

Article 8



Location & Extent Areas & Activities of State Interest (1041)

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8-100 Location and Extent Review

- A. The purpose of the location and extent review is to determine whether public or quasi-public utilities or uses proposed to be located in the unincorporated area of the County are in conformance with the Comprehensive Plan.
- B. Proposals Requiring Review
 1. The following projects, whether public or private, shall be subject to location and extent review:
 - a. roads;
 - b. parks;
 - c. public ways, grounds, and spaces;
 - d. public buildings and structures; and
 - e. public utilities.
 2. The location and extent review of a proposal, as defined in Article 3, may be done concurrently with other discretionary County review processes.
 3. No initial County hearing on any location and extent review application which Section 3-202.A. of this Code identifies as requiring compliance with Article 65.5 of Title 24, C.R.S. may be held until the applicant provides a certification of compliance with Article 65.5 of Title 24, C.R.S. signed by the applicant, confirming that the applicant or its agent has examined the records of the Boulder County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist. If any such mineral estate owners or lessees exist, the Applicant must sign an additional certification confirming that the applicant has, at least 30 days prior to the initial public hearing on the location and extent review, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.
 4. In any case where information becomes known to the Land Use Director or the Board that an applicant has failed to provide notice of the initial public hearing on a location and extent review as required by Article 65.5 of Title 24, C.R.S., the Board or the Director on behalf of the Board may continue, may reschedule, or may vacate the initial public hearing to allow proper notice to be provided under Article 65.5 of Title 24, C.R.S.

8-200 Regulations for Areas and Activities of State Interest

8-201 Short Title

These regulations may be cited as the "Boulder County Regulations for Areas and Activities of State Interest" or the "Boulder County 1041 Regulations" or "these Regulations."

8-202 Purposes and Intent

- A. The general purpose of these regulations is to facilitate the identification, designation and regulation of areas or activities of state interest consistent with applicable statutory requirements.
- B. The specific purposes and intent are as follows:
 1. To encourage planned and orderly, efficient, economical land use development;
 2. Provide for the needs of agriculture, forestry, industry, business, residential communities, and recreation in future growth;
 3. Encourage uses of land and natural resources per their character and adaptability;
 4. Conserve soil, water and forest resources;
 5. Protect the beauty of the landscape;
 6. Promote efficient and economical use of public resources;
 7. Regulate projects that would otherwise cause excessive noise, water, and/or air pollution, or which would otherwise degrade or threaten the existing environmental quality within the County.
 8. Ensure that 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.
 9. Ensure that major extensions of domestic water and sewage treatment systems shall be permitted only 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.
 10. Require that municipal and industrial water projects shall emphasize the most efficient use of water, including, to the extent permissible under existing law, the recycling and reuse of water.
 11. Ensure that urban development, population densities, and site layout and design of storm water and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas.
 12. Ensure that major facilities of public utilities are located to avoid direct conflict with adopted County land use plans, and otherwise serve the stated purposes of these regulations.
 13. Ensure that site selection of arterial highways and interchanges and collector highways occurs so that community traffic needs are met, desirable community patterns are not disrupted, and direct conflict with adopted local government, regional, and state master plans is avoided.
 14. Provide that areas containing, or having a significant impact on, historical, natural, or archaeological resources of statewide importance are developed so as to be compatible with and not destructive to the historical, natural, and archaeological value of such resources.
 15. Ensure that areas around interchanges involving arterial highways are developed to discourage traffic congestion, encourage the smooth flow of motorized and nonmotorized traffic, discourage incompatible land uses, and the expansion of the demand for government services beyond the reasonable capacity of the community or region to provide such services as determined by the County, and preserve desirable existing community patterns.
 16. Ensure that the site selection and development of new communities will not overload the facilities or services of existing communities of the region and will conform to the Boulder County Comprehensive Plan and any duly adopted intergovernmental agreements or comprehensive development plans between the County and another governmental entity.
 17. Ensure that development in natural hazard areas minimizes significant hazards to public health or safety or to property or the environment.
 18. Ensure that development involving all areas and activities designated hereunder is consistent with these regulations, the Boulder County Comprehensive Plan, and any duly adopted intergovernmental agreements or comprehensive development plans between the County and another governmental entity.
 19. Protect the public health, safety, welfare and the environment.

8-203 Findings

The Board of County Commissioners finds that:

- A. All applicable notice and public hearing requirements have been followed;
- B. Based on duly noticed public hearings the Board has considered the current and foreseeable development pressures, and the applicable guidelines for designation issued by applicable state agencies; and
- C. These regulations are necessary because of the current and foreseeable development pressures on and within the County; and
- D. These regulations are necessary to fulfill the purposes and intentions specified in Section 8-202, above.

8-204 Authority

These regulations are authorized by C.R.S. 24-65.1-101, et seq., and by additional applicable authority as enumerated in Article 1 of this Code.

8-205 Applicability

These regulations shall apply to all proceedings concerning the identification and designation of areas and activities of state interest, and the control of development in any area of state interest or the conduct of any activity of state interest which has been or may hereafter be designated by the Board of County Commissioners in the unincorporated areas of Boulder County, whether on public or private land.

8-206 Relationship with Other Requirements

- A. Where these regulations overlap with the County's requirements for zoning special use approval, Subdivision Regulations or subdivision exemption or exemption plat review, or for Comprehensive Plan location and extent review pursuant to C.R.S. 30-28-110(1) and Section 8-100 of this Code, these regulations shall control, and a separate review process under special use review, zoning, Subdivision Regulations or subdivision exemption or exemption plat review, or location and extent review shall not be required, unless expressly stated to the contrary in these regulations. Where these regulations overlap with other applicable County requirements, including but not necessarily limited to County grading and floodplain regulations, all applicable regulations shall be followed and all required County permits or approvals shall be obtained.
- B. Review or approval of a project by a federal or state agency does not obviate, and will not substitute for, the need to obtain a permit for that project under these regulations. However, where in the opinion of the Board, federal or state review and approval processes adequately address the impacts that these regulations are designed to address, the County may agree to rely on that review and approval.

8-207 Maps

The following maps are hereby incorporated into this Article 8-200 by this reference, for the purpose of specifying or aiding in the identification of the boundaries of the adopted area of state interest with which each map is associated. To the extent any map identified below has not otherwise been officially adopted, it shall be considered to be officially adopted for purposes of administering these regulations by virtue of its inclusion in this Section 8-207.

- A. The adopted County Floodplain Overlay District maps identified in Article 4-402 of this Code, as they have been officially adopted and may be duly amended pursuant to the County's zoning regulations from time to time, which shall constitute the basis for designation of the County's designated flood natural hazard areas, the boundaries of which are further specified in Section 8-405.E. of these regulations.
- B. The "Major/Extensive Problems Geologic Hazard Areas" and the "Moderate/Significant Problems Geologic Hazard Areas" identified on the official Boulder County Comprehensive Plan Map entitled "Geologic Hazard and Constraint Areas," as it currently exists and may be duly amended pursuant to the County's Comprehensive Plan from time to time, which shall constitute and govern the County's designated geologic natural hazard areas.
- C. The following map shall constitute and govern the County's designated natural resources of statewide importance that are significant wildlife habitats as defined in Section 8-21000 of this Article:
 1. The Threatened and Endangered Species Map approved as part of adopted amendments to this Article, as it currently exists and may be amended from time to time.

8-208 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. The Board shall also be generally empowered to hear appeals from any person aggrieved by any decision of the Director made in the course of administering these regulations.

8-209 Severability

If any section, clause, provision, or portion of these regulations should be found unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of this regulation shall not be affected thereby and is hereby declared to be necessary for the public health, safety, and welfare.

8-210 Definitions

- A. "Applicant" means any person or entity applying for a permit under these regulations.
- B. "Approved Service Area" means an area which either is:
 - 1. A community service area as defined in Section 18-126 of this Code; or
 - 2. If not included in the definition in Section 18-126, is specifically approved by the Board pursuant to a public hearing convened for this purpose in which the Board shall consider whether the proposed service area:
 - a. Is a logical extension of a community service area as defined in Section 18-126 of this Code;
 - b. Is capable of being reasonably served within a reasonable period of time;
 - c. Will not cause significant adverse environmental impacts on the unincorporated County; and
 - d. Will not overburden the infrastructure of the unincorporated County in areas surrounding the proposed service area.
 - 3. No service area approved under Subsection 2. of this Section shall be considered to constitute approval of community or municipal service areas for any other County land use planning or regulatory purpose.
 - 4. To discourage the inefficient proliferation of service providers in the unincorporated County, and to assure the provision of urban services in accordance with the Boulder County Comprehensive Plan and associated intergovernmental planning agreements, the term "approved service area" shall be applied with respect to development proposed by recognized providers of community or urban services within the unincorporated County, which providers are municipalities, special districts, and public utilities with service plans or service areas approved by the County.
- C. "Area Around A Key Facility" means an area immediately and directly affected by a key facility.
- D. "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 Colorado Department of Transportation.
- E. "Aspect" means the cardinal direction the land surface faces, characterized by north-facing slopes generally having heavier vegetation cover.
- F. "Avalanche" means a mass of snow or ice and other material that may become incorporated therein as such mass moves rapidly down a mountain slope.
- G. "Board of County Commissioners" or "the Board" means the Board of County Commissioners of the County of Boulder, State of Colorado.
- H. "Collector Highway" means a major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers or recreation areas, or industrial centers, and constructed under guidelines and standards established by, or under the supervision of, the Colorado Department of Transportation. "Collector highway" does not include a city street or local service road or a county road constructed under the supervision of local government.
- I. "Corrosive soil" means soil that contains soluble salts that may produce serious detrimental effects in concrete, metal, or other substances that are in contact with such soil.
- J. "Debris-fan floodplain" means a floodplain that is located at the mouth of a mountain valley tributary stream as such stream enters the valley floor.
- K. "Designation" means that legal procedure for designating areas or activities of state interest specified by 24-65.1-101, et seq., C.R.S.. It is carried out by the Board of County Commissioners.
- L. "Developer" means any person engaging or proposing to engage in development in an area of state interest or in conduct of an activity of state interest designated or proposed to be designated under these regulations.

- M. "Development" means any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs but excludes any construction, activity or use exempted from the permit process pursuant to this Article.
- N. "Director" means the Boulder County Land Use Director.
- O. "Domestic water or sewage treatment system" or "system" means a major domestic water or sewage treatment system, and includes wastewater treatment plants, water supply systems, and water treatment plants, more specifically defined as follows:
1. "Wastewater treatment plant" is the facility or group of units used for the treatment of industrial or domestic wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units is discharging into state waters. "Wastewater treatment plant" specifically excludes any facility or group of units used for pretreatment, treatment, or handling of industrial water, wastewaters, reuse waters, and wastes which are not discharged into state waters.
 2. "Water supply system" means the system of pipes, structures, and facilities through which a water supply is obtained, treated, and sold or distributed for human consumption or household use, if such system has at least fifteen service connections or regularly serves at least twenty-five individuals.
 3. "Water treatment plant" means the facility or facilities within the water supply system which can alter the physical, chemical, or bacteriological quality of the water.
- P. "Dry wash channel and dry wash floodplain" means a small watershed with a very high percentage of runoff after torrential rainfall.
- Q. "Efficient use of water" means 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, environmental and recreational.
- R. "Enclave" means an unincorporated area of land entirely contained within the outer boundaries of a municipality, provided that not more than 30 percent of the enclave is surrounded solely by annexed right-of-way.
- S. "Expansive soil and rock" means soil and rock which contains clay and which expands to a significant degree upon wetting and shrinks upon drying.
- T. "Extension" means a major extension and is an increase in hydraulic capacity, an upgrade in treatment or transmission capability, an increase in facility size, or a replacement of an existing facility in a new or altered location.
- U. "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 of runoff or surface waters from any source; or
 3. mudslides (i.e. mudflows) which are proximately caused by flooding as defined in Subsection (b) of this definition and which are sufficiently fluid so as to flow on and over the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- V. "Flood hazard area" means an area containing or directly affected by a flood.
- W. "Floodplain" means an area adjacent to a stream, which area is subject to flooding as the 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:
1. Mainstream floodplains;
 2. Debris-fan floodplains; and
 3. Dry wash channels and dry wash floodplains.
- X. "Geologic hazard" means a geologic phenomenon which is so adverse to past, current, or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes but is not limited to:
1. Avalanches, landslides, rock falls, mudflows, and unstable or potentially unstable slopes;
 2. Seismic effects;
 3. Radioactivity; and
 4. Ground subsidence.
- Y. "Geologic hazard area" means an area containing or directly affected by a geologic hazard.
- Z. "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.

- AA.** "Historical or archaeological resources of statewide importance" means those resources 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, including but not limited to those designated by the Board in accordance with C.R.S. 30-11-107(1)(bb) as amended.
- AB.** "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.
- AC.** "Key facilities" means interchanges involving arterial highways, whether existing or proposed.
- AD.** "Layman's description" means a general, nonlegal description and the popular name, if any, of the tract of land on which the activity or development is to be conducted. The term "general description" means "layman's description."
- AE.** "Legal Description" means any description from which it is possible to locate accurately on the ground the boundaries of the land being described.
- AF.** "Mainstream floodplain" means an area adjacent to a perennial stream, which area is subject to periodic flooding.
- AG.** "Major facility of a public utility" means:
1. Central office buildings of telephone utilities;
 2. Transmission lines, power plants, and substations of electrical utilities; and
 3. Pipelines and storage areas of utilities providing natural gas or other petroleum derivatives and includes extensions to those facilities.
- AH.** "Major publicly owned reservoir" means any body of water formed by an embankment or structure 10 feet in vertical height or having a surface area at high water line, in excess of 20 acres, for which public funds have been used in the construction of all or any part of the dam or where a public entity or agency owns or administers the described property. The ownership of stock in a mutual ditch or reservoir company does not constitute ownership or administration. Furthermore, any loan of funds for construction, operation, maintenance, repair or replacement of all or any part of a dam does not constitute the use of public funds.
- AI.** "Matter of state interest" means an area of state interest or an activity of state interest or both as defined under 24-65.1-101, et seq., C.R.S.
- AJ.** "Mudflow" means the downward movement of mud in a mountain watershed because of peculiar characteristics of extremely high sediment yield and occasional high runoff.
- AK.** "Municipal and industrial water project" or "project" means a system and all components thereof through which a municipality or industry derives its water supply from either surface or subsurface sources, or which otherwise serves municipal or industrial users.
- AL.** "Municipality" means a home rule or statutory city, town, or a city and county or a territorial charter city.
- AM.** "Natural hazard" means a geologic hazard or a flood.
- AN.** "Natural hazard area" means an area containing or directly affected by a natural hazard.
- AO.** "Natural resources of statewide importance" means and is limited to shorelands of major publicly owned reservoirs and significant wildlife habitats in which the wildlife species, as identified by the Colorado Division of Wildlife in a proposed area could be endangered, including species listed or being considered for listing under state or federal guidelines.
- AP.** "New communities" means the major revitalization of existing municipalities or the establishment of urbanized growth centers in unincorporated areas. New communities shall not include those established through the municipal annexation of unincorporated territory.
- AQ.** "Person" means any individual, limited liability company, partnership, corporation, association, company, or other public or corporate body, and includes without limitation any political subdivision, agency, instrumentality, or corporation of the State or the United States government.
- AR.** "Planning Commission" means the Boulder County Planning Commission.
- AS.** "Public Utility" means, a public utility as defined by state law, with the exception of utilities owned and operated by a municipality located within Boulder County.
- AT.** "Radioactivity" means a condition related to various types of radiation emitted by natural or man-made radioactive minerals that occur in deposits of rock, soil, and water.
- AU.** "Regulations" means these regulations as finally enacted and approved.

- AV.** "Reservoir" (except in the context of the separately defined term "major publicly owned reservoir") means an area of land where water is retained or an area intended for water retention, and which is used or proposed for use in whole or in part for the storage of municipal water supplies or of water which is part of a domestic water treatment system.
- AW.** "Seismic effects" means direct and indirect effects caused by an earthquake or an underground nuclear detonation.
- AX.** "Siltation" means a process that results in an excessive rate of removal of soil and rock materials from one location and rapid deposit thereof in adjacent areas.
- AY.** "Shorelands" means all lands extending a minimum of 200 feet shoreward of the high water line, and all wetlands associated with a major publicly owned reservoir.
- AZ.** "Slope" means the gradient of the ground surface that is definable by degree or percent.
- BA.** "Unstable or potentially unstable slope" means an area susceptible to a landslide, a mudflow, a rock fall, or accelerated creep of slope-forming materials.
- BB.** "Urbanized growth center" means an establishment of any use requiring urban services and not otherwise allowed under the Boulder County Land Use Code, the Boulder County Comprehensive Plan, or associated intergovernmental planning agreements.

8-300 Designation of Matters of State Interest

8-301 Board of County Commissioners To Make Designations

Designations and amendments of designations may be initiated in the following ways:

- A. The Board of County Commissioners may in its discretion designate and adopt regulations for the administration of any matter of state interest.
- B. The Planning Commission may on its own motion or upon request by the Board of County Commissioners, recommend the designation of matters of state interest following public hearing before the Planning Commission. The Board of County Commissioners shall decide, in its sole discretion, and pursuant to the requirements of 24-65.1-101, et seq., C.R.S., whether or not to designate any or all of the requested matters of state interest.

8-302 Moratorium

- A. Whenever the Board of County Commissioners designates a matter of state interest pursuant to 24-65.1-404, C.R.S., no person shall engage in any development in such area, and no activity shall be conducted, until the designation and guidelines or regulations for such an area or activity are finally determined and a permit has been issued thereunder.

8-303 Public Hearing Required

- A. The Board of County Commissioners shall hold a public hearing before designating any matter of state interest and adopting regulations for the administration thereof. Said hearing shall be noticed and held pursuant to 24-65.1-404 through -407, C.R.S.
- B. The Board in its discretion may request that the Planning Commission hold a hearing and provide a recommendation to the Board on the proposed designation prior to the Board's hearing. Notice of any hearing before the Planning Commission shall be published no less than seven days before the Planning Commission hearing date in a newspaper of general circulation in the County.

8-304 Factors To Be Considered at Designation Hearings

At the public hearing, the Planning Commission and Board of County Commissioners shall consider such evidence as they deem appropriate, including, but not necessarily limited to testimony and documents addressing the following considerations:

- A. The intensity of current and foreseeable development pressures;
- B. The matters and considerations set forth in any applicable guidelines for identification and designation issued by the applicable state agency ;
- C. The boundaries of any area proposed for designation;
- D. Reasons why the particular area or activity is of state interest, the adverse impacts that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantage of development of such area or conduct of such activity in a coordinated manner;
- E. The extent to which other governmental entities regulate the area or activity proposed to be designated;
- F. The applicable criteria for administration of the proposed area or activity as set forth in these regulations and 24-65.1-201, et seq., C.R.S.;
- G. The legislative declarations stated in 24-65-102, 24-65.1-101, and 29-20-102, C.R.S.; and
- H. The Boulder County Comprehensive Plan or any duly adopted intergovernmental agreements or comprehensive development plans adopted as part of, pertaining to, or affected by the area or activity under consideration.

8-305 Record of Designation Hearing

The Board will collect and preserve the following record of the designation process, at minimum:

- A. Notice of the hearing;
- B. Certificate of publication of the notice;
- C. Written testimony presented by any persons at the public hearing;
- D. An audio recording of the hearing; and
- E. The written resolution or order making appropriate findings supporting any designation and adopting the accompanying guidelines or regulations pursuant to Section 8-306, below.

8-306 Adoption of Designation and Regulations

- A. At the conclusion of the hearing, or within 30 days thereafter, the Board of County Commissioners may, by resolution, adopt, adopt with modification, or reject the proposed designation and accompanying guidelines or regulations.
- B. Each designation order adopted by the Board shall, at a minimum:
 1. Specify the boundaries of the designated area of state interest;
 2. State reasons why the designation is appropriate in light of the factors considered at the public hearings pursuant to Section 8-304, above; and
 3. Specify the regulations applicable to the designated matter of state interest.

8-307 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 designated and for which regulations have not been adopted, the Board of County Commissioners may hold one hearing for determination of designation and regulations as well as for granting or denying the permit.

8-308 Specific Designations

A. Activities of State Interest

The Board of County Commissioners, having considered the intensity of current and foreseeable development pressures and applicable guidelines for identification and designation adopted and issued by applicable state agencies, as well as the other relevant factors set forth in Section 8-304, above, at a duly noticed public hearing held in accordance with Part 4 of Article 65.1, C.R.S., does hereby find and declare the following activities to be matters of state interest and does hereby adopt the accompanying regulations requiring permits for these designated activities as further set forth herein:

1. Site selection and construction of major new domestic water and sewage treatment systems;
2. Major extensions of existing domestic water and sewage treatment systems;
3. Efficient utilization of municipal and industrial water projects;
4. Site selection and construction of major facilities of a public utility;
5. Site selection of arterial highways and interchanges;
6. Site selection of collector highways; and
7. Site selection and development of new communities.

The conduct of any of these activities within the boundaries of unincorporated Boulder County shall be subject to the foregoing designations, as further set forth in these Regulations.

B. Areas of State Interest

1. Areas around key facilities in which development may have a material effect upon the key facility or the surrounding community;
2. Areas containing or having significant impact upon historical or archaeological resources of statewide importance;
3. Areas containing or having significant impact upon natural resources of statewide importance; and
4. Natural Hazard areas, which are flood hazard areas and geologic hazard areas.

Development in any of these areas within the boundaries of unincorporated Boulder County shall be subject to the foregoing designations, as further set forth in these Regulations.

8-400 Permits Required for Areas and Activities Designated in Section 8-309

8-401 Specific Water and Sewage Treatment Activities Requiring Permits

A permit shall be required for any major new domestic water or sewage treatment system, major extension to an existing major domestic water or sewage treatment system, or municipal and industrial water project, which is proposed to be located in whole or in part in the unincorporated portions of Boulder County, and which meets any of the following criteria:

- A. New water supply systems (excluding reservoirs which are separately covered under (C), below), or new water treatment plants, or extensions of those systems or plants (excluding line extensions which are separately covered under (E), below), that serve more than 25 year round residents or provide the equivalent amount of water service and are not located entirely within an approved service area.
- B. New wastewater treatment plants, or extensions to existing plants (excluding line extensions which are separately covered under (E), below), that have an average flow of more than 2,000 gallons a day and are not located entirely within an approved service area.
- C. Construction of any new reservoir where:
 1. 30 percent or more of the capacity is owned, controlled, used, or intended to be used for the storage of municipal or industrial water supplies or of water which is part of a domestic water treatment system; or
 2. less than 30 percent but more than one percent of the capacity is owned, controlled, used, or intended to be used for the storage of municipal or industrial water supplies or of water which is part of a domestic water treatment system, and the reservoir has not been permitted pursuant to the special use review provisions of the Boulder County Land Use Code; or
 3. the reservoir is lined.
- D. Expansion of any existing reservoir for a municipal or industrial or domestic treated water use.
- E. Extensions to water supply and wastewater systems which:
 1. use 12" or larger distribution or transmission lines; or
 2. use two or more lines of any size which are parallel to and located within 100 feet of one another, and have a total cross section equal to or greater than 120 square inches; and
 3. are not located entirely within an approved service area.
- F. Systems, extensions, or projects located partly or entirely on land which is owned or managed for open space, recreation, environmental protection, or other land preservation purposes, except land which is owned by the entity proposing the system, extension, or project.
- G. Systems, extensions, or projects located partly or entirely on land that has been designated as an area of state interest.
- H. Systems, extensions, or projects partly or entirely on land which is designated in accordance with the Boulder County Comprehensive Plan as any one of the following: a historic site, archaeologically sensitive area, natural hazard area, critical wildlife habitat, critical plant association, or wetland.
- I. Any system, extension, or project which relies upon or uses water decreed to agricultural land in the unincorporated County, and which:
 1. is proposed to be converted to industrial use, municipal use, or domestic treated water use as part of a water supply system, pursuant to an application filed with the Water Court after January 25, 1994;
 2. requires total or partial dry up of the above-referenced agricultural land; and
 3. serves primarily a municipality or other group of users located in a county other than Boulder County.

This provision shall not apply to any agricultural water conversion which occurs as part of a use allowed under the County's Land Use Code (with the exception of uses reviewed under the County's location and extent process under 30-28-110(1), C.R.S. and Section 8-100 of this Code).

8-402 Specific Water and Sewage Treatment Activities Exempted from the Permit Process

A permit shall not be required for any major new domestic water or sewage treatment system, major extension to an existing major domestic water or sewage treatment system, or municipal and industrial water project, which is proposed to be located in whole or in part in the unincorporated portions of Boulder County, and which meets any of the following criteria:

- A. Any system, extension, or project not covered under Section 8-401, above.
- B. Systems, extensions, or projects which are located on unincorporated land that is an enclave within the municipality proposing the activity.
- C. Upgrades to existing facilities that are required maintenance or otherwise required by federal, state or County regulations, including repairing and/or replacing old or outdated equipment, or installing new equipment, provided the improvements do not expand levels of service beyond design capacity, and provided further that the upgrade does not alter the location of the existing facility.
- D. Any system, extension, or project proposed as part of a County exemption plat application (i.e., a replat of an existing platted subdivision where no new density is proposed).
- E. Any system, extension, or project necessary to serve any platted subdivision or other use approved under the County's Land Use Code (with the exception of uses reviewed under the County's location and extent process under 30-28-110(1), C.R.S. and Section 8-100 of this Code), provided that the service provider obtains a specific exemption from the Board, based upon a public meeting of which the service provider shall receive reasonable prior notice, that review of the proposed service facilities falls outside the purposes of these regulations, or provided that the Board specifies in its approval of the platted subdivision or other use that separate review of the system, extension, or proposal is not necessary under these regulations.

8-403 Specific Public Utility Activities Requiring Permits

A permit shall be required for any major facility of a public utility, which is proposed to be located in whole or in part in the unincorporated portions of Boulder County, and which meets any of the following criteria:

- A. New natural gas or other petroleum derivative transmission lines that serve more than 25 year round residents and are not located entirely within an approved service area.
- B. Extensions to natural gas or other petroleum derivative transmission lines which:
 1. use 12" or larger distribution or transmission lines; or
 2. use two or more lines of any size which are parallel to and located within 100 feet of one another, and have a total cross section equal to or greater than 120 square inches; and
 3. are not located entirely within an approved service area.
- C. Natural gas or other petroleum derivative storage areas.
- D. New electric transmission lines or extensions that are 115,000 volts or greater.
- E. Power plants generating 50 megawatts or more.
- F. Substations of electrical utilities which control electricity in amounts of 115,000 volts or more.
- G. Central office buildings of telephone utilities.

8-404 Specific Public Utility Activities Exempted from the Permit Process

A permit shall not be required for any major facility of a public utility, which is proposed to be located in whole or in part in the unincorporated portions of Boulder County, and which meets any of the following criteria:

- A. Any facility not covered under Section 8-403, above.
- B. Facilities which are located on unincorporated land that is an enclave within the municipality proposing the activity.
- C. Upgrades to existing facilities that are required maintenance or otherwise required by federal, state or County regulations, including repairing and/or replacing old or outdated equipment, or installing new equipment, provided the improvements do not expand levels of service beyond design capacity, and provided further that the upgrade does not alter the location of the existing facility.
- D. Any facility proposed as part of a County exemption plat application (i.e., a replat of an existing platted subdivision where no new density is proposed).
- E. Any facility necessary to serve any platted subdivision or other use approved under the County's Land Use Code (with the exception of uses reviewed under the County's location and extent process under 30-28-110(1), C.R.S. and Section 8-100 of this Code), provided that the service provider obtains a specific exemption from the Board, based upon a public meeting of which the service provider shall receive reasonable prior notice, that review of the proposed service facilities falls outside the purposes of these regulations, or provided that the Board specifies in its approval of the platted subdivision or other use that separate review of the system, extension, or proposal is not necessary under these regulations.

8-405 Other Designated Areas and Activities Requiring a Permit

- A. Site selection of arterial highways and interchanges and collector highways.
- B. Site selection and development of new communities.
- C. Development located in areas around arterial highway interchanges, unless the development is regulated with full and binding effect under other Articles of this Code. The boundaries for these areas shall be an area within a radius of one mile from the center of the interchange.
- D. Development located in areas containing or having a significant impact upon historical, archaeological or natural resources of statewide importance, unless the development is otherwise regulated with full and binding effect under other Articles of this Code. The boundary of the areas regulated hereunder shall be the area which physically contains the designated historical, archaeological or natural resource, or in the specific case of significant wildlife habitats the areas shown on the maps identified in Section 8-207.C. of this Article, and an area within a radius of 1,500 feet from the area containing the resource. However, the Director may determine that development within a larger area (up to one mile in radius) may be regulated, provided that the Director identifies specific land use impacts by which the larger area will be immediately and directly affected within the stated purposes of this Article.
- E. Development located in flood hazard areas, unless the development is otherwise regulated with full and binding effect under other Articles of this Code. The boundaries of the flood hazard areas regulated hereunder shall be as follows:
 - 1. The boundaries of the Floodplain Overlay Zoning District as stated in Article 4-402 of this Code as amended.
- F. Development located in geologic hazard areas, unless the development is otherwise regulated with full and binding effect under other Articles of this Code. The boundary of the geologic hazard areas regulated hereunder shall be those specified in the maps identified in Section 8-207.B. of these regulations. In accordance with C.R.S. Section 24-65.1-202(2)(a)(I), an area of corrosive soil, expansive rock and soil, or siltation shall not in an of itself be included within this geologic hazard area designation unless the Colorado Water Conservation Board, through the local soil conservation district, identifies such area for designation, or unless an activity of state interest designated hereunder is to be conducted in such an area of corrosive soil, expansive rock and soil, or siltation.
- G. If any proposed development is located partly within and partly without the boundary of an area of state interest as designated in these Regulations, the impacts of the entire development will be subject to review under these Regulations. All construction or uses which compose or are directly associated with the development shall be considered to be part of the development, including but not necessarily limited to buildings, other associated structures, access roads or drives, utility lines, and parking areas.

8-406 Determination of Whether a Proposed Activity or Development Must go Through the Permit Process

- A. The Director shall determine the applicability of Section 8-400 to the conduct of any proposed activity or development. The Director shall make this determination within 10 calendar days after the Director receives a written request from the applicant stating the reasons why the proposed activity or development is not subject to Section 8-400.
- B. If any person is aggrieved by the decision of the Director to include an activity within or exempt it from these regulations, that person may file an appeal to the Board with the Director, no later than ten days after the date of the Director's written decision (with three days added for mailing if the decision is mailed). The appeal shall be accompanied by a statement why the Director's decision is incorrect.
- C. The Board shall schedule a public hearing on the appeal to be held no more than 30 days after the appeal is filed.
- D. For the purpose of deciding the appeal, the Board may require the developer to provide a description and declaration of the scope of the activity or development, including, but not necessarily limited to;
 - 1. The site of the proposed activity or development.
 - 2. The size, if proposed, of any transmission lines, storage tanks, dams and or reservoirs.
 - 3. The number of residents to be served by the activity, or in the case of wastewater treatment plants, the average flow, in gallons, of wastewater a day.
 - 4. The increase in the County population that is projected as a result of the activity.
 - 5. The water rights on which the activity relies.
 - 6. Any geologic hazards areas or flood hazard areas mapped within one mile of the site.
- E. At the appeal hearing, the appellant will have the burden of proving that the Director erred in the decision to include or exclude the activity or development from these regulations.

8-407 Specific Uses Exempted from the Permit Process in Areas of State Interest

- A. Open agriculture and single family dwellings built or maintained on legal building lots.
- B. Operation, maintenance, repair and replacement of existing water and sewage collection, treatment, storage and delivery facilities and associated works, provided that improvements or replacements of existing facilities do not expand the level of service beyond existing design capacity and do not materially alter the location of the existing facility.
- C. Projects addressed by an Intergovernmental Agreement which the County has approved will be subject to these regulations unless otherwise provided by the terms of the Intergovernmental Agreement.

8-500 Application Procedures

8-501 Permits Required after Designation; Receipt of Application Form

- A. Any person desiring to engage in a development in a designated area of state interest or to conduct a designated activity of state interest in whole or in part within the unincorporated area of Boulder County must first obtain a permit pursuant to these regulations.
- B. An application shall not be accepted unless the Director determines that it is complete pursuant to the application submittal requirements of this Section and of Section 8-507, below. If the application is considered incomplete by the Director, the Director shall specify what additional information is required. When a submitted application is considered to be complete by the Director, the Director shall note upon the application the date and hour of its receipt.
- C. When an applicant seeks a permit to engage in development involving more than one area or activity of state interest regulated hereunder, the Director shall require that a single application be completed including all affected areas and activities.
- D. For any application to be considered complete under these Regulations, in addition to meeting the requirements of Section 8-507, below, the application shall include the entire development as contemplated or reasonably foreseeable for the subject property in question for at least a five-year period. For purposes of this Subsection, the subject property is the property on which the development is located, and any other contiguous property which is under the developer's ownership or control and is otherwise subject to regulatory jurisdiction under this Article 8-200, et seq. At a minimum, the application shall include all development which has been planned for the subject property as shown in any capital improvements plan, facilities master plan, or other acceptable master planning document which the applicant has approved as of the time of application or anticipates approving at any time while the application is in process. If the Applicant has not approved such a master plan covering at least a five-year period, it shall approve such a plan before the application will be accepted as complete. The purpose of these requirements is to assure that development for a subject property is reviewed in a rational context of reasonably foreseeable development for the property, to avoid piecemeal analysis of applications, and to allow for a comprehensive consideration of the cumulative impacts of development under these Regulations.
- E. For any application submitted after the effective date of Subsection 8-501.D., immediately above (February 27, 2003) which is approved by the Board, the following requirements shall apply to any amendment to that approval which is submitted within a five-year period after the date of the approval. Any such amendment shall be presumed to constitute piecemeal development which cannot be rationally or adequately reviewed under the applicable standards of Section 8-511 of this Article, unless the Applicant demonstrates one of the following circumstances:
 1. The Board approved less than the complete development pursuant to Section 8-511.B.15. of this Article, and the subject amendment includes development reflected in the applicable master plan but not previously approved.
 2. The additional application addresses or corrects a matter of health or safety presented by the approved development.
 3. The amendment clearly equals or reduces the impact or scope of the approved development, in the context of the applicable criteria under Section 8-511 of this Article.
 4. The amendment implements an amendment to the Boulder County Comprehensive Plan or a land use intergovernmental agreement to which the County is a party, and which was adopted after the County's approval of the development.Any amendment for which the Applicant cannot demonstrate that one of the foregoing circumstances exists, shall not be approved, unless the Applicant clearly overcomes the presumption that the amendment constitutes piecemeal development which cannot be rationally or adequately reviewed under the applicable standards of Section 8-511 of this Article.
- F. The Director's determination regarding whether a permit application is complete under Subsections 8-501.B. and 8-501.D. and Section 8-507 may be appealed to the Board by any person aggrieved by the determination, provided that an appeal is filed with the Board no later than 30 days after the date of the Director's written determination (with three days added for mailing if the determination is mailed). The appeal shall be accompanied by a statement describing the specific reasons why the appellant alleges the determination was in error, based on the criteria listed in Subsections 8-501.B. and 8-501.D. and Section 8-507. The Board shall convene a duly noticed public hearing on the appeal, at which hearing the appellant shall have the burden of proving that the Director erred in the determination regarding the completeness of the application.

8-502 Application Fee

No application fee shall be required of local political subdivisions located wholly or partly within Boulder County. For all other applicants, a nonrefundable deposit of \$500.00 shall be required with each application. Thereafter, the applicant shall be responsible for paying the County's costs of processing the application which exceed \$500.00, on a monthly basis, pursuant to the County Land Use Department's approved policy for charging for the processing of land use applications.

8-503 Waiver of Submission Requirements

The Director may waive any part of the submission requirements which are not relevant to a decision on the application or which the applicant convinces the Director are unreasonably burdensome for the applicant. The Director may not waive any requirements which are otherwise required by law, such as by Article 65.5 of Title 24, C.R.S.

8-504 Intergovernmental Agreements

Upon request of the State of Colorado or a political subdivision of the state as defined by 29-1-202(1), C.R.S., proposing to develop in an area of state interest or to engage in an activity of state interest, the requirements of these regulations may be met by the approval of an intergovernmental agreement in lieu of a permit application and review as provided by these regulations. In the event such an agreement is approved by the Board, no permit application to develop in the area or to conduct the activity of state interest shall be required, provided that all of the following conditions are met:

- A. The state or political subdivision/developer and the County must both be authorized to enter into the intergovernmental agreement.
- B. The purpose and intent of these regulations must be satisfied by the terms of the intergovernmental agreement.
- C. A public hearing must be conducted by the Board to publicly review and approve of the proposed intergovernmental agreement. Notice of the public hearing shall be published once at least 30 and not more than 60 days prior to the hearing in a newspaper of general circulation in the County.
- D. Both the Board and the governing body of the state or political subdivision/developer must approve the agreement in the manner required of each of them by the Colorado Constitution, state statutes and any applicable charter, ordinance or resolution.
- E. Exercise of the provisions of this section by the state or political subdivision/ developer will not prevent that entity from electing at any time to proceed under the permit provisions of these regulations. Additionally, any entity which has previously proceeded under the permit provisions of these regulations may at any time elect to proceed instead under this Section.

8-505 General Process Outline

The following is a general outline of the steps required for any permit decision under these regulations. Specific information regarding each of the referenced steps follows this section.

- A. Pre-application conference
- B. Application
- C. Referral to adjacent and/or nearby property owners and affected agencies
- D. Staff review
- E. Public review before the Planning Commission and Board of County Commissioners
- F. Post-approval requirements

8-506 Pre-application Conference

- A. A pre-application conference is required of all applicants.
 - 1. The pre-application conference shall be held between the applicant and a planner with the Land Use Department.
 - a. This meeting is intended to provide an understanding of the applicable review procedures, requirements, and standards, and provide information pertinent to the application and the geographical area affected by the application.
 - b. The planner will explain the application procedures and the materials required for submittal.
 - c. The applicant shall bring a conceptual site plan to the conference.
 - 2. If the planner feels that the proposal raises any of the following issues, the applicant shall also meet with members of the appropriate County department to discuss the proposal.
 - a. For flood or floodplain, road, access, traffic concerns, parking design and engineering, and all vehicular movement patterns and volumes, the applicant will meet with a member of the staff of the Engineering Division of the Boulder County Transportation Department.
 - b. For water supply, sanitation, water quality or other public health concerns, the applicant will meet with members of the Environmental Health Section of Boulder County Public Health. Boulder County Public Health Staff will also review the location of the property affected by the application in relation to the identified radiation hazard sites as shown on Boulder County Public Health maps.
 - c. For open space or environmental concerns, the applicant will meet with a member of the staff of the Parks and Open Space Department to discuss any potential effects of the application on open space and environmental resources in the County.
- B. Any comments or commitments made by any member of the County's Staffs during this pre-application conference are only preliminary in nature and should not be relied upon by the applicant. All prospective applicants should be informed that formal comments cannot be made by staff until after the application is submitted and adjacent and/or nearby property owners and referral agencies have had an opportunity to respond.
- C. Pre-application conferences may be held individually with each department, or a joint conference for all, or some, of the departments may be scheduled.
- D. County staff will make available to the applicant any public information regarding the application which is in the County's possession.

8-507 Application Submittal Requirements

A. Application

1. Before any request for County approval under these regulations may be processed, a complete application, meeting the requirements of this Section 8-507, must be filed with the Land Use Department.
 - a. The application must include an application form designating all agents for the applicant and exhibiting the applicant's or agent's signature, and has all necessary information completed. The form shall be accompanied by all fees, maps, plans, and reports required by these regulations.
 - b. The signature on an application form will be assumed to indicate the applicant's concurrence with all submissions and commitments made by their designated agent.
 - c. A written description of the proposal.
 - d. Any application which Section 3-202.A. of this Code identifies as requiring compliance with Article 65.5 of Title 24, C.R.S. shall not be considered to have been submitted as complete until the applicant has provided a certification signed by the applicant confirming that the applicant or its agent has examined the records of the Boulder County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist.
 - e. In addition, for purposes of the County convening its initial public hearing on any application involving property for which mineral estate owners or lessees owning less than full fee title in the property have been certified by the applicant to exist, the application shall not be considered to have been submitted as complete until the applicant has provided an additional signed certification confirming that the applicant has, at least 30 days prior to the initial public hearing, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.

B. Professional Qualifications

1. A professional consultant may not be necessary for all applications. Only the following will require professional assistance.
 - a. 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.
 - b. 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.
 - c. 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.
2. All data and plans submitted for review must show the qualifications of the individual in charge of the work.

C. Consultants

1. If the County does not have qualified staff to review certain elements of an application or referral agencies are not able to adequately advise the County regarding certain elements of an application, the Board of County Commissioners may authorize the review be performed by a consultant engaged or approved by the Director. Consultants' fees shall not be required to be paid by local political subdivisions located wholly or partly within Boulder County. For all other applicants, the Board shall have the discretion to decide whether the applicant shall pay all, part of, or none of the consultants' fees, based upon the nature and extent of consulting expertise required.
2. A referral agency may impose a fee for the review of the application. No hearings will be held if any such referral agency's fee has not been paid.

D. Application requirements

1. The following are general requirements for any map or plan required as part of the application for a County approval. Minimum requirements include:
 - a. The name of the proposed development or use and total number of acres under consideration.
 - b. Since 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.
 - c. Name, address, and telephone number of the applicant, designer, engineer, surveyor, and any other consultants of the applicant.
 - d. Date of preparation, revision box, written scale, graphic scale, and north arrow for each map.
 - e. A copy of the capital improvements plan, facilities master plan, or other applicable master planning document covering the subject development and property, as required in Subsection 8-501.D., above.
2. The following requirements shall apply only to applications for the water and sewage treatment activities designated in Section 8-308(A)(1)-(3) above.
 - a. Detailed plans for the activity or development including the proposed system capacity and service area plans and maps.
 - b. A description of all existing or approved proposed domestic water or sewage treatment systems within the jurisdiction of the applicant as well as adjacent communities (incorporated and unincorporated).
 - c. The design capacity of each domestic water or sewage treatment system and the distribution or collection network identified in (3) above.
 - d. A detailed inventory of total commitments already made for current water or sewage services in terms of taps or other appropriate measurement.
 - e. The source of the existing or new water supply for the proposed activity including applicable decreed water rights or plans, and information on any agricultural water rights decreed to land in unincorporated Boulder County and converted to provide the supply.
3. The following requirements shall apply only to applications for major facilities of a public utility.
 - a. Detailed plans for the facility including, but not limited to, the associated system capacity and proposed service area plans and maps.
 - b. A description of existing and proposed service in the area to be served.
 - c. A description of the distribution network for the area proposed to be served.
4. The following requirements apply only to development located in Historical and Archeological Resource Areas of statewide importance.
 - a. A state historical site survey form completed by a qualified professional acceptable to the State Historic Preservation Officer for all resources affected by the development.
 - b. A description of the mitigating efforts to be taken to preserve the designated resource.
 - c. Plans and procedures for notification to the State Historical Society and State Archaeologist upon discovery of historical or archaeological resources.
5. The following requirements apply only to development located in Natural Resource Areas of statewide importance.
 - a. A survey of habitat of applicable species by a qualified professional.
 - b. A plan of construction and operations, which shall contain an analysis of the effects of the proposed development upon wildlife species within the designated wildlife habitat.
6. The following requirements apply only to development located in Natural Hazard Areas.
 - a. For development in a natural hazard area as set forth in Section 8-405 (E)(1):
 - (i) Application for a Floodplain Development Permit containing the information required in Article 4-407(B) of this Code.
 - (ii) A flood hazard impact report that addresses the criteria for developing in a flood hazard area, certified by a registered Colorado Professional Engineer.
 - (iii) Maps or reports addressing flood hazard areas must be prepared by a registered Colorado Professional Engineer, a hydrologist or other professional with appropriate expertise in the issues addressed in the map or report as determined by the Land Use Director.
 - b. For developments located within a natural hazard area which is a geologic hazard area:
 - (i) A geology report documenting and assessing the nature and extent of the applicable geologic hazard, its impact on the proposed development, and proposed mitigation measures if any, prepared by either a member of the American Institute of Professional Geologists, a member of the Association of Engineering Geologists, or an individual registered as a geologist by a state.

7. Requirements applicable to all applications
- a. Detailed description of the need for the proposed development or activity, including but not limited to:
 - (i) The present population of the area to be served and the population to be served.
 - (ii) The predominant types of users or communities to be served by the proposal.
 - (iii) The percentage of the design capacity at which the current system is now operating.
 - (iv) If the proposal is a new water or wastewater treatment system or public utility facility and that system exceeds a ten year projected increase in demand, a detailed explanation of the excess service capacity and the cost of the excess capacity.
 - (v) The relationship of the proposal to the applicant's long-range planning and capital improvements programs, including specific reference to the master plan(s) required to be submitted under Subsections 8-501.D. and 8-507.D.1.e., above.
 - b. Environmental impact analysis.
 - (i) Land use:
 - (A) Specify whether the proposal conforms to local governments planning policies and master plans.
 - (B) Detail the agricultural productivity capability of the land affected by the proposal (SCS classification).
 - (C) Specify how the proposed development will utilize existing easements or rights-of-way for any associated transmission, distribution or collector networks.
 - (D) Specify any additional right-of-way or easements for new or expanded transportation facilities.
 - (ii) Water resources:
 - (A) On the same, or another appropriate map, indicate any flood hazard area associated with the proposal. Documentation of historical flooding activity on the parcel where the activity or development will be located, and on other property affected by the activity or development, should be included. Detail potential, adverse impacts related to the associated flood hazard area.
 - (B) Map and describe all surface waters, including applicable state water quality standards, to be affected by the project.
 - (C) Describe the immediate and long-term impact and net effects that the activity would have on the quantity and quality of surface water under both average and worst case conditions.
 - (D) Map and describe all groundwater, including any aquifers. Describe the impacts and net effect of the activity on groundwater. At a minimum, the description should include:
 - (1) Seasonal water levels in each platted subdivision of the aquifer affected by the activity.
 - (2) Artesian pressure in aquifers.
 - (3) Groundwater flow directions and levels.
 - (4) Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.
 - (5) 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.
 - (6) 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.
 - (7) Existing groundwater quality and classification.
 - (8) Location of all water wells and their uses.
 - (E) Describe the impacts and net effect of the activity on wetlands and riparian areas.
 - (1) Map and describe wetlands, and riparian areas to be affected by the activity, including a description of each type of wetlands, species composition, and biomass.
 - (2) Describe the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).
 - (3) Describe impacts and the net effect that the project would have on the wetlands and riparian areas.

- (iii) Terrestrial and Aquatic Animals and Habitat.
 - (A) Map and describe terrestrial and aquatic 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.
 - (B) Map and describe critical wildlife habitat and livestock range to be affected by the activity including migration routes, calving areas, summer and winter range, and spawning beds.
 - (C) Describe the impacts and net effect that the activity would have on terrestrial and aquatic animals, habitat and food chain.
- (iv) Terrestrial and Aquatic Plant Life
 - (A) Map and describe terrestrial and aquatic plant life including the type and density, and threatened or endangered plant species and habitat.
 - (B) Describe the impacts and net effect that the activity would have on terrestrial and aquatic plant life.
- (v) Air quality:
 - (A) Detail how many average daily trips will be generated by the proposal.
 - (B) Explain any other adverse impacts on air quality anticipated from the proposal.
 - (C) Describe how any state or federal air quality standards will be impacted and if the proposed transportation facility has been included in the region's air quality models to verify conformity with the air quality plan.
 - (D) Describe the airsheds to be affected by the activity, including the seasonal pattern of air circulation and microclimates.
 - (E) Describe the impacts and net effect that the activity would have on air quality during both construction and operation under both average and worst case conditions.
- (vi) Significant environmentally sensitive factors:
 - (A) Identify and locate on a map of appropriate scale the juxtaposition of any of the following features present in the proposed development or activity and its environs, and detail the potential impact of the proposal upon each feature.
 - (1) Potential natural hazards
 - (2) Public outdoor recreation and open space areas.
 - (3) Unique areas of geologic, historic and archaeological importance.
- (vii) Visual aesthetics and nuisance factors:
 - (A) Identify viewsheds, scenic vistas, unique landscapes or land formations.
 - (B) Identify any significant deterioration of existing natural aesthetics, creation of visual blight, noise pollution or obnoxious odors which may stem from the proposal.
 - (C) Identify and describe any structures, excavations and embankments that will be visible as a result of this project.

- (viii) Transportation impacts:
 - (A) Describe what impacts the proposal will have upon transportation patterns in the area intended to be served or affected by the proposal through the submittal of a traffic impact analysis of the proposed transportation facilities. The traffic impact analysis should include but not be limited to the following:
 - (1) Identify the facilities required to support the existing and future land uses being served by the proposed transportation facility.
 - (2) Furnish the traffic model data verifying consistency with the DRCOG regional plan, the Colorado Department of Transportation (CDOT) Statewide Transportation Improvement Program (STIP) and the DRCOG Transportation Improvement Program (TIP).
 - (3) Provide the existing and proposed traffic volume impacts to the adjacent road system, including local roads.
 - (4) Provide the existing and future Level of Service (LOS) and capacity of the transportation facilities before and after the proposed transportation project is completed.
 - (5) All transportation access information as required by the CDOT State Highway Access Code, 1998 revisions or the most current edition thereof.
 - (6) Submittal of a benefit/cost analysis of the proposed transportation improvements and identify the distribution of the burden of the cost for the proposed improvements to the project as well as the adjacent state or local road system.
 - (ix) Less damaging alternatives:
 - (A) If the Director determines that the nature or extent of the proposal involves the potential for significant environmental damage and warrants examination of specific, less environmentally damaging alternatives, the Director may request that the Board require that the applicant evaluate and present information on such alternatives as part of the application.
 - (B) Required information on alternatives may include, but shall not necessarily be limited to, information on the environmental impacts and cost-effectiveness of the alternatives in relationship to the proposal presented.
- c. For any application which Section 3-202.A. of this Code identifies as requiring compliance with Article 65.5 of Title 24, C.R.S., certification of compliance with Article 65.5 of Title 24, C.R.S., signed by the applicant confirming that the applicant or its agent has examined the records of the Boulder County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist.

8-508 Referral Requirements

A. Referral of Applications

1. When an application meeting the requirements of Section 8-507 is filed with the Land Use Department, the application materials shall be referred to interest holders in any property proposed to be physically disturbed by the activity or development, property owners within 1,500 feet of any property proposed to be physically disturbed, and appropriate referral agencies. Based on the specifics of the application, the Director may waive referral requirements if those requirements are unnecessary.
 - a. The applicant is responsible for preparing the referral packets in the manner prescribed by the Director. An error made either intentionally or unintentionally by the applicant in the preparation of referral packets may result in a delay in processing of the application so that the proper referrals can be accomplished.
 - b. All mailings shall be by U. S. Mail, first-class postage prepaid, with the exception of referrals to offices and agencies in the Boulder County interoffice mail delivery route.

B. Referral Packets

1. Each referral packet shall contain one copy of the site plan (full size or reduced to letter size) and application, and other materials as deemed appropriate by the Land Use Director. The number of referral packets required shall be determined by the Director.
2. Referral notices shall be mailed to agencies specified in this Section of 8-508 and to each owner of an interest in any property proposed to be physically disturbed by the proposal, and to property owners within 1,500 feet of any property proposed to be physically disturbed. Referral notifications may be distributed via e-mail.
3. Referral notices shall also include the name of the proposal, name of owners of the affected property, docket number, general location, number of acres, proposed use, and any other information deemed appropriate by the Director. The notice shall also include information on where to access referral packets on the County's website, and provide staff contact information in case the person receiving the notice wishes to request a hard copy of the referral packet. The complete application referral packet shall be available for public review in hard copy form at the County Land Use Department during business hours.

C. Review of Applications by Agencies and Individuals

1. Referral responses from agencies and individuals.
 - a. Referral responses must be received by the Director within 14 days of transmittal in order to insure that recommendations and findings are considered.
 - b. Failure of any office, agency district or individual to respond within the above-mentioned time period, or within the period of an extension which may be expressly granted by the Director, will be regarded as a response with no conflict.
2. The State Engineer shall review the application to insure conformity with all applicable regulations of the Colorado Division of Water Resources and for comment on applicable water rights administration and determination concerns.
3. The Colorado and County Public Health Departments shall review the application for conformity with all applicable State and County Public Health related regulations.
4. The Colorado Geological Survey may evaluate those geologic factors which would have a significant impact on the proposed use of the land.
5. The Colorado Public Utilities Commission shall review all applications for major facilities of a public utility, and provide information on any decisions, orders, or findings which the Commission has made or proposes to make with respect to the facility, and any other pertinent information.
6. CDOT shall review the application for conformity to the State Highway Access Code, STIP and the regulations relative to the administration of state and federal transportation systems.
7. The Regional Transportation District (RTD) shall review the proposed transportation facility and provide information relative to the impacts to the District's transit facilities.
8. The Denver Regional Council of Governments (DRCOG) will review the proposed transportation facility and provide information relative to the impacts to the region's Five Year and the 2020 Transportation Improvement Program (TIP).
9. The Colorado Division of Wildlife and the Colorado Natural Areas Council shall review all applications in areas affecting natural resources of statewide importance.
10. The County Engineer shall review all engineering aspects of the proposal including referral responses and other relevant evidence, and shall transmit findings and preliminary recommendations to the Director.
11. The County Parks and Open Space Department shall review the application for open space and environmental impacts. Staff will schedule applications with such impacts for discussion before the Parks and Open Space Advisory Committee.

12. The County Land Use Department shall evaluate the application for conformance with the Comprehensive Plan, these regulations, sound planning, and comments from the referral agencies and individuals.
 13. The Urban Drainage and Flood Control District and the Colorado Water Conservation Board shall review the application for flood hazard impacts.
- D. Post Referral Action** If there are referral comments received by the Land Use Department which require a response from the applicant, the following actions shall occur:
1. The Land Use staff will transmit by first class mail, or hand delivery, the comments from referral agencies and individuals as soon as possible following the required referral response period.
 2. Within 14 days after transmittal of those comments, or by a later date specified by the Director, the applicant shall respond in writing to all issues raised during the referral process.
 - a. Such response shall be considered an amendment to the application, and shall be made part of the application to be used as a basis for a final Land Use Staff recommendation.
 - b. If the Director finds that this new information results in a substantial change in the proposal, the Director may re-refer the amended application and supporting materials to those referral agencies and individuals outlined in Section 8-508, above. The processing schedule will be amended accordingly.
 - c. If the applicant is unable to supply responses within the 14 days allowed, then the applicant may request, in writing, a delay in processing the application for up to 95 days.
 - d. If the applicant fails to supply satisfactory responses within the specified time, the Director may either base the Land Use Staff recommendation on review of the file as it exists, or reject the application as a result of the failure to provide information necessary to its proper review. In the case of the latter, the Director shall inform the applicant in writing.
 3. The Land Use Staff shall make a recommendation based on its analysis of the record on the application, the referral comments and the applicant's responses to the referral comments.

8-509 Notice of Permit Hearing

- A. Not later than 30 days after receipt of a completed application for a permit, the Director shall set and publish notice of a date, time and place for a hearing before the Board. The notice shall be published once in a newspaper of general circulation in Boulder County, not less than 30 nor more than 60 days before the date set for the hearing. Notice shall also be mailed to the applicant and to the property owners identified in Section 8-508(B)(2), above, and to any other persons or agencies requesting notice of the hearing, at the same time the notice is published. Inadvertent failure to notify every such property owner, person or agency shall not affect the validity of any hearing or any determination of the BOCC.
- B. The application shall be considered complete and therefore received by the Land Use Department for purposes of this Section 8- 509, once the applicant supplies satisfactory responses to the referral comments as required by Section 8-508(D)(2), above, or, if no responses are required, within 14 days after the Director transmits information on the application to the referral agencies and individuals pursuant to Section 8-508(C), or at such later date as the Director may have approved under Section 8-508 (c), above. Completeness of the application shall also be determined based upon the applicant's compliance with any applicable requirements of Article 65.5 of Title 24, C.R.S., as set forth in Section 8-507A.1.d., above.
- C. Within the time constraints of Section 8-509(A) and (B), above, the Director shall schedule the application for a hearing before the Planning Commission. Notice of the Planning Commission hearing shall be published in a newspaper of general circulation in the County at least seven days before the hearing date, and shall be mailed to the applicant and to the property owners identified in Section 8-508(B)(2), above, and to any other persons or agencies requesting notice of the hearing, at the same time the notice is published.
- D. Notwithstanding any other provision of this Article 8-200, the Applicant shall be solely responsible for complying with any applicable requirements of Article 65.5 of Title 24, C.R.S.. Therefore, if the application is one which Section 3-202.A. of this Code identifies as requiring compliance with Article 65.5 of Title 24, C.R.S., and if the applicant has certified as part of its application submittal that mineral estate owners or lessees owning less than full fee title in the property which is the subject of the application exist, the County's initial public hearing on the application (before the Planning Commission or the Board, as applicable) shall not be held unless the applicant provides a further signed certification confirming that the applicant has, at least 30 days prior to the initial public hearing, transmitted to the County and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S.
- E. In any case where information becomes known to the Planning Commission, Board, or Land Use Director that an applicant has failed to provide notice of an initial public hearing on an application as required Article 65.5 of Title 24, C.R.S. at least 30 days prior to the initial County public hearing on the application, as required by Article 65.5 of Title 24, C.R.S., the Planning Commission, the Board, or the Director on behalf of the Planning Commission or Board may continue, may reschedule, or may vacate the initial public hearing to allow proper notice to be provided under Article 65.5 of Title 24, C.R.S..

8-510 Conduct of the Permit Hearings

- A. The Planning Commission shall conduct its public hearing in such a manner so as to solicit all relevant testimony from the applicant and members of the public.
 1. The Planning Commission shall hear testimony and receive evidence, including, but not limited to:
 - a. The recommendations of the Director, and
 - b. Relevant testimony and documents presented at the public hearing.
 2. The Director shall conduct and preserve the following record of the public hearing before the Planning Commission:
 - a. The permit application.
 - b. Any written statements or documents presented in support of or in opposition to the permit application.
 - c. The names and addresses (as available) of all persons making oral or written statements, appearing as witnesses, or offering documentary evidence.
 - d. Any tape recording of the hearing.
 - e. The Planning Commission's recommendation.
- B. The Board shall conduct its public hearing in such a manner so as to solicit all relevant testimony from the applicant and members of the public.
 1. The Board shall hear testimony and receive evidence, including, but not limited to:
 - a. The recommendations of the Planning Commission,
 - b. The recommendation of the Director, and
 - c. Relevant testimony and documents presented at the public hearing.
 2. The Director shall conduct and preserve the following record of a public hearing:
 - a. The permit application.
 - b. Any written statements or documents presented in support of or in opposition to the permit application.
 - c. The names and addresses (as available) of all persons making oral or written statements, appearing as witnesses, or offering documentary evidence.
 - d. Any tape recording of the hearing.
 - e. The resolution of the Board granting or denying the permit application.
 - f. A copy of the permit, if issued.
- C. Any application submitted by a public utility or a power authority providing electric or natural gas service, which relates to the location, construction, or improvement of a major electrical or natural gas facility as contemplated by Section 29-20-108, C.R.S., as amended, and which is presented to the Planning Commission for review, shall be considered to be a "preliminary application" under Section 29-20-108. Final County action on any such application shall thus be required to be taken within 120 days after submission of the application, or the application under Section 29-20-108 is deemed approved. Any such application for a major electrical or natural gas facility which is presented to only the Board, shall be considered to be a "final application" under Section 29-20-108, on which final County action shall be required to be taken within 90 days after submission of the application, or the application under Section 29-20-108 is deemed approved. For purposes of this Subsection C., "submission" shall be considered to be the submission of a complete application as required by this Article 8, including but not limited with respect to compliance with any applicable notice requirements to the mineral estate owners and lessees constituting less than full fee title in the subject property as required by Article 65.5 of Title 24, C.R.S.

8-511 Standards for Approval of a Permit Application

A. General Approval Requirements

1. A permit application for development of a matter of state interest may not be approved unless the applicant satisfactorily demonstrates that the proposal, including all mitigation measures proposed by the applicant, complies with all of the applicable criteria set forth in this Article. If the proposal does not comply with all of the applicable criteria, the permit shall be denied, unless the Board determines that reasonable conditions can be imposed on the permit which will enable the permit to comply with the criteria.
2. If the Board determines at the public hearing that sufficient information has not been provided to it to allow it to determine if the applicable criteria have been met, the Board may continue the hearing until the specified additional information has been received. The Board shall adopt a written decision on a permit application as soon as practicable after the completion of the permit hearing.

B. Standards for approval of all permit applications.

1. The applicant has obtained or will obtain all property rights, permits, and approvals necessary for the proposal, including surface, mineral, and water rights. The Board may, in its discretion, defer making a final decision on the application until necessary property rights, permits and approvals for the proposal are obtained.
2. The applicant has the necessary expertise and financial capability to develop and operate the proposal consistent with all requirements and conditions.
3. Adequate water supplies, as determined by the Colorado State Engineer, are available for the proposal if applicable.
4. The proposal will not cause unreasonable loss of significant agricultural lands as identified in the Comprehensive Plan, or identifiable on or near the site.
5. The proposal shall not significantly degrade or pose a significant hazard to any aspect of the environment, including environmental resources and open space areas as identified in the Comprehensive Plan, and other features or elements that are deemed to be significant components of the natural environment worthy of preservation. For purposes of this section, the following aspects of the environment shall be considered:
 - a. Air quality: The proposal shall not significantly deteriorate air quality. In determining impacts to air quality, these considerations shall apply.
 - (i) Changes to seasonal ambient air quality.
 - (ii) Changes in visibility and microclimates.
 - (iii) Applicable air quality standards.
 - b. Visual quality. The proposal shall not significantly degrade visual quality. In determining impacts to visual quality, these considerations shall apply.
 - (i) Visual changes to ground cover and vegetation, waterfalls and streams, or other natural features.
 - (ii) Interference with viewsheds and scenic vistas.
 - (iii) Changes in appearances of forest canopies.
 - (iv) Changes in landscape character types or unique land formations.
 - (v) Compatibility of building and structure design and materials with surrounding land uses.
 - c. Surface water quality. The proposal shall not significantly degrade surface water quality. In determining impacts to surface water quality, these considerations shall apply.
 - (i) 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.
 - (ii) Applicable narrative and numeric water quality standards.
 - (iii) Increases in point and non-point source pollution loads.
 - (iv) Increase in erosion.
 - (v) Increases in sediment loading to waterbodies.
 - (vi) Changes in stream channel or shoreline stability.
 - (vii) Changes in stormwater runoff flows.
 - (viii) Changes in trophic status or in eutrophication rates in lakes and reservoirs.
 - (ix) Changes in the capacity or functioning of streams, lakes or reservoirs.
 - (x) Changes in flushing flows.
 - (xi) Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.

- d. Groundwater quality. The proposal shall not significantly degrade groundwater quality. In determining impacts to groundwater quality, these considerations shall apply.
 - (i) Changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
 - (ii) Changes in capacity and function of wells within the impact area.
 - (iii) Changes in quality of well water within the impact area.
- e. Wetlands and riparian areas. The proposal shall not significantly degrade the quality of wetlands and riparian areas. In determining impacts to wetlands and riparian areas, these considerations shall apply.
 - (i) Changes in the structure and function of wetlands.
 - (ii) Changes to the filtering and pollutant uptake capacities of wetlands and riparian areas.
 - (iii) Changes to aerial extent of wetlands.
 - (iv) Changes in species' characteristics and diversity.
 - (v) Transition from wetland to upland species.
 - (vi) Changes in function and aerial extent of floodplains.
- f. Terrestrial and aquatic animal life. The proposal shall not significantly degrade the quality of terrestrial and aquatic animal life. In determining impacts to terrestrial and aquatic animal life, these considerations shall apply.
 - (i) Changes that result in loss of oxygen for aquatic life.
 - (ii) Changes in flushing flows.
 - (iii) Changes in species composition or density.
 - (iv) Changes in number of threatened or endangered species.
 - (v) 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.
 - (vi) 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.
 - (vii) Changes to the aquatic and terrestrial food webs.
- g. Terrestrial and aquatic plant life. The proposal shall not significantly degrade the quality of terrestrial and aquatic plant life. In determining impacts to terrestrial and aquatic animal life, these considerations shall apply.
 - (i) Changes to habitat of threatened or endangered plant species.
 - (ii) Changes to the structure and function of vegetation, including species composition, diversity, biomass, and productivity.
 - (iii) Changes in advancement or succession of desirable and less desirable species, including noxious weeds.
 - (iv) Changes in threatened or endangered species.
- h. Soils and geologic conditions. The proposal shall not significantly degrade soils and geologic conditions. In determining impacts on soils and geologic conditions, these considerations shall apply.
 - (i) Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and flood hazard areas.
 - (ii) Changes to stream sedimentation, geomorphology, and channel stability.
 - (iii) Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs.
 - (iv) Changes to avalanche areas, mudflows and debris fans, and other unstable and potentially unstable slopes.
 - (v) Exacerbation of seismic concerns and subsidence.

6. The proposal will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience.
 7. The proposal will not cause unreasonable loss of significant cultural resources, including but not necessarily limited to historical structures or sites and archaeological artifacts or sites, as identified in the Comprehensive Plan or identifiable on or near the site.
 8. The proposal or its associated transmission collector or distribution system will not create blight, or cause other nuisance factors such as excessive noise or obnoxious odors.
 9. The proposal will not be subject to significant risk from floods, fires, earthquakes or other disasters or natural hazards.
 10. The proposal or its associated transmission collector or distribution system will not create an undue financial burden on existing or future residents of the County.
 11. The proposal will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.
 12. The planning, design and operation of the proposal will reflect appropriate principles of resource conservation, energy efficiency and recycling or reuse.
 13. For those applications for which the Director has required information on the environmental impacts and costs of alternatives under Section 8-507(D)(7)(b), above, the proposal represents the least damaging alternative of reasonable cost among the alternatives analyzed.
 14. The proposal is in accordance with the Boulder County Comprehensive Plan and any applicable intergovernmental agreement affecting land use and development, including but not limited to any applicable land use designations. In cases where a person who is not a service provider with a County-approved service plan or service area, proposes a development within an approved service area, the Board shall not be compelled to consider the development be in compliance with the applicable adopted comprehensive plan or intergovernmental planning agreement simply by virtue of the fact that the development is located within, or is proposed to serve, an approved service area.
 15. The proposal represents the complete, reasonably foreseeable development for the subject property as required under Section 8-501.D., above, except that the Board may approve development constituting less than the complete development provided that the Applicant clearly demonstrates that a lesser proposal constitutes a discrete phase of the complete development as supported by the applicable master planning document required under Subsection 8-501.D. , which can be logically and adequately reviewed as a separate project under the applicable criteria of these Regulations. Amendments to approvals of applications submitted after the effective date of Subsection 8-501.D. (February 27, 2003), shall be subject to the further requirements of Subsection 8-501.E., above.
- C. Additional standards for approval of municipal and industrial water projects.
1. The proposal shall emphasize the most efficient use of water, including, to the extent permissible under existing law, the recycling and reuse of water. Urban development, population densities, and site layout and design of storm water and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas.
 2. To promote the efficient utilization of municipal and industrial water projects, utilization of the following water sources shall be favored:
 - a. Utilization of existing municipal and industrial water supplies, for example, by lease, exchange, sale, or other disposition between persons or entities within Boulder County, or between persons or entities within Boulder County and those outside Boulder County.
 - b. Water supplies from sources which do not involve the removal of water from irrigated agriculture or open space or preserved lands in Boulder County, or which do not involve increased use of native flows of water in the streams of Boulder County.

- D. Additional standards for approval of site selection and construction of major new domestic water and sewage treatment systems and major extensions of existing domestic water and sewage treatment systems.
 - 1. New domestic water and sewage treatment systems and major extensions of existing domestic water and sewage treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants within the County and will ensure the orderly development of domestic water and sewage treatment systems of adjacent communities within the County.
 - 2. Major extensions of domestic water and sewage treatment systems shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.
 - 3. Existing water and sewage treatment systems servicing the area must be at or near operational capacity.
 - 4. The scope and nature of the proposal will not compete with existing water and sewage services or create duplicate services.
 - 5. The age of existing domestic water and sewage treatment systems, operational efficiency, state of repair or level of service is such that replacement is warranted.
 - 6. Existing facilities cannot be upgraded or expanded to meet waste discharge permit conditions of the Colorado Water Control Division.
- E. Additional standards for major facilities of a public utility.
 - 1. Facilities shall be sited and constructed in areas which will result in the proper utilization of existing facilities and associated systems within or serving the County.
 - 2. Facilities shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such facility can be accommodated within the financial and environmental capacity of the area to sustain such growth and development and are in accordance with the applicable County land use plans.
 - 3. Existing facilities and associated systems servicing the area must be at or near operational capacity.
 - 4. If a facility extension or replacement is proposed, the age of existing facilities and associated systems, their operational efficiency, and their state of repair or level of service are such that extension or replacement is warranted.
 - 5. If a new facility is proposed, existing facilities cannot be feasibly upgraded or expanded.
- F. Additional standards for site selection of arterial highways and interchanges and collector highways.
 - 1. Community traffic needs shall be met.
 - 2. Desirable community patterns shall not be disrupted.
 - 3. Direct conflicts with adopted local, regional and state master plans shall be avoided.
- G. Additional standards for site selection of new communities.
 - 1. The design shall, at a minimum, provide for transportation, waste disposal, schools, and other governmental services in a manner that will not overload facilities of existing communities of the region.
- H. Additional standards for development in historical or archaeological resource areas of statewide importance.
 - 1. Development shall be designed to preserve the integrity of the resource.
 - 2. Development shall be conducted in a manner which will be compatible with the preservation of the resource and minimize damage to the resource.
- I. Additional standards for development in natural resource areas of statewide importance.
 - 1. Development shall be designed to preserve the integrity of the resource.
 - 2. Development shall be conducted in a manner which will be compatible with the preservation of the resource and minimize damage to the resource.
 - 3. The proposed development will not adversely affect either surface or subsurface water rights.
 - 4. The proposed development will not significantly deteriorate significant wildlife habitat.
 - 5. The proposed development will not significantly degrade existing natural scenic characteristics, create blight, or cause other nuisance factors such as excessive noise or obnoxious odors.

- J. Additional standards for development in areas around key facilities (interchanges involving arterial highways).
 - 1. The proposed development shall not pose a danger to public health or safety or to property (including the subject property, other impacted properties, and the environment).
 - 2. The volume of traffic to be generated by the proposed development shall be compatible with the traffic-handling characteristics of the interchange and the access road and existing, affected traffic roads.
 - 3. The proposed development shall be compatible with existing developments and with the character of the neighborhood, and shall not significantly impair an area or resource of special scenic, historical, or cultural significance.
 - 4. The proposed development shall preserve desirable existing community patterns.
 - 5. A development that proposes burdens or deprivations on the communities of a region shall not be justified on the basis of local benefit alone.
- K. Additional standards for development in flood hazard areas.
 - 1. Development shall preserve the integrity of the flood hazard area by not altering or impacting it in any way which is likely to pose a significant threat to public health or safety or to property (including the subject property, other impacted properties, or the environment).
 - 2. Development which, in time of flooding, will likely pose a significant threat to public health or safety or to property (including the subject property, other impacted properties, or the environment) shall be prohibited. In determining whether there will likely be a significant threat, the following factors shall be considered:
 - a. creation of obstructions from the proposed development during times of flooding, and vulnerability of the proposed development to flooding;
 - b. use of flood protection devices or floodproofing methods;
 - c. nature or intensity of the proposed development;
 - d. increases in impervious surface area caused by the proposed development;
 - e. increases in surface runoff flow rate and amount caused by the proposed development;
 - f. increases in flood water flow rate and amount caused by the proposed development;
 - g. proximity and nature of adjacent or nearby land uses;
 - h. impacts to downstream properties or communities; and
 - i. impacts on shallow wells, waste disposal sites, water supply systems, and sewage disposal or on-site wastewater systems.
 - 3. Development shall comply with the Floodplain Overlay District Regulations of Article 4-400 of the Land Use Code, as amended.
 - 4. Open space activities such as agriculture, passive recreation (recreation not requiring the development of playing fields, spectator stands or other significant structures), and mineral extraction, shall be presumed to be the favored form of development in the flood hazard area and shall be encouraged. Applications proposing other forms of development, which make a more intensive use of the land such as by increasing the structural coverage or impervious surface on the land, shall be presumed to generate adverse impacts on the flood hazard area and shall not be approved unless the applicant clearly demonstrates that the criteria of this Section 8-511K. and of Section 8-511B. have been met.
- L. Additional standards for development in geologic hazard areas.
 - 1. Development shall not aggravate the hazardous condition or otherwise pose a significant risk to public health and safety or to property.
 - 2. Open space activities such as agriculture, passive recreation not requiring the development of playing fields, spectator stands or other significant structures, and mineral extraction, shall be encouraged provided they can be conducted in a manner which does not aggravate the hazardous condition or otherwise pose a significant risk to public health and safety or to property.
 - 3. Any approved development shall be designed in a manner that mitigates any significant risk posed by the geologic hazard, as confirmed by a registered professional engineer or other qualified expert in the field.
 - 4. Shallow wells, solid waste disposal sites, water supply systems, and on-site wastewater systems and sewage disposal systems shall be protected.
 - 5. Development shall comply with all applicable County Building Code and Public Health Department regulations.

8-512 Issuance of Permits

- A. The permit shall be issued on the form adopted by the Board of County Commissioners, which may be the Board's written resolution of decision on the application.
- B. The permit may be issued for an indefinite term or a specified number of years.

8-513 Financial Security

- A. Before any permit is issued, the Board may, in its discretion, require the applicant to file a guarantee of financial security deemed adequate by and made payable to the Board.
- B. The purpose of this financial guarantee shall be to assure that the applicant or permittee shall faithfully perform all requirements of the permit.
- C. Any requirement for a financial guarantee shall be specified in the written decision of the Board on the permit application.

8-600 Post Approval Requirements

8-601 Enforcement of Permit Requirements

- A. When it comes to the attention of the Board that the provisions of any permit have been violated by the permittee, the Board, if it determines that enforcement action is appropriate, shall give the permittee written notice of the specific violation and of a hearing on the proposed violation which the Board shall schedule no sooner than 30 days after the date of the written notice. If the Board determines that an emergency situation exists the Board may schedule the hearing sooner than 30 days, provided that the permittee receives at least five working days' prior notice of the hearing.
- B. If the permittee fails to correct the violation by the public hearing date, and the Board determines at the public hearing that the violation exists, the Board, in its discretion, may impose an appropriate sanction, including but not necessarily limited to temporary suspension of the permit for a reasonable time certain; an order to correct the violation within a reasonable time certain; the requirement for additional financial guarantees; or revocation of the permit.
- C. The Board shall have the authority to seek an injunction or other appropriate relief in the appropriate state or federal district court if the permittee fails to correct the violation or to comply with any sanction imposed at the public hearing.
- D. Any permit issued under these regulations shall be deemed to include the granting of the permittee's consent to entry and inspections by the Board and its authorized representatives as may be necessary at any time during regular County business hours, without prior notice to the permittee, to determine compliance with the terms of the permit.
- E. Any person engaging in a development in a designated area of state interest or conducting a designated activity of state interest who does not obtain a permit pursuant to these regulations may be enjoined by the Board from engaging in such development or conducting such activity, and may be subject to such other criminal or civil liability as may be prescribed by law.