - a. The Project will be designed to avoid or minimize visual impacts, including views of the highway or interchange from residential areas, and to blend into the surroundings. Interchanges will be attractively landscaped with natural species suitable for the elevation and climate of the immediate area, and will identify major gateways in the County that are identified in the Clear Creek County Master Plan 2030.
  - b. Further, the Project shall be designed to minimize the alteration of significant natural landforms and to preserve, wherever practical, distinctive natural features. Placement of interchanges and alignments of arterial and collector highways shall respect the existing contours of the land and the natural environment.
14. **Alternatives**  
The Project is justified in relation to other possible expansion and modification alternatives and not solely in relation to the no-build alternative of no expansion or modification.

**CHAPTER 10 ADDITIONAL PROVISIONS APPLICABLE TO SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY**

**A. SPECIAL PROCESSING REGULATIONS FOR APPLICATIONS BY PUBLIC UTILITIES AND POWER AUTHORITIES**

1. Within 28 days after submission of an application, purported by the applicant to be complete, of a public utility or a power authority providing electric or natural gas service that relates to the location, construction, or improvement of major electrical or gas facilities as defined in CRS §29-20-108(3), the Administrator shall determine whether the application is complete, and, if it is determined to be incomplete, shall give notice of what additional information is required, as provided in Chapter 3.E. The notice shall specify the particular provisions of the regulations that necessitate submission of the required information.
2. Final action by the Permit Authority on any application under this subchapter 10.A. shall be taken no later than (a) 90 days after the utility's or authority's submission of an application deemed complete as provided in Chapter 3.E. or (b) 90 days after the utility or authority submits all of the information required by the Administrator's timely notice of what additional information is required, whichever is later.
3. Failure of the Administrator to give timely notice that an application is incomplete will not prevent the Administrator from requiring additional information to complete the application, but the 90-day deadline for final action shall run from the last day on which the notice could have been timely given as provided in this subchapter 10.A.
4. The deadlines in this subchapter 10.A supersede any other deadlines in these regulations in the event of conflict between them.
5. The applicant and Permit Authority may agree to longer timelines for processing and taking final action on a permit application, which agreement will supersede the provisions of this subchapter 10.A.

**B. ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY**

1. The applicant must provide the following information concerning title of the project site, which shall be the entire proposed alignment or corridor under consideration at the time of the application for transmission line and pipeline projects:
  - a. The names and addresses of all surface property owners of the project site and within one thousand three hundred twenty (1,320) feet of the boundaries of the property proposed to be physically disturbed, except for transmission line or pipeline projects, for which the names and addresses of all surface property owners for five hundred (500) feet on either side of the centerline of the proposed alignment shall be provided.
2. The applicant must provide the following items and information:
  - a. A sketch or map showing the following:
    - i. If a power plant is proposed, the area within ten (10) miles from the site.
    - ii. For transmission lines or pipelines, provide a map showing all existing transmission lines (115 kV or greater) or pipelines (ten-inch in diameter or greater) for a distance of two (2) miles beyond any reasonable alternative studied.
  - b. For upgrades of existing transmission lines (115 kV or greater) or gas pipelines (ten-inch diameter or greater), provide a sketch showing all existing transmission lines and

pipelines within one (1) mile on either side of the proposed alignment.

- c. For all other major facilities of a public utility, provide a sketch showing the area within five (5) miles of the site if another major facility is proposed.
  - d. Type of facility - specify where applicable:
    - i. The voltages and lengths of transmission lines.
    - ii. Power source and generating capacity.
    - iii. The functions and sizes of substations.
    - iv. For pipeline projects, the diameters and lengths of pipelines.
    - v. The capacities of the storage tanks and types of petroleum derivative to be stored.
    - vi. Corridor locations.
    - vii. Service area.
    - viii. Resource area (e.g., source of power being generated or transmitted, source of petroleum derivative being transported).
    - ix. Describe applicable support facilities (e.g., pollution control, parking areas, landscaping, etc.) to be provided.
  - e. Projected development schedule:
    - i. Estimate maximum number of employees, number of shifts and employees per shift during the construction, operation and maintenance phases of the project.
    - ii. Specify any future phases or extensions of the facility and relationship of the facility (if currently foreseen) to larger programs and plans.
- 3. Analysis of nonstructural alternatives to the project such as conservation of energy use, no development or management (different scheduling, conservation programs, facility design, land trades, etc.), if applicable.
  - 4. Analysis of reasonable structural alternatives to the project such as alternate locations and routes, alternative types of facilities, use of existing rights-of-way, joint use of rights-of-way with other utilities and upgrading of existing facilities.
  - 5. Analysis of design alternatives concerning access, landscaping, architectural controls and so forth.

**C. ADDITIONAL CRITERIA APPLICABLE TO SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY**

- 1. The Board of County Commissioners shall approve an application for permit for site selection and construction of a major facility of a public utility (with reasonable conditions, if any, in the discretion of the Board of County Commissioners) only if the proposed site selection and construction complies with the following criteria, to the extent applicable, and taking into consideration the purpose and intent of these Section 1041 Regulations. (The Board may rely upon the findings and approvals of other governmental entities having jurisdiction over those criteria listed below with respect to their environmental determinations or regulatory compliance.
  - a. All reasonable alternatives to the proposed action, including use of existing rights-of-way and joint use of rights-of-way wherever uses are compatible, have been adequately assessed and the proposed action is compatible with and represents the best interests of the people of the County and represents a fair and reasonable utilization of resources in the impact area.

- b. The facility site or expansion area is not in an area with general meteorological and climatological conditions which would unreasonably interfere with or obstruct normal operations and maintenance.
- c. The nature and location of the facility or expansion will not adversely affect the water rights of any upstream, downstream or agricultural users, adjacent communities or other water users.
- d. Adequate water supplies are available for facility needs.
- e. The nature and location of the facility or expansion will not unduly interfere with existing easements, rights-of-way, other utilities, canals, mineral claims or roads.
- f. Adequate electric, gas, telephone, water, sewage, and other utilities exist or shall be developed to service the site.
- g. 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, at 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.
- h. The proposed project will not present an unreasonable risk of exposure to or release of toxic or hazardous substances within the impact area. The determination of effects of the project shall include the following considerations:
  - i. The means by which outdoor storage facilities for fuel, raw materials, equipment and related items are adequately enclosed by a fence or wall.
  - ii. The likelihood of hazardous materials or wastes being moved off the site by natural causes and forces.
  - iii. Containment of inflammable or explosive liquids, solids or gases.
- i. The scope and nature of the proposed project will not unnecessarily duplicate existing services within the County.
- j. If the purpose and need for the proposed project are to meet the needs of an increasing population within the County, the area and community development plans and population trends demonstrate clearly a need for such development.

**CHAPTER 10.a. ADDITIONAL PROVISIONS APPLICABLE TO SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY FOR UTILITY-SCALE WIND FACILITIES**

**A. ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY FOR UTILITY-SCALE WIND FACILITIES**

- 1. Wind Resource Map** that identifies wind characteristics including prevailing wind direction and minimum, maximum, and average wind speeds.
- 2. Shadow Flicker**  
For utility scale wind energy systems, a copy of the Shadow Flicker Analysis. The application shall conduct an analysis on potential shadow flicker at occupied structures. The analysis shall identify the locations of shadow flicker that may be caused by the project and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The analysis shall also show locations of all occupied structures within locations of shadow flicker that may be caused by the project.
- 3. Electromagnetic Interference**  
Evidence, to include mitigation agreed to via negotiations with owners of other facilities, that the project will not be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference. Further, evidence shall be provided that the project will not be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant.
- 4. Complaint Resolution**  
A Complaint Resolution process shall be developed by the applicant that includes a method to resolve complaints from nearby residents concerning the construction or operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting on a complaint. The process shall not preclude the County from acting on a complaint. The process shall also include contact information where a project representative can be reached during normal business hours during construction of the project.
- 5. Noise Emissions**  
Please see the Noise Emissions portion below for submittal requirements.

**B. ADDITIONAL CRITERIA APPLICABLE TO SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY FOR UTILITY-SCALE WIND FACILITIES**

The Board of County Commissioners shall approve an application for permit for site selection and construction of a major facility of a public utility for utility-scale wind facilities (with reasonable conditions, if any, in the discretion of the Board of County Commissioners) only if the proposed site selection and construction complies with the following criteria, to the extent applicable, and taking into consideration the purpose and intent of these Section 1041 Regulations. (The Board may rely upon the findings and approvals of other governmental entities having jurisdiction over those criteria listed below with respect to their environmental determinations or regulatory compliance.

**1. Electromagnetic Interference**

No utility scale wind or solar energy system shall be installed in any location where its proximity to existing fixed broadcast, retransmission, or reception antennae for radio, television, or wireless phone or other personal communication systems would produce electromagnetic interference with signal transmission or reception unless the applicant provides a replacement signal to the affected party that will restore reception to at least the level present before operation of the wind energy system, or unless there is agreed upon mitigation through negotiations with owners of such facilities. No utility scale wind energy system shall be installed in any location within the line of sight of an existing microwave communications link where operation of the wind energy system is likely to produce electromagnetic interference in the link's operation unless the interference is insignificant, or unless there is agreed-upon mitigation through negotiations with owners of such facilities.

## **2. Noise Emissions**

### **a. NOISE MEASUREMENT METHODS**

All noise shall be measured with a sound measuring system that meets the requirements set forth in the ANSI S1.4-1983 standard for a Type 1 Sound Level Meter/Analyzer. The noise measurements shall be conducted in accordance with the requirements set forth in International Electro-mechanical Commission (IEC) Standard 61400-11, Part 11, edition 2.1 annex A.2 dated 2006, in effect at the date of approval of a project by the Clear Creek County Commissioners. This requirement regarding the performance specifications for acoustical instrumentation is applicable to all noise measuring, recording and analysis devices including both digital and analogue types. All instrumentation shall be calibrated annually with laboratory calibration standards having traceability to National Institute of Standards Technology. The ANSI specification does not address the frequency response characteristics of sound level meters/analysis at frequencies less than 10 Hz. Therefore S1.4 should be used as a guide for methods, procedures and the performance of noise measuring instruments at frequencies less than 10 Hz.

### **Ambient Noise Level**

The ambient noise levels (commonly referred to as baseline noise levels) shall be measured at the project boundary lines and as may be specified by the Administrator. The term "receptor" means any occupied building or structure.

The ambient noise level also shall be measured at receptors which may be determined on a case-by-case basis by the Administrator based on the existence of specifically-identified potentially affected receptors in proximity to the project site. The procedures and methods in ANSI standard S12.9 or ISO specification R1996 shall be used as a guideline regarding methods, procedures and reporting. The measured and recorded decibel levels shall be dB(A) and dB(C) weighting, slow response and energy equivalent ( $L_{eq}$ ). The measurement schedule shall be for each and every one (1) hour interval in a twenty-four day for a total duration of one (1) month during the summer, one (1) month during the fall, one month during the winter and one (1) month during the spring. If it is demonstrated that the acoustical environment can be accurately characterized in less than the four seasonal periods described in the preceding sentence, the administrator can designate a different data collection schedule. The data shall include as a minimum, exceedance levels of 1%, 10%, 50%, 90% and 99% for every one hour increment. Measurement intervals may be ignored if the wind speed at the measurement site is in excess of 20 mph during any increment of time during the one-hour measurement intervals. Other disruptive events that would produce non-representative noise levels may also be excluded from the exceedance calculations but each one-hour interval must be documented as to the reason for non-inclusion of the data.

A meteorological station shall be located at selected receptor sites and shall measure and record wind speed, wind direction, temperature and humidity. The meteorological data and noise printouts shall

include one-hour time stamps so that the meteorological data can be correlated with the noise data. The meteorological station wind speed and direction transducers shall be no more than 12 feet above grade level. The temperature and humidity transducers may be at any elevation between 5 and 12 feet above grade level. The measurement accuracy shall be about 10%.

**B. WIND FARM NOISE EMISSIONS**

Noise emission from the site shall not be greater than the following dB(A) slow and dB(C) slow, one-hour energy equivalent exceedance levels as measured at the project boundary or beyond.

Hourly Exceedance Level Wind Farm Noise		
Exceedance Value - %	dB(A) Slow - L <sub>eq</sub>	dB(C) Slow - L <sub>eq</sub>
1	60	75
5	55	70
10	50	65
50	45	60
90	40	55
99	35	50

In any event, the exceedance levels shall not be greater than 5 dB above the ambient exceedance levels if ambient exceedance levels already exceed the above hourly levels for wind farm noise.

There are several ways to view or understand the meaning of the Exceedance Level Percentiles. For example using the values presented above:

The 1 Percentile

Only one percent of the total measurement time did the noise level exceed 60 dB(A). For almost all the one percentile levels are caused by local vehicle traffic, aircraft overhead, wildlife, wind, thunder and intermittent industrial activities.

The 10<sup>th</sup> Percentile

This percentile includes all of the noise values occurring more than 10% of the total time.

The 50<sup>th</sup> Percentile

A similar situation is the Class Average where half of the students get a better grade and half of the students get a lower grade.

The 90<sup>th</sup> Percentile

Very close to the constant noise level produced. In other words, the 90<sup>th</sup> percentile is that dB value that would occur most of the time.

It is required that the noise emission levels obtained when the turbines are in operation be at the same sites as the ambient (baseline) measurement locations. Measurement intervals may be ignored and not included in the calculation of the exceedance value if the wind speed at the measurement site is in excess of 20 mph during any increment of time during the one-hour measurement interval, other disruptive events that would produce non-representative noise levels may also be excluded from the exceedance calculation but each one-hour interval must be documented as to the reason for non-inclusion of the data.

These dB(A) exceedance values are based upon recommendations in ISO standard 1996, § 4.1 (35 dB(A) to 45 dB(A) rural outdoors), the State of Washington, Chapter 173-60 WAC, the World Health Organization and several townships in Michigan. Also the exceedance values will in all probability be receptor site dependent, for example, a receptor site near I-70 will have exceedance levels greater than those listed above. This is one reason why it is important to know the site specific ambient noise levels

and, if required, adjust the exceedance levels accordingly. When this occurs the exceedance levels shall not be greater than 5 dB above the ambient exceedance levels.

Selected meteorological stations shall be located at the same sites where the ambient noise measurements were taken and shall measure and record wind speed, wind direction, temperature and humidity. The meteorological data shall include one-hour time stamps that can be correlated with the noise data.

**Pure Tones**

Pure tones including multiple tones can be identified as a pure tone or pure tone components by using the following criteria:

1/3 Octave Frequency Band Range	dB Level of Adjacent 1/3 Octave Band Range
125 Hz and Lower	-10 dB
160 Hz to 400 Hz	- 8 dB
500 Hz and Greater	- 5 dB

**Low Frequency Noise or Infrasonic Noise**

No low frequency noise or infrasound generated by a wind farm operation shall exceed the following 1/3 octave band decibel levels as measured at the receptor or at the receptor property line which abuts to the project site.

1/3 Octave Band Center Frequency (Hz)	Sound Pressure Level (L <sub>eq</sub> )
5	70
6.3	70
8	70
10	70
12	70
16	69
20	68
25	67
31.5	65
40	62
50	60
63	57
80	55
100	52

**Impulsivity**

No impulsive noise from wind turbine operations shall be generated inside and only inside of an occupied building or structure that results in impulsive noise levels that exceeds the limits as determined by either of the following two analysis methods.

Method 1

A qualification of impulsivity can be obtained from the average of several measurements of the difference between the C-weighted “impulse hold” and maximum C-weighted “slow” sound pressure levels. The average difference between the maximum and minimum values shall be less than 20 dB when computed as the arithmetic average of 100 differences.

Method 2

The impulsive character can also be displayed as a time history of the un-weighted acoustical signal which has been filtered through an octave band filter set at 31.5 Hz center frequency. The filtered octave band signal shall then be converted to a root-mean-square (RMS) value, slow

response, and log converted to dB. The display can be either analogue or digital. The average difference between the maximum and minimum value shall be less than 20 dB when computed as the arithmetic average of 100 differences.

**Vibration**

The Permit Authority may require seismic (ground vibration) measurements at selected receptor locations, when the site is being constructed or is in operation. The peak particle velocity for frequencies below 40 Hz shall not exceed 0.50 in/sec.

**Site Development (Construction)**

Site development also referred to as site construction, shall comply with the requirement set forth in CRS 25-12-103 (5).

**Noise Standards**

The Permit Authority may impose a noise standard that exceeds the other standards set forth in this regulation if the County determines that such greater standards are necessary to protect the public health, safety and welfare of the surrounding community. Such additional standards may be taken into account the combined effect of topography and meteorological conditions occurring during certain wind farm operational conditions.

## **CHAPTER 11. REGULATIONS FOR AREAS OF STATE INTEREST**

### **A. APPLICABILITY**

1. The Regulations in this chapter shall apply to all proceedings concerning the control of development in any area of state interest, with the exception of Flood Hazard Areas, which has been or may hereafter be designated by the Board of County Commissioners.
2. Any proposed development being processed for any other permit is not exempt from these regulations.

### **B. EXEMPTIONS FROM THE PERMIT PROCESS WHEN AREAS OF STATE INTEREST ARE AFFECTED**

The following are exempt from the regulations in this chapter;

1. A single family residence under 5,000 square feet of living area, its water supply, sewage disposal, access driveways and roads, and appurtenant utility extensions necessary to serve the residence. Accessory structures, storage, and garage area are not to be included in the calculation of living area.
2. Mining, prospecting, milling, and related uses and facilities.

### **C. PRE-APPLICATION CONFERENCE**

A preapplication conference with the Planning Department is required of all applicants prior to submittal of an application.

### **D. APPLICATION SUBMITTAL REQUIREMENTS FOR AREAS OF STATE INTEREST**

1. Any person proposing to engage in development in an area of state interest shall file an application for a permit with the Planning Department. In addition to the submittal requirements listed below, the Planning Department may request other materials or information as deemed necessary, before or during the process.
2. The appropriate fee, as adopted by the Board of County Commissioners, shall be included with all application submittals.
3. Minimum submittal requirements for all proposed developments and/or activities in areas of state interest:
  - a. Application Form as provided by the Planning Department;
  - b. Deeds or other proof of ownership for all properties affected that are owned by the applicant;
  - c. Power of Attorney or other authorization for all properties affected that are not owned by the applicant;
  - d. A list of owners of properties within 300 feet of the boundaries of all parcels on which the proposed developments and/or activities will occur;
  - e. Vicinity Map that indicates the location of the proposed development and/or activity in relation to the general context of the County;
  - f. Location Map that indicates all parcels affected by the proposed development and/or

activity in relation to roads, streams, utilities, adjacent parcels and other features;

- g. Site Plan that indicates the following:
  - (i) Boundaries of all properties on which the proposed development and/or activity will take place;
  - (ii) Boundaries of adjacent properties or portions of those boundaries that are in immediate proximity of the properties on which the proposed development and/or activity will take place;
  - (iii) All existing structures, utilities, earthwork, and site modifications;
  - (iv) All proposed structures, utilities, earthwork, and site modifications;
  - (v) All existing features on adjacent properties that are in immediate proximity of the parcels on which the proposed development and/or activity will take place;
  - (vi) All existing historical and archaeological resources and/or natural hazard areas located on or affecting the property on which the proposed development and/or activity will take place.
- h. Analysis of potential adverse impacts to and proposed mitigation of the area of state interest affected.

**E. AGENCY REFERRALS AND ADJACENT PROPERTY OWNERS; NOTICE OF FILING**

When a complete application is filed with the County, the Administrator shall send a copy of the complete application to and seek review comments from any local, state or federal agency that may have expertise in or an interest in impact that may be associated with the Project, including, but not limited to the agencies listed below. Based on the specifics of the application, the Administrator may waive referrals that are not necessary to a complete review of the application, or refer the application to other agencies that he deems necessary or appropriate to a complete review of the application.

1. Clear Creek Fire Authority;
2. Clear Creek County Open Space Commission;
3. Colorado Geological Survey;
4. Colorado Public Utilities Commission;
5. Colorado Natural Areas Council;
6. Colorado Department of Public Health & Environment;
7. Colorado Division of Water Resources;
8. Colorado State Historical Society;
9. Colorado Division of Wildlife;
10. Colorado State Forest Service;
11. Colorado State Patrol
12. Colorado Department of Transportation;
13. County departments;
14. Denver Regional Council of Governments;
15. Historic District Public Lands Commission;
16. Colorado State Historical Society;
17. Homeowners' associations which may be affected by the Project;
18. Local historic preservation agencies
19. Municipalities within three (3) miles of the Project area;
20. Natural Resources Conservation District (formerly Soil conservation Service);
21. Planning Commission (one copy for each member and associate member).

22. Special Districts which may be affected by the Project;
23. United States Forest Service;
24. Upper Clear Creek Watershed Association;
25. Upper Bear Creek Watershed Association.

Additionally, the Administrator shall send notice of the permit hearing to all adjacent property owners within 300 feet of the property for which the application is for. Additional notification to other affected property owners may be sent at the discretion of the Administrator on a case by case basis.

**F. NOTICE OF PERMIT HEARING**

1. Not later than thirty (30) days after receipt of a complete application for a Permit, the Permit Authority shall set a date for the public hearing on the application.
2. The Administrator shall publish a notice of the date, time and place for the Permit Authority hearing. Such notice shall be published once in the County legal newspaper, not less than thirty (30) days or more than sixty (60) days before the date set for the hearing.
3. No less than seven (7) days before the hearing before the Permit Authority, the Administrator shall prepare a staff report that summarizes the application and comments from review agencies, if any, and public comment, if any, and that identifies whether the permit application adequately demonstrates that the Project will comply with each of the applicable Permit Application Approval Criteria. The Administrator shall include in his report the reason why any approval criterion has not been satisfied and may recommend conditions to ensure that the Project will satisfy each criterion. A copy of the staff report shall be provided upon completion to the applicant.

**G. CONDUCT OF PERMIT HEARING**

1. The Permit Authority shall conduct the hearing in a manner to afford procedural due process to the applicant and any person who opposes the issuance of the Permit.
2. The Permit Authority shall hear relevant testimony and receive relevant evidence and may impose reasonable time limits on presenters and witnesses.
3. All persons appearing as parties at the hearing shall be afforded the right of cross-examination and a reasonable opportunity to offer evidence in rebuttal.
4. 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 Permit Authority and become part of the record.

**H. APPROVAL OR DENIAL OF THE PERMIT APPLICATION BY THE PERMIT AUTHORITY**

1. The burden of proof shall be on the applicant to show compliance with the provisions of these Regulations.
2. If information presented at the hearing leads the Permit Authority to find that additional information is necessary for it to determine whether the Permit Application Approval Criteria herein have been met, the Permit Authority may continue the hearing for not more than sixty (60) days unless a longer period is agreed to by the applicant, or it may deny the Permit.
3. The Permit Authority may approve the application with reasonable conditions necessary to ensure compliance with the Regulations, if it determines that the applicant has proven that the Project complies with all applicable provisions of these Regulations. If the Permit Authority determines

that the applicant has failed to prove that the Project complies with any applicable provision of these Regulations, the Permit Authority shall deny the Permit.

4. If the Permit Authority decides to approve the Permit with conditions, the Permit Authority shall make written findings that each condition is necessary to ensure that the Project will comply with the Permit Application Approval Criteria herein, and that each condition is necessitated by impacts caused by the Project.
5. The Administrator shall collect and preserve the following record of the public hearing:
  - a. the permit application;
  - b. The names and addresses of all persons making oral or written statements, appearing as witnesses, or offering documentary evidence;
  - c. All documentary evidence and written statements or testimony presented in support of or in opposition to the permit application;
  - d. The electronic recording of the public hearing, provided that the County is under no obligation to transcribe such recording unless paid for by the requesting party;
  - e. The written minutes of the hearing;
  - f. The resolution granting or denying the application;
  - g. The Permit, if issued.

**I. ISSUANCE OF THE PERMIT**

1. The Permit shall be issued in writing by the Permit Authority.
2. The Permit may be issued for an indefinite period or for a term of years, depending on the nature of the Project.
3. The Permit is valid only for the construction and operation of the Project described in the application, together with conditions of approval, if any, imposed by the Permit Authority.
4. A copy of the Permit shall be certified by the Permit Authority and presented to the County Clerk & Recorder for recording in the same manner as any document relating to real property.

**J. PUBLIC HEARINGS OF OTHER LAND USE MATTERS**

In cases in which the development or activity must also comply with other provisions of the County zoning or subdivision regulations, the permit hearings required by these Regulations may be held at the same time as the public hearings on such other land use matters.

**K. PERMIT AMENDMENT**

1. Any change in the construction or operation of a Project from that approved by the Permit Authority shall require a permit amendment or a new permit.
2. A permit amendment shall be processed like an original permit, following the regulations applicable at the time of the application for the amendment.

**L. STANDARDS FOR APPROVAL OF A PERMIT APPLICATION FOR AREAS OF STATE**

Adopted 9/22/2006

## **INTEREST**

### **1. MINIMUM STANDARDS FOR APPROVAL**

The proposed development and/or activity shall meet applicable standards, as determined by the Board, outlined below.

- a. Avoidance of or mitigation to cultural resources as determined by the reports received from the State Historic Preservation Officer;
- b. Avoidance of or mitigation to flood hazard, geologic hazards, and wildfire hazard.

## **CHAPTER 12**

### **FLOOD DAMAGE PREVENTION REGULATION**

#### **ARTICLE I**

##### **STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES**

###### **SECTION A. STATUTORY AUTHORIZATION**

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

###### **SECTION B. FINDINGS OF FACT**

1. The flood hazard areas of Clear Creek County are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
2. These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities, and by the occupancy of flood hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

###### **SECTION C. STATEMENT OF PURPOSE**

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

1. Protect human life and health;
2. Minimize expenditure of public money for costly flood control projects;
3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
4. Minimize prolonged business interruptions;
5. Minimize damage to public facilities and utilities such as water and gas mains, electric, communication stations, sewer lines, streets and bridges located in floodplains;
6. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas;
7. Insure that potential buyers are notified that property is in a flood area;
8. Insure that those who occupy the areas of special flood hazards assume responsibility for their actions;
9. Minimize significant hazards to public health and safety or to property in flood hazards areas to encourage open space activities such as agriculture, recreation, and mineral

extraction, and to ensure that any combination of these activities are conducted in a mutually compatible manner; and

10. Prohibit all activities which, in time of flooding, would create significant hazards to public health and safety or to property, and to protect shallow wells, solid waste disposal sites, and septic tanks and sewage disposal systems from inundation by floodwaters.

#### **SECTION D. METHODS OF REDUCING FLOOD LOSSES**

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

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

### **ARTICLE II**

#### **DEFINITIONS**

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

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

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

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

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

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

**ALLUVIAL FAN FLOODING** - is a fan-shaped sediment deposit formed by a stream that flows from a steep mountain valley or gorge onto a plain or the junction of a tributary stream with the main

stream. Alluvial fans contain active stream channels and boulder bars, and recently abandoned channels. Alluvial fans are predominantly formed by alluvial deposits and are modified by infrequent sheet flood, channel avulsions and other stream processes.

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

**BASE FLOOD ELEVATION (BFE)** - The elevation shown on a FEMA Flood Insurance Rate Map for Zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

**BASEMENT** - means any area of the building having its floor sub-grade (below ground level) on all sides.

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

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

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

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

**CONDITIONAL LETTER OF MAP REVISION (CLOMR)** - FEMA's comment on a proposed project, which does not revise an effective floodplain map, that would, upon construction, affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodplain.

**CRITICAL FACILITY** – A structure or related infrastructure, but not the land on which it is situated, as specified in Article V, Section H, that if flooded may result in significant hazards to public health and safety or interrupt essential services and operations for the community at any time before, during and after a flood. See Article 5, Section H.

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

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

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

**ELEVATED BUILDING** - A non-basement building (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters.

**EXISTING MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

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

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

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

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

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

**FLOOD INSURANCE RATE MAP (FIRM)** - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

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

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

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

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

Permits are required to ensure that proposed development projects meet the requirements of the NFIP and this floodplain management ordinance.

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

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

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

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

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

**FREEBOARD** - The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

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

**HIGHEST ADJACENT GRADE** - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**HISTORIC STRUCTURE** - means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
4. Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
  - (a) by an approved state program as determined by the Secretary of the Interior; or

(b) directly by the Secretary of the Interior in states without approved programs.

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

**LEVEE SYSTEM** - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

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

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

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

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

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

**MEAN SEA LEVEL** - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

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

**NATIONAL FLOOD INSURANCE PROGRAM (NFIP)** – FEMA's program of flood insurance coverage and floodplain management administered in conjunction with the Robert T. Stafford Relief and Emergency Assistance Act. The NFIP has applicable Federal regulations promulgated in Title 44

of the Code of Federal Regulations. The U.S. Congress established the NFIP in 1968 with the passage of the National Flood Insurance Act of 1968.

**NEW MANUFACTURED HOME PARK OR SUBDIVISION** - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

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

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

**RECREATIONAL VEHICLE** - means a vehicle which is:

1. built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projections;
3. designed to be self-propelled or permanently towable by a light duty truck; and
4. designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

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

**START OF CONSTRUCTION** - means the date the building permit was issued, including substantial improvements, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**STRUCTURE** - means that which is built or constructed, an edifice or building of any kind, or any piece or work artificially built up or composed of parts joined together in some definite manner; the use of which requires more or less permanent location on the ground; but not including earthworks, ditches, canals, dams, reservoirs, pipe-lines, telephone, telegraph, electric power lines, fences less than six (6) feet in height, walks, driveways, or curbs.

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

**SUBSTANTIAL IMPROVEMENT** - means any reconstruction, rehabilitation, addition, or other

improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. The value of the structure shall be determined by the local jurisdiction having land use authority in the area of interest. This includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

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

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

**VARIANCE** - is a grant of relief to a person from the requirement of this regulation when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

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

**WATER SURFACE ELEVATION** - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1988(or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

## **ARTICLE III**

### **GENERAL PROVISIONS**

#### **SECTION A. APPLICABILITY**

The regulation shall apply to all parcels containing special flood hazards areas and areas removed from the floodplain by the issuance of a FEMA letter of map revision based on fill (LOMA-F) within the jurisdiction of Clear Creek County, as shown on the Flood Insurance Rate Maps (FIRM) and Flood Insurance Study (FIS).

#### **SECTION B. BASIS FOR ESTABLISHING AREAS OF SPECIAL FLOOD HAZARD**

The special flood hazard areas identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for Clear Creek County and Incorporated Areas," dated March 19, 2007, revised July 17, 2012, with accompanying Flood Insurance Rate Maps (FIRM) and any revisions thereto are hereby adopted by reference and declared to be a part of this regulation. These special flood hazard areas identified by the FIS and attendant mapping are the minimum area of applicability of this regulation and may be supplemented by studies designated and approved by the Board of County Commissioners. The Floodplain Administrator shall keep a copy of the Flood Insurance Study (FIS), DFIRMs, FIRMs and/or FBFMs on file and available for public inspection.

### **SECTION C. ESTABLISHMENT OF FLOODPLAIN DEVELOPMENT PERMIT**

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

### **SECTION D. COMPLIANCE**

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

### **SECTION E. ABROGATION AND GREATER RESTRICTIONS**

1. This regulation is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this regulation and other regulations, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
2. Nothing in these regulations shall be construed as exempting an applicant for a permit from any other requirement of this jurisdiction or other state or federal laws and regulations.

### **SECTION F. INTERPRETATION**

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

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

### **SECTION G. 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 this regulation, who does not comply with Permit conditions or this regulation, or who acts outside of the jurisdiction of the Permit may be enjoined by the County from engaging in such development or conducting such activities 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 shall be immediately suspended and a hearing shall be held to determine whether new conditions are necessary to ensure compliance with Permit Application Approval Criteria or if the Permit should be revoked.
3. The remedies set forth here are cumulative of all other remedies, legal and equitable, provided by law.

## **SECTION H. WARNING AND DISCLAIMER OR LIABILITY**

The degree of flood protection required by this regulation is considered reasonable by the Federal Emergency Management Agency for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This regulation does not imply that land outside the areas of special flood hazard areas will be free from flooding or flood damages. This regulation shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this regulation or any administrative decision lawfully made thereunder.

## **SECTION I. NON-CONFORMING USES**

The provisions of this chapter shall not apply to any non-conforming use existing on the date the area is designated or subjected to regulation, provided that, when such a non-conforming use shall be discontinued for six (6) months or more or a non-conforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the appraised value, any reuse, reconstruction, or replacement of such structure shall be deemed a new use and shall be subject to the provisions of these regulations.

## **SECTION J. SEVERABILITY**

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

# **ARTICLE IV ADMINISTRATION**

## **SECTION A. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

The Clear Creek County Planning Director or their designee is hereby appointed the Floodplain Administrator to administer and implement the provisions of this regulation and other appropriate sections of 44 C.F.R. (National Flood Insurance Program Regulations) pertaining to floodplain management, by granting, granting with conditions, or denying development permit applications in accordance with its provisions, except as provided by Article IV, Section D. of these regulations.

## **SECTION B. DUTIES & RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR**

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

1. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance, including the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures and any floodproofing certificate required by Article 4,
2. Review, approve, or deny all applications for floodplain development permits required by adoption of this regulation.
3. Review floodplain development permit applications to determine whether a proposed building site, including the placement of manufactured homes, will be reasonably safe from flooding.

4. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State, or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334 and/or watershed organizations and municipal watershed protection plans, from which prior approval is required. 5. Inspect all development at appropriate times during the period of construction to ensure compliance with all provisions of this ordinance, including proper elevation of the structure.
6. Where interpretation is needed as to the exact location of the boundaries of the special flood hazard area (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.
7. When base flood elevation data has not been provided in accordance with Article III, Section B, the Floodplain Administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from a Federal, State, or other source, in order to administer the provisions of Article V.
8. For waterways with base flood elevations for which a regulatory Floodway has not been designated, no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one-half foot at any point within the community.
9. Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one-half foot, provided that the community first applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision), fulfills the requirements for such revisions as established under the provisions of Section 65.12 and receives FEMA approval.
10. Notify, in riverine situations, adjacent communities and the State Coordinating Agency, which is the Colorado Water Conservation Board, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to FEMA.
11. Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

### **SECTION C. DEVELOPMENT PERMIT PROCEDURES**

A floodplain development permit shall be obtained before construction or development begins within any special flood hazard area established in Article III, Section B. Application for a floodplain development permit shall be made on forms furnished by the Floodplain Administrator and may include, but not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the areas in question; existing or proposed structures (including the placement of manufactured homes), fill, storage of materials, drainage facilities; and the location of the foregoing in relation to the special flood hazard area. Additionally, the following information is required:

1. Elevation, (in relation to mean sea level and based on a known point of reference) of the lowest floor (including basement) of all new and substantially improved structures;

2. Elevation, in relation to mean sea level, to which any structure has been floodproofed;
3. A certificate from a registered Colorado professional engineer or architect that the floodproofed structure shall meet the floodproofing criteria in Article V, Section B.2.; and
4. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
5. Maintain a record of all such information in accordance with Article 4, Section B.

Approval or denial of a floodplain development permit by the Floodplain Administrator shall be based on all of the provisions of this regulation and the following relevant factors:

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

#### **SECTION D. VARIANCE PROCEDURES**

The issuance of a variance is for floodplain management purposes only. Insurance premium rates are determined by statute according to actuarial risk and will not be modified by the granting of a variance. The County, after examining the applicants' hardships, shall approve or disapprove a request. While the granting of a variance is generally limited to a lot size less than one-half acre, deviations from that limitation may occur.

1. The Clear Creek Board of County Commissioners is hereby appointed to review, grant, grant with conditions, or deny all variance requests in accordance with the provisions of this regulation.
2. The Clear Creek Board of County Commissioners shall hear and render judgement on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this regulation.
3. Any person or persons aggrieved by the decision of the Clear Creek Board of County Commissioners, may appeal such decision to the District Court of Clear Creek County, as

provided in Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

4. In passing upon such applications, the Clear Creek Board of County Commissioners shall consider all technical evaluations, all relevant factors, standards specified in other Sections of this regulation, and:
  - (a) the danger that materials may be swept onto other lands to the injury of others;
  - (b) the danger to life and property due to flooding or erosion damage;
  - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners;
  - (d) the importance of the services provided by the proposed facility to the community;
  - (e) the necessity to the facility of a waterfront location, where applicable;
  - (f) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (g) the compatibility of the proposed use with the existing and anticipated development;
  - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and effects of wave action, if applicable, expected at the site; and
  - (k) the costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets and bridges.
5. The Floodplain Administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
6. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this regulation.
7. Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Article IV, Section C have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
8. Upon consideration of the factors of this Section and the purposes of these regulations, the Clear Creek Board of County Commissioners may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this regulation (Article I, Section C.).
9. Variances shall not be issued within any designated regulatory floodway if any increase in flood levels will occur during the base flood discharge.
10. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
11. Prerequisites for granting variances:
  - (a) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

- (b) Variances shall only be issued upon:
    - (1) showing a good and sufficient cause;
    - (2) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
    - (3) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or regulations.
  - (c) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
12. Variances may be issued for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
- (a) the criteria outlined in Article IV, Sections D.1. through D.9. are met; and
  - (b) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

## **ARTICLE V**

### **PROVISIONS FOR FLOOD HAZARD REDUCTION**

#### **SECTION A. GENERAL STANDARDS**

In all special flood hazard areas, the following provisions are required for all new construction and substantial improvements:

1. All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
2. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
3. All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage;
4. All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters;
7. On-site disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

8. When a regulatory floodway has not been designated, the Floodplain Administrator must require that no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community; and
9. Under the provisions of 44 C.F.R. Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in Zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than one foot, provided that the community **first** applies for a conditional FIRM revision through FEMA (Conditional Letter of Map Revision).

## **SECTION B. SPECIFIC STANDARDS**

In all special flood hazards areas where base flood elevation data is available or has been provided as set forth in (i) Article III, Section B, Article IV, Section B.7., or Article V, Section C.4., the following standards are required:

1. **Residential Construction** - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to one foot above the base flood elevation. Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional engineer or land surveyor. Such certification shall be submitted to the Floodplain Administrator
2. **Nonresidential Construction** – with the exception of critical facilities outlined in Article V, Section H, new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the base flood elevation or, together with attendant utility and sanitary facilities, be designed so that below one foot above the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the Floodplain Administrator.
3. **Below-Grade Residential Crawlspace Construction** – new construction and substantial improvement of any below-grade crawlspace shall:
  - (a) Have an interior grade elevation that is no lower than two feet below the lowest adjacent grade;
  - (b) Have the height of the below-grade crawlspace measured from the interior grade of the crawl space to the top of the foundation wall, not exceed four feet at any point;
  - (c) Have an adequate drainage system that allows floodwaters to drain from the interior area of the crawlspace following a flood;
  - (d) Be anchored to prevent flotation, collapse, or lateral movement of the structure and be capable of resisting the hydrostatic and hydrodynamic loads;
  - (e) Be constructed with materials and utility equipment resistant to flood damage;
  - (f) Be constructed using methods and practices that minimize flood damage;
  - (g) Be constructed with electrical, heating, ventilation, plumbing, and air conditioning

equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

- (h) Be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered Colorado professional engineer or must meet or exceed the following minimum criteria:
  - (1) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
  - (2) The bottom of all openings shall be no higher than one foot above grade;
  - (3) Openings may be equipped with screens, louvers, or other coverings or services provided that they permit the automatic entry and exit of floodwaters.

- 4. **Enclosures** - new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered Colorado professional engineer or meet or exceed the following minimum criteria:

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

- 5. **Manufactured Homes** -Require that all manufactured homes to be placed within Zone A Zones A1-30, AH, and AE on a community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

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

- (a) the lowest floor of the manufactured home is one foot above the base flood elevation; or
- (b) the manufactured home chassis is supported by reinforced piers or other foundation

elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

6. **Recreational Vehicles** - Require that all recreational vehicles placed on sites within Zones A1-30, AH, and AE on the community's FIRM either:
  - (a) be on the site for fewer than 180 consecutive days;
  - (b) be fully licensed and ready for highway use; or
  - (c) meet the permit requirements of Article IV, Section C., and the elevation and anchoring requirements for "manufactured homes" in paragraph 5. of this Section.

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

### **SECTION C. STANDARDS FOR SUBDIVISION PROPOSALS**

1. These regulations apply to all subdivision proposals or subdivision development. All subdivision proposals or subdivision development shall meet the standards set forth in Article 14 (Design Criteria) of Clear Creek County's Subdivision Regulations.
2. All subdivision proposals including the placement of manufactured home parks and subdivisions shall be reasonably safe from flooding. If a subdivision or other development proposal is in a flood-prone area, the proposal shall minimize flood damage.
3. All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Article III, Section C; Article 4, Section C; and the provisions of Article V of this ordinance.
4. Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Article III, Section B. or Article IV, Section .B.7 of this regulation.
5. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
6. All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

### **SECTION D. STANDARDS FOR AREAS OF SHALLOW FLOODING (AO/AH ZONES)**

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

1. All new construction and substantial improvements of **residential** structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified). Upon completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a registered Colorado professional

engineer or land surveyor. Such certification shall be submitted to the Floodplain Administrator.

2. With the exception of Critical Facilities, outlined in Article V, Section H, all new construction and substantial improvements of **non-residential** structures must have the lowest floor (including basement) elevated above the highest adjacent grade at least one foot above the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified); or together with attendant utility and sanitary facilities be designed so that the structure is watertight to at least one foot above the base flood level with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy. A registered Colorado professional engineer shall submit a certification to the Floodplain Administrator that the standards of this Section, as proposed in Article IV, Section A.1.(a), are satisfied.

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

### **SECTION E. FLOODWAYS**

Located within the special flood hazard areas established in Article III, Section B., are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

1. Encroachments are prohibited, including fill, new construction, substantial improvements and other development within the adopted regulatory floodway *unless* it has been demonstrated through hydrologic and hydraulic analyses performed by a licensed Colorado professional engineer and in accordance with standard engineering practice that the proposed encroachment would not result in any increase (requires a No-Rise Certification) in flood levels within the community during the occurrence of the base flood discharge.
2. If Article V, Section E.1. above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Article 5.
3. Under the provisions of 44 C.F.R. Chapter 1, Section 65.12, of the National Flood Insurance Regulations, a community may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community **first** applies for a conditional FIRM and floodway revision through FEMA.

### **SECTION F ALTERATION OF A WATERCOURSE**

For all proposed developments that alter a watercourse within a special flood hazard area, the following standards apply:

1. Channelization and flow diversion projects shall appropriately consider issues of sediment transport, erosion, deposition, and channel migration and properly mitigate potential problems through the project as well as upstream and downstream of any improvement activity. A detailed analysis of sediment transport and overall channel stability should be considered, when appropriate, to assist in determining the most appropriate design.
2. Channelization and flow diversion projects shall evaluate the residual 100-year floodplain.

3. Any channelization or other stream alteration activity proposed by a project proponent must be evaluated for its impact on the regulatory floodplain and be in compliance with all applicable Federal, State and local floodplain rules, regulations and ordinances.
4. Any stream alteration activity shall be designed and sealed by a registered Colorado professional engineer.
5. All activities within the regulatory floodplain shall meet all applicable Federal, State and County floodplain requirements and regulations.
6. Within the Regulatory Floodway, stream alteration activities shall not be constructed unless the project proponent demonstrates through a floodway analysis and report, sealed by a registered Colorado professional engineer, that there is not more than a 0.00-foot rise in the proposed conditions compared to existing conditions floodway resulting from the project, otherwise known as a no-rise certification, unless the community first applies for a CLOMR and floodway revision in accordance with Section D of this Article.
7. Maintenance shall be required for any altered or relocated portions of watercourses so that the flood-carrying capacity is not diminished.

#### **SECTION G PROPERTIES REMOVED FROM THE FLOODPLAIN BY FILL**

A floodplain development permit shall not be issued for the construction of a new structure or addition to an existing structure on a property removed from the floodplain by the issuance of a FEMA Letter of Map Revision Based on Fill (LOMR-F), with a lowest floor elevation placed below the base flood elevation with one foot of freeboard that existed prior to the placement of fill.

#### **SECTION H. STANDARDS FOR CRITICAL FACILITIES**

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

##### **1. Classification of Critical Facilities**

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

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

- (a) Essential services facilities include public safety, emergency response, emergency medical, designated emergency shelters, communications, public utility plant facilities, and transportation lifelines. These facilities consist of:
  - (1) public safety (police stations, fire and rescue stations, emergency vehicle and equipment storage, and, emergency operation centers);
  - (2) emergency medical (hospitals, ambulance service centers, urgent care centers having emergency treatment functions, and non-ambulatory surgical structures but excluding clinics, doctors offices, and non-urgent care medical structures that do not provide these functions);
  - (3) designated emergency shelters;

- (4) communications (main hubs for telephone, broadcasting equipment for cable systems, satellite dish systems, cellular systems, television, radio, and other emergency warning systems, but excluding towers, poles, lines, cables, and conduits);
- (5) public utility plant facilities for generation and distribution (hubs, treatment plants, substations and pumping stations for water, power and gas, but not including towers, poles, power lines, buried pipelines, transmission lines, distribution lines, and service lines); and
- (6) air Transportation lifelines (airports (municipal and larger), helicopter pads and structures serving emergency functions, and associated infrastructure (aviation control towers, air traffic control centers, and emergency equipment aircraft hangars).

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

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

- (b) Hazardous materials facilities include facilities that produce or store highly volatile, flammable, explosive, toxic and/or water-reactive materials. These facilities may include:
  - (1) chemical and pharmaceutical plants (chemical plant, pharmaceutical manufacturing);
  - (2) laboratories containing highly volatile, flammable, explosive, toxic and/or water-reactive materials;
  - (3) refineries;
  - (4) hazardous waste storage and disposal sites; and
  - (5) above ground gasoline or propane storage or sales centers.

Facilities shall be determined to be critical facilities if they produce or store materials in excess of threshold limits. If the owner of a facility is required by the Occupational Safety and Health Administration (OSHA) to keep a Material Safety Data Sheet (MSDS) on file for any chemicals stored or used in the work place, AND the chemical(s) is stored in quantities equal to or greater than the Threshold Planning Quantity (TPQ) for that chemical, then that facility shall be considered to be a critical facility. The TPQ for these chemicals is: either 500 pounds or the TPQ listed (whichever is lower) for the 356 chemicals listed under 40 C.F.R. § 302 (2010), also known as Extremely Hazardous Substances (EHS); or 10,000 pounds for any other chemical. This threshold is consistent with the requirements for reportable chemicals established by the Colorado Department of Health and Environment. OSHA requirements for MSDS can be found in 29 C.F.R. § 1910 (2010). The Environmental Protection Agency (EPA) regulation "Designation, Reportable Quantities, and Notification," 40 C.F.R. § 302 (2010) and OSHA regulation "Occupational Safety and Health Standards," 29 C.F.R. § 1910 (2010) are incorporated herein by reference

and include the regulations in existence at the time of the promulgation this ordinance, but exclude later amendments to or editions of the regulations. Specific exemptions to this category include:

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

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

- (c) At-risk population facilities include medical care, congregate care, and schools. These facilities consist of:
  - (1) elder care ( nursing homes);
  - (2) congregate care serving 12 or more individuals ( day care and assisted living); and
  - (3) public and private schools (pre-schools, K-12 schools), before-school and after-school care serving 12 or more children);
- (d) Facilities vital to restoring normal services including government operations. These facilities consist of:
  - (1) essential government operations (public records, courts, jails, building permitting and inspection services, community administration and management, maintenance and equipment centers); and
  - (2) essential structures for public colleges and universities (dormitories, offices, and classrooms only).

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

## 2. Protection for Critical Facilities

All new and substantially improved critical facilities and new additions to critical facilities located within the special flood hazard area shall be regulated to a higher standard than structures not determined to be critical facilities. For the purposes of this ordinance, protection shall include one of the following:

- (a) location outside the special flood hazard area; or
- (b) elevation or floodproofing of the structure to at least two feet above the base flood elevation.

3. Ingress and Egress for New Critical Facilities

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

## CHAPTER 13. DEFINITIONS

All definitions in Section 23 of the Clear Creek County Zoning Regulations apply to these Regulations for Matters of State Interest, except those that state otherwise.

“Airport” means any municipal or county airport or airport under the jurisdiction of an airport authority.

“Aquifer Recharge Area” means any area where surface waters may infiltrate to a water bearing structure of permeated rock, sand or gravel. This definition also includes wells used for disposal of wastewater or other toxic pollutants.

“Arterial highway” means any limited-access highway which is part of the federal-aid interstate system or any limited-access highway constructed under the supervision of the department of transportation.

“Collector or collection system” means a network of pipes and conduits through which sewage flows to a sewage treatment plant.

“Constructed under guidelines and standards established by” or “constructed under the supervision of the Colorado Department of Transportation” shall each include without limitation, any of the below listed forms of participation by the Colorado Department of Transportation: (1) The Colorado Department of Transportation, or any entity formed directly or indirectly by it or the Colorado Transportation Commission (including, without limitation, any enterprise formed under Article 4 of Title 43 of the Colorado Revised Statutes or non-profit entity, formed by such enterprise): (a) is an applicant; or (b) sells, leases, loans, donates grants, conveys, assigns, transfers or otherwise provides any real or personal property or interests therein used or to be used in the proposed construction, modification or expansion of the arterial highway or interchanges or collector highway including transfer or assignment of any contract to the applicant that may have been awarded for the proposed construction, modification, or expansion of the arterial highway or interchange or collector highway; or © delegates authority to applicant or is a signatory to any intergovernmental agreement or other form of contract, agreement, conveyance, delegation, or authorization required for the applicant to construct, modify or expand the arterial highway or interchange or collector highway; or (d) performs or funds any planning, design, study, construction, supervision or maintenance functions associated with all or any portion of the construction, modification or expansion of the arterial highway or interchange or collector highway. (2) A state highway access permit from the Colorado Department of Transportation is necessary for access from the proposed construction, modification, or expansion of the arterial highway or interchange or collector highway to a state highway either within or outside the unincorporated parts of Clear Creek County.

“Designation” means that legal procedure specified by §24-65.1-101, et seq., C.R.S. and the revocation or amendment of such designation, as carried out by the Board of County Commissioners.

“Distribution System” means a network of storage facilities, tanks, pipes and conduits through which water is piped and stored or through which water is piped for exchange or trade.

“Fixed guideway” means a transportation facility consisting of a dedicated separate right-of-way or rail line for the exclusive use of rapid or mass transit vehicles, including dedicated highway lanes restricted to use by only mass transit vehicles.

“Industrial uses” means manufacturing; mineral processing, exploration or extraction; snowmaking; commercial recreational services and operations; and other uses that are neither municipal, domestic nor agricultural.

“Local permit authority” means the governing body of a local government with which an application for development in an area of state interest or for conduct of an activity of state interest must be filed, or the designee thereof.

“Locate” as used herein is synonymous with “select a site” for, or “site selection” of an arterial highway or interchange or collector highway.

“Major extension of existing domestic wastewater treatment system” means any modification of an existing sewage treatment plant to increase hydraulic capacity or upgrade treatment capacity, or any extension of existing main collector sewer lines, or any increase in capacity of existing main sewer lines or any extensions designed to have an average flow of 2,000 gallons per day or more.

“Major new domestic wastewater treatment system” means a new wastewater treatment plant, group of wastewater systems or collector system designed to treat an average wastewater flow of 2,000 gallons per day or more.

“Major new domestic water system” is a public water system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections or regularly services an average of at least twenty-five (25) individuals daily at least 60 days out of the year, or the equivalent thereof. Such term includes:

- i) Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system.
- ii) Any collection or pretreatment storage facilities not under such control, which are used primarily in connection with such system.

(Also see “Water and Sewer Projects”)

“Major extension of existing domestic water treatment system” means the expansion of existing domestic water treatment capacity or storage; or any extension of existing water supply systems to service an additional development density of ten (10) or more residential dwelling units (SFE) or the equivalent thereof in other uses.

“Material change” means any change in the project as approved by the Permit Authority which significantly changes the nature of impacts considered by the Permit Authority in approval of the original Permit or in the case of a development not previously issued a permit, a structural modification, change of use, change of operation, or change of user which significantly changes the nature of the development and its associated impacts.

“Municipal and industrial water projects” means systems and all related components that provide water or may provide water in the future either directly or by exchange for municipal and industrial uses; provided however, “systems of related components” for a snowmaking project are limited to (1) those through which water is diverted and/or stored for snowmaking, and (ii) permanent distribution systems and components that are not otherwise regulated by state or federal regulations.

“Non-conforming use” means a use in existence at the time of the adoption of this article, which use, were it a new use, would be one for which a permit is required under this article.

“Permit Authority” means the Board of County Commissioners or its designee.

“Planning Commission” means the Planning Commission for Clear Creek County.

“Project” means the proposed development for which a Permit is sought under these Regulations.

“Regulations” means the regulations for matters of state interest and guidelines as the terms are used in Section 24-65.1-101, et. seq., C.R.S.

“Shadow Flicker” means the effect when the blades of a wind energy system passes between the sun and an observer, casting a readily observable, moving shadow on the observer and his/her immediate environment.

“Site Selection” means the process of identifying and determining the location of certain activities of state interest as identified in these regulations.

“Site selection of airports” means the identification of the location of airports or the substantial expansion or relocation of an existing airport.

“Site selection of rapid or mass transit terminals, stations, and fixed guideways” means the identification of the location of rapid or mass transit terminals, stations, and fixed guideways or the substantial expansion or relocation of them.

“Site Selection of arterial highways and interchanges and collector highways” means the identification of a corridor located entirely or partially within the unincorporated portion of Clear Creek County in which:

- a) Construction of an arterial highway or interchange or collector highway is proposed,
- b) Expansion or modification of an existing arterial highway or collector highways is proposed that would result in;
  - i) An increase in highway capacity by at least one lane through widening or alternative lane configurations, or an equivalent increase in capacity produced by access controls, technological or other types of highway improvements, whether for permanent or periodic use; or
  - ii) The elimination of direct, at grade access from a public road or street within the unincorporated portion of Clear Creek County to such existing arterial or collector highway; or
  - iii) Expansion or modification of an existing highways is proposed which would result in a change in classification to “collector highways” or “arterial highways” as defined in this Chapter.

“Site selection and construction of major facilities of a public utility” means the identification of the location and the construction of major facilities of a public utility or the substantial expansion or relocation of an existing facility.

“Station or terminal” means 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 unincorporated Clear Creek County. Stations shall include any proposed regularly scheduled stop or planned optional or seasonal boarding point on a rapid or mass 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.

“Substation” means any facility designed to provide switching, voltage transformation or voltage control required for the transmission of electricity of 115 kV or greater.

“Station or terminal” means 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 unincorporated Clear Creek County. Stations shall include any proposed regularly scheduled stop or planned optional or seasonal boarding point on a rapid or mass 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.

“Transmission lines” means those electrical lines and appurtenant facilities which meet all of the following criteria: (1) either a series of three (3) or more structures and appurtenant facilities erected above ground which support (1) or more conductors or a power line placed underground; (2) which lines emanate from a power plant or a substation/transition site and terminate at substation/transition site; and (3) which are designed to transmit electrical voltages of 115 kV or greater.

“Utility Scale Solar Energy Facility” means a power plant that directly converts solar energy into usable thermal mechanical, or electrical energy, including such devices as solar energy systems and supporting structures and such directly connected equipment as generators, alternators, inverters, batteries and associated control equipment.

“Utility Scale Wind Energy Facility” means a power plant that directly converts wind energy into usable thermal mechanical, or electrical energy, including such devices as wind energy systems and supporting structures and such directly connected equipment as generators, alternators, inverters, batteries and associated control equipment.

“Water and Sewer Projects” means the Site Selection and Construction of Major New Domestic Water and Wastewater Treatment Systems, Major Extensions of Existing Domestic Water and Wastewater Treatment Systems, and Efficient Utilization of Municipal and Industrial Water Projects, including any proposed land development directly related to such Project if such development is to be located wholly or partially within this County and if such development significantly generates the need for the Project.

## Appendix A

Following are considerations to help the applicant understand the types of things that the Permit Authority may consider on balance in determining whether a Project complies with the Permit Application Approval Criteria. These considerations are not criteria that the Project must satisfy; they serve solely as guidance. The considerations are in regular type and the actual criteria that the considerations relate to are in bold type.

Chapter 4, Section A(3) **The Project is technically and financially feasible.** The determination of technical and financial feasibility of the Project may include but is not limited to the following considerations:

- (a) Amount of debt associated with the Project.
- (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.

Chapter 4, Section A(5) **The Project will not have a significant adverse effect on the capability of local governments affected by the Project to provide services, or exceed the capacity of service delivery systems and public utilities.** The determination of the effects of the Project on local government services 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 Project.
- (b) Current and projected capacity of roads, schools, infrastructure, housing and other services necessary to accommodate development, and the impact of the Project upon the current and projected capacity.
- (c) Changes caused by the Project 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 Project.
- (f) Change in demand for public transportation.
- (g) Reduction in the amount of water available for future water supply in the County.

Chapter 4, Section A(6) **The Project will not create an undue financial burden on existing or future residents of the County.** The determination of the financial effects on the Project may include but is not limited to the follow considerations:

- (a) Changes in assessed valuation.
- (b) Tax revenues and fees to local governments that will be generated by the Project.
- (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 cost of water treatment or wastewater treatment.
- (f) Effects on wastewater discharge permits.
- (g) Changes in total property tax burden.

Chapter 4, Section A(8) **The Project will not significantly degrade any current or foreseeable future sector of the local economy.** The determination of the effects of the Project on the 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 growth and diversification.

Chapter 4, Section A(9) **The Project will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience.** The determination of effects of the Project on recreational opportunities and experience may include but is not limited to the following considerations:

- (a) Changes to existing and projected visitor days.
- (b) Changes to duration of kayaking and rafting seasons.
- (c) Changes in quality and quantity of fisheries.
- (d) Changes in instream flows or reservoir levels.
- (e) Changes in access to recreational resources.
- (f) Changes to quality and quantity of hiking and bike trails.
- (g) Changes to the wilderness experience or other opportunity for solitude in the natural environment.
- (h) Changes to hunting experiences.

Chapter 4, Section A(10a) **The Project will not have a significant adverse effect on land use patterns.** The determination of effects of the Project on land use patterns may include but is not limited to the following considerations:

- (a) Whether the Project complies with and is consistent with applicable land use plans.
- (b) Likelihood that the 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 Project to existing growth centers.
- (e) Changes to unique land forms.
- (f) Changes in the amount of character of open space.
- (g) Changes to traffic patterns, road capacity and congestion.

Chapter 4, Section A(11) **The Project is not subject to significant risk from natural hazards.** The determination of risk from natural hazards to the Project may include but is not limited to the following considerations:

- (a) Faults and fissures.
- (b) Unstable slopes including landslides, rock slides and avalanche areas.
- (c) Expansive or evaporative soils and risk of subsidence.
- (d) Wildfire hazard areas. A fire protection plan approved by the applicable fire protection district should be implemented to address wildfire hazard.
- (e) Floodplains.

Chapter 4, Section A(12) **The Project will not significantly degrade air quality.** The determination of effects of the Project 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.

Chapter 4, Section A(13a) **The Project will not significantly degrade surface water quality.** The determination of effects of the Project 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 stormwater runoff flows.
- (h) Changes in trophic status or in eutrophication rates in lakes or reservoirs.
- (I) Changes in the capacity or functioning of streams, lakes or reservoirs.
- (j) Changes in flushing flows.
- (k) Changes in dilution rates of mine waste, agricultural runoff or other unregulated sources of pollutants.

**The Project will not significantly degrade groundwater quality.** The determination of effects of the Project on groundwater quality may include but is not limited to the following considerations:

- (a) Changes in aquifer 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.

**The Project will not significantly degrade wetlands and riparian areas.** The determination of effects of the Project on wetlands and riparian areas may include but is not limited to the following considerations:

- (a) Changes in the structure and function of wetlands and riparian areas
- (b) Changes to the filtering and pollutant uptake capacities of wetlands and riparian areas.
- (c) Changes to aerial extent of wetlands and riparian areas.
- (d) Changes in species' characteristics and diversity.
- (e) Transition from wetlands to upland species.
- (f) Changes in function and aerial extent of floodplains.

Chapter 4, Section A(13b) **The Project will not significantly degrade terrestrial or aquatic animal life or its habitats.** The determination of effects of the Project on terrestrial or aquatic life may include but is not limited to the following considerations:

- (a) Changes that result in the 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 stream bed 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.

Chapter 4, Section A(13c) **The Project will not significantly degrade terrestrial plant life or plant habitat.** The determination of effects of the Project 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.

Chapter 4, section A(14) **The Project will avoid or mitigate significant adverse impacts on critical wildlife habitat, including breeding grounds, nesting areas, migration routes, and wintering areas. Rare and endangered species habitat protection shall also be addressed.** The determination of effects of the Project on wildlife may include but is not limited to the following considerations:

- (a) Whether or not the project has included designing of foundations/support structures for equipment to avoid creation of artificial habitat or shelter for wildlife.
- (b) Whether or not the project has included the use of anti-perching protection devices on moving structures in conformance with industry standards.
- (c) Methods such as coloration or sound-producing devices to discourage birds from entering areas of concentrated solar energy near solar-thermal mirrors or other devices that concentrate solar radiation.
- (d) Whether or not above-ground lines, transformers, or conductors comply with the Avian Power Line Interaction Committee published standards to prevent avian mortality ([www.aplic.org/](http://www.aplic.org/) )

Chapter 4, Section A(16) **The Project will not significantly degrade soils and geologic conditions.** The determination of effects of the Project 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 avalanche areas, mudflows, and debris fans, and other unstable and potentially unstable slopes.
- (e) Exacerbation of seismic concerns and subsidence.

Chapter 4, Section A(17b) **The Project will not significantly degrade existing visual quality.** The determination of visual effects of the Project 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 and scenic vistas.
- (c) Changes in appearance of forest canopies.
- (d) Changes in landscape character types of unique land formations.
- (e) Compatibility of building and structure design and materials with surrounding land uses. Such design should complement the County's mountain environment or historic mining heritage. Natural materials should be used such as wood siding, native stone, masonry, or glass or that which complements the County's historic mining heritage. Architectural designs should complement and coordinate with one another and should create interest through varied roof lines, treatment of building facades, and use of covered walkways and entrances.
- (f) Avoidance of dominant silhouettes on ridgelines. If they cannot be avoided, minimization of the effects of silhouettes on ridgelines by incorporating industry mitigation techniques, such as: turbine selection, coloring, setback from the ridgeline, appropriate spacing, utilizing existing vegetation, use of masking topography, and community involvement.
- (g) Screening techniques should be considered and utilized depending on site conditions, including landscaping, berming, camouflaging, screening, and fencing, where appropriate.
- (h) Specific to utility-scale wind facilities, tubular towers rather than lattice towers should be required.

- (i) Utility-scale wind and solar facilities should be finished in a single, non-reflective matte finished color.
- (j) Utility-scale wind facilities should use turbines of similar design, size, operation, and appearance throughout the project.
- (k) Lettering, company insignia, advertising, or graphics should not be located on any part of a wind turbine or solar array.
- (l) Lighting of a project should be prohibited except to the extent required by the FAA or applicable authority. FAA required lighting should be shielded from ground view to FAA maximum standards.

Chapter 4, Section A(19a) **The Project will not cause a nuisance.** The determination of nuisance effects of the Project may include but is not limited to the following considerations:

- (a) Increase in odors.
- (b) Increase in dust.
- (c) Increase in fumes.
- (d) Increase in glare.
- (e) Increase in heat.
- (f) Increase in noise.
- (g) Increase in vibration.
- (h) Increase in artificial light.
- (I) Increase in traffic impacts.

Chapter 4, Section A(19b) **The Project will not result in unreasonable risk of releases of hazardous materials.**

The determination of the risk of release of hazardous materials caused by Project 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) Systems to be designed to prevent unauthorized access to electrical and mechanical components and hazardous areas.
- (e) Spent lubricants and cooling fluids used to be properly and safely removed in a timely manner from the site.
- (f) Signs or information to be posted near the facility that will contain emergency contact information.
- (g) Posting of warning signage of applicable hazards associated with the facility to be posted.
- (h) Whether or not wind power generation facilities are equipped with manual and automatic controls to limit the rotational speed of the blades within the design limits of the rotor and that there are redundant braking systems.
- (i) Whether or not solar power generation facilities are designed to prevent misdirection of concentrated solar radiation onto adjacent property, roads, or other public spaces.
- (j) Whether or not fire prevention measures are implemented for construction and operation of the facility acceptable to the County and the applicable fire protection district. Such measures should identified in a fire prevention plan.

Chapter 7, Section B(1) **The Project shall emphasize the most efficient use of water, including the recycling, reuse and conservation of water.** The determination of whether the Project emphasizes the most efficient use of water may include but is not limited to the following considerations:

- (a) Whether the Project uses readily available conservation techniques.
- (b) Whether the Project recycles water to the greatest extent allowed by law.

- Chapter 7, Section B(2) **The Project will not result in excess capacity in existing water or wastewater treatment services or create duplicate services.** The determination of whether the Project will result in excess capacity or create duplicate services may include but is not limited to the following considerations:
- (a) Whether the Projects creates overlapping or competing service areas.
  - (b) Whether the Project differs significantly from the provider's facility plan.
  - (c) Whether the Project impacts other water and wastewater permits.
- Chapter 7, Section B(3) **The Project shall be necessary to community development and population demands in the area to be served by the Project.** The determination of whether the Project meets community development and population demands may include but is not limited to the following considerations:
- (a) Relationship to reasonable growth projections and local land use plans.
  - (b) Relationship to other water and wastewater provider's service area.
- Chapter 7, Section B(4) **Urban development, population densities, and site layout and design of storm water and sanitation systems shall be accomplished in a manner that will not degrade groundwater quality.** The determination of potential for pollution of the aquifer recharge areas by the Project may include but is not limited to the following considerations:
- (a) Proximity of urban development and population densities to aquifer recharge areas.
  - (b) Proximity of stormwater and sanitation systems to aquifer recharge areas.
  - (c) Changes in water quality in the aquifer recharge areas.
- Chapter 8, Section B(1) **The Project shall be reasonably necessary to meet projected community development and population demands in the areas to be served by the Project, or to comply with regulatory or technological requirements.** The determination of whether the Project is reasonably necessary may include but is not limited to the following considerations:
- (a) Relationship to reasonable growth projections and local land use plans.
  - (b) Relationship to other water and wastewater provider's service area.
  - (c) Whether the Project is not in compliance with regulatory or technological requirements or will not be in compliance in the near future.
- Chapter 8, Section B(2) **When determined to be appropriate, wastewater and water treatment facilities shall be consolidated with existing facilities within the area.** The determination of whether consolidation is **feasible** shall include but is not limited to the following considerations:
- (a) Whether there is an opportunity for consolidation.
  - (b) The environmental, economic, and social feasibility of consolidation. This would include review of life-cycle costs, and infiltration/exfiltration costs from collection and transmission pipes.
- Chapter 8, Section B(3) **New domestic water and sewage treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities.** The determination shall include but is not limited to the following considerations:
- (a) Relationship to reasonable growth projections and local land use plans.
  - (b) Proximity to other water and wastewater provider's service area.
- Chapter 8, Section B(4) **The Project 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.** The determination shall include but is not limited to the following considerations:

- (a) Relationship of the Project to approved land use plans for the area.
- (b) The environmental, economic, and social impacts related to such development.
- (c) the environmental, economic, and social impacts of provision of service to all additional land encompassed by an extension of a service area. Extended service area should be topographically logical and should not bypass land by way of “flagpole” extension, or like effect.
- (d) The environmental, economic, and social impacts of the extension of a service line, caused by the implications and obligations befalling lands outside the extended service area.

## Appendix B

### SECTION 23 - DEFINITIONS

These definitions can be found in Section 23: Definitions of the Clear Creek County Zoning Regulations. These definitions are different and separate from the definitions found in Section 13 of the 1041 Regulations.

**ADMINISTRATOR:** means the Director of the Planning Department of Clear Creek County, including the acting Director, and the Director's designee.

**ADVERSE:** means unfavorable, harmful, negative.

**ALTERNATIVE MODE OF TRANSPORTATION:** means any mode of transportation other than a single occupancy vehicle.

**AREA AROUND A KEY FACILITY:** means an area immediately and directly affected by a key facility.

**AVALANCHE:** means a mass of snow or ice and other material which may become incorporated therein as such mass moves rapidly down a mountain slope.

**CORRIDOR:** means a continuous strip of land, measured both horizontally and vertically, connecting two geographically separate points and containing one or more facilities for the conveyance of people, energy, information or materials. Such a definition covers railways, highways, pipelines, communication, and transmission facilities.

**DOMESTIC WATER OR SEWAGE TREATMENT SYSTEM or SYSTEM:** A wastewater treatment plant, water supply system, or water treatment plant, as defined in C.R.S. §25-9-102 as shown below, and any system of pipes, structures, and facilities through which wastewater is collected for treatment.  
C.R.S. §25-9-102"

(4.5) "Domestic wastewater treatment facility" means any facility or group of units used for the treatment of domestic wastewater or for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units is discharging into state waters. "Domestic wastewater treatment facility" specifically excludes individual sewage disposal systems.

(4.7) "Industrial wastewater treatment facility" means any facility or group of units used for the pretreatment, treatment, or handling of industrial waters, wastewater, reuse water, and wastes that are discharged into state waters. "Industrial wastewater treatment facility" includes facilities that clean up contaminated ground water or spills; except that such term does not include facilities designed to operate for less than one year or facilities with in-situ discharge.

(4.9) "Wastewater collection system" means a system of pipes, conduits, and associated appurtenances that transports domestic wastewater from the point of entry to a domestic wastewater treatment facility. The term does not include collection systems that are within the property of the owner of the facility.

(5) "Wastewater treatment facility" means either a domestic wastewater treatment facility or an industrial wastewater treatment facility.

(5.3) "Water and wastewater facility" means a water treatment facility, wastewater treatment facility, water distribution system, or wastewater collection system.

(6) "Water distribution system" means any combination of pipes, tanks, pumps, or other facilities that delivers water from a source or treatment facility to the consumer.

(7) "Water treatment facility" means the facility or facilities within the water distribution system that can alter the physical, chemical, or bacteriological quality of the water.

**EFFICIENT UTILIZATION OF WATER:** The employment of methods, procedures, controls and techniques to ensure the amount of water and the purpose for which water is used in the County will yield the greatest benefit to the greatest number of people. Such benefits will include but are not limited to economic, social, aesthetic, ecological, domestic, agricultural, industrial, environmental and recreational.

**FLOODPLAIN:** means an area adjacent to a stream, which area is subject to flooding as a result of the occurrence of an intermediate regional flood and which area thus 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: mainstream floodplains, debris-fan flood plains; and dry wash channels and dry wash floodplains.

**GEOLOGIC HAZARD AREA:** means an area which contains or is directly affected by a geologic hazard.

**GROUND SUBSIDENCE:** means a process characterized by the downward displacement of surface material caused by natural phenomena such as removal of underground fluids, natural consolidation, or dissolution of underground minerals or by man-made phenomena such as underground mining.

**HISTORICAL or ARCHAEOLOGICAL RESOURCES OF STATEWIDE IMPORTANCE:** means resources which have been officially included in the national register of historic places, designated by statute, or included in an established list of places compiled by the state historical society.

**IMPACT:** means any alteration or change to the natural or human environment resulting directly or indirectly from development. Whenever appropriate, "impact" refers separately to impacts from or during construction and impacts of a completed Project.

**IMPACT AREA:** means those geographic areas in which impacts are likely to be caused by the Project. Impact Areas may include areas within the boundaries of another political subdivision if the County had entered into an intergovernmental agreement providing for cooperative regulation of impacts that may occur within the boundaries of both the County and the political subdivision.

**INTERCHANGE:** means the intersection of two or more highways, roads, or streets at least one of which is an arterial highway. At such intersection there must be direct access to and from the arterial highway.

**KEY FACILITIES:** The term includes:

- (a) Airports
- (b) Major facilities of a public utility;
- (c) Interchanges involving arterial highways;
- (d) Rapid or mass transit terminals, stations, and fixed guideways.

**LIMITED-ACCESS HIGHWAY:** means a highway which gives preference to through traffic by providing access connection with selected roads only. A highway may be considered a "limited access highway" even though it has some crossings at grade and private driveway connections.

**LOCAL GOVERNMENT:** means a municipality or county.

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**LOCAL LAND USE PLAN:** means regional, county and municipal master plans and comprehensive plans affecting or affected by a Project. Such plans include, but are not limited to, the Clear Creek County Master Plan, Inter-county Non-Motorized Routes Master Plan, and DRCOG Metro Vision Plan.

**MAJOR FACILITIES OF A PUBLIC UTILITY:** means the following (This definition includes all electrical utilities' facilities, regardless of whether or not they are subject to the jurisdiction of the Colorado Public Utilities Commission, which primarily generate and/or transmit electrical power to entities off-site):

- (1) any transmission lines, power plants, and substations of electrical utilities;
- (2) any pipelines and storage areas of utilities providing natural gas or other petroleum derivatives to power plants and substations of electrical utilities;
- (3) any appurtenant facilities of a public utility which in the opinion of the Board either by itself or in conjunction with other major facilities of a public utility are likely to cause a major impact upon the health, welfare or safety of the citizens of the County, or upon the physical, social, or economic environment of the County or this region.

**MASTER PLAN:** A comprehensive long-range plan (see also "local land use plan") intended to guide growth, development, and preservation of a community, region, or localized area and one that includes analysis, recommendation, and proposals for the community's population, economy, housing, transportation, community facilities, and land use as described in C.R.S. 30-28, Part 1 for adoption of master plans.

**MITIGATION:** means the use of any or all of the following actions:

- 1) avoiding the impact by not taking a certain action or parts of an action;
- 2) minimizing the impacts by limiting the degree or magnitude of the action to reduce the impact;
- 3) rectifying the impact by repairing, rehabilitating, or restoring the impact area;
- 4) reducing or eliminating the impact over time by preservation and/or maintenance operations;
- 5) compensating for the impact by replacing, enhancing, or providing substitute critical areas and environments; by replacing or providing suitable biological and/or physical conditions and by replacing or providing suitable public services and facilities were applicable; or compliance with reasonable conditions and development standards;
- 6) monitoring the impact and taking appropriate corrective measures.

**MUDFLOW:** means the downward movement of mud in a mountain watershed because of peculiar characteristics of extremely high sediment yield and occasional high runoff.

**NATURAL HAZARD AREA:** means an area containing or directly affected by a natural hazard.

**NATURAL RESOURCE OF STATEWIDE IMPORTANCE:** is limited to shorelands of major, publicly owned reservoirs and significant wildlife habitats in which the wildlife species, as identified by the division of wildlife of the department of natural resources, in a proposed area could be endangered.

**PERSON:** Any individual, limited liability company, partnership, corporation, association, company, or other public or corporate body, and includes without limitation the State of Colorado, the Federal Government and any political subdivision, agency, instrumentality, or corporation of the State or the United States government.

**POWER PLANT:** Any plant facility(ies) and equipment that converts one or more energy sources for the purposes of producing, generating, transmitting, delivering, or furnishing 1 megawatt or more of electricity for the production of power.

**SIGNIFICANT:** means deserving to be considered; important of consequence; notable and not trifling.

**WILDFIRE HAZARD:** means a wildfire 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:

- 1) slope and aspect;
- 2) wildfire behavior characteristics; and
- 3) existing vegetation types.

**WILDFIRE HAZARD AREA:** means an area containing or directly affected by a wildfire hazard.