

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

### **A. APPLICABILITY**

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

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

The following are exempt from the regulations in this chapter;

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

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

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

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

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

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

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

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

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

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

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

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

**F. NOTICE OF PERMIT HEARING**

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

**G. CONDUCT OF PERMIT HEARING**

1. The Permit Authority shall conduct the hearing in a manner to afford procedural due process to the applicant and any person who opposes the issuance of the Permit.
2. The Permit Authority shall hear relevant testimony and receive relevant evidence and may impose reasonable time limits on presenters and witnesses.
3. All persons appearing as parties at the hearing shall be afforded the right of cross-examination and a reasonable opportunity to offer evidence in rebuttal.
4. Any person may, at his own expense, provide for the recording of the hearing and transcription thereof, provided, however, that a copy of the transcript shall be furnished free of charge to the Permit Authority and become part of the record.

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

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

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

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

**I. ISSUANCE OF THE PERMIT**

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

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

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

**K. PERMIT AMENDMENT**

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

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

Adopted 9/22/2006

## **INTEREST**

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

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

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