

Chapter 69: Regulations for Areas and Activities of State Interest

Table of Contents

Overview	4
Sec. 69-1 Authority.....	4
Sec. 69-2 Definitions.....	4
Sec. 69-3 Applicability.....	12
Sec. 69-4 Statutory and Specific Exemptions.....	12
Sec. 69-5 Relationship to Other Regulations.....	13
I. Inconsistencies or conflict with other county regulations.....	13
II. Compliance with other regulations.....	13
III. Coordinated review and permitting.....	14
IV. Overlap between matters of state interest.....	14
V. Overlap with other county land use permit.....	14
VI. Severability.....	14
Sec. 69-6 Designated Areas and Activities of State Interest.....	14
I. Designated activities of state interest.....	14
II. Areas of state interest.....	14
Sec. 69-7 Permit required.....	14
I. Permit required.....	14
Sec. 69-8 Levels of permit review and changes in level of review.....	15
I. FONSI.....	15
II. Administrative permit review.....	16
III. Major permit review.....	16
IV. Change in level of permit review.....	16
V. Director determination.....	16
VI. Appeals to the board.....	16
Sec. 69-9 Pre-submittal meeting and requirements.....	16
I. Pre-submittal meeting.....	16
II. Pre-submittal requirements.....	16
Sec. 69-10 Application submittal requirements.....	17
I. Application fee.....	17
II. Information describing the applicant.....	18

III.	Information describing the project.....	18
IV.	Property rights, permits and other approvals.....	19
V.	Technical and financial feasibility of the project (<i>major permit review only</i>).....	19
VI.	Community impact analysis (<i>major permit review only</i>).....	19
VII.	Natural environment impact analysis.....	21
VIII.	Hazardous Materials Description.....	23
IX.	Transportation Impacts.....	24
X.	Monitoring and Mitigation Plan.....	24
XI.	Additional information may be necessary.....	24
Sec. 69-11	Additional submittal requirements	24
I.	Additional submittal requirements applicable to major water and wastewater projects.....	24
II.	Additional submittal requirements applicable to major facilities of a public utility.....	25
III.	Additional submittal requirements applicable to solid waste disposal sites.....	26
IV.	Additional submittal requirements applicable to site selection of airports.....	26
V.	Additional submittal requirements applicable to site selection of arterial highways, interchanges and collector highways.....	27
VI.	Additional submittal requirements applicable to new communities.....	28
Sec. 69-12	Permit review process	28
I.	Outline of process.....	28
II.	Determination of completeness.....	29
III.	Schedule public hearing for major permits.....	30
IV.	Major permit evaluation by director, consultants and other agencies.....	30
V.	Public hearing.....	30
Sec. 69-13	Approval criteria	32
I.	General Approval Criteria.....	32
II.	Additional criteria applicable to major permits.....	34
III.	Additional criteria applicable to site selection and construction of new major domestic water and wastewater projects and major extensions of existing domestic water and wastewater treatment systems.....	34
IV.	Additional criteria applicable to major facilities of a public utility.....	35
V.	Additional criteria applicable to efficient utilization of municipal and industrial water projects.....	36
VI.	Additional criteria applicable to solid waste disposal sites.....	36
VII.	Additional criteria applicable to site selection of airports.....	36
VIII.	Additional criteria applicable to site selection of arterial highways, interchanges and collector highways.....	37

IX.	Additional criteria applicable to new communities.....	38
Sec. 69-14	Expiration of permit.....	39
Sec. 69-15	Technical revisions and permit amendments.....	40
I.	Permit amendments.....	40
II.	Technical revisions.....	40
III.	Submittal requirements for technical review.....	40
IV.	Technical revision review process.....	41
V.	Approval criteria for a technical revision.....	41
Sec. 69-16	Intergovernmental agreements.....	41
Sec. 69-17	Financial guarantee.....	42
I.	Financial guarantee may be required.....	42
II.	Amount of financial guarantee.....	42
III.	Estimate.....	43
IV.	Form of financial guarantee.....	43
V.	Release of guarantee.....	43
VI.	Cancellation of Financial Guarantee.....	44
VII.	Forfeiture of Financial Guarantee.....	44
VIII.	Substitute of Financial Guarantee.....	44
Sec. 69-18	Permit administration, enforcement and appeal.....	45
I.	Enforcement and penalties.....	45
II.	Permit suspension or revocation.....	45
III.	Transfer of permits.....	45
IV.	Inspection.....	45
V.	Judicial review.....	46
APPENDIX A		47

Chapter 69: Regulations for Areas and Activities of State Interest

Overview

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

Sec. 69-1 Authority

These standards and regulations are authorized by, *inter alia*, C.R.S. §§ 24-65.1-101, *et seq.*, 30-28-101, *et seq.* and 29-20-101, *et seq.*

Sec. 69-2 Definitions

The definitions listed in this Chapter shall apply only to regulations governing Areas and Activities of State Interest. The words and terms used in this Chapter shall have the meanings set forth below. If a definition is not listed below then the definition listed in Section 62-1 of the Code shall govern. If there is a conflict between the definitions in Section 62 and the definitions in this Chapter, then the definitions in this Chapter shall prevail. If the term is not found in subpart B of the Code, the term shall have its common meaning.

Adverse. Unfavorable, harmful.

Airport. Any proposed or existing municipal or county airport or airport under the jurisdiction of an airport authority formed under C.R.S. § 41-3-101, *et seq.*, the “Public Airports Authority Act” of 1965, as amended.

Applicant. A person applying for a permit to engage in a development in a designated area of state interest or to conduct a designated activity of state interest, who is either the owner of the property to be developed, has written permission from the property owner for submittal of the project proposal or has authority to condemn the property.

Appurtenant facilities. Any buildings, structures or other property which are incidental to, and customarily found in connection with major facilities of public utilities and are operated and maintained for the benefit or convenience of the occupants, employees, customers or visitors of such major facilities.

Arterial highway. Any limited access highway that is part of the federal-aid interstate system, any limited access highway constructed under the supervision of the Colorado Department of Transportation or any private toll road constructed or operated under the authority of a private toll road company. “Arterial highway” does not include a city street or local service road or a county road designed for local service and constructed under the supervision of local government.

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

Avalanche. A mass of snow or ice and other material which may become incorporated therein as such mass moves rapidly down a mountain slope.

Board. Board of County Commissioners of La Plata County.

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

Building permit. A permit which is issued by the county building department prior to the erection, construction, alteration, moving, relocation or change of use of any building or structure.

Code. La Plata County Land Use Code.

Collector highway. A major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers or recreation centers, or industrial centers and constructed under guidelines and standards established by, or under the supervision of, the Colorado Department of Transportation. "Collector highway" does not include any city street or local service road or a county road designed for local service and constructed under the supervision of local government.

Combustible. A material that, in the form in which it is used and under the conditions anticipated, will ignite and burn.

Commencement of construction. Beginning the development of the activities described in the permit approved under Chapter 69 and continuing on a daily or regular basis.

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

County. La Plata County, Colorado.

Debris flow. The area impacted by downward movement of soils and other materials in a mountain watershed because of high sediment yield or high runoff.

Defensible Space. An area either natural or man-made, where material capable of allowing a fire to spread unchecked has been treated, cleared or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations to occur.

Designation. That legal procedure specified by C.R.S. §§ 24-65.1-401, 402 and 406 for designating Matters of State Interest. It also includes the revocation and amendment of such designations.

Development. Any construction, activity and/or operation which changes the basic character or the use of the land on which the construction, activity or operation occurs.

Development permit. Any county land use permits or approvals of any kind, including, but not limited to, building permits, special uses, conditional uses, plat approvals, grading permits and other land use permits. This term shall not include permits issued under this Chapter.

Director. The La Plata County Community Development Director or his/her designee.

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

Domestic water and wastewater treatment system. A wastewater treatment facility, water treatment plant or water supply system. Domestic wastewater treatment facility specifically excludes individual sewage disposal systems.

Dwelling. Any building or part thereof designed or used for private residential purposes.

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

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

Expansive soil and rock. Soil and rock which contains clay, and which expands to a significant degree upon wetting and shrinks upon drying.

Family. An indeterminate number of persons related by blood, marriage, adoption or guardianship, or no more than five unrelated persons living and cooking together on the premises as a single housekeeping unit.

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

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

FONSI. A finding of no significant impact.

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

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

Geologic hazard area. An area that contains or is directly affected by a geological hazard.

Ground subsidence. 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 man-made phenomena such as

underground mining.

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

Hearing. A public hearing.

Highways. State and federal highways.

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

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

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

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

Irrigation facilities. Infrastructure or improvements intended to supply or convey water to dry land for agricultural purposes. Irrigation facilities do not include infrastructure or improvements designed to provide or transport water for application in municipal purposes, including domestic consumption.

Landslide. A mass movement where there is a distinct surface of rupture, or zone of weakness, which separates the slide material from more stable underlying material.

Major extension of domestic wastewater treatment system. Any modification to an existing wastewater treatment facility to increase hydraulic capacity or upgrade treatment capacity, or any extension of existing main collector lines, or any increase in capacity of existing main sewer lines or any extension to serve a total development of 100 or more residential dwelling units or the equivalent thereof in other uses, whether such uses are commercial or industrial.

Major extension of domestic water treatment system. The expansion of a water treatment plant to increase capacity or storage, or the extension of a water supply system to service an additional development of 100 or more residential dwelling units or the equivalent thereof in other uses, whether such uses are commercial or industrial.

Major facility of a public utility.

- a. Transmission lines, power plants, and substations of electrical utilities.
- b. Pipelines and storage areas of utilities as herein separately defined.
- c. Wind energy facility and associated equipment.
- d. Solar energy facility.

Major new domestic wastewater treatment system. A new wastewater treatment facility or water supply system if such system is designed to serve a total of 100 or more residential dwelling units or the equivalent thereof in other uses, whether such uses are commercial or industrial.

Major new domestic water treatment systems. A new water treatment plant or water supply system if such system is designed to serve a total of 100 or more residential dwelling units or the equivalent thereof in other uses whether such uses are commercial or industrial.

Major water and wastewater project. Major new domestic water and sewage treatments systems, major extensions of existing water and sewage treatment systems and municipal and industrial water projects.

Matter of state interest. An area or an activity of state interest or both as listed in C.R.S. §§ 24-65.1-201(1) and 203(1) and described in Section 69-6.

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

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

Mudflow. The downward movement of mud in a mountain watershed because of peculiar characteristics of extremely high sediment yield and occasional high runoff.

Municipal or industrial water project. Systems and all related components thereof that provides or may provide in the future, water supply, either directly or by trade, substitution, augmentation or exchange, for municipal or industrial uses.

Municipality. An incorporated city or town.

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

Natural hazard. A geologic hazard, flood hazard and wildfire hazard or a flood.

Net effect. Relating to mitigation, the impact of an action after mitigation.

New community. The establishment of urbanized growth centers in unincorporated areas. New communities shall not include those established through the municipal annexation of unincorporated territory.

Permit. Either an administrative or major permit for development in areas of state interest or for an activity of state interest, issued by the director or the board pursuant to this Chapter.

Person. Any individual, limited liability company, partnerships, corporation, association, company or other public or corporate body including the federal government, including any political subdivisions, agency, instrumentality, or corporation of the State or the United States.

Pipelines. Any pipeline and appurtenant facilities designed for, or capable of, transporting natural gas, manufactured gas or other petroleum derivatives of ten (10) inches or more in diameter which creates a hoop stress of 20 percent or more at their specified minimum yield strength.

Power plant. Means any of the following:

a. Any electrical energy generating facility which either utilizes more than five (5) acres of land regardless of its generating capacity, or any electrical energy generating facility with a generating capacity of ten (10) megawatts or more, regardless of how much acreage is utilized and any appurtenant facilities thereto, or any addition or series of additions thereto increasing the existing design capacity of the facility by a combined ten (10) megawatts or more.

b. Any solar energy facility or wind energy facility which either utilizes more than five (5) acres of land regardless of its generating capacity, or any solar or wind electrical energy generating facility with a generating capacity in excess of two (2) megawatts, regardless of how much acreage is utilized and any appurtenant facilities thereto, or any addition or series of additions thereto increasing the existing design capacity of the facility in excess of two (2) megawatts.

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

Project area. Those geographic areas within the county which will be developed or altered directly by construction or operation of the project.

Public services and facilities. Those services and facilities provided by a political subdivision of the state or by a federal agency.

Public utilities. Those utilities and all related utility facilities included in the definitions under either C.R.S. § 39-4-101(3)(a), whether selling at retail or not, or under C.R.S. §40-1-103 whether subject to the jurisdiction of the public utilities commission or not.

Radioactivity. A condition related to various types of radiation emitted by natural radioactive minerals that occur in natural deposits or rocks, soils, and water.

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

Reservoir. An area of land where water is retained, or an area intended for water retention.

Rock fall. The rapid free-falling, bounding, sliding, or rolling of large masses of rock or

individual rocks.

Seismic effects. A direct and indirect effects caused by a natural earthquake or a man-made phenomenon.

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

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

Significant. Deserving to be considered important, notable and not trifling.

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

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

Site selection. The process for determining the location of major facilities of a public utility or the expansion of existing major facilities of a public utility.

Solar energy facility. Those solar energy facilities defined in C.R.S. § 39-4-101 or any solar energy facility utilizing more than five (5) acres of land regardless of generating capacity.

Solid waste disposal site. A site for the disposal of any garbage, refuse, sludge from a waste treatment plant and any other discarded material, including solid, liquid semisolid or contained gaseous materials resulting from domestic, industrial, commercial, mining/milling and agricultural activities. The term does not include sites for disposal of radioactive waste specified in C.R.S. § 25-11-203 or hazardous waste disposal sites defined in C.R.S. § 25-15-200.3.

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

Structure. Any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.

Substation. Any facility designed to provide switching, voltage transformation or voltage control required for the transmission of electricity at 115 kilovolts or more.

Unstable or potentially unstable slope. An area susceptible to a landslide, a mud flow, a rock fall, or accelerated creep of slope-forming materials.

Transmission lines. Any electric transmission line and appurtenant facilities which emanate from a power plant or substation and terminate at a substation.

Urbanized growth center. A proposed project that is located outside of a joint planning area as of

September X, 2019, and that meets at least two of the following three criteria:

- a. Development that is planned for a minimum number of 100 dwelling units or non-residential development with water demands equivalent to that of 100 dwelling units or projected traffic volumes equivalent to that of 100 dwelling units at the time of its full build-out;
- b. Development that includes formation of a special district (such as a water or sewer district, or a metropolitan district);
- c. Development which, at full build-out is proposed to contain a mixture of residential and non-residential uses or residential densities exceeding two (2) dwelling units per net acre developed

Wastewater treatment facility. A facility or group of units used for treatment of industrial or domestic wastewater or the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units discharges into State waters. Domestic wastewater facility specifically excludes individual sewage disposal systems.

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

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

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

Wildfire. An uncontrolled fire spreading through vegetative fuels, exposing and possibly consuming structures.

Wildlife. Native or introduced wild vertebrates or invertebrates.

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

Wind energy facility. Those wind energy facilities defined in C.R.S.39-4-101.

Sec. 69-3 Applicability.

I. Areas and activities of state interest. This Chapter shall apply to all matters of state interest in the unincorporated areas of the county that have been or may hereafter be designated by the board, regardless of whether the proposed project is intended to serve residents of unincorporated La Plata County and regardless of whether the project is public or private.

II. Public and private lands. This Chapter shall apply to all matters of state interest designated as such by the county whether located on private or public lands within the unincorporated areas of the county.

Sec. 69-4 Statutory and Specific Exemptions

The provisions of this Chapter shall not apply to any development in an area of state interest or any activity of state interest if any one of the following is true:

- I. As of May 17, 1974,
 - A. The specific development or activity was covered by a current building permit issued by the County; or
 - B. The specific development or activity was directly approved by the electorate of the state or the county, provided that approval by the electorate of any bond issue by itself shall not be construed as approval of the specific development or activity; or
 - C. The specific development or activity is on land which has been finally approved by the County, with or without conditions, for Planned Unit Development or land use similar to a Planned Unit Development; or
 - D. The specific development or activity is on land which was either zoned or rezoned in response to an application which contemplated the specific development or activity; or
 - E. The specific development or activity is on land for which a development plan has been conditionally or finally approved by the appropriate governmental authority and that development plan contemplates the specific development or activity.
- II. Specific exemptions. The provisions of this Chapter shall not apply to any of the following:
 - A. Irrigation facilities used for agricultural purposes.
 - B. Replacement of an existing water diversion structure without change in the point of diversion or point of use of the water or yield from the diversion.
 - C. Upgrades to existing facilities that are required maintenance or otherwise required by Federal, State or county regulations, including repairing or replacing old or outdated equipment, or installing new equipment or ancillary facilities, provided the improvements do not expand levels of service beyond the original design capacity and provided the improvements do not expand

levels of service beyond acceptable levels of expansion as determined by the director or designee, and provided further that the upgrade does not alter the location of the existing facility.

- D. The specific activity is the extension of water or wastewater service into areas that received county land use approval prior to September X, 2019 where the primary purpose of the extension is to serve such pre-existing or approved development rights.
- E. The construction or extension of a water distribution system, domestic water system, municipal or industrial water project, water supply system, water treatment plant or major new domestic water treatment system with pipelines that do not exceed a maximum of 8 inches in diameter. Projects that fall within this category with pipelines that are 8 inches in diameter or smaller shall request a pre-application meeting to have the director conduct a review to determine applicability pursuant to Section 69-8(V). All districts within three (3) miles of the proposed project shall be invited to the meeting and shall be notified of the decision regarding applicability. If the director determines that a permit under this Chapter is required due to the impacts of the proposed project, the applicant shall submit an application in accordance with the procedures outlined herein.
- F. Development or activities located on unincorporated land that is an enclave within a municipality.
- G. Any use regulated by Chapter 90.
- H. Unincorporated La Plata County government.

Sec. 69-5 Relationship to Other Regulations

I. **Inconsistencies or conflict with other county regulations.** If any of the provisions of this Chapter conflict with the provisions of any other county regulations or requirements, then the more stringent regulations or requirement shall apply as determined by the county.

II. **Compliance with other regulations.** Except as otherwise provided in this section, compliance with this Chapter does not waive the requirement to comply with any other applicable state, local or federal law or regulation. Nothing in this Chapter shall be construed as enhancing or diminishing the power and authority of municipalities, counties, state or federal agencies or the public utilities commission. Any order, rule or directive issued by any governmental agency pursuant to this Chapter shall not be inconsistent with or in contravention of any decision, order or finding of the public utilities commission with respect to public convenience and necessity. The public utilities commission and public utilities shall take into consideration and, when feasible, foster compliance with the county's adopted comprehensive plan.

III. **Coordinated review and permitting.** Any applicant for a permit under this Chapter 69 that is also subject to the regulations of other state or federal agencies may request that the county application and review process be coordinated with that of the other agency.

IV. **Overlap between matters of state interest.** When an applicant engages in development or activity that implicates permit requirements under this Chapter for more than one matter of state interest, the applicant shall complete and submit a single permit application that includes all pertinent areas and activities.

V. **Overlap with other county land use permit.** Where the procedures in this Chapter 69 overlap with the county's requirements for a land use permit, subdivision plat or minor subdivision review, the permit procedures in this Chapter shall control. A separate review process under Chapter 82 for the land use permit, subdivision or minor subdivision procedures may, subject to the director's discretion, be modified or not required. Compliance with this Chapter does not waive the requirement to comply with the processes and procedures set forth in Chapter 74.

VI. **Severability.** If any section, paragraph, sentence, clause or phrase of this Chapter is held to be unlawful, invalid or unconstitutional by a court of law, such decision shall not affect the validity of this Chapter as a whole or any part other than the part declared unlawful, invalid or unconstitutional.

Sec. 69-6 Designated Areas and Activities of State Interest

I. **Designated activities of state interest.** A permit is required pursuant to this Chapter to conduct any of the following activities of state interest (unless otherwise exempted by this Chapter), whether located wholly or partially within the unincorporated territory of the county:

- A. Site selection and construction of major new domestic water and sewage treatment systems.
- B. Major extensions of existing domestic water and sewage treatment systems
- C. Site selection and construction of major facilities of a public utility
- D. Efficient utilization of municipal and industrial water projects
- E. Site selection and development of solid waste disposal sites
- F. Site selection of airports
- G. Site selection of arterial highways, interchanges and collector highways
- H. Site selection and development of new communities

II. **Areas of state interest.** *Reserved.*

Sec. 69-7 Permit required

I. **Permit required.** Unless a project is specifically exempted from this Chapter or a finding of no significant impact is made, no person may engage in an activity of or development in

an area of state interest in the unincorporated areas of the county that have been or may hereafter be designated by the board, without a permit issued under this Chapter.

- A. Compliance required for land use permit. No land use permit shall be approved by the County for an activity or development subject to this Chapter 69 without the applicant having first obtained a permit under this Chapter.
- B. Compliance required for building permit. No building permit shall be issued by the county for an activity or development subject to this Chapter without the applicant having first obtained a permit under this Chapter.
- C. Permit not a site-specific development plan. Permits issued under this Chapter shall not constitute a site-specific development plan and no statutory vested rights shall inure to such permit.

Sec. 69-8 Levels of permit review and changes in level of review

There are three possible levels of permit review under this Chapter: a FONSI, an administrative permit review and a major permit review. The director shall make the initial determination of the appropriate level of permit review based upon the pre-submittal meeting and the applicant's submittals.

I. **FONSI.** The director may determine that no significant impacts are likely to occur from the project and therefore a permit under this Chapter is not required. The director may make a FONSI if either of the following are satisfied:

- A. The construction or operation of the project, without additional mitigation or through the mitigation requirements of another applicable land use review or permit process, in its proposed location is unlikely to have any significant adverse impact to the county in consideration of all the approval criteria in these regulations; or
- B. The project was reviewed and approved by the county in conjunction with a land use approved prior to September X, 2019 and the following requirements have been satisfied:
 - 1. The proposed project is located entirely within the boundaries of such development application.
 - 2. The approval criteria in this Chapter 69 have been satisfied in the course of the development application approval process; and
 - 3. No additional mitigation is necessary.

If the director makes a FONSI, the applicant does not need to submit a permit application under this Chapter unless the board deems that a permit is necessary, following an appeal of the director's FONSI determination. If the director determines a FONSI is not appropriate based upon review of the pre-application submittals and the information obtained at the pre-application meeting, the applicant must obtain a permit.

II. **Administrative permit review.** The director shall determine an administrative permit review is required unless the project warrants a major permit review or the director has made a FONSI determination.

III. **Major permit review.** If the director determines a FONSI is not appropriate, the director shall determine whether the project should be subject to the administrative or major permit review provisions of this Chapter. The director shall determine that a major permit review is required if:

- A. The project is likely to have a significant adverse impact in two (2) or more categories of criteria as described in the approval criteria section of this Chapter; or
- B. The project is likely to have severe adverse impacts in any one (1) category of the approval criteria described in this Chapter.

IV. **Change in level of permit review.** At any time prior to the final decision on an application, the director may determine that information received subsequent to the level of permit determination indicates that the nature and scope of the impacts of the project are such that a different level of permit review is required. If a different level of permit review is required, the director shall notify the applicant in writing within seven (7) days of the director's determination of the necessity for the change.

V. **Director determination.** The director shall determine, in writing the applicable level of permit review. The director shall make this determination within ten (10) working days after the pre-submittal meeting in which the applicant provides adequate information for the director to make such a determination. A notice of the determination of level of permit review shall be published in the legal notice section of a newspaper of general circulation within seven (7) days of the determination. The notice shall describe the project and the procedure for appealing the determination as provided in Section VI below.

VI. **Appeals to the board.** Any affected party may appeal to the board the determination made by the director under Sec. 69-8(V) above. Such appeal shall be in writing, shall state with specificity the grounds for the appeal, and shall be filed with the director within ten (10) days of the director's publication of the determination. Upon the timely filing of such appeal, the board shall review the director's determination within fourteen (14) days. The board may amend the director's determination based on the materials submitted in connection with the appeal, the information and/or materials relied on by the director, and the same applicable provisions from this Chapter.

Sec. 69-9 Pre-submittal meeting and requirements

I. **Pre-submittal meeting.** The applicant shall schedule and attend a pre-submittal meeting with the director to discuss the project and submittal requirements before applying for a permit under this Chapter.

II. **Pre-submittal requirements.** The applicant shall submit the following no later than seven (7) days prior to the pre-submittal meeting:

- A. The applicant's name, email address, street address and phone number. If the applicant is not the owner of the property where the project will occur, applicant shall also provide the name, email address, street address and phone number of the property owner and either documentation that the property owner consents to the project or a statement indicating that the applicant intends to acquire an interest in the property.
- B. A site plan prepared at an easily readable scale showing:
 - 1. Boundary of the proposed project.
 - 2. Relationship of the proposed project to surrounding topographic and historical and cultural features such as roads, streams and existing structures.
 - 3. Proposed building(s), improvements and infrastructure.
 - 4. Topographic information in intervals not less than forty (40) feet.
- C. A written summary of the project that sufficiently describes the impacts of the proposed project as it relates to applicable approval criteria set forth in this Chapter.
- D. Payment of the preapplication fee in the amount indicated on the fee schedule contained in Appendix A of the La Plata County Code to cover the costs related to the staff time required to make the director's determination of whether a project is exempt, warrants a FONSI or a permit is required.

Sec. 69-10 Application submittal requirements

The director may waive one or more of the submittal requirements when the submittal information would not be relevant to a determination whether the proposed project complies with the applicable standards for approval or if the county attorney determines that submittal requirements would contain confidential information pursuant to state or federal law or regulations. Additional materials may be required under this Chapter for particular types of projects. Unless waived the following submittal components are required:

I. Application fee.

- A. Within ten (10) days following receipt of a completed application for a permit, the director shall estimate and set a fee in an amount necessary to cover the costs incurred in the review and action upon the permit application, including: all county staff time to review and process the application, all charges for county consultants, expert witnesses, engineers, attorneys, all other administrative costs and all costs for hearings to be conducted and shall notify the applicant in writing of the fee. Not later than ten (10) days following receipt of such notice, the applicant shall present to the director certified funds in the amount set. As review of the application progresses, the applicant shall replenish the fee account to ensure that funds are available to continue to meet the costs of county review. Until the fee is

paid or replenished as necessary, the application shall not be further processed. The board may in its sole discretion waive all or a portion of the fees if the applicant demonstrates special need or such waiver of fees is found to be in the best interests of the citizens of the county.

- B. Neither the board nor the director shall take formal final action on the application until all fees and expenses related to the application review process have been paid.
- C. The applicant shall be responsible to pay for any consultant the county may need to retain to analyze, evaluate or provide information to the county regarding all or a portion of an application where county staff does not have expertise or sufficient staffing. The selection of any consultants shall be subject to the approval of the director.

II. Information describing the applicant.

- A. The names, addresses, email address, fax number, organization form, and business of the applicant, and if different, the owner of the project.
- B. The names, addresses and qualifications (including those areas of expertise and experience with projects directly related or similar to that proposed in the application package) of individuals who are or will be responsible for constructing and operating the project.
- C. Authorization of the application by the property owner, if different than the applicant.
- D. Documentation of the applicant's financial and technical capability to develop and operate the project, including a description of the applicant's experience developing and operating similar projects.
- E. Written qualifications of report preparers.

III. Information describing the project.

- A. Detailed plans and specifications of the project, including structural design and materials to be used for the project.
- B. Detailed map(s) showing the location of existing and proposed structures together with proposed and existing transportation corridors.
- C. Schedules for designing, permitting, constructing and operating the project, including the estimated life of the project.
- D. The need for the project, including a discussion of alternatives to the project that were considered and rejected; existing/proposed facilities that perform the same or related function and population projections or growth trends that form the basis of demand projections justifying the project.

IV. Property rights, permits and other approvals.

- A. A list and copies of all other federal, state and local permits and approvals that have been or will be required for the project, together with any proposal for coordinating these approvals with the county permitting process.
- B. Copies of all official federal, state and other governmental agency consultation correspondence prepared for the project; a description of all mitigation required by federal, state and local authorities; and copies of any draft or final environmental assessments or impact statements required for the project.
- C. Description of the water to be used by the project and alternatives, including the source, amount, the quality of such water, the applicant's right to use the water, including adjudicated decrees, applications for decrees, proposed points of diversion, and the existing uses of water. If an augmentation plan has been decreed or an application for such plan has been filed in court, a copy of that plan.
- D. Description of property rights that are necessary for or that will be affected by the project.

V. Technical and financial feasibility of the project (*major permit review only*).

- A. The estimated construction costs and period of construction for each development component and the total mitigation costs for the project.
- B. Revenues and operating expenses for the project.
- C. The amount of any proposed debt and the method and estimated cost of debt service.
- D. Details of any contract or agreement for revenues or services in connection with the project.
- E. Description of the persons or entity(ies) who will pay for or use the project and/or services produced by the development and those who will benefit from all revenues generated by it.

VI. Community impact analysis (*major permit review only*).

A comprehensive analysis of the impact of the project on the community based on the specific descriptions below is required. These descriptions shall consider the impact area and shall include an analysis of existing conditions, supported with data, and a projection of the impacts of the project in comparison to existing conditions. The analysis shall include a description of how the applicant will comply with the applicable approval standards set forth in this Chapter.

- A. Land use.

1. Description of existing land uses within the project boundaries and any land adjacent to or located within one-quarter mile (1,320 feet) of the exterior boundary of the project.
 2. Description of provisions from local land use plans that are applicable to the project and an assessment of whether the project will comply with those provisions.
 3. Description of impacts and net effect that the project would have on land use patterns.
- B. Local government services.
1. Description of existing capacity of and demand for local government services including but not limited to roads, schools, water and wastewater treatment, water supply, emergency services, transportation, infrastructure, housing, law enforcement, and other services necessary to accommodate development within the county.
 2. Description of the impacts and net effect of the project to the capability of local governments affected by the project to provide services and an estimate of costs to serve by the county.
- C. Financial burden on county residents.
1. Description of the existing tax burden and fee structure for government services including but not limited to assessed valuation, mill levy, rates for water and wastewater treatment, and costs of water supply.
 2. Description of impacts and net effect of the project on financial burdens of residents.
 3. Description of the direct and indirect tax revenue to the county from as a result of the activity.
- D. Recreational opportunities.
1. Description of present and potential recreational uses, including the number of recreational visitor days for different recreational uses and the revenue generated by types of recreational uses.
 2. Map depicting the location of recreational uses such as fishery stream segments, access points to recreational resources, hiking and biking trails and wilderness areas adjacent to or located within one-quarter mile (1,320 feet) of the exterior boundary of the project.
 3. Description of the impacts and net effect of the project on present and potential recreational opportunities and revenues to the local economy derived from those uses.

- E. Areas of paleontological, historic or archeological interest.
 - 1. Map and/or description of all sites of paleontological, historic or archeological interest within the project impact area.
 - 2. Description of the impacts and net effect of the project on sites of paleontological, historic or archeological interest.

VII. Natural environment impact analysis.

Description of the existing natural environment and an analysis of the impacts of the project to the natural environment. Descriptions in this section shall be limited to the impact area, and shall include an analysis of existing conditions, supported with data, and a projection of the impacts of the project in comparison to existing conditions. The analysis shall include a description of how the applicant will comply with the applicable approval criteria in this Chapter.

- A. Air quality. Descriptions of the impacts and net effect that the project would have on air quality during both construction and operation under both average and worst-case conditions.
- B. Visual Quality.
 - 1. Description of viewsheds, scenic vistas, unique landscapes or land formations.
 - 3. Map and description of buildings, structure design and materials to be used for the project. Include elevations of proposed buildings and other structures.
 - 4. Descriptions of the impacts and net effect that the project would have on visual quality.
- C. Surface water quality.
 - 1. Map and description of all surface waters, including applicable state water quality standards that apply to the project and assessment of whether the project would comply with those standards.
 - 2. Descriptions of the immediate and long-term impact and net effects that the project would have on the quantity and quality of surface water under both average and worst-case conditions.
 - 3. Descriptions of the immediate and long-term impacts and net effects that the project would have on the meandering characteristics and limits of the streambed under both average and worst-case conditions.
- D. Groundwater Quality and Quantity.

1. Map and description of all groundwater, including all aquifers that are affected by the proposed project. At a minimum, the description should include:
 - a. Seasonal water levels in each subdivision of the aquifer affected by the project.
 - b. Artesian pressure in aquifers.
 - c. Groundwater flow directions and levels.
 - d. Existing aquifer recharge rates and areas and the methodology used to calculate recharge to the aquifer from any recharge sources.
 - e. For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of aquifer to impound groundwater and aquifer storage capacity.
 - f. Seepage losses expected at any subsurface dam and at stream-aquifer interfaces and methodology used to calculate seepage losses in the affected streams, including description and location of measuring devices.
 - g. Existing groundwater quality and classification.
 - h. Location of all water wells and their uses.
 - i. Descriptions of the impacts and net effect that the project would have on water quantity.
 - j. Statement of methods for efficient utilization of water.
 2. Description of the impacts and net effect of the project on groundwater.
- E. Floodplains, wetlands and riparian areas.
1. Map and description of all floodplains, wetlands, and riparian
 2. Description of the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).
 3. Description of the impacts and net effect that the project would have on the floodplains, wetlands and riparian areas.
- F. Terrestrial and aquatic animals and habitat.
1. Map and description of terrestrial and aquatic animals including the status and relative importance of game and non-game wildlife, livestock and other animals; a description of stream flows and lake levels needed

to protect the aquatic environment; a description of threatened or endangered animal species and their habitat.

2. Map and description of critical wildlife habitat and livestock range to be affected by the project including migration routes, calving areas, summer and winter range, and spawning beds.
3. Description of the impacts and net effect that the project would have on terrestrial and aquatic animals, habitat and food chain.

G. Terrestrial and aquatic plant life.

1. Map and description of terrestrial and aquatic plant life including the type and density and threatened or endangered plant species and habitat.
2. Descriptions of the impacts and net effect that the project would have on terrestrial and aquatic plant life.

H. Soils, Geologic Conditions and Natural Hazards.

1. Map and description of geologic and wildfire hazards including but not limited to soil types, drainage areas, slopes of more than 30 degrees, unstable and potentially unstable slopes, ground subsidence areas, areas with expansive soils and rock, avalanche areas, alluvial debris fans, talus slopes, mud flows, rock fall areas, faults and fissures, seismic effects and history, and wildfire hazard areas. The maps of geologic hazards and wildfire hazards shall contain mapping information maintained by the county and the State of Colorado, in addition to any mapping provided by the applicant.
2. Descriptions of the risks to the project from geologic hazards and wildfire hazards.
3. Descriptions of the potential impacts and net effect of the project on geologic hazards and wildfire hazards in the area.

VIII. Hazardous Materials Description.

- A. Description of all hazardous, toxic, and explosive substances to be used, stored, transported, disturbed or produced in connection with the project, including the type and amount of such substances, their location, and the practices and procedures to be implemented to avoid accidental release and exposure, and any foreseeable impacts to the environment of such substances.
- B. Location of storage areas designated for equipment, fuel, lubricants, chemical and waste storage with an explanation of spill containment measures.

IX. Transportation Impacts.

A. Describe what impacts the project will have upon transportation patterns in the area intended to be served or affected by the project through the submittal of a traffic impact analysis. The traffic impact analysis should include but not be limited to the following:

1. Identify the transportation facilities required to support the existing and future land uses.
2. Provide the existing and proposed traffic volume impacts to the adjacent road system, including local roads.
3. Provide the existing and future Level of Service (LOS) and capacity before and after the project is completed.
4. All transportation access information as required by the CDOT State Highway Access Code, 1998 revisions or the most current edition thereof.

X. Monitoring and Mitigation Plan.

A. Description of all mitigation for the project.

1. Describe how and when mitigation will be implemented and financed.
2. Describe impacts that are unavoidable that cannot be mitigated.

B. Description of methodology used to measure impacts of the project and effectiveness of proposed mitigation measures.

C. Description, location and intervals of proposed monitoring to ensure that mitigation will be effective.

XI. Additional information may be necessary.

The director may request that the applicant supply additional information related to the project if the board will not be able to make a determination on one of the approval criteria in this Chapter without the information.

Sec. 69-11 Additional submittal requirements

I. Additional submittal requirements applicable to major water and wastewater projects.

A. Description of existing domestic water and wastewater treatment facilities in the vicinity of the project, including their capacity and existing service levels, location of intake and discharge points, service fees and rates, debt structure and service plan boundaries, and reasons for and against connecting to those facilities.

- B. Description of how the project will affect urban development, urban densities and site layout and design of stormwater and sanitation systems.
- C. Description of other water and wastewater management agencies in the impact area and reasons for and against consolidation with those agencies.
- D. Description of how the project may affect adjacent communities and users on wells.
- E. Description of demands that this project expects to meet and basis for projections of that demand.
- F. Description of efficient water use, recycling and reuse technology the project intends to use.
- G. Map and description of other municipal and industrial water projects in the vicinity and a discussion of how the project will compete with or duplicate those services in the county.
- H. When the project includes water storage and/or pumping facilities, a description of a plan to develop a defensible space for such facilities.

II. Additional submittal requirements applicable to major facilities of a public utility.

- A. Map and description of areas around the proposed major facility of a public utility.
- B. Potential likelihood of nearby activities that may disrupt utility services.
- C. Description of how facilities will affect existing community patterns.
- D. Description of applicable adopted comprehensive plans and whether facilities comply with those provisions.
- E. Description of the type of facility specifying, where applicable, voltage and length of transmission lines, power source and generating capacity, function and size of substation, diameter and length of pipeline, capacity of storage tanks and type of petroleum derivative to be stored, service area and resource area (e.g. source of power being generated or transmitted, source of petroleum derivative being transported).
- F. Description of future phases or extensions of the facility and relationship of the facility (if currently foreseen) to larger programs and plans.
- G. Description why the public convenience and necessity require the facility of the size and nature proposed.
- H. Included in the required monitoring and mitigation plan, an analysis of alternative locations and routes, alternative types of facilities, use of existing

right of way, joint use of rights of way with other utilities and upgrading of existing facilities.

- I. When the project includes electric transmission lines, a description of plan to develop a combustible free space from poles or tower which equipment and hardware types that have a history of becoming an ignition source and clearance areas from transmission lines.
- J. When the project includes water storage and/or pumping facilities, a description of plan to develop a defensible space for such facilities.
- K. Description of hazard and emergency procedures:
 - 1. Description of hazards, if any, of fire, explosion and other dangers to the health, safety and welfare of employees and the public.
 - 2. Description of hazards, if any, of environmental damage and contamination due to materials used at or activities taking place at the project.
 - 3. Description of emergency procedures to be used in the event of fire, explosion or other event which may endanger the public health, safety and welfare.
 - 4. Description of any prevalent natural hazards that will affect or be affected by the project and describe mitigating measures to be taken to reduce the danger due to such natural hazards.

III. [Additional submittal requirements applicable to solid waste disposal sites.](#)

- A. Analysis of capacity of existing landfills in the county and remaining life of existing landfill and the need for a new major solid waste disposal site.
- B. Report on wind conditions for the site
- C. Description of potential pollution problems related to the site.
- D. Description of efforts to recycle waste and conservation practices to be employed at the site.
- E. Expected effect and impact on nearby property owners and on current land uses, compared with alternate locations.

IV. [Additional submittal requirements applicable to site selection of airports.](#)

- A. Map and description of nearby land uses. Expected impact of new airport on those land uses and nearby property owners from noise and traffic.
- B. Map and description of flight patterns that are related to other land uses. Description of potential public safety and property issues related to the airport and plane crashes.

- C. Description of how the airport will affect existing communities, the environment and existing community services.
 - D. Description of how the airport will affect economic and transportation needs of the state and the area.
 - E. Description of applicable adopted master plans and whether facilities comply with these provisions.
 - F. Description of applicable FAA permits and regulations. Provide applicable FAA permits.
 - G. Description of how proposed airport relates to existing airports.
- V. **Additional submittal requirements applicable to site selection of arterial highways, interchanges and collector highways.**
- A. Description of how project will affect traffic patterns as well as non-motorized traffic.
 - B. Description of how the new roads will likely affect surrounding land uses and existing community patterns.
 - C. Description of how the new roads will likely affect community and regional traffic demands.
 - D. Description of how new roads will comply with other local, state and federal regulations and master plans.
 - E. A list of alternative corridor locations for the arterial highway, interchange or collector highway.
 - F. For each alternative corridor location being considered by the applicant, including the preferred alternative, provide the following information:
 1. A general description of the alternative, with the advantages and disadvantages of the alternative
 2. Location map showing the corridor and general area.
 3. Corridor location study including type and scale of the improvement, cost estimate, approximate timetable for construction and right of way acquisition.
 4. A description of the current and projected need for the project.
 5. A description of the impacts of the project on accessibility to and from existing public facilities, commercial and industrial facilities and residential areas.
 6. A description of plans for complementing and integrating with other modes of transportation.

- G. A description of plans for relocation and compensation of homes and businesses.

VI. Additional submittal requirements applicable to new communities.

- A. A narrative indicating compliance/non-compliance with the comprehensive plan sections relating to the proposed development.
- B. A narrative discussing any applicable intergovernmental agreements that may be in effect for the area and intergovernmental agreements that may be required.
- C. Provide one or more maps that show the size, scale, density, traffic circulation, and open space provisions for the proposed development, at full build-out.
- D. Provide estimates for the timing of the development, indicating if phasing is expected.
- E. Provide evidence of applicant's ability to provide services, such as water, sanitation, schools, utilities, law enforcement or fire.
- F. Provide evidence that the applicant has the financial ability and expertise to complete the development.
- G. Provide examples of building elevations and streetscape design.
- H. Provide plans which demonstrate the percentages of open space, park areas and trails.
- I. Provide plans showing stream meandering characteristics, floodplain delineations and location of aquifer recharge.

Sec. 69-12 Permit review process

I. Outline of process

- A. The permit review process shall consist of the following procedures:
 - 1. Pre-submittal meeting
 - 2. Director determination of applicability of this Chapter and level of permit review
 - 3. If applicable, appeal of director's determination of level of permit review
 - 4. If applicable, director approves administrative permit
- B. Administrative permit process. If the director determines an administrative permit is required, the process shall consist of the following additional procedures:
 - 1. Submittal of application and associated materials

2. Determination of completeness
3. Decision by director within thirty (30) days of determination of completeness
4. Publication of notice of director's decision in a newspaper of general circulation within seven (7) days of the decision.
5. Any affected party may appeal to the board the determination made by the director on the approval or denial of an administrative permit. Such appeal shall be in writing, shall state with specificity the grounds for the appeal, and shall be filed with the director within ten (10) days of the director's publication of the determination. Upon the timely filing of such appeal, the board shall review the director's determination within fourteen (14) days. The board may amend the director's determination based on the materials submitted in connection with the appeal, the information and/or materials relied on by the director, and the same applicable provisions from this Chapter. The board's decision on an administrative permit application shall be a final decision subject to judicial review under Section 69-18(V) below.

C. Major permit process. If the director determines a major permit is required, the process shall consist of the following additional procedures:

1. Submittal of major permit application and associated materials
2. Determination of completeness
3. Scheduling of public hearing
4. Review and evaluation by director, staff, county consultants and other agencies
5. Public hearing
6. Decision by the board and, if applicable, board approves major permit. The board's decision on a major permit application shall be a final determination subject to judicial review under Section 69-18(V) below.

II. Determination of completeness. An application shall not be accepted and deemed received for purposes of C.R.S. § 24-65.1-501(2)(a) unless and until it is complete in accordance with the requirements of this Chapter. Within thirty (30) days of receipt of the application materials, the director shall determine whether the application is complete based on compliance with the submittal requirements set forth in this Chapter.

- A. Incomplete application. If the permit application is not complete, the director shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the

applicant fails to correct the deficiencies within sixty (60) days, the application shall be considered withdrawn and returned to the applicant. The director may extend the sixty (60) day timeline should the director determine that circumstances beyond the control of the applicant prevent timely completion of the application.

- B. Complete application. If the application is complete, the director shall certify it as complete and note the date in the file.
- C. Extension of time for determination of completeness. The director may authorize an extension of time to complete review for determination of completeness, up to an additional thirty (30) days if the scope of the application requires additional time for director review.

III. **Schedule public hearing for major permits.** No later than thirty (30) days after the determination of completeness for a major permit, the director shall set a date for a public hearing by the board. The date for the public hearing need not occur within such thirty (30) days and shall be set in a manner providing the county and any applicable consultants or referral agencies adequate time to evaluate the project.

IV. **Major permit evaluation by director, consultants and other agencies.**

- A. Evaluation by director. The director and county consultants, if any, shall review the major permit application to determine if the project satisfies the applicable standards. The director shall prepare a report discussing whether the standards have been satisfied, issues raised through staff and referral review, mitigation requirements and recommended conditions for approval to ensure that approval standards are satisfied, and additional information pertinent to review of the application. No later than seven (7) days prior to the date of a public hearing, the director shall submit the report to the applicant and to the board. A copy of the report shall also be available for public review prior to the hearing.
- B. Referral agency review. The director may require the applicant to send a copy of the complete major permit application and related submittal materials to and seek review comments from any local, state, federal, or other governmental agency that may have expertise or an interest in impacts that may be associated with the project. The cost of referral agency review, if any, shall be paid by the applicant.

V. **Public hearing.** The board shall consider the major permit application at a public hearing, upon proper public notice.

- A. Board hearing. The board shall conduct the hearing to determine whether the project complies with the applicable approval criteria, affording procedural due process to the applicant and any person who opposes the issuance of the major permit. The board shall hear relevant testimony and receive relevant evidence, including the recommendations of the director. The burden of proof is on the applicant to demonstrate with evidence on the record that the project complies with this Chapter.

- B. Notice of public hearing.
1. Notice by publication. No less than thirty (30) days but no more than sixty (60) days prior to the date of the public hearing, the applicant shall have published a notice of public hearing in a newspaper of general circulation in the area that the project is located. The notice shall follow a form prescribed by the county.
 2. Notice to property owners. At least thirty (30) days but no more than sixty (60) days prior to the date of the public hearing, the applicant shall send written notice of the public hearing to the owners of record within a minimum of 500 feet of the entire boundary of the proposed activity and or project area boundaries. The director may extend the radius used for noticing based on the nature of the project, its potential impacts and the general character of the area. The notice shall include a vicinity map, the property's legal description, a short narrative describing the project, and an announcement of the date, time and location of the scheduled hearing(s).
 3. Notice for linear or corridor facilities. When the hearing is for a linear or corridor facility including but not limited to a transmission line, pipeline or other linear facility, the notice described in Section 69-12(V)(B)(2) shall be sent to all owners of record within a minimum of 500 feet of the property which would be traversed by the route of the facility.
- C. Board decision. If at the end of the hearing, after considering all information on the record, the board finds that additional information is necessary for it to determine whether the project will satisfy all the approval criteria, the board may deny the permit or continue the hearing to accept additional information. The board may approve the application if it determines the project complies with all applicable provisions of this Chapter. If the board determines the application fails, or may fail, to comply with any one of the approval criteria, the board, at its sole discretion, may either approve the permit application with reasonable conditions necessary to ensure compliance with regulations or deny the application.
- D. Hearing record. The hearing record shall include the application package, written statement or documents in support of or in opposition to the permit application, staff report, any recording or transcript of the hearing, written minutes of the hearing and the resolution of the board granting or denying the permit application.
- E. Recordation. A copy of an approved permit shall be certified by the board and presented to the County Clerk and Recorder for recording in the same manner as any document relating to real property.

Sec. 69-13 Approval criteria

A permit may be approved if the project complies with the following general criteria and any additional applicable criteria in this section. In determining whether the project complies with the criteria, the director, for administrative reviews, and board for major permit reviews shall take into consideration the construction, operation and cumulative impacts of the proposed project.

I. General Approval Criteria

- A. Documentation that prior to site disturbance associated with the project, the applicant can and will obtain all necessary property rights, permits and approvals. The board may, at its discretion, defer making a final decision on the application until outstanding property rights, permits and approvals are obtained.
- B. The project is not subject to significant risk from natural hazards or if such hazards exist, adequate and proper mitigation is proposed by the applicant.
- C. The project is in general conformity with the comprehensive plan.
- D. The project will not have a significant adverse effect on the capability of local government including but not limited to roads, schools, water and wastewater treatment, water supply, emergency services, transportation, infrastructure, housing, law enforcement, and other services necessary to accommodate the project to provide services or exceed the capacity of service delivery systems and will generate sufficient revenue to cover any cost to serve through direct taxes paid, economic growth in the county or payment in lieu of taxes.
- E. A satisfactory plan to mitigate and minimize adverse on and off-site impacts has been presented.
- F. The nature and location of the project or expansion will not adversely affect the water rights of any upstream, downstream or adjacent communities or other water uses.
- G. Adequate water supplies are available for the project.
- H. Adequate electric, gas, water, wastewater and other utilities exist or shall be developed to service the project.
- I. The project will not unduly degrade the quality or quantity of recreational opportunities and experience.
- J. The geological and topographic features of the site are adequate for all construction, clearing, grading, drainage, vegetation and other needs of to support the site of the project.

- K. The planning, design and operation of the project will reflect principals of resource conservation, energy efficiency and recycling or reuse.
- L. The project will not significantly degrade the environment. Appendix “A” includes the considerations that will be used to determine whether there will be significant degradation of the environment. For purposes of this section, the term environment shall include:
 - 1. Air quality.
 - 2. Visual quality.
 - 3. Surface water quality.
 - 4. Groundwater quality.
 - 5. Wetlands, floodplains, streambed meander limits, recharge areas and riparian areas.
 - 6. Terrestrial and aquatic animal life.
 - 7. Terrestrial and aquatic plant life.
 - 8. Soils and geologic conditions.
- M. The project will not result in unreasonable risk of releases of hazardous materials. In making this determination as to such risk, the board's consideration shall include:
 - 1. Plans for compliance with federal and state handling, storage, disposal and transportation requirements.
 - 2. Use of waste minimization techniques.
 - 3. Adequacy of spill prevention and response plans.
- N. The project is the best alternative available based on consideration of need, existing technology, cost, impact and these regulations.
- O. The project will not unduly degrade the quality or quantity of agricultural activities.
- P. The project will not significantly interfere with the preservation of cultural resources, including historical structures and site or, agricultural resources.
- Q. The applicant has complied with all applicable provisions of this Chapter and has paid all applicable fees.
- R. The applicable additional criteria, in subsections II through XIV, if any, are satisfied.

II. Additional criteria applicable to major permits.

In addition to the general criteria set forth above and any additional applicable criteria in this section, a major permit may be approved if the proposed project complies with the following major permit criteria:

- A. The project is financially and technically feasible.
- B. The project will not create an undue financial burden on existing or future residents of the county.
- C. The project will not significantly degrade any substantial sector of the local economy.
- D. The benefits accruing to the county and its citizens from the proposed activity or development outweigh the losses of any resources within the county, or the losses of opportunities to develop such resources.
- E. The project will not significantly degrade areas of paleontological, historic, or archaeological importance.

III. Additional criteria applicable to site selection and construction of new major domestic water and wastewater projects and major extensions of existing domestic water and wastewater treatment systems.

- A. To the extent practicable, domestic water and wastewater treatment systems shall be consolidated with existing facilities within the area. The determination of whether consolidation is practicable shall include but not be limited to the following considerations:
 - 1. Distance to and capacity of nearest domestic water or wastewater treatment systems.
 - 2. Technical, legal, managerial and financial feasibility of connecting to existing domestic water or wastewater treatment system.
 - 3. Scope of the service area for existing domestic water or wastewater systems.
 - 4. Projected growth and development in the service area of existing domestic water or wastewater treatment systems.
- B. The project will be constructed in areas that will result in the proper utilization of existing treatment plants and the orderly development of domestic water and wastewater treatment systems of adjacent communities.
- C. The applicant shall demonstrate sufficient managerial expertise and capacity to operate the facility.
- D. Major extensions of domestic water and wastewater 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.

- E. Any required defensible place plan for water storage and/or pumping facilities shall include, at a minimum, a defensible space of no less than 30 feet which is clear of nonfire-resistive vegetation or growth around water storage and pumping facilities. Any portion of trees that extend into the defensible space shall be removed.

IV. Additional criteria applicable to major facilities of a public utility.

- A. Areas around major facilities of a public utility shall be administered to minimize disruption of the service provided by the public utility.
- B. Areas around major facilities of a public utility shall be administered to preserve desirable existing community and rural patterns.
- C. Where feasible, major facilities of a public utility shall be located to avoid direct conflict with adopted local comprehensive, state and regional master plans.
- D. All reasonable alternatives to the proposed project, including use of existing rights of way and joint use of rights of way wherever uses are compatible, have been adequately assessed and the proposed action represents the best interests of the citizens of the county and represents the best utilization of resources in the impact area.
- E. The nature and location or expansion complements the existing and reasonably foreseeable needs of the service area and of the area immediately affected by the facility.
- F. The facility site or expansion area is not in an area with general meteorological and climatological conditions which would unreasonably interfere with or obstruct normal operations and maintenance.
- G. The nature and location of the facility or expansion will not unduly interfere with any existing easements for or rights of way for other utilities, canals, mineral claims or roads.
- H. For projects involving electricity, an adequate plan which includes minimum clearances and combustible free space requirements from poles or towers which equipment and hardware types that have a history of becoming an ignition source and electric transmission lines. Such combustible free space must be a minimum of 10 feet in each direction from the outer circumference of such pole or tower. Minimum clearances from electrical distribution and transmission lines shall be based upon line voltage as provided in the table below and shall be maintained through the life of the project.

MINIMUM CLEARANCES BETWEEN VEGETATION AND TRANSMISSION LINES:

LINE VOLTAGE	MINIMUM CLEARANCE (INCHES)
750 - 35,000	6
35,001 - 60,000	12
60,001 - 115,000	19
115,001 – 230,000	30,5
230,001 – 500,000	115

I. Any required defensible place plan for water storage and/or pumping facilities shall include, at a minimum, a defensible space of no less than 30 feet which is clear of nonfire-resistive vegetation or growth around water storage and pumping facilities. Any portion of trees that extend into the defensible space shall be removed.

V. Additional criteria applicable to efficient utilization of municipal and industrial water projects.

- A. The project is necessary to meet community development and population demands in the area to be served by the project.
- B. 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.

VI. Additional criteria applicable to solid waste disposal sites.

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

VII. Additional criteria applicable to site selection of airports.

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

VIII. Additional criteria applicable to site selection of arterial highways, interchanges and collector highways.

- A. Highways and interchanges shall be located so that:
 - 1. Community traffic needs are met.
 - 2. Desirable community patterns are not disrupted.
 - 3. Direct conflicts with adopted local government, regional, and state master plans are avoided.
- B. Other reasonable modes of transportation shall, to the extent practicable, be incorporated into the highway proposal, including bicycle, mass transit and pedestrian modes.
- C. The location of the proposed highways and interchanges shall not significantly impede the delivery of essential community services and goods.
- D. The location of the proposed highways and interchanges shall not unduly divide neighborhoods or isolate neighborhoods from public facilities including schools, hospitals, mass transit, pedestrian and bikeways, recreational areas and open spaces.
- E. The location of the proposed highways and interchanges shall not create unreasonable safety hazards by causing or contributing to significant overuse, improper use or congestion on other roadways.
- F. The applicant can demonstrate a clear and reasonable need for the highways and interchanges.
- G. The proposed highways or interchanges will not have a significant adverse impact on prime or unique farmland.
- H. The proposed highways or interchanges shall avoid relocation of households. Where relocation of households cannot be avoided because of technical

constraints, adequate housing inventory must exist to accommodate displaced households.

- I. The proposed highways or interchanges shall avoid relocation of farms or businesses. Where relocation of farms or businesses cannot be avoided because of technical constraints, adequate sites must exist within the same market area to relocate farms or businesses.
- J. The proposed highways and interchanges shall satisfy state and federal highway standards, including without limitation, any Federal Transportation Acts.
- K. The proposed highways shall reasonably incorporate materials and design that complement features of the surrounding human and natural environment.
- L. The construction of the highways and interchanges shall be phased to minimize interference with traffic movement.
- M. Park and ride facilities shall be created, where appropriate and justified.
- N. Financial sources are adequate to ensure proper maintenance of the highways or interchanges.
- O. Grants of access to and from the highway shall comply with applicable state highway access laws and regulations, intergovernmental agreements, and access control plans adopted by state or local entities that impose standards for granting access to the highway.
- P. Proposed highways that pass above, beneath or near geologic hazards will not unreasonably contribute to or exacerbate the existing geologic hazards. If a proposed highway is potentially subject to impacts from geologic hazards, an appropriate mitigation plan has been proposed.

IX. [Additional criteria applicable to new communities.](#)

- A. The health, welfare and safety of the citizens of the county will be protected and served.
- B. The natural environment of the county will be protected.
- C. The nature and location or expansion of the new community will not create an expansion of the demand for government services, beyond the reasonable capacity of the community or region to provide such services, as determined by the board, and the new community contains adequate mitigation of such demands; in particular, the new community design shall, at a minimum, provide for transportation, fire protection, waste disposal, schools, and other

governmental services in a manner that will not overload facilities of existing communities in the impact area.

- D. The proposed project will not have a significantly adverse net effect on the capacities or functioning of irrigation facilities, streams, lakes and reservoirs in the impact area, nor on the permeability, volume, recharge capability and depth of the aquifers in the impact area.
- E. Compliance with the county land use code and the provisions of other applicable land use permits.
- F. The applicant has made provisions to preserve such natural features as water bodies, ridge lines, streambed meander limits, and steep slopes and to establish and maintain an accessible open-space network for conservation, natural beauty, and recreation, as well as to prevent environmental pollution, reduce potential natural hazards, and minimize noise problems.
- G. The proposal will not result in detrimental impacts to the existing or planned transportation system, and it has been demonstrated that adequate access has or will be constructed, including any external roadways, interchanges, and railroad crossings necessitated by the build-out of the development. Rural and urban classifications are determined by the Colorado Department of Transportation (state roads) and by the county (all other roadways) and the land use and transportation circulation plans, and population density and distributions are planned in such a way as to promote adequate, internal accessibility.
- H. The project is in proximity to primary and secondary schools of adequate capacity, has the ability to provide for adequate educational facilities or has proposed an acceptable plan for mitigating the impact on schools with inadequate capacity.
- I. Demonstration that the community or land use conditions of the county, either have changed, or are in the process of change, in such a manner to warrant approval.
- J. If negative fiscal impacts to the county or other units of government occur because of the project, either mitigation and monitoring of such negative fiscal impacts or particular benefits to the county, must be demonstrated to the satisfaction of the board to offset such impacts.

Sec. 69-14 Expiration of permit.

- I. Approval of a permit shall expire after thirty-six (36) months unless development permits for construction are obtained for commencement of construction, if such permits are required and remain in effect; or activities described in the permit have substantially commenced; or the board specifies in its resolution granting the permit a different time period in which building permits must be obtained or the project

must commence. Any further development after expiration of the permit shall require a new permit subject to all requirements and processes set forth in this Chapter.

- II. Through a resolution approved and executed by the board, a permit may be extended beyond thirty-six (36) months when warranted in light of all relevant circumstances including, but not limited to, the construction, operation and cumulative impacts of the proposed project, the size and phasing of the project and economic cycles and market conditions. All requests for extension shall be made in writing and provide a basis for the extension. In reviewing and acting upon a proposed extension, the board shall apply the applicable review criteria set forth in this Chapter and may also consider the applicant's diligent performance, or lack thereof, since the original permit was issued and the continuing adequacy of any financial guaranty. The board may impose additional conditions at the time of the extension to ensure the project complies with this Chapter. The board shall retain sole discretionary authority regarding whether to extend a permit beyond the thirty-six (36) month period of expiration. A request for extension for a major permit shall follow the same noticing procedures for the public hearing required for original permits as set forth in this Chapter. A request for extension shall require a request for a pre-submittal meeting pursuant to Section 69-9 with the director no later than one hundred twenty (120) days prior to the expiration of the original permit. The proposed extension shall follow the applicable review process set forth in Section 69-12.

Sec. 69-15 Technical revisions and permit amendments.

Any change in the application, design, construction or operation of the project from that approved by the county shall require staff review and a determination of technical revision or permit amendment. The criteria for this determination shall be based on the additional size of the area affected and/or the intensity of impact of the project.

- I. **Permit amendments.** Changes other than technical revisions shall be considered permit amendments. A permit amendment shall be subject to review as a new permit application.
- II. **Technical revisions.** A proposed change shall be considered a technical revision if the director determines that:
 - A. There will be no increase in the size of the area affected or the intensity of impacts because of the proposed change(s).
 - B. The proposed amendments do not substantially change any of the original plans or items that may have been conditioned through the public hearing process.
 - C. Any increase in the area or intensity of impacts is insignificant.
- III. **Submittal requirements for technical review.** The following information and materials shall be submitted by the Permit holder for staff review of the proposed changes:
 - A. Completed application.
 - B. Application fee.

- C. Proof of ownership or notarized letter of authorization from the landowner permitting a representative to process the application with a disclaimer that no other party's consent is required.
- D. As-built drawings of the project, if available.
- E. Drawings and plans of proposed changes to the project.
- F. Statement of need for the proposed change.
- G. Description of additional changed mitigation plans.
- H. The first and any other subsequently approved 1041 permit, development plan exhibit and associated material.

IV. Technical revision review process.

- A. Upon receipt of all required information, the director shall review the submittal and prepare comment.
- B. The applicant shall be notified of any outstanding issues upon completion of a fourteen (14) day staff review and referral process. The applicant shall resolve all outstanding issues raised through the referral process.
- C. Once the director approves the technical revision and signs a technical revision permit, building permits may be applied for and/or obtained.
- D. If any person is aggrieved by the director's determination to exempt a technical revision application because it does not meet the technical revision requirements or if a technical revision is denied by the director, that person may file an appeal to the board no later than ten (10) working days after the date of the director's written determination

V. Approval criteria for a technical revision. Prior to approval of a technical revision the director shall consider the following criteria:

- A. Whether the technical revision ensures the efficient development and preservation of the original permit and the underlying development plan or subdivision plat.
- B. Whether the technical revision will adversely affect reasonable development expectations and the use and enjoyment of adjacent land use or the public interest.
- C. Whether the technical revision preserves the spirit and intent of the original permit and the development plan and not weaken the purposes of this Chapter.
- D. Whether approval of the technical revision will adversely affect the public health, safety and welfare of the public.

Sec. 69-16 Intergovernmental agreements.

In lieu of a permit application and review as provided by this Chapter, the county, at its sole discretion, may elect to negotiate an intergovernmental agreement with the State of Colorado or a

political subdivision of the state as defined by C.R.S. § 29-1-202(1) for activities of state interest. In the event such an intergovernmental agreement is approved by the board, the intergovernmental agreement shall be deemed to satisfy all requirements of this Chapter and a permit shall be issued if all the following conditions are met:

- I. The state or political subdivision and the county must both be authorized to enter into the agreement.
- II. The purpose, intent and applicable criteria of C.R.S. § 24-65.1-101, *et seq.*, and of these regulations must be satisfied by the terms of the agreement.
- III. A public hearing must be conducted by the board to publicly review and approve of the proposed agreement. Notice of the public hearing shall be published once at least thirty (30) and not more than sixty (60) days prior to the hearing in a newspaper of general circulations in the county.
- IV. Both the board and the governing body of the state or political subdivision must approve the agreement in the manner required of each of them by the Colorado Constitution, state statutes and any applicable charter, ordinance or resolution.
- V. Exercise of the provisions of this section by the state or political subdivision will not prevent that entity from electing at any time to proceed under the permit provisions of these regulations. Additionally, any entity, which has previously proceeded under the permit provisions of these regulations, may at any time elect to proceed instead under this section.

Sec. 69-17 Financial guarantee

- I. **Financial guarantee may be required.** Before any permit is issued, the board may, at its discretion, require the applicant to file a guarantee of financial security deemed adequate by the board and payable to the county. The purpose of the financial guarantee is to assure:
 - A. Full performance of the requirements of the permit and applicable regulations.
 - B. The project or activity is completed and, if applicable, the project area is properly reclaimed.
 - C. The applicant performs all mitigation requirements and permit conditions in connection with the construction, operation and termination of the project.
 - D. Increases in public facilities and services necessitated by the construction, operation and termination of the project are borne by the permittee.
 - E. Shortfalls to county revenues are offset in the event the project is suspended, curtailed or abandoned.
- II. **Amount of financial guarantee.** In determining the amount of the financial guarantee, the board shall consider the following factors:

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

III. **Estimate.** Estimated costs shall be based on the applicant's submitted cost estimate plus the board's estimate of the additional cost to the county of bringing in personnel and equipment to accomplish any unperformed purpose of the financial guarantee. The board shall consider the duration of the project and compute a reasonable projection of increases due to inflation. The board may require, as a condition of the permit, that the financial security be adjusted upon receipt of bids to perform the requirements of the permit and this Chapter.

IV. **Form of financial guarantee.**

- A. The financial guarantee may be in the form of cash, federally-insured certificates of deposit, irrevocable letter of credit issued by a bank acceptable to the board, or any other form, or combination of forms, established by the board.
- B. At least ten percent (10%) of the amount of the financial guarantee must be in cash deposited with the county's treasurer and placed in an earmarked account.

V. **Release of guarantee.** The financial guarantee shall be released when:

- A. The permit has been surrendered to the board before commencement of any physical activity on the site of the permitted project.
- B. The project has been abandoned and either the site has been returned to its original condition or to a condition acceptable to the county.
- C. The project has been satisfactorily completed.
- D. A phase or phases of the project have been satisfactorily completed allowing for partial release of the financial guarantee consistent with project phasing and as determined appropriate by the director; or
- E. The applicable guaranteed conditions have been satisfied.

VI. **Cancellation of Financial Guarantee.** Any financial guarantee may be canceled only upon the board's written consent which may be granted only when such cancellation will not detract from the purposes of the security.

VII. **Forfeiture of Financial Guarantee.**

- A. If the board determines that a financial guarantee should be forfeited because of any violation of the permit, mitigation requirements, conditions or any applicable regulations adopted by the board, it shall provide written notice to the surety and the permittee that the financial guarantee will be forfeited unless the permittee makes written demand to the board, within ten (10) business days after permittee's receipt of notice, requesting a hearing before the board. If no demand is made by the permittee within said period, then the board shall order the financial guarantee forfeited.
- B. The board shall hold a hearing within thirty (30) days after the receipt of the demand by the permittee. At the hearing, the permittee may present for the consideration of the board statements, documents, and other information with respect to the alleged violation. At the conclusion of the hearing, the board shall either withdraw the notice of violation or enter an order forfeiting the financial guarantee.
- C. The deposit described above may be used by the county in the event of the default or alleged default of the permit holder, only for the purposes of recovering on the surety or fulfilling the permit obligation of the permit holder. In the event a court determines that there has not been a default by the permit holder, that portion of any moneys expended by the county from the deposit funds relating to such default shall be replaced to the account by the board immediately following such determination. Funds shall be disbursed out of the account to the county upon the board's demand for the purpose specified in this section.
- D. If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, the County Attorney's Office shall take such steps as deemed proper to recover such costs where recovery is deemed possible, including costs and attorney's fees.

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

Sec. 69-18 Permit administration, enforcement and appeal

I. Enforcement and penalties.

- A. Any person engaging in a development in the designated area of state interest or conducting a designated activity of state interest who does not obtain a permit pursuant to this Chapter, who does not comply with permit requirements, or who acts outside the jurisdiction of the permit may be enjoined by the county from engaging in such development, and may be subject to such other criminal or civil liability as may be prescribed by law.
- B. If the county determines at any time that there are material changes in the construction or operation of the project from that approved by the county, the permit may be immediately suspended upon written notice from the county to the permit holder, and a hearing shall be held to determine whether new conditions are necessary to ensure compliance with the approval criteria or if the permit should be revoked.

II. Permit suspension or revocation.

- A. The board may temporarily suspend the permit for a period of thirty (30) days for any violation of the permit or the applicable regulations. The permit holder shall be given written notice of the violation and will have a minimum of fifteen (15) days to correct the violation. If the violation is not corrected, the permit shall be suspended for thirty (30) days.
2. The county may revoke a permit granted pursuant to this Chapter if any of the activities conducted by the permittee violates the conditions of the permit or this Chapter, or the county determines that the project as constructed or operated has impacts not disclosed in the application. Prior to revocation, the permittee shall receive written notice and be given an opportunity for a hearing before the board. The board may revoke the permit or may specify a time by which action shall be taken to correct any violations for the permit to be retained. Revocation of a permit shall be a final determination subject to judicial review under Section 69-18(V) below.

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

IV. **Inspection.** The board, its employees and authorized agents may enter and inspect any property subject to this Chapter at reasonable hours to determine whether the project is in violation of the provisions of this Chapter.

V. **Judicial review.** Any action seeking judicial review of a final decision of the board shall be initiated pursuant to applicable law.

DRAFT

APPENDIX A

This Appendix provides examples of the types of concerns that the board may take into consideration in determining whether an application for a permit has complied with the approval criteria contained in Chapter 69.

GENERAL CONSIDERATIONS

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

- A. Amount of debt associated with the proposed activity.
- B. Debt retirement schedule and sources of funding to retire the debt.
- C. Estimated construction costs and construction schedule.
- D. Estimated annual operation, maintenance and monitoring costs.
- E. Market conditions.
- F. Anticipated revenue generation

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

- A. Faults and fissures.
- B. Unstable slopes including landslides and rock slides.
- C. Expansive or evaporative soils and risk of subsidence or upheaval.
- D. Wildfire hazard areas.
- E. Floodplains.

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

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

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

- A. Changes in assessed valuation.
- B. Tax revenues and fees to local governments that will be generated by the proposed activity.
- C. Changes in tax revenues caused by agricultural lands being removed from production.
- D. Changes in costs to water users to exercise their water rights.
- E. Changes in costs of water treatment or wastewater treatment.
- F. Effects on wastewater discharge permits.
- G. Inability of water users to get water into their diversion structures.
- H. Changes in total property tax burden.

V. The determination of the effects of the proposed project on any substantial sector of the local economy may include but is not limited to the following considerations:

- A. Changes to projected revenues generated from each economic sector.
- B. Changes in the value or productivity of any lands.
- C. Changes in opportunities for economic diversification.

VI. The determination of effects of the proposed project on recreational opportunities and experience may include but is not limited to the following considerations:

- A. Changes in quality and quantity of fishing.
- B. Changes in access to recreational resources.
- C. Changes to quality and quantity of trails.
- D. Changes to the rural experience or other opportunity for solitude in the natural environment.
- E. Changes to hunting.

VII. The determination of effects of the proposed project on air quality may include but is not limited to the following considerations:

- A. Changes to seasonal ambient air quality.
- B. Changes in visibility and microclimates.
- C. Applicable air quality standards.

VIII. The determination of visual effects of the proposed project may include but is not limited to the following considerations:

- A. Visual changes to ground cover and vegetation, waterfalls and streams, or other natural features.
- B. Interference with viewsheds, ridgelines, and scenic vistas.
- C. Changes in riparian tree canopies.
- D. Changes in landscape character types or unique land formations.
- E. Compatibility of building and structure design and materials with surrounding land uses.
- F. Changes in appearances of grasslands, wooded areas, or riparian corridors.

- G. Changes from rural to urban landforms and structures.

IX. The determination of effects of the proposed project on surface water quality may include but is not limited to the following considerations:

- A. Changes to existing water quality, including patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color or taste of water.
- B. Applicable narrative and numeric water quality standards.
- C. Changes in point and nonpoint source pollution loads.
- D. Increase in erosion.
- E. Changes in sediment loading to waterbodies.
- F. Changes in stream channel or shoreline stability.
- G. Changes in streambed meander limits.
- H. Changes in stormwater runoff flows.
- I. Changes in trophic status or in eutrophication rates in lakes and reservoirs.
- J. Changes in the capacity or functioning of streams, lakes or reservoirs.
- K. Changes in flushing flows.
- L. Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.
- M. Increases in impervious surface areas.
- N. Changes in historic runoff patterns and velocity.
- O. Use of de-icers, solvents, and salts.
- P. Use of the proposed project to transport hazardous materials.

X. The determination of effects of the proposed project on groundwater quality may include but is not limited to the following considerations:

- A. Changes in aquifer recharge area extent, recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
- B. Changes in capacity and function of wells within the impact area.
- C. Changes in quality of well water within the impact area.
- D. Draw-down of reservoir pressure or changes in recovery rate and reserves of nonrenewable water for water users.

XI. The determination of effects of the proposed project on wetlands and riparian areas may include but is not limited to the following considerations:

- A. Changes in the structure and function of wetlands.
- B. Changes to the filtering and pollutant uptake capacities of wetlands and riparian areas.
- C. Changes to aerial extent of wetlands.
- D. Changes in species' characteristics and diversity.
- E. Transition from wetland to upland species.
- F. Changes in function and aerial extent of floodplains.
- G. Interference with flood control capacity.

XII. The determination of effects of the proposed project on terrestrial or aquatic life may include but is not limited to the following considerations:

- A. Changes that result in loss of oxygen for aquatic life.
- B. Changes in flushing flows.
- C. Changes in species composition or density.
- D. Changes in number of threatened or endangered species.
- E. Changes to habitat and critical habitat, including calving grounds, mating grounds, nesting grounds, summer or winter range, migration routes, or any other habitat features necessary for the protection and propagation of any terrestrial animals.
- F. Changes to habitat and critical habitat, including streambed and banks, spawning grounds, riffle and side pool areas, flushing flows, nutrient accumulation and cycling, water temperature, depth and circulation, stratification and any other conditions necessary for the protection and propagation of aquatic species.
- G. Changes to the aquatic and terrestrial food webs.

XIII. The determination of effects of the proposed project on terrestrial plant life or habitat may include but is not limited to the following considerations:

- A. Changes to habitat of threatened or endangered plant species.
- B. Changes to the structure and function of vegetation, including species composition, diversity, biomass, and productivity.
- C. Changes in advancement or succession of desirable and less desirable species, including noxious weeds.
- D. Changes in threatened or endangered species.

XIV. The determination of effects of the proposed project on soils and geologic conditions may include but is not limited to the following considerations:

- A. Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and floodplains.
- B. Changes to stream sedimentation, geomorphology, and channel stability.
- C. Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs.
- D. Changes to mudflows and debris fans, and other unstable and potentially unstable slopes.
- E. Exacerbation of seismic concerns and subsidence.

XV. The determination of the risks of a release of hazardous materials from the proposed project may include but is not limited to the following considerations:

- A. Plans for compliance with federal and State handling, storage, disposal and transportation requirements.
- B. Use of waste minimization techniques.
- C. Adequacy of spill prevention and response plans.
- D. Nature and extent of materials associated with the construction and operation of the proposed project.

XVI. The determination of effects of the proposed project on agricultural activities may include but is not limited to the following considerations:

- A. Changes in quality and quantity of farming.
- B. Changes in access to agricultural activities.
- C. Changes to quality and quantity of ranching.
- D. Changes to the quality and quantity of water for agricultural uses.

XVII. The determination of the effects of the proposed project on land use(s), which may include but is not limited to the following considerations:

- A. Land use policies reflected in land use plans.
- B. Likelihood that the proposed project will/will not cause or contribute to urban sprawl or “leapfrog” development.
- C. Significant changes in the amount of impervious surfaces.
- D. Contiguity of development associated with the proposed project to existing growth centers.

DRAFT