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CHAPTER 12: GUIDELINES AND REGULATIONS FOR AREAS AND ACTIVITIES OF STATE INTEREST

Added Ord. 003-2018, 01-10-2018

12.10 GENERAL PROVISIONS

12.10.10 TITLE AND CITATION

These Regulations are entitled and may be cited as the “Pitkin County Guidelines and Regulations for Areas and Activities of State Interest.”

12.10.20 PURPOSE AND FINDINGS

- (1) The general purpose of these Regulations is to facilitate the identification, designation, and administration of matters of state interest consistent with the statutory requirements and the criteria set forth in Section 24-65.1-101, et seq., C.R.S.
- (2) The specific purposes of these Regulations are:
 - (a) To promote the health, safety, and general welfare of the citizens and to protect the environment of Pitkin County.
 - (b) To protect the beauty of the landscape and natural scenic characteristics, to preserve and protect important archeological and historic sites, to protect and enhance wildlife habitat, air and water quality, and to conserve natural resources.
 - (c) To ensure that new development will pay for itself to the maximum extent practicable, and to ensure that present residents of Pitkin County will not have to subsidize new development through increased cost of public services and/or degradation of the quality of life.
 - (d) To plan for and regulate the site selection, construction, expansion, and operation of matters of state interest to facilitate the planned and orderly use of land as recommended by the various Pitkin County Master Plans.
 - (e) To regulate the use of land on the basis of the financial and environmental impact thereof on the community or surrounding areas within the development area and source development area.

12.10.30 AUTHORITY

These Regulations are authorized by, inter alia, Section 24-65.1-101, et seq.; and Section 29-20-101, et seq.

12.10.40 APPLICABILITY

The Regulations contained in this Chapter of the Land Use Code shall apply to all development or other applications concerning designated Activities of State Interest pursuant to Section 12.20 or applications submitted by an entity or organization subject to Location and Extent review pursuant to section 2.30.30(h)(10), that are wholly or partially in the unincorporated areas of Pitkin County.

12.10.50 INTERPRETATION WITH OTHER ENACTMENTS AND PLANS

- (1) Whenever the provisions of these Regulations are found to be inconsistent with any other resolution, ordinance, code, regulation, other enactment or master plan of Pitkin County, the enactment imposing the more restrictive standards, criteria or requirements shall control.
- (2) If these Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in Section 24-65.1-202, C.R.S., the statutory criteria shall control.
- (3) If these Regulations are found to be more stringent than the statutory criteria for administration of matters of state interest set forth in Sections 24-65.1-202 and 24-65.1-204, C.R.S., these Regulations shall control pursuant to the authority of Section 24-65.1-402(3), C.R.S.
- (4) Nothing in these Regulations exempts an applicant from compliance with any other applicable County requirements or other state, federal or local requirements.
- (5) No federal, state, or local approval to carry out a development or activity shall preempt or otherwise obviate the need to comply with these Regulations.

12.10.60 DUTIES OF THE BOARD OF COUNTY COMMISSIONERS

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

12.10.70 PERMIT AUTHORITY ESTABLISHED

- (1) The Board shall serve as the Permit Authority.

- (2) The Permit Authority shall exercise all powers and duties granted it by these Regulations.
- (3) Without limiting the foregoing, the Permit Authority is authorized to require or impose Mitigation measures in exercising the powers and duties granted it by these Regulations.

12.10.80 SEVERABILITY

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

12.10.90 DEFINITIONS

The words and terms used in these Regulations shall have the meanings set forth below unless the context requires otherwise. In addition, the Regulations also utilize the definitions in C.R.S. Section 24-65.1-102 through 104, unless altered below. **The definitions set forth in this Section 12.10.90 shall be used and interpreted solely in the context of this Chapter 12, Guidelines and Regulations for Areas and Activities of State Interest. However, where appropriate, other terms and definitions of the Pitkin County Code as well as the other documents incorporated by reference therein may provide meaning to or supplement this Chapter 12. Where there is a conflict between the definitions and terms set forth in this Chapter 12 and any other provisions of the Pitkin County Code, the specific definitions and terms of this Chapter 12 shall apply to the application of the processes and regulations set forth herein.**

- (1) Adverse. Unfavorable, harmful, negative.
- (2) Affected Party. Any person with an interest in the outcome of the permit decision for the Project.
- (3) Appurtenant Facilities. Any buildings, structures or other property which are clearly 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 of public utilities.
- (4) Aquifer Recharge Area. Any area where surface waters may infiltrate to a water bearing structure of permeated rock, sand or gravel. This definition also includes wells used for disposal of wastewater or other toxic pollutants.
- (5) Board. Board of County Commissioners, County of Pitkin, State of Colorado.

- (6) Board of County Commissioners. Board of County Commissioners, County of Pitkin, State of Colorado. (See also Permit Authority)
- (7) Collector or collection system. A network of pipes and conduits through which sewage flows to a sewage treatment plant.
- (8) County. Pitkin County, Colorado.
- (9) Designation. That legal procedure specified by Section 24-65.1-101, et seq., C.R.S. and the revocation or amendment of such designation as carried out by the Board of County Commissioners.
- (10) Determination. The Director’s decision whether a Project qualifies for a Finding of No Significant Impact (FONSI) or requires a Permit.
- (11) Development. Any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs.
 - (a) A change to “the basic character and use of the land” includes, but is not limited to: any material change in the use or appearance of any structure or land; new construction, reconstruction or demolition that results in a new, different or significantly altered use of the land on which the activity occurs; activities that result in a new, different or significantly altered use of the land on which the activity occurs; any change in the existing use of previous construction, or any change or reoperation of existing activities that significantly alters the purposes, goals or results of the previous construction or previous activity; or any expansion in the existing use of previous construction.
 - (b) When used to describe the development of a major new domestic water and sewage treatment system or the development of a major extension of an existing domestic water and sewage treatment system, “development” includes the facilities and activities described in Section 12.10.90(22) and 12.10.90(24) of these Regulations.
 - (c) When used to describe the development of a municipal and industrial water project, “development” includes: (i) new construction, reconstruction or demolition of an existing municipal or industrial water project; (ii) any change to the operations of a preexisting municipal or industrial water project that significantly alters the purposes, goals, operations, uses, effects, results, capacity or storage of the preexisting municipal or industrial water project.
- (12) Director. Director of Community Development Department of Pitkin County, the acting Director or his designee.

- (13) Domestic. When used to describe a water and sewage treatment system or a water distribution system, “domestic” shall mean the entirety of the wastewater treatment facility, water distribution system or water treatment facility, and their respective component parts, whether located wholly or partially within the unincorporated territory of this County, from the first points of source water collection to the end points of the distribution system, including but not limited to, diversion structures, conduits, pipes, ditches, pumps and pump stations, reservoirs and other storage facilities, water treatment facilities and any other related facilities or structures that collect, store, treat and distribute water.
- (14) Domestic wastewater treatment facility. As defined in C.R.S. § 25-9-102-(4.5), any facility or group of units used for the treatment of domestic wastewater or for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units is discharging into state waters. “Domestic wastewater treatment facility” specifically excludes individual sewage disposal systems.
- (15) Domestic water and sewage treatment system. As defined in C.R.S. § 24-65.1-104(5), a wastewater treatment facility, water distribution system, or water treatment facility, and any system of pipes, structures, and facilities through which wastewater is collected for treatment.
- (a) Wastewater treatment facility means, as defined in C.R.S. § 25-9-102(5), either a domestic wastewater treatment facility or an industrial wastewater treatment facility.
- (b) Water distribution system means, as defined in C.R.S. § 25-9-102(6), any combination of pipes, tanks, pumps, or other facilities that delivers water from a source or treatment facility to the consumer.
- (c) Water treatment facility means, as defined in C.R.S. § 25-9-102(7), the facility or facilities within the water distribution system that can alter the physical, chemical or bacteriological quality of the water.
- (16) Efficient utilization. When used in reference to water or municipal and industrial water projects, “efficient utilization” means the employment of methods, procedures, techniques, controls, operations, facilities and technology to encourage use of water that will yield the greatest possible benefits including environmental, aesthetic, ecological, domestic, agricultural, industrial and recreational benefits.
- (17) Impact. Any alteration or change to the natural or human environment resulting directly or indirectly from development.
- (18) Impact Area. Those geographic areas in which impacts are likely to be caused by

the Project. Impact Areas may include areas within the boundaries of another political subdivision if the County had entered into an intergovernmental agreement providing for cooperative regulation of impacts that may occur within the boundaries of both the County and the political subdivision. Impact Areas may also include areas within the County in which impacts are likely to be caused by a Project, even if the development of the Project is located wholly or partially within the boundaries of another political subdivision.

- (19) Industrial uses. Manufacturing; mineral processing, exploration or extraction; snowmaking; commercial recreational services and operations; and other uses that are neither municipal, domestic, nor agricultural.
- (20) Industrial wastewater treatment facility. Means, as defined in C.R.S. § 25-9-102(4.7), any facility or group of units used for the pretreatment, treatment, or handling of industrial waters, wastewater, reuse water, and wastes that are discharged into state waters. “Industrial wastewater treatment facility” includes facilities that clean up contaminated ground water or spills; except that such term does not include facilities designed to operate for less than one year or facilities with in-situ discharge.
- (21) Matter of state interest. An area of state interest or an activity of state interest or both.
- (22) Major extension of existing domestic water and sewage treatment system. Means, as applicable:
 - (a) Any modification of an existing wastewater treatment facility to increase hydraulic capacity or upgrade treatment capability, or any extension of existing main collector sewer lines, or any increase in capacity of existing main sewer lines or any extensions to serve a total development density of ten (10) or more dwelling units or the equivalent thereof in other uses.
 - (b) (1) The expansion of the purposes, operations, capacity or storage of an existing domestic water distribution system or water treatment facility, including but not limited to any physical or operational modification or reoperation of an existing domestic water distribution system or water treatment facility that significantly alters the purposes, goals, operations, uses, effects, capacity or storage of the domestic water distribution system or water treatment facility; or (2) any extension of existing domestic water distribution systems to service an additional development density of ten (10) or more residential dwelling units (SFE) or the equivalent thereof in other uses.
- (23) Major Facility of a Public Utility. A central office building of a telephone utility; a transmission line, power plants, or substation of an electrical utility; or a pipelines and storage areas of a utility providing natural gas or other petroleum

derivatives.

- (24) Major new domestic water and sewage treatment system. Means, as applicable:
- (a) A new wastewater treatment facility, group of wastewater systems or collector system designed to treat the wastewater generated by ten (10) or more residential dwelling units (SFE) or the equivalent thereof in other uses. (See Water and Sewer Projects.)
 - (b) A new domestic water distribution system or water treatment facility if such system or plant is designed to serve a total of ten (10) or more residential dwelling units (SFE) or the equivalent thereof. A new domestic water distribution system includes, but is not limited to, new physical domestic water distribution system or water treatment facility components, whether or not physically connected to an existing domestic water distribution system or water treatment facility. (See Water and Sewer Projects.)
- (25) Material Change. Any change in the Project as approved by the Permit Authority which significantly changes the nature of impacts considered by the Permit Authority in approval of the original Permit as determined by the Director.
- (26) Mitigation. Avoiding an impact; minimizing impacts by limiting the degree or magnitude of the action or its implementation; rectifying the impact by repairing, rehabilitating or restoring the area, facility or service; or compensation for the impact by replacing or providing for the replacement of biological or physical conditions, services or facilities.
- (27) Municipal and/or industrial water projects. Systems and all related components that provide water or may provide water in the future either directly or by exchange for municipal and industrial uses; provided, however, “systems and all related components” for a snowmaking project are limited to (i) those through which water is diverted and/or stored for snowmaking, and (ii) permanent distribution systems and components that are not otherwise regulated by state or federal regulations.
- (28) Permit Authority. The Board of County Commissioners, or its designee.
- (29) Person. Any individual, partnership, corporation, limited liability company, association, company or other public or corporate body, including the federal government, and any political subdivision, agency, instrumentality, or corporation of the State or the United States government.
- (30) Power Plant. Any electrical energy generating facility, including, but not limited to, pumped storage facilities, hydropower facilities, solar facilities, wind facilities, and any other renewable or nonrenewable energy generating facilities, as well as

any facilities appurtenant to any existing power plant, or any addition thereto increasing the existing design capacity of the facility.

- (31) Project. The proposed development for which a Permit is sought under these Regulations.
- (32) Public Utility. The term as defined by Section 40-1-103, C.R.S., as amended.
- (33) Regulations. These regulations for matters of state interest and guidelines as the terms are used in Section 24-65.1-101, et seq., C.R.S.
- (34) SFE. One single family dwelling unit, or the equivalent thereof, which is defined by the in-house use of an average of 300 gallons of water per day or the generation of an average of 300 gallons of sewage per day (synonymous with EQR).
- (35) Significant. Deserving to be considered important; notable and not trifling.
- (36) Substation. Any facility designed to provide switching, voltage transformation, or voltage control required for the transmission of electricity.
- (37) Transmission Lines. A line and related facilities whose primary purpose is the delivery of electric power, oil, water, natural gas, telephone, cable television or similar amenities or services in bulk to all or a part of a distribution line or system that serves individual customers, except that an electrical transmission line shall be defined as the line and related facilities whose primary purpose is to deliver electrical power whose voltage is greater than 45 kv.
- (38) Water and Sewer Projects. The Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems, Major Extensions of Existing Domestic Water and Sewage Treatment Systems, and Efficient Utilization of Municipal and Industrial Water Projects, including any proposed land development directly related to such Project if such development is to be located wholly or partially within this County and if such development specifically generates the need for the Project.

12.20 DESIGNATION OF MATTER OF STATE INTEREST

12.20.10 GENERAL

- A. Areas of State Interest. The following areas are designated to be of state interest and subject to the regulatory provisions of this Chapter.
 - (1) Mineral resource areas.

- (2) Natural hazard areas, including flood hazard, geologic hazard, and wildfire hazard areas.
 - (3) Areas containing or having a significant impact upon historical, natural, or archeological resources of statewide importance, including significant wildlife habitat and shorelands at major publicly-owned reservoirs.
 - (4) Areas around a key facility.
 - (a) Areas around an Airport or Heliport.
 - (b) Areas around Major Facilities of a Public Utility.
 - (c) Areas around interchanges involving arterial highways.
 - (d) Areas around rapid or mass transit terminals, stations and fixed guideways.
- B. Activities of State Interest. The following activities are designated to be of state interest and subject to the regulatory provisions of this Chapter.
- (1) Site selection and construction of major new domestic water and sewage treatment systems, and major extensions of existing domestic water and sewage treatment systems.
 - (2) Site selection and construction of major facilities of a public utility.
 - (3) Site selection, development and efficient utilization of municipal and industrial water projects.
 - (4) Site selection and development of solid waste disposal sites.
 - (5) Site selection of airports.
 - (6) Site selection of arterial highways, interchanges and collector highways.
 - (7) Site selection of rapid or mass transit terminals, stations and fixed guideways ("Rapid or Mass Transit Facilities").

12.20.20 DESIGNATION PROPOSALS

Further Designations and amendments or revocations of designations of areas or activities of state interest may be initiated by the Board of County Commissioners.

12.20.30 EFFECT OF DESIGNATION – MORATORIUM UNTIL FINAL DETERMINATION

After a matter of state interest is designated pursuant to this Section 12.20, no person shall engage in development in such area and no such activity shall be conducted until the designation and regulations for such area or activity are finally determined as required by Section 24-65.1-404(4), C.R.S.

12.20.40 EXEMPTIONS

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

- (1) As of May 17, 1974:
 - (a) The development or activity was covered by a current building permit issued by the County of Pitkin; or
 - (b) The development or activity was approved by the electorate of the State or Pitkin 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 development or activity is to be on land (1) that has been conditionally or finally approved by Pitkin County for planned unit development or for use substantially the same as planned unit development; or (2) that has been rezoned through a quasi-judicial site-specific process by Pitkin County for the use contemplated by such development or activity; or (3) for which a site-specific development plan has been conditionally or finally approved by the appropriate governmental authority.

(2) Other Exemptions:

As of the effective date of these Regulations, rights have vested pursuant to County regulations or statute to engage in the activity or pursue the development in an area of state interest.

(3) Exempt Water and Sewer Projects:

A Water and Sewer Project is exempt from these Regulations if it falls into one of the following categories:

- (a) The day to day operations of an existing Water and Sewer Project, or a minor change in the operation of an existing Water and Sewer Project, including retrofitting or upgrading technology, so long as the change in

operation does not constitute a material change and does not cause negative impacts different from those of the existing Water and Sewer Project or otherwise exacerbate existing impacts.

- (b) The maintenance, repair or replacement of an existing component of a Water and Sewer Project if it does not constitute a significant change and does not cause negative impacts different from those of the existing Water and Sewer Project or otherwise exacerbate existing impacts.
- (4) The regulations of this Chapter 12 shall not be applicable to Pitkin County.
- (5) So long as the City of Aspen (“Aspen”) is providing utility services to Pitkin County residents, the regulations in Chapter 12 shall not be applicable to the following activities with regard to any existing Aspen utility project, facility or infrastructure (including raw water irrigation infrastructure and facilities) located within two (2) miles of the Aspen city limits: maintenance; repairs; replacements; upgrades; retrofitting; and updating technology, that do not materially increase the size or capacity of any existing City of Aspen utility project, facility or infrastructure (including raw water irrigation infrastructure or facilities); or expand existing service area within the County. This exemption does not cover new development, any material expansion of capacity or size of any existing facility. Routine maintenance by federal, state or County regulations is exempt.

12.30 APPLICATION AND REVIEW PROCEDURES

12.30.10 PERMIT OR FINDING OF NO SIGNIFICANT IMPACT (FONSI) REQUIRED AFTER DESIGNATION

- (1) No person may engage in development wholly or partially within a designated area of state interest nor conduct a designated activity of state interest, not otherwise exempt, without first obtaining a Finding of No Significant Impact (FONSI) determination or a Permit under these Regulations, including specifically, as of the date of adoption of these Regulations:
 - (a) No person may locate, construct or pursue the development of a major new domestic water and sewage treatment system or pursue the development of a major extension of existing domestic water and sewage treatment system, wholly or partially within the unincorporated territory of this County, not otherwise exempt, without first obtaining a Finding of No Significant Impact (FONSI) determination or a Permit under these Regulations;
 - (b) No person may engage in the development of a municipal or industrial water project, wholly or partially within the unincorporated territory of this County, not otherwise exempt, without first obtaining a Finding of No Significant Impact (FONSI) or a Permit under these Regulations;

- (c) No person may engage in the site selection or construction of major facilities of a public utility, wholly or partially within the unincorporated territory of this County, not otherwise exempt, without first obtaining a Finding of No Significant Impact (FONSI) determination or a Permit under these Regulations.
- (2) When approval is sought to conduct more than one activity of state interest and/or engage in development in more than one area of state interest, the application may be completed for all such activities or developments and may be reviewed simultaneously.
- (3) As deemed appropriate based upon the Director's discretion, an application for a FONSI determination or a Permit under these Regulations may be reviewed and processed simultaneously with other land use reviews under the Pitkin County Code.

12.30.20 PRE- APPLICATION PROCEDURE

- (1) Before submitting an application for a Permit under these Regulations, the applicant shall meet with the Director or Director's representative.
- (2) At or before the pre-application meeting, the applicant shall provide the Director with:
 - (a) A written summary of the Project including:
 - (i) The applicant's name, address and phone number.
 - (ii) Map prepared at an easily readable scale showing:
 - a. Boundary of the proposed activity.
 - b. Relationship of the proposed activity to surrounding topographic and cultural features such as roads, streams and existing structures.
 - c. Proposed buildings, improvements and infrastructure.
 - (iii) Information that is sufficient for determining the nature of the Project and the degree of impacts associated with the Project.
- (3) Within ten (10) days of the pre-application meeting, the Director shall establish an estimate in an amount necessary to cover costs of determining whether a Finding of No Significant Impact (FONSI) or a Permit is required. The estimate will include the costs of copying, mailing, publications, labor, overhead and retention

of consultants, experts and attorneys that the County deems necessary to advise it in making the Determination.

12.30.30 DETERMINATION

Based upon review of the pre-application submittals and the information obtained at the pre-application meeting, the Director may determine that a Finding of No Significant Impact (FONSI) is warranted or that a Permit is required. Such determination may be made by the Director at such time as sufficient information is provided by the applicant after the pre-application meeting.

- (1) Finding of No Significant Impact (FONSI). The Director may determine that a Finding of No Significant Impact (FONSI) should be issued if the construction or operation of the Project, without mitigation, in its proposed location is unlikely to have any significant adverse impact to the County in consideration of the Permit Application Approval Criteria in Section 12.40 of these Regulations. If the Director makes a FONSI determination, the applicant does not need to submit a permit application unless the Permit Authority deems that a Permit is necessary, following a reconsideration under Section 12.30.30(4). A FONSI determination will be reduced to writing and shall contain such terms or conditions to accurately describe the Project and its construction and operation and to require reapplication and further approvals under these Regulations when the Project's construction or operation changes.
- (2) Permit Required. If the Director determines that a Finding of No Significant Impact (FONSI) is not appropriate based upon review of the pre-application submittals and the information obtained at the pre-application meeting, then the applicant must obtain a Permit.
- (3) Notice of Director's Determination of a FONSI.
 - (a) Upon the Director's Determination of a FONSI, the Director shall notify the applicant and shall notify the Board, the County Administrator and the County Attorney of the Determination.
 - (b) The Notice of Director's Determination of the FONSI shall be published once in the County legal newspaper not more than fourteen (14) days following the Determination. The notice shall describe the Project and the procedure for requesting reconsideration as set forth in Section 12.30.30(4).
- (4) Reconsideration of Director's Determination of a FONSI.
 - (a) Call-up by the Board. Within twenty-one (21) days after publication of the Director's Determination of a FONSI, the Board may decide to reconsider the Determination.

- (b) Request for Reconsideration by Affected Party. Any affected party seeking a reconsideration of the Director's Determination of a FONSI shall file a written request with the Board within fourteen (14) days of the date of publication in the newspaper of the Notice of the Director's Determination of the FONSI. The Board shall reconsider the Director's Determination of the FONSI at the next regularly scheduled meeting for which proper notice can be accomplished. The affected party may request a reasonable extension if necessary.

12.30.40 APPLICATION FEE

- (1) If pursuant to Section 12.30.30 a Permit is required, then within ten (10) days the Director shall establish an estimate in an amount necessary to cover costs of reviewing and processing the application, including costs of copying, mailings, publications, labor, overhead and retention of consultants, experts and attorneys that the County deems necessary to advise it on the application package, if costs are not specified in fee schedule for development application.
- (2) Until the fee is paid, the application for Permit shall not be further processed.
- (3) The amount of the payment under Section 12.30.40(1) may be increased at any time if it is determined by the Director that the fee is not sufficient to cover all costs associated with the application.
- (4) The Permit Authority may in its sole discretion waive all or a portion of the fees if the applicant demonstrates a special need or such waiver of fees is found to be in the best interests of the citizens of Pitkin County.

12.30.50 PERMIT APPLICATION PROCEDURE

If pursuant to Section 12.30.30 a Permit is required, then the following permit application procedure shall apply:

- (1) Following the pre-application meeting described in Section 12.30.20 and/ or the Director's Determination under Section 12.30.30, the applicant shall submit application materials to the Director. The application submittal requirements are described in Section 12.30.60.
- (2) An application will not be considered unless it is complete. If the Director determines that the application is incomplete, the Director shall specify in writing the additional information that is required. An application is not complete unless the fee requirements in Section 12.30.40 have been met. The Director shall note on the application the date the application is determined to be complete.
- (3) The Director shall determine the number of copies of the application required and

the applicant shall provide such copies prior to the permit being formally scheduled for hearing.

- (4) The Director may send a copy to any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the Project.
- (5) Not later than thirty (30) days after receipt of a complete application for a Permit, the Permit Authority shall set and publish a notice of the date, time and place for the Permit Authority hearing on the application. Such notice shall be published once in the County legal newspaper, not less than thirty (30) days or more than sixty (60) days before the date set for the hearing. Notice shall be mailed to adjacent property owners.
- (12) No less than seven (7) days prior to the hearing before the Permit Authority, the Director shall prepare a staff report that summarizes the application and comments from review agencies, if any, and that identifies whether the permit application adequately demonstrates that the Project will comply with each of the applicable Permit Application Approval Criteria in Sections 12.40.10, 12.40.20 and 12.40.30. The Director shall include in his report the reason why any approval criterion has not been satisfied and may recommend conditions to ensure that the Project will satisfy each criterion. A copy of the staff report shall be provided upon completion to the applicant and to the public upon request.
- (7) In the case of an application for site selection and construction of major facilities of a public utility, following receipt of the application the Director shall cause the Permit Authority to consider the application within the time periods established by C.R.S. § 29-20-108(2).

12.30.60 APPLICATION SUBMITTAL REQUIREMENTS

The Director may waive one or more of the submittal requirements when the submittal information would not be relevant to whether the Project complies with the approval criteria. Additional materials may be required under Sections 12.30.70 for a particular type of Project.

- (1) Information describing the applicant.
 - (a) The names, addresses, including email address and fax number, organizational form, and business of the applicant and, if different, the owner of the Project.
 - (b) The names, addresses and qualifications, including those areas of expertise and experience with projects directly related or similar to that proposed in the application package, of individuals who are or will be responsible for constructing and operating the Project.

- (c) Authorization of the application package by the Project owner, if different than the applicant.
 - (d) Documentation of the applicant's financial and technical capability to develop and operate the Project, including a description of the applicant's experience developing and operating similar projects.
 - (e) Written qualifications of report preparers.
- (2) Information describing the Project.
- (a) Plans and specifications of the Project in sufficient detail to evaluate the application against the Permit Application Approval Criteria in Section 12.40.
 - (b) Descriptions of alternatives to the Project considered by the applicant.
 - (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.
 - (e) Description of all conservation techniques to be used in the construction and operation of the Project.
 - (f) List of Adjacent property owners and their mailing addresses.
- (3) Property rights, other permits and approvals.
- (a) A list of all other federal, state and local permits and approvals that will be required for the Project, together with any proposal for coordinating these approvals with the County permitting process. Copies of any permits or approvals that have been granted.
 - (b) Copies of all official federal and state consultation correspondence prepared for the Project; a description of all mitigation required by federal, state and local authorities; and copies of any draft or final environmental assessments or impact statements required for the Project.
 - (c) Description of the water to be used by the Project and alternatives, including: the source, amount, the quality of such water; the applicant's right to use the water, including adjudicated decrees, applications for

decrees; proposed points of diversion and changes in the points of diversion; qualitative and quantitative description of the impact to the source water supply; and the existing uses of the water. If an augmentation plan for the Project has been decreed or an application for such plan has been filed in the court, the applicant must submit a copy of that plan.

- (d) Description of property rights that are necessary for or that will be affected by the Project.
 - (e) Describe the relationship, if any, of the Project to formally adopted regulations and policies of federal, state, regional or county governments, which regulations or policies would govern the use of land or water resources impacted by the Project.
- (4) Description of the technical and financial feasibility of the Project.
- (a) The estimated construction costs and period of construction for each development component and the total mitigation costs for the Project.
 - (b) Revenues and operating expenses for the Project.
 - (c) The amount of any proposed debt and the method and estimated cost of debt service.
 - (d) Details of any contract or agreement for revenues or services in connection with the Project.
 - (e) Description of the persons or entity(ies) who will pay for or use the Project and/or services produced by the development and those who will benefit from any and all revenues generated by it.
 - (f) Provide a description and detailed engineering plans and specifications of the proposed construction of structures, buildings, and improvements associated with the project and the financial and environmental impacts thereof.
 - (g) Increased domestic and/or municipal water treatment costs and/or wastewater treatment costs:

The applicant shall submit a plan to offset increased domestic and/or municipal water treatment and/or wastewater treatment necessary to meet water quality standards and determined to be a direct result of flow modification through changes in the transport of nutrients, total dissolved solids, hardness, minerals or other pollutants due to the operation or reoperation of any Project facilities proposed by the applicant. This may

be accomplished either by construction and operation of additional domestic and/or municipal water treatment facilities made necessary by the reduction in flow, or the applicant may elect to pay a fee in lieu of those mitigation measures. This fee will be based upon the additional costs of domestic and/or municipal treatment and/or wastewater treatment (capital, operation and maintenance); and it will be used exclusively for meeting the costs of such additional domestic and/or municipal treatment and/or wastewater treatment.

(5) Socioeconomic impacts

A comprehensive socioeconomic impact analysis that addresses the manner in which the applicant will comply with the relevant Permit Application Approval Criteria in Sections 12.40.10, 12.40.20, and 12.40.30. The impact analysis shall be limited to the impact area and shall include the following information:

(a) Land Use

- (i) Description of existing land uses within and adjacent to the impact area.
- (ii) Description of provisions from local land use plans that are applicable to the Project and an assessment of whether the Project will comply with those provisions.
- (iii) Description of impacts and net effect that the Project would have on land use patterns.

(b) Local Government Services

- (i) Description of existing capacity of and demand for local government services including but not limited to roads, schools, water and wastewater treatment, water supply, emergency services, transportation, infrastructure, and other services necessary to accommodate development within Pitkin County.
- (ii) Description of the impacts and net effect of the Project to the capability of local governments that are affected by the Project to provide services.

(c) Housing

- (i) Description of existing seasonal and permanent housing including number, condition and cost of dwelling units.
- (ii) Description of the impact and net effect of the Project on housing

during construction and operation stages of the Project.

- (d) Financial Burden on County Residents
 - (i) Description of the existing tax burden and fee structure for government services including but not limited to assessed valuation, mill levy, rates for water and wastewater treatment, and costs of water supply.
 - (ii) Description of impacts and net effect of the Project on financial burdens of residents.
- (e) Local Economy
 - (i) Description of the local economy including but not limited to revenues generated by the different economic sectors, and the value or productivity of different lands.
 - (ii) Description of impacts and net effect of the Project on the local economy and opportunities for economic diversification.
- (f) Recreational Opportunities
 - (i) Description of present and potential recreational uses, including but not limited to the number of recreational visitor days for different recreational uses and the revenue generated by types of recreational uses.
 - (ii) Map depicting the location of recreational uses such as fishery stream segments, access points to recreational resources, hiking and biking trails, and wilderness areas.
 - (iii) Description of the impacts and net effect of the Project on present and potential recreational opportunities and revenues to the local economy derived from those uses.
 - (iv) If a Water and Sewer Project, description of the net effect of the Project on downstream present and potential recreational opportunities and revenues to the local economy derived from those uses, if any.
- (g) Areas of Paleontological, Historic or Archaeological Importance
 - (i) Map and/or description of all sites of paleontological, historic or archaeological interest.

(ii) Description of the impacts and net effect of the Project on sites of paleontological, historic or archaeological interest.

(h) Nuisance

Descriptions of noise, glare, dust, fumes, vibration, and odor levels caused by the Project.

(6) Environmental impacts.

Description of the existing natural environment and an analysis of the impacts of the Project to the natural environment. Descriptions in this Section shall be limited to the impact area, and shall include an analysis of existing conditions, supported with data, and a projection of the impacts of the Project in comparison to existing conditions. The analysis shall include a description of how the applicant will comply with the applicable Permit Application Approval Criteria in Sections 12.40.10, 12.40.20 and 12.40.30.

(a) Air Quality

(i) Description of the airsheds to be affected by the Project, including the seasonal pattern of air circulation and microclimates.

(ii) Map and/or description of the ambient air quality and state air quality standards of the airsheds to be affected by the Project, including particulate matter and aerosols, oxides, hydrocarbons, oxidants, and other chemicals, temperature effects and atmospheric interactions.

(iii) Descriptions of the impacts and net effect that the Project would have on air quality during both construction and operation, and under both average and worst case conditions.

(b) Visual Quality

(i) Map and/or description of ground cover and vegetation, forest canopies, waterfalls and streams or other natural features.

(ii) Description of viewsheds, scenic vistas, unique landscapes or land formations.

(iii) Map and/or description of buildings and structure design and materials to be used for the Project.

(iv) Descriptions of the impacts and net effect that the Project would

have on visual quality.

(c) Surface Water Quality

- (i) Map and/or description of all surface waters to be affected by the Project, including:
 - a. Description of provisions of the applicable regional water quality management plan that applies to the Project and assessment of whether the Project would comply with those provisions.
 - b. Description of applicable state water quality standards for water bodies that will be affected by the Project.
 - c. Map and description of existing points at diversion for municipal, agricultural, industrial and recreational uses of water within the County that may be impacted by the Project.
- (ii) 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.
- (iii) Provide assurance that the proposed Water and Sewer Project is capable of supplying water of a quality acceptable to the Colorado Department of Public Health & Environment.
- (iv) Describe and indicate on an appropriate map surface water bodies (streams, lakes, reservoirs (existing or proposed), etc.) in the source development area and their uses. Describe the effects of the diversion of water for the Water and Sewer Project on the above-described water feature(s) including the effects on present water quality, current and foreseeable uses. Include a detailed statement of the impacts of the proposed project upon water quality standards including, but not limited to antidegradation standards, and all applicable basic or numeric standards for physical, biological, organic, inorganic, and metals pollutants.

(d) Groundwater Quality

- (i) Map and/or description of all groundwater, including any aquifers. At a minimum, the description should include:
 - a. Seasonal water levels in each subdivision of the aquifer affected by the Project.

- b. Artesian pressure in aquifers.
 - c. Groundwater flow directions and levels.
 - d. Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.
 - e. For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of aquifer to impound groundwater and aquifer storage capacity.
 - f. Seepage losses expected at any subsurface dam and at stream-aquifer interfaces and methodology used to calculate seepage losses in the affected streams, including description and location of measuring devices.
 - g. Existing groundwater quality and classification.
 - h. Location of all water wells and their uses.
- (ii) Description of the impacts and net effect of the Project on groundwater.
 - (iii) Describe and indicate on an appropriate map groundwater aquifers in the source development area and their uses. Describe the effects of the diversion of water for the Water and Sewer Project on the above-described water feature(s) including the effects on present water quality, current and foreseeable uses. Include a detailed statement of the impacts of the proposed project upon water quality standards including, but not limited to antidegradation standards, and all applicable basic or numeric standards for physical, biological, organic, inorganic, and metals pollutants.
- (e) Water Quantity
 - (i) Map and/or description of existing and historical stream flows and reservoir levels.
 - (ii) Map and/or description of existing Colorado Water Conservation Board held minimum instream flows.
 - (iii) Descriptions of the impacts and net effect that the Project would have on water quantity, including but not limited to, a description

of the impact and net effect that the Project would have on seasonal stream flows under both average and worst case conditions.

- (iv) Statement of methods for efficient utilization of water.
 - (v) Description of demands that the Project expects to meet and basis for projection of that demand.
 - (vi) Existing water utilization, including historic yields from rights and use by category; supply obligations to other systems.
- (f) Floodplains, Wetlands and Riparian Areas
- (i) Map and/or description of all floodplains, wetlands, and riparian areas to be affected by the Project, including a description of the types of wetlands, species composition, and biomass.
 - (ii) Description of the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).
 - (iii) Description of the impacts (including seasonal impacts) and net effect that the Project would have on the floodplains, wetlands and riparian areas.
- (g) Terrestrial and Aquatic Animals and Habitat
- (i) Map and/or 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 streamflows and lake levels needed to protect the aquatic environment; description of threatened or endangered animal species and their habitat.
 - (ii) Map and description of critical wildlife habitat and livestock range to be affected by the Project including migration routes, calving areas, summer and winter range, and spawning beds.
 - (iii) Description of the impacts (including seasonal impacts) and net effect that the Project would have on terrestrial and aquatic animals, habitat and food chain.
 - (iv) Describe the potential adverse effects of the diversions of water, if any, upon plant and animal life dependent upon the water resources in question.

- (h) Terrestrial and Aquatic Plant Life
 - (i) Map and/or description of terrestrial and aquatic plant life including the type and density, and threatened or endangered plant species and habitat.
 - (ii) Descriptions of the impacts (including seasonal impacts) and net effect that the Project would have on terrestrial and aquatic plant life.
 - (iii) Describe the potential adverse effects of the diversions of water, if any, upon plant and animal life dependent upon the water resources in question.
- (i) Soils, Geologic Conditions and Natural Hazards
 - (i) Map and/or description of soils, geologic conditions, and natural hazards including but not limited to soil types, drainage areas, slopes, avalanche areas, debris fans, mud flows, rock slide areas, faults and fissures, seismic history, and wildfire hazard areas.
 - (ii) Descriptions of the risks to the Project from natural hazards.
 - (iii) Descriptions of the impact and net effect of the Project on soil and geologic conditions.
- (7) 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.
 - (b) Location of storage areas designated for equipment, fuel, lubricants, and chemical and waste storage with an explanation of spill containment structures.
- (8) Monitoring and Mitigation Plans.
 - (a) Description of all mitigation that is proposed to avoid, minimize or compensate for adverse impacts of the Project and to maximize positive impacts of the Project.
 - (i) Describe how and when mitigation will be implemented and financed.

- (ii) Describe impacts that are unavoidable that cannot be mitigated.
- (b) Description of methodology used to measure impacts of the Project and effectiveness of proposed mitigation measures.
- (c) Description, location and intervals of proposed monitoring to ensure that mitigation will be effective.
- (d) Description of the applicant's plan to comply with the County's *Scientific/Social Framework for Managing Impacts of Trans-Basin Water Diversions to Protect Stream Health in Pitkin County, Colorado*, in accordance with the guidelines described therein.
- (e) Description of the applicant's detailed revegetation plan for all land areas in which vegetation will be impacted. Describe all revegetation plans or efforts proposed as part of the development, including any such plans required as a condition of any Water Court decree pertaining to the development. Such plan shall include, at a minimum:
 - (i) Description of all lands included.
 - (ii) Plant and seed material to be used and the method and timing of their application.
 - (iii) Source, amount, timing and seasonal duration of irrigation water to be applied to establish the intended revegetation, for a period no less than two (2) growing seasons, or such longer or shorter period as the Permit Authority shall require.
 - (iv) Whether the plan is required as a part of any Water Court transfer decree, and if so, whether the plan has been approved by the Water Court (include a copy of the decree and plan as so approved).
 - (v) As a part of the require security to guarantee implementation of the revegetation plan, including the costs of preparing the soil, seeding and planting vegetation and irrigating the same, costs of removal of noxious weeds, and revising and repeating the revegetation plan in the event the plan fails in whole or in part.
 - (vi) If the applicant believes that revegetation is not necessary, the applicant must present evidence from an appropriate source that revegetation is not necessary and that all other appropriate considerations as set forth herein will be satisfied. The Permit Authority shall make the final decision whether revegetation is necessary under these circumstances.

- (vii) The Permit Authority may, but is not required to consider a Water Court approved revegetation plan as partial or full satisfaction of the requirements of this Section 12.30.60(8)(e).
- (f) Description of how the applicant will meet the applicable habitat needs listed below by the identified wildlife species and will avoid conflict with these needs. Where conflicts are unavoidable, the applicant shall present proposals to minimize the extent and degree of the conflict, including revegetation and/or compensation through replacement or enhancement of habitat on an alternative site.
 - (i) Production Areas. These include areas necessary for pre-nuptial activities, breeding, young-bearing and rearing, i.e., spawning beds, nursery streams, and protected shoal areas for fish; permanent shallow water for amphibians; strutting, booming and dancing grounds and calling perches, nesting places, and protective young-rearing cover for birds; breeding grounds, calving and fawning areas, den trees, burrows, and young-rearing cover for mammals.
 - (ii) Principal Feeding Areas. These include areas containing the natural foods of a wildlife species of sufficient quantity and quality and readily available to sustain a normal population.
 - (iii) Summer Ranges. Summer ranges relatively free of human disturbance are highly important to the survival of some species, especially those requiring extended periods of time for young-rearing.
 - (iv) Winter Ranges. Winter ranges of sufficient quality and quantity are critical for two reasons: (1) they are frequently so restricted in area that they limit the size of an animal population over its entire range; and (2) these ranges are often in proximity to human populations and human activities so that the species involved are adversely affected, or the species may adversely affect real and personal property.
 - (v) Concentration Areas. Areas where high density of wildlife species at certain times of the year makes them highly susceptible to developments and activities of man. Examples of concentration areas include staging areas for waterfowl, sandhill cranes and deer; roosting areas for a number of birds; colonies of such colonial species as swallows, herons and beaver; and mass dens of snakes.

- (vi) Shelter Areas. Those physical or natural features in their habitats which provide escapement from their enemies and adverse weather conditions. Included here are such things as rough terrain for many species of wildlife; rocky bottoms and shorelines and aquatic vegetation in and adjacent to water for protection of fish, amphibians, and aquatic oriented species of terrestrial wildlife.
- (vii) Water and Minerals. A permanent water supply in sufficient quantity and quality is necessary to support most wildlife species. In addition, some species have special mineral needs. Continuous stream flows and conservation pools in reservoirs are essential to the survival of fish. Stable water levels in lakes and reservoirs are highly desirable for fish, amphibians and many forms of terrestrial wildlife. High quality water, free of pollutants, is essential to the survival of fish, amphibians and many birds, as well as to the food organisms upon which they depend.
- (viii) Movement Corridors. Many species of wildlife have daily and seasonal movement patterns along more or less established corridors. These may be between seasonal ranges; to reach spawning areas; or between nesting, resting, roosting, feeding and watering areas. Concentrations of animals along such corridors increase the likelihood of conflict between wildlife and humans. Many of these corridors offer the only means for wildlife movements, or their uses become so traditional that disruption or interference could be disastrous for the species involved.
- (ix) Buffer Zones. Some species of wildlife are intolerant to disturbance from human activities during portions of the year. In order to protect these species, buffer zones with no, or limited, human related disturbances are necessary during those seasons when these species occupy specific areas.
- (x) Special Habitat Needs. Some wildlife species have very specific habitat needs, without which they cannot survive. Therefore, reduction of such needs beyond certain limits, or a complete destruction of these habitat features could cause a species to be reduced in number or perish. For example, sagebrush is essential to the survival of sage grouse; wild turkeys need roost trees meeting certain requirements; catfish will only spawn when water temperatures are within certain limits; and black footed ferrets are limited to ranges occupied by prairie dogs.

- (xi) Shoreline Vegetation. Vegetation along stream banks and the shorelines of lakes is extremely important to aquatic wildlife and aquatic related forms of terrestrial wildlife. Such vegetation controls water temperatures, provides food and shelter and protects banks from excessive erosion which damages or destroys wildlife habitats.
- (9) Additional Information may be necessary. The applicant must supply any other additional information and documentation necessary for the Permit Authority to make a determination regarding whether the Project meets the applicable Approval Criteria in Section 12.40. In addition, the Director may request that the applicant supply additional information related to the Project if the Permit Authority will not be able to make a determination on one of the Permit Application Approval Criteria in Section 12.40 without the additional information.
- (10) For each alternative site or expansion area for which a permit is being sought by the applicant, if any, the information specified in subsections (1) through (9) of this Section. An application need not meet the identified submission requirements for other than the particular development alternative for which a permit is being sought in order for the application to be considered complete, but the description of alternative sites and expansion areas must be sufficiently detailed so as to adequately inform the Permit Authority.

12.30.70

ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO MUNICIPAL AND INDUSTRIAL WATER PROJECTS AND TO MAJOR NEW DOMESTIC WATER AND SEWAGE TREATMENT SYSTEMS AND MAJOR EXTENSIONS OF EXISTING DOMESTIC WATER AND SEWAGE TREATMENT SYSTEMS

- (1) Description of efficient utilization of water, recycling and reuse technology the Project intends to use.
- (2) Map and description of other municipal and industrial water projects in the vicinity of the Project, including their capacity and existing service levels, location of intake and discharge points, service fees and rates, debt structure and service plan boundaries and reasons for and against hooking on to those facilities.
- (3) Verification that the Project is consistent with federal, state, regional and local planning policies of regulating applicable to land use planning of water resources.
- (4) Description of bypass or release flows necessary, if any, as mitigation of Project impacts.
- (5) 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 hooking on to those facilities.

- (6) Description of how the Project will affect urban development, urban densities, and site layout and design of stormwater and sanitation systems.
- (7) Description of other water and wastewater management agencies in the Project area and reasons for and against consolidation with those agencies.
- (8) Description of how the Project may affect adjacent communities and users on wells.

12.30.80 ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO MINERAL RESOURCE AREAS

- A. In addition to the submittal requirements in Section 12.30.60, the following submittal requirements apply to applications proposing to develop land use in Mineral Resource Areas.
 - (1) Aerial photographs, if available, that reasonably portray the current condition of the area affected by the permit application. The area affected by the permit shall be outlined on the aerial photograph.
 - (2) List of the owners of mineral rights that will be affected.
 - (3) Type and location of mineral resources on and/or under the property.
 - (4) Analysis of the commercial feasibility of extracting the mineral resource.
 - (5) Map or maps portraying the geologic conditions of the area with specific attention to the designated mineral resource deposit. If appropriate or needed, subsurface geologic cross sections shall also be utilized to portray the geologic conditions at depth. If possible, the geologic maps shall be at the same scale and in the same format as the development plan maps.
 - (6) For applications proposing development of a mineral resource area without the intention of exploration or extraction of minerals, the following information shall be submitted.
 - (a) Evidence that the proposed development will not present an obstacle to extraction of the mineral resource on or under the subject property; or
 - (b) Evidence that the proposed development will be of greater economic value than the minerals present.

12.30.90

ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO NATURAL HAZARD AREAS

- A. Flood Hazard Area. In addition to the submittal requirements in Section 12.30.60, the following submittal requirements apply to applications proposing to develop land use in flood hazard areas.
 - (1) Submission of additional application materials as required in regard to Flood Hazard areas pursuant to 12.40.50(A).

- B. Geologic Hazard Area. In addition to the submittal requirements in Section 12.30.60, the following submittal requirements apply to applications proposing land use in Geologic Hazard Areas.
 - (1) A geology report documenting and assessing the nature and extent of the applicable geologic hazard, its impact on the proposed land use, and any proposed mitigation measures, prepared by either a member of the American Institute of Professional Geologists, a member of the Association of Engineering Geologists, or an individual registered as a geologist by a state.

- C. Wildfire Hazard Area. In addition to the submittal requirements in Section 12.30.60, the following submittal requirements apply to applications proposing land use in Wildfire Hazard Areas. The required maps shall be prepared and signed by a professional forester.
 - (1) Map or maps portraying the existing wildfire hazard conditions of the area with particular attention given to the slope, aspect, topographic and vegetation (living and dead) conditions.
 - (2) Map or maps and associated narrative showing:
 - (a) The procedures proposed to reduce condition of wildfire hazard.
 - (b) The fire protection plan for the proposed use.
 - (c) All fire suppression facilities that are necessary to meet the objectives of these Regulations.
 - (3) A list of alternative uses for the wildfire hazard area under consideration.

12.30.100

ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO HISTORICAL, PALEONTOLOGICAL AND ARCHEOLOGICAL RESOURCE AREAS

- A. In addition to the submittal requirements in Section 12.30.60, the following

submittal requirements apply to applications proposing to develop land use in Historical, Paleontological and Archeological Resource Areas.

- (1) A state historical site survey form, completed by a qualified professional acceptable to the State Historic Preservation Officer, for all designated historical, paleontological and archeological resources affected by the development.
- (2) A description of the mitigating efforts that will be taken to preserve the designated resource.
- (3) Plans and procedures for notification to the State Historical Society and State Archaeologist upon discovery of historical, paleontological or archaeological resources.

12.30.110 ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO NATURAL RESOURCE AREAS - SIGNIFICANT WILDLIFE HABITAT

- A. In addition to the submittal requirements in Section 12.30.60, the following submittal requirements apply to applications proposing to develop land use in Significant Wildlife Resource Areas.
- (1) Survey of the wildlife species and habitat existing within the Impact Area, prepared by a qualified professional.
 - (2) Analysis of the effects of the proposed land use upon wildlife species and habitat needs within the Impact Area.
 - (3) Description of how the applicable habitat needs will be met and conflict with those needs will be avoided during construction and operation of the proposed land use. Where conflicts are unavoidable, the description shall include proposed measures to minimize the extent and degree of conflict, including compensation through replacement or enhancement of habitat on an alternate site.

12.30.120 ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO NATURAL RESOURCE AREAS - SHORELANDS OF MAJOR PUBLICLY-OWNED RESERVOIRS

- A. In addition to the submittal requirements in Section 12.30.60, the following submittal requirements apply to applications proposing to develop land use in Natural Resource Areas comprised of shorelands.
- (1) Documentation of preliminary review and approval of the proposed land use by the following state agencies:

- (a) Colorado Division of Water Resources.
 - (b) Colorado Water Conservation Board.
 - (c) Colorado Division of Parks and Outdoor Recreation.
 - (d) Colorado Division of Wildlife.
- (2) Site plan locating the proposed land use with respect to the boundaries of public lands, and the boundaries of any associated floodplain.
 - (3) A description of the potential impacts upon public lands.
 - (4) Documentation of historical flooding activity and a description of the potential adverse impacts of the associated floodplain.

12.30.130 ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO LAND USE IN AREAS AROUND AN AIRPORT OR HELIPORT

- A. The following submittal requirements apply to applications proposing to develop land use in areas around Airports and Heliports:
 - (1) Any Person proposing to construct or expand a municipal solid waste landfill in the County shall submit evidence that the Project is consistent with 49 U.S.C. Section 44718(d), as the same may be amended, and FAA Advisory Circular 150/5200-34A, Construction or Establishment of Landfills Near Public Airports, as the same may be amended or superseded.
 - (2) Any Person proposing Development within 10,000 feet of an Airport or Heliport that may constitute a wildlife attractant, including without limitation a wastewater treatment or water impoundment facility, new wetland, agricultural activity, or golf course, shall submit reports, studies and other documentation on the extent of the wildlife hazard created by the Project; the mitigation measures, if any, proposed to be taken to reduce the wildlife hazard; and other documentation and information evidencing consistency with FAA Advisory Circular 150/5200-33B, Hazardous Wildlife Attractants On or Near Airports, as the same may be amended or superseded.
 - (3) Any Person obligated to provide notice to the Federal Aviation Administration in accordance with 14 C.F.R. Part 77 as a result of the proximity of the Project to an existing or planned Airport or Heliport shall submit to the County copies of Form 7460-1, Notice of Proposed Construction or Alteration, and accompanying documentation submitted to the FAA and any determination or correspondence received from the FAA in response to such submission.
 - (4) Any person proposing Development on property exposed to noise greater than

DNL 55 dB, as depicted on the Airport or Heliport noise contour map approved by the Board of County Commissioners, shall submit documentation and evidence that the Project is consistent with the general and specific criteria prescribed herein and that, if the structure or land use is permitted, shall further submit (i) evidence that the noise level reduction standards prescribed herein shall be satisfied, and (ii) evidence that an aviation easement in the form prescribed by the County has or will be conveyed to the County.

12.30.140 ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO AREAS AROUND MAJOR FACILITIES OF A PUBLIC UTILITY

- A. In addition to the submittal requirements in Section 12.30.60, the following submittal requirements apply to applications proposing to develop land use in areas around Major Facilities of a Public Utility.
 - (1) Site plan showing the following:
 - (a) Relationship of the subject property to the facility.
 - (b) Relationship of the proposed land use to the boundaries of the facility's control zone.
 - (2) Description of any relationship between the proposed land use and the facility.

12.30.150 ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO DEVELOPMENT IN AREAS AROUND INTERCHANGES INVOLVING ARTERIAL HIGHWAYS

- A. In addition to the submittal requirements in Section 12.30.60, the following submittal requirements apply to applications proposing to develop land use in areas around Interchanges Involving Arterial Highways.
 - (1) Site plan locating the proposed land use with respect to the following:
 - (a) The boundaries of the designated interchange area and the zones within.
 - (b) The location and nature of existing or approved developments and land use within the interchange influence area.
 - (c) The location of all existing or proposed accesses, driveways and curb-cuts within the interchange influence area.
 - (2) A report detailing the maximum traffic volume the interchange and the access road are designed to handle.

- (3) A description of existing population and development patterns within the interchange influence area.
- (4) A listing of the benefits and burdens which the proposed land use will bring to the communities of the region.
- (5) The applicable federal and state ambient air quality standards and a survey of existing air quality information for the area, including the nature, source and quantity of emissions from other sources in the affected area, both direct and indirect, the existing ambient air quality and the topography and meteorology of the area.
- (6) An estimate of the effect of the proposed land use on air quality in the area, including the nature and quantity of the direct emissions and the effect of the proposed land use as an indirect source of air pollution based upon the number of additional vehicle miles traveled which will be generated by the proposed use.
- (7) All air quality mitigation actions to be taken, including programs to utilize existing or planned mass transportation systems, car pools, traffic and vehicle flow control techniques.
- (8) A survey detailing existing and planned motorized traffic facilities.

12.30.160 ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO DEVELOPMENT IN AREAS AROUND RAPID OR MASS TRANSIT FACILITIES

- A. In addition to the submittal requirements in Section 12.30.60, the following submittal requirements apply to applications proposing to develop land use in areas around Rapid or Mass Transit Facilities.
 - (1) Map or maps at sufficient scale showing the location of the proposed land use and its relationship to the rapid or mass transit station or terminal and the interchanges, streets, highways, parking lots and public facilities which are adjacent to or form an integral part of the operation of the Rapid or Mass Transit Facility.
 - (2) Maps or diagrams illustrating the pedestrian and bicycle routes that can be utilized to gain access between the proposed development and the adjacent Rapid or Mass Transit Facility.
 - (3) A narrative description of the motor vehicle, bicycle and pedestrian traffic likely to be generated by the proposed development, including traffic generation at various times of the day, potential congestion and potential demand for parking generated by the proposed land use.

- (4) Narrative description of the impacts of the proposed land use to the Rapid or Mass Transit Facility.

12.30.170 ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY

- A. In addition to the submittal requirements in Section 12.30.60, the following submittal requirements apply to applications proposing Major Facilities of a Public Utility.
 - (1) Detailed plans for the facility including, but not limited to, the associated system capacity and proposed service area plans and maps.
 - (2) Description of existing and proposed service in the area to be served.
 - (3) Description of the distribution network for the area proposed to be served.
 - (4) Map and description of areas around the Project and likelihood of nearby activities disrupting utility services.
 - (5) Description of how the Project will affect existing community patterns.
 - (6) Description of the applicable provisions of the Pitkin County Master Plan and any applicable intergovernmental agreements, and the Project's compliance with those provisions.
 - (7) Description of voltages/capacities and lengths of transmission lines.
 - (8) Description of the power sources/resources and generating capacities.
 - (9) Description of the functions and sizes of substations.
 - (10) Description of the diameters and lengths of pipelines/transmission lines.
 - (11) As applicable, description of the capacities of the storage tanks/storage areas and types of petroleum derivative, natural gas, hydrogen or other product to be stored.
 - (12) Description of the sources of power being generated or transmitted and/or the sources of petroleum derivative being transported.
 - (13) Map showing all points at which power transmission lines and/or pipelines will pass within [45] feet of existing, approved, or proposed

residential or commercial structures, and a projection of the exposure of inhabitants of such structures to magnetic fields.

- (14) Map showing each existing major facility of a public utility within the County of the type proposed for development, including a description of the design capacity of each such facility, the excess capacity of each such facility, and the percentage of capacity at which each such facility operates.
- (15) Description of the predominant types of developments to be served by the Proposed Project.
- (16) Description of the upgrade potential of existing facilities and projected capacity to meet demand-for-services levels
- (17) If the proposed project is a new major facility of a public utility and that system exceeds a ten year projected increase in demand, a detailed explanation of the excess service capacity and the cost of the excess capacity.
- (18) Description of any feasible "non-structural" alternatives to meet the objectives of the proposed site selection and construction.
- (19) Projections/forecasts of need for electricity or natural gas and the basis for the projections and forecasts.
- (20) Description of expected effect and impact on nearby property owners and on current land uses, compared with alternate locations.
- (21) Provide a water supply plan [using an aquifer life assumption of a 100-year supply, non-tributary groundwater classification only, assuming a 50 percent recovery factor to support operations].

12.30.180 ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO SITE SELECTION AND DEVELOPMENT OF SOLID WASTE DISPOSAL SITES

- A. In addition to the submittal requirements in Section 12.30.60, the following submittal requirements apply to applications proposing Site Selection and Development of Solid Waste Disposal Sites.
 - (1) Analysis of capacity of existing landfills in the County, remaining life of existing landfill, and the need for a new major solid waste disposal site.
 - (2) Report on wind conditions for the site.

- (3) Description of potential pollution problems related to the site.
- (4) Description of efforts to recycle waste and conservation practices to be employed at the site.
- (5) Expected effect and impact on nearby property owners and on current land uses, compared with alternate locations.

12.30.190 ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO SITE SELECTION FOR AIRPORT OR HELIPORT LOCATION OR EXPANSION

- A. The following submittal requirements apply to applications proposing to locate an Airport or Heliport.
 - (1) An Airport Layout Plan or Heliport Layout Plan approved by the Federal Aviation Administration and prepared in conformance with applicable Federal Aviation Administration standards and guidelines. For Airports, the FAA standards and guidelines presently are found in FAA Advisory Circular 150/5700-6B, *Airport Master Plans*.
 - (2) A Final Environmental Impact Statement or Final Environmental Assessment and a Record of Decision or Finding of No Significant Impact signed by the authorized official of the Federal Aviation Administration approving the Airport Layout Plan or Heliport Layout Plan.
 - (3) If the documents identified in subsections (a) and (b) are not available at the time of application, the applicant will submit, at a minimum, copies of FAA Form 7490-1, *Notice of Landing Area Proposal*, and accompanying documentation submitted to the Federal Aviation Administration and the results of any aeronautical study prepared by the FAA for the proposed new Airport or Heliport.
 - (4) Engineering plans or other documentation evidencing that the Airport or Heliport will be constructed in conformance with Federal Aviation Administration standards and guidelines. For Airports, the FAA standards and guidelines are presently found in FAA Advisory Circular 150/5370-1E, *Standards for Specifying Construction of Airports*. For Heliports, the FAA standards and guidelines are presently found in FAA Advisory Circular 150/5390-2B, *Heliport Design*.
 - (5) Planning studies and other information on site selection, financial feasibility, economic impact, safety, land use compatibility and similar and related topics.
 - (6) Documentation and information evidencing that the applicant has or will obtain all necessary property rights, permits, approvals and easements

(including needed easements for drainage, disposal, utilities, and navigation) prior to site disturbance associated with the Project.

- (7) The applicant may submit any additional documentation and information to establish conformance with the general and specific criteria prescribed herein for the siting of a new Airport or Heliport.

12.30.200 ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO ARTERIAL HIGHWAYS, INTERCHANGES AND COLLECTOR HIGHWAYS

- A. In addition to the submittal requirements in Section 12.30.60, the following submittal requirements apply to applications proposing location and construction of arterial highways, interchanges or collector highways.
 - (1) Description of how project will affect traffic patterns as well as non-motorized traffic.
 - (2) Description of how the new roads will likely affect surrounding land uses and existing community patterns.
 - (3) Description of how new roads will serve community traffic demands.
 - (4) Description of how new roads will comply with other local, state and federal regulations and master plans.

12.30.210 ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO STATIONS AND TERMINALS

- A. In addition to the submittal requirements in Section 12.30.60, the following submittal requirements apply to applications proposing stations or terminals associated with a rapid or mass transit system.
 - (1) Description of the type or types of mechanical transit conveyance that will be utilized to carry passengers to and from the station or terminal, and a description of the means of access to and from the station or terminal including pedestrian, bicycle, automotive, bus, carpool, gondolas, lifts, and other intermodal connections either existing or reasonably foreseen to be developed in the area.
 - (2) An analysis of the passengers which will utilize the proposed facility. Such analysis shall be based on the best information available and shall include:

- (a) Whether the passengers will be utilizing the rapid or mass transit system to travel to and from employment or for some other purpose.
 - (b) The number of automobiles that the passengers will drive to the station or terminal at or just before any scheduled departure.
 - (c) The number of passengers that will likely ride only *one way* on any given day.
 - (d) The number of passengers that can be expected to bring baggage, recreational equipment, tools, or other material.
- (3) The anticipated schedule of departures and arrivals at the station or terminal and the expected capacity of each transit unit. Separate figures shall be given for peak and off-peak hours, weekdays and weekends, and peak and off-peak seasons.
 - (4) The maximum length of any train that will serve the station or terminal, excluding propulsion units.
 - (5) Basic floor plans and architectural sketches of each proposed building or structure together with a site map showing the relative location of each building or structure. Such plans and sketches shall show the location and length of platforms to be used to load and unload passengers.
 - (6) A map of all associated roadways, parking areas and other facilities. Design details such as width, layout, traffic flow, pavement markings and traffic control devices shall either be illustrated on the map or adequately described in supporting documents

12.30.220 ADDITIONAL SUBMITTAL REQUIREMENTS APPLICABLE TO FIXED GUIDEWAYS

- A. In addition to the submittal requirements in Section 12.30.60, the following submittal requirements apply to applications proposing fixed guideways.
 - (1) Description of the type of motive power that will be used to propel transit vehicles along the guideway (e.g. diesel, electric, electrified third rail, catenary system).
 - (2) Description of the minimum and the optimum width of the right-of-way necessary for the guideway together with maps showing the proposed right-of-way including its location within incorporated municipalities. Such maps or supporting documentation referring to the maps shall also indicate the maximum anticipated speed of transit vehicles along the various segments of the guideway.

- (3) Description of the minimum and maximum passenger capacity of the transit vehicles that will travel on the guideway and the anticipated frequency or scheduling of guideway use.
- (4) Description of the maximum length of any train that will travel upon the guideway with separate figures for the length of passenger carrying units and for propulsion units. Self propelled units shall be considered as passenger units.
- (5) The maximum proposed grade of the guideway and the maximum curvature. Proposed curves in excess of ten (10) degrees shall be indicated on the map.
- (6) Description of all buildings or other structures that must be removed in order for the proposed guideway to be built.
- (7) Description of the methods planned to prevent collisions at points where the proposed guideway crosses other transportation corridors.

12.30.230 CONDUCT OF PERMIT HEARING

- (1) The Permit Authority shall conduct the hearing in a manner to afford a reasonable opportunity to participate in a public hearing to the applicant and any person who is in favor or opposes the issuance of the Permit.
- (2) The Permit Authority shall hear relevant testimony and receive relevant evidence and may impose reasonable time limits on presenters, witnesses and citizens.
- (3) Although the Colorado Rules of Civil Procedure or Evidence do not apply to the hearing, all persons appearing at the hearing shall be afforded a reasonable opportunity to offer evidence into the record.
- (4) Any person may, at his own expense, provide for the recording of the hearing and transcription thereof, provided, however, that a copy of the transcript shall be furnished free of charge to the Permit Authority and may become part of the record.

12.30.240 APPROVAL OR DENIAL OF THE PERMIT APPLICATION BY THE PERMIT AUTHORITY

- (1) If information presented at the hearing leads the Permit Authority to find that additional information is necessary for it to determine whether the Permit Application Approval Criteria in Section 12.40 have been met, the Permit Authority may continue the hearing for not more than sixty (60) days unless a

longer period is agreed to by the applicant, or it may deny the Permit.

- (2) The Permit Authority may approve the application if it determines that the applicant has proven that the Project complies with all applicable provisions of these Regulations. If the Permit Authority determines that the applicant has failed to prove that the Project complies with any applicable provision of these Regulations, the Permit Authority, at its sole discretion, may either approve the permit application with reasonable conditions necessary to ensure compliance with the Regulations, or deny the Permit.
- (3) If the Permit Authority decides to approve the Permit with conditions, the Permit Authority shall make written findings that each condition is necessary to ensure that the Project will comply with the Permit Application Approval Criteria in Sections 12.40.10, 12.40.20, and 12.40.30, and that each condition is necessitated by impacts caused by the Project.
- (4) The hearing record shall include the following:
 - (a) The application package, including supplemental materials as requested by the Director.
 - (b) Written statements or documents in support of or in opposition to the permit application.
 - (c) When offered, any recording and transcript of the hearing.
 - (d) Written minutes of the Permit Authority hearing.
 - (e) The signed resolution of the Permit Authority granting or denying the permit application.
- (5) The burden of proof shall be on the applicant to show compliance with provisions of these regulations governing areas or activities of state interest involved.

12.30.250 ISSUANCE OF THE PERMIT

- (1) The Permit shall be issued in writing by the Board.
- (2) The Permit may be issued for an indefinite period or for a term of years, depending upon the nature of the Project.
- (3) The Permit is valid only for the construction and operation of the Project described in the application package together with the conditions of approval, if any, imposed by the Permit Authority.
- (4) A copy of the Permit shall be certified by the Permit Authority and presented to

the County Clerk and Recorder for recording in the same manner as any document relating to real property.

12.30.260 PERMIT AMENDMENT

- (1) Any physical or operational change in the construction, operation, purposes, goals, uses, effects, capacity or storage of a Water and Sewer Project from that approved by the Permit Authority shall require a permit amendment, unless otherwise exempt.
- (2) A permit amendment will be subject to the following requirements and procedures:
 - (a) Permit Application Submittal Requirements.
 - (i) A copy of the current Permit and reasons for amendment.
 - (ii) As-built drawings of the Project, if available.
 - (iii) Drawings and plans of proposed changes to the Project.
 - (iv) Additional or changed mitigation plans.
 - (v) Statement of need for amendment.
 - (vi) Site Plan.
 - (vii) Vicinity map.
 - (viii) Written report of how amendment satisfies the criteria in Sections 12.40.10, 12.40.20 and 12.40.30.
 - (b) Permit Amendment Procedure.
 - (i) The applicant shall meet with the Director to discuss the proposed permit amendment.
 - (ii) Application submittal requirements shall be reviewed by the Director.
 - (iii) Subsequent to the meeting, the Director shall determine whether the modified Project would satisfy the criteria contained in Sections 12.40.10, 12.40.20 and 12.40.30, or whether additional conditions would be necessary to ensure compliance.
 - (iv) If the Director deems that the modified Project would not satisfy

applicable criteria without additional conditions, the proposed modification shall require a new Permit.

- (v) If the Director deems that the modified Project would satisfy applicable criteria without additional conditions, the Director shall make a Finding of No Significant Impact and a resolution for an amended Permit shall be presented to the Permit Authority for its consideration.

12.40 APPROVAL CRITERIA

12.40.10 BASIC PERMIT APPLICATION APPROVAL CRITERIA FOR MATTERS OF STATE INTEREST

A Permit to conduct a designated activity of state interest or to engage in development in a designated area of state interest shall be approved if the Project complies with the following basic general criteria and any additional applicable criteria. In making that determination, the Board may take into consideration the construction, operation, changes in use and cumulative impacts of the Project, including all phases of a Project phased over time. If the Project does not comply with any one or more of these criteria, the Permit shall be denied or approved with conditions. In determining whether the Project complies with these criteria, or if conditions should be imposed, the Permit Authority will utilize the considerations in Appendix “A.”

- (1) Documentation that prior to site disturbance for the Project the applicant will have obtained all necessary property rights, permits and approvals. The Board may, at its discretion, defer making a final decision on the application until outstanding property rights, permits and approvals are obtained.
- (2) The Project will not impair property rights held by others.
- (3) The Project is consistent with relevant provisions of applicable land use and water quality plans.
- (4) The applicant has the necessary expertise and financial capability to develop and operate the Project consistent with all requirements and conditions.
- (5) The Project is technically and financially feasible.
- (6) The Project is not subject to significant risk from natural hazards.
- (7) The Project will not have a significant adverse effect on land use patterns.
- (8) The Project will not have a significant adverse effect on the capability of local governments affected by the Project to provide services, or exceed the capacity of

service delivery systems.

- (9) The Project will not create an undue financial burden on existing or future residents of the County.
- (10) The Project will not significantly degrade any current or foreseeable future sector of the local economy.
- (11) The Project will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience.
- (12) The planning, design and operation of the Project shall reflect principals of resource conservation, energy efficiency and recycling or reuse.
- (13) The Project will not significantly degrade air quality.
- (14) The Project will not significantly degrade existing visual quality.
- (15) The Project will not significantly degrade surface water quality.
- (16) The Project will not significantly degrade groundwater quality.
- (17) The Project will not significantly degrade wetlands, and riparian areas.
- (18) The Project will not significantly degrade terrestrial or aquatic animal life or its habitats.
- (19) The Project will not significantly deteriorate terrestrial plant life or plant habitat.
- (20) The Project will not significantly deteriorate soils and geologic conditions.
- (21) The Project will not cause a nuisance.
- (22) The Project will not significantly degrade areas of paleontological, historic, or archaeological importance.
- (23) The Project will not result in unreasonable risk of releases of hazardous materials.
- (24) The benefits accruing to the County and its citizens from the Project outweigh the losses of any natural, agricultural, recreational, grazing, commercial or industrial resources within the County, or the losses of opportunities to develop such resources.
- (25) The Project will not significantly degrade such natural features as water bodies, ridgelines, streambed meander limits and steep slopes.

12.40.20

ADDITIONAL CRITERIA APPLICABLE TO MUNICIPAL AND INDUSTRIAL WATER PROJECTS

In addition to the general criteria set forth in Section 12.40.10, the following additional criteria apply to municipal and industrial water projects:

- (1) The Project shall emphasize the most efficient utilization of water by incorporating the best recycling, reuse and conservation of water practices; employing the most efficient utilization of facilities, diversion structures, pipes, conduits, ditches, reservoirs or other storage facilities; reducing water loss (including seepage and evaporation and evapotranspiration); and using the most recent and advanced technologies.
- (2) The Project will not result in excess capacity in existing water or wastewater treatment services or create duplicate services.
- (3) The Project shall be necessary to meet community development and population demands.
- (4) 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.
- (5) The Project does not adversely affect either surface or subsurface water rights of upstream or downstream users.
- (6) Adequate water supplies, as determined by the Colorado Department of Public Health and Environment, are available for efficient operational needs.
- (7) Existing domestic water treatment systems must be at or near operational capacity.
- (8) Age of existing water systems, operational efficiency, state of repair or level of treatment is such that replacement, if applicable, is warranted.
- (9) The Project will not decrease the quality of peripheral or downstream surface or subsurface water resources below that most recently designated by the Colorado Water Quality Control Commission for those waters.
- (10) The Project or its associated collector or distribution system or new service areas will not violate federal or state air quality standards.
- (11) The Project or its associated collector or distribution system will not significantly deteriorate aquatic habitats, marshlands and wetlands, groundwater recharge areas, steeply sloping or unstable terrain, forests and woodlands, critical wildlife habitat or other wildlife protection areas, big game migratory routes, calving grounds, migratory ponds, nesting areas and the habitats of rare and endangered

species, public outdoor recreation areas, and unique areas of geologic, historic, or archaeological importance.

- (12) The Project or its associated collector or distribution system will not significantly degrade existing natural scenic characteristics, create blight, nor cause other nuisance factors such as excessive noise or noxious odors.
- (13) The Project or its associated collector or distribution system will not create an undue financial burden on existing or future residents within the development area and source area. The cost of securing an adequate supply of water for existing and future needs of the residents of this County shall be considered in determining whether an "undue financial burden" will result.
- (14) The Project complies with the County's *Scientific/Social Framework for Managing Impacts of Trans-Basin Water Diversions to Protect Stream Health in Pitkin County, Colorado*, in accordance with the guidelines described therein.

12.40.30

ADDITIONAL CRITERIA APPLICABLE TO MAJOR NEW DOMESTIC WATER AND SEWAGE TREATMENT SYSTEMS AND MAJOR EXTENSIONS OF EXISTING DOMESTIC WATER AND SEWAGE TREATMENT SYSTEMS

In addition to the general criteria set forth in Section 12.40.10, the following additional criteria apply to any development of major new domestic water and sewage treatment systems or major extensions of existing domestic water and sewage treatment systems:

- (1) The Project shall be reasonably necessary to meet projected community development and population demands, or to comply with regulatory or technological requirements.
- (2) To the extent feasible, wastewater and water treatment facilities shall be consolidated with existing facilities within the area.
- (3) New domestic water and sewage treatment systems shall be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities.
- (4) The Project shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.
- (5) The Project does not adversely affect either surface or subsurface water rights of upstream or downstream users.
- (6) Adequate water supplies, as determined by the Colorado Department of Public

Health and Environment, are available for efficient operational needs.

- (7) Existing domestic water treatment facilities or systems must be at or near operational capacity.
- (8) Age of existing water systems, operational efficiency, state of repair or level of treatment is such that replacement, if applicable, is warranted.
- (9) The Project will not decrease the quality of peripheral or downstream surface or subsurface water resources below that most recently designated by the Colorado Water Quality Control Commission for those waters.
- (10) The Project or its associated collector or distribution system or new service areas will not violate federal or state air quality standards.
- (11) The Project or its associated collector or distribution system will not significantly deteriorate aquatic habitats, marshlands and wetlands, groundwater recharge areas, steeply sloping or unstable terrain, forests and woodlands, critical wildlife habitat or other wildlife protection areas, big game migratory routes, calving grounds, migratory ponds, nesting areas and the habitats of rare and endangered species, public outdoor recreation areas, and unique areas of geologic, historic, or archaeological importance.
- (12) The Project or its associated collector or distribution system will not significantly degrade existing natural scenic characteristics, create blight, nor cause other nuisance factors such as excessive noise or noxious odors.
- (13) The Project or its associated collector or distribution system will not create an undue financial burden on existing or future residents within the development area and source area. The cost of securing an adequate supply of water for existing and future needs of the residents of this County shall be considered in determining whether an "undue financial burden" will result.
- (14) The Project will not remove significant amounts of water from open space or conserved lands in Pitkin County.
- (15) The Project complies with the County's *Scientific/Social Framework for Managing Impacts of Trans-Basin Water Diversions to Protect Stream Health in Pitkin County, Colorado*, in accordance with the guidelines described therein.

12.40.40 ADDITIONAL CRITERIA APPLICABLE TO MINERAL RESOURCE AREAS

In addition to the general criteria set forth in Section 12.40.10, the following criteria shall apply to land use in Mineral Resource Areas.

- (1) Extraction and exploration of minerals shall be accomplished in a manner which causes the least practicable environmental disturbance. Surface area disturbance associated with the Project shall be reclaimed in accordance with the provisions of Article 32 of Title 34, C.R.S.
- (2) Areas containing only sand, gravel, quarry aggregate or limestone used for construction purposes shall be administered as provided by Part 3 of Article 1 of Title 34, C.R.S.
- (3) The proposed extraction and exploration of minerals would not cause significant danger to public health and safety.
- (4) If the economic value of the minerals present is less than the value of another existing or requested use, the other use should be given preference. Other uses which would not interfere with the extraction and exploration of minerals may be allowed.

12.40.50 ADDITIONAL CRITERIA APPLICABLE TO NATURAL HAZARD AREAS

- A. Flood Hazard Areas. In addition to the general criteria set forth in Section 12.40.10, the following criteria shall apply to land use in Flood Hazard Areas.
 - (1) Land use shall preserve the integrity of the flood hazard area by not altering or impacting it in any way which is likely to pose a significant threat to public health or safety or to property (including the subject property, other impacted properties, or the environment).
 - (2) Land use which, in time of flooding, will likely pose a significant threat to public health or safety or to property (including the subject property, other impacted properties, or the environment) shall be prohibited. In determining whether there will likely be a significant threat, the following factors shall be considered:
 - (a) Creation of obstructions from the proposed development during times of flooding, and vulnerability of the proposed development to flooding.
 - (b) Use of flood protection devices or flood-proofing methods.
 - (c) Nature or intensity of the proposed development.
 - (d) Increases in impervious surface area caused by the proposed development.
 - (e) Increases in surface runoff flow rate and amount caused by the

proposed development.

- (f) Increases in floodwater flow rate and amount caused by the proposed development.
 - (g) Proximity and nature of adjacent or nearby land uses.
 - (h) Impacts to downstream properties or communities.
 - (i) Impacts on shallow wells, waste disposal sites, water distribution systems, and sewage disposal or septic systems.
- (3) Development shall comply with the Floodplain Overlay District Regulations in Article 3, Section 3-401 of the Land Use Code.
- B. Geologic Hazard Areas. In addition to the general criteria set forth in Section 12.40.10, the following criteria apply to land use in Geologic Hazard Areas.
- (1) Development shall not aggravate the hazardous condition or otherwise pose a significant risk to public health and safety or to property.
 - (2) Open space activities such as agriculture, passive recreation not requiring the development of playing fields, spectator stands or other significant structures, and mineral extraction, shall be encouraged provided they can be conducted in a manner which does not aggravate the hazardous condition or otherwise pose a significant risk to public health and safety or to property.
 - (3) Any approved development shall be designed in a manner that mitigates any significant risk posed by the geologic hazard.
 - (4) Shallow wells, solid waste disposal sites, domestic water distribution systems, and septic tanks and sewage disposal systems shall be protected.
 - (5) Development shall comply with all applicable provisions of the Pitkin County Code.
- C. Wildfire Hazard Area. In addition to the general criteria set forth in Section 12.40.10, the following criteria apply to land use in Wildfire Hazard Areas.
- (1) Structures shall not be located on slopes of 30% or greater.
 - (2) Structures shall not be located within a fire chimney.
 - (3) The proposed land use shall not constitute a probable source of fire ignition.
 - (4) The proposed land use shall not increase the potential intensity or duration of a

wildfire, or adversely affect wildfire behavior or fuel conditions so as to increase the wildfire danger and potential for damage to others.

- (5) The proposed land use shall provide reasonable fire protection and suppression facilities.
- (6) The proposed land use shall include reasonable provisions for keeping developed areas continuously free of slash.
- (7) The Project shall take the necessary precautions or steps to avoid, eliminate or reduce the wildfire hazard, or otherwise provide for maximum fire prevention and safety. Consideration shall be given to the following factors affecting the proposed land use, and the construction and operational activities associated with it: slope, aspect, dominant wind patterns, fuel conditions and any combination of these.
- (8) All uses, new development, new construction and substantial improvements which are intended for or allow for human occupation, habitation or congregation, shall be in accordance with applicable standards contained in the Wildfire Safety Guidelines and Standards for Subdivisions and Developments, September 1974, Colorado State Forest Service, and the Uniform Building Code.

12.40.60 ADDITIONAL CRITERIA APPLICABLE TO AREAS CONTAINING OR HAVING SIGNIFICANT IMPACT ON HISTORICAL, PALEONTOLOGICAL OR ARCHAEOLOGICAL RESOURCES

- A. In addition to the general criteria in Section 12.40.10, the following criteria apply to land use in Areas Containing or Having Significant Impact on Historical, Paleontological or Archaeological Resources.
 - (1) Development shall be designed to preserve the integrity of the resource.
 - (2) Development shall be conducted in a manner which will be compatible with the preservation of the resource and minimize damage to the resource.

12.40.70 ADDITIONAL CRITERIA APPLICABLE TO NATURAL RESOURCE AREAS

- A. In addition to the general criteria in Section 12.40.10, the following criteria apply to land use in Natural Resource Areas.
 - (1) Development shall be designed to preserve the integrity of the resource.
 - (2) Development shall be conducted in a manner which will be compatible with the

preservation of the resource and minimize damage to the resource.

- (3) The proposed development will not adversely affect either surface or subsurface water rights.
- (4) The proposed development will not significantly deteriorate significant wildlife habitat.
- (5) The proposed development will not significantly degrade existing natural scenic characteristics, create blight, or cause other nuisance factors such as excessive noise or obnoxious odors.

12.40.80 APPROVAL CRITERIA APPLICABLE TO AREAS AROUND AIRPORTS AND HELIPORTS

- A. In areas around Airports and Heliports, all applications shall be reviewed and land uses shall be regulated in order to:
 - (1) Avoid danger to public health and safety or property due to aircraft crashes.
 - (2) Protect residential and other noise sensitive land uses from aircraft noise.
- B. The following criteria apply to land use in areas around Airports and Heliports.
 - (1) The Board will approve an application only upon finding that the Project will not derogate safety of persons in the air or on the ground because it may result in any of the following:
 - (a) Create electrical interference with navigational signals or radio communication between the Airport or Heliport and aircraft;
 - (b) Make it difficult for pilots to distinguish between Airport or Heliport lights and other lighting;
 - (c) Create glare in the eyes of pilots using the Airport or Heliport;
 - (d) Impair visibility in the vicinity of the Airport or Heliport; or
 - (e) Endanger the landing, takeoff, or maneuvering of aircraft intending to use the Airport or Heliport.
 - (2) The Board will approve an application only upon finding that the Project will not constitute a nuisance, which shall be determined by the Project's consistency with the following noise-related standards:

- (a) Areas above DNL 65 db: On property exposed to noise in excess of DNL 65 dB, all uses other than public airport and transportation uses, short-term accommodations, office buildings, retail facilities, movie theaters, restaurants and certain open space uses (including agricultural and recreation uses not causing high concentrations of people) are prohibited.
 - (b) Areas between DNL 60 and 65 dB: On property exposed to noise between DNL 60 dB and DNL 65 dB, uses such as schools, churches, hospitals, libraries, auditoriums and outdoor amphitheaters and concert halls, are discouraged, and the Board may deny the application based on the specific nature of the Project, including without limitation such considerations as the proximity of the Project site to the Airport or Heliport, the current and forecast cumulative and single-event noise exposure at the Project site, and the nature and scope of the proposed land use.
 - (c) Areas above DNL 55 dB: On property exposed to noise above DNL 55 dB, the granting and recording of an avigation easement shall be required prior to construction of any new or expanded use. Such avigation easement shall be in the form prescribed by the County and shall grant the right of flight over the land, together with the right to cause noise, vibrations, odors, fumes, vapors, air currents, illumination, particulates, smoke, dust or other effects as may be inherent in the operation of aircraft.
 - (d) Residential uses in permitted areas shall be designed and constructed to minimize impacts of aircraft noise, by utilizing techniques that will reduce interior noise levels by not less than 25 dB or other suitable evidence that noise can be mitigated.
- (3) The Board will not approve an application for a Project that is determined by the Federal Aviation Administration to constitute a hazard to air navigation.

12.40.90 ADDITIONAL CRITERIA APPLICABLE TO AREAS AROUND MAJOR FACILITIES OF A PUBLIC UTILITY

- A. In addition to the general criteria in Section 12.40.10, the following criteria apply to land use in Areas Around Major Facilities of a Public Utility.

- (1) The Project shall preserve the desirable existing community patterns.
- (2) The Project shall not pose a danger to public health or safety or to property and the environment.

12.40.100 ADDITIONAL CRITERIA APPLICABLE TO AREAS AROUND ARTERIAL HIGHWAYS, INTERCHANGES AND COLLECTOR HIGHWAYS

- A. In addition to the general criteria in Section 12.40.10, the following criteria shall apply to land use in areas around arterial highways, interchanges and collector highways:
- (1) The Project shall not pose a danger to public health or safety or to property and the environment.
 - (2) The volume of traffic to be generated by the Project shall be compatible with the traffic-handling characteristics of the interchange, the access road, and existing traffic roads affected by the proposed land use.
 - (3) The Project shall be compatible with existing developments and with the character of the neighborhood, and shall not significantly impact an area or resource of special scenic, historical, or cultural significance.
 - (4) The Project shall preserve desirable existing community patterns.
 - (5) The Project shall encourage compatibility with non-motorized traffic.
 - (6) A land use that proposes burdens or deprivations on the communities of a region shall not be justified on the basis of local benefit alone.

12.40.110 ADDITIONAL CRITERIA APPLICABLE TO AREAS AROUND RAPID OR MASS TRANSIT FACILITIES

- A. In addition to the general criteria in Section 12.40.10, the following criteria shall apply to land use in Areas Around Rapid or Mass Transit Facilities.
- (1) The Project promotes the efficient utilization of the rapid or mass transit facility.
 - (2) The Project facilitates traffic circulation patterns of the roadways serving the mass transit facility.
 - (3) The Project promotes development that will include bike and pedestrian paths providing access to the rapid or mass transit facility.

12.40.120 ADDITIONAL CRITERIA APPLICABLE TO SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY

- A. In addition to the general criteria in Section 12.40.10, the following criteria shall apply to applications proposing to locate and construct Major Facilities of a Public Utility.
- (1) Facilities shall be sited and constructed in areas which will result in the proper utilization of existing facilities and associated systems within or serving the County.
 - (2) Facilities shall be allowed in those areas in which the anticipated growth and development that may occur as a result of such facility can be accommodated within the financial and environmental capacity of the area to sustain such growth and development and are in accordance with the applicable County land use plans.
 - (3) Existing facilities and associated systems servicing the area must be at or near operational capacity.
 - (4) If a facility extension or replacement is proposed, the age of existing facilities and associated systems, their operational efficiency, and their state of repair or level of service are such that extension or replacement is warranted.
 - (5) If a new facility is proposed, existing facilities cannot be feasibly upgraded or expanded.
 - (6) Where feasible, major facilities of a public utility shall be located so as to avoid direct conflict with adopted local comprehensive, State and regional master plans.
 - (7) Where feasible, major facilities of a public utility shall be located so as to minimize dedication of new right-of-way and construction of additional infrastructure (e.g., pipelines, roads, and transmission lines).
 - (8) If applicable, the Project complies with the County's *Scientific/Social Framework for Managing Impacts of Trans-Basin Water Diversions to Protect Stream Health in Pitkin County, Colorado*, in accordance with the guidelines described therein.

12.40.130 ADDITIONAL CRITERIA APPLICABLE TO SITE SELECTION AND DEVELOPMENT OF SOLID WASTE DISPOSAL SITES

- A. In addition to the general criteria in Section 12.40.10, the following criteria shall apply to applications proposing to locate and develop Solid Waste Disposal Sites.

- (1) 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:
 - (a) Longevity and subsequent use of waste disposal sites.
 - (b) Wind conditions.
 - (c) The potential problems of pollution inherent in the proposed site.
 - (d) The impact on adjacent property owners, compared with alternate locations.

12.40.140 ADDITIONAL CRITERIA APPLICABLE TO AIRPORTS AND HELIPORTS

- A. Applications to locate or expand an Airport or Heliport shall be reviewed and land uses regulated in order to: minimize disruption to the environment and scenic resources; minimize the impact on existing community services; and complement the economic and transportation needs of the state and the area.
- B. The following criteria shall apply to all applications proposing the location of an Airport or Heliport.
 - (1) The Board will approve an application for a permit to locate a new Airport or Heliport upon finding that each of the following criteria is satisfied:
 - (a) The location of the new Airport or Heliport is consistent with all applicable provisions of the County comprehensive plan and area master plans, the State Airport System Plan, the National Plan of Integrated Airport Systems, and other applicable regional, metropolitan, state and national plans.
 - (b) The new Airport or Heliport is needed to accommodate forecast demand that cannot be met by the Aspen/Pitkin County Airport or another Airport or Heliport in existence or planned at the time of the application; provided however, that in the case of a new Heliport, this criterion can be satisfied upon demonstrating that the Heliport is needed to meet current or forecast demand for emergency services, including without limitation emergency medical, law enforcement, rescue, or firefighting services.
 - (c) The new Airport or Heliport is sited and will be designed, constructed and operated in a manner that will avoid conflicts with existing

airports, which may include:

- (i) Potential interference with the existing flight paths for the Aspen/Pitkin County Airport;
 - (ii) Creation of electrical interference with navigational signals or radio communication for aircraft landing and departing the Aspen/Pitkin County Airport;
 - (iii) Difficulty for pilots to distinguish between lighting for new airports, airfields and landing strips and the safety/runway lighting at the Aspen/Pitkin County Airport;
 - (iv) Creation of a hazard or endangering the landing, takeoff, or maneuvering of aircraft intending to use the Aspen/Pitkin County Airport.
- (d) The location of the Airport or Heliport site will not unduly interfere with any existing easements for power or telephone lines, irrigation, mineral claims or roads.
 - (e) Adequate water supplies are available to support the forecast use of the Airport or Heliport.
 - (f) Adequate electric, gas, telephone, water, sewage, and other utilities, fire protection and rescue services exist or shall be developed to service the Airport or Heliport.
 - (g) The location of the Airport or Heliport site shall not cause a nuisance. A nuisance shall be presumed if the applicant cannot demonstrate that it has acquired all property that would be exposed to noise in excess of DNL 55 dB on the noise contour map prepared for the Airport or Heliport, or a lesser interest in the property such as an easement or restrictive covenant, that would prohibit the development of an incompatible land use;
 - (h) The location of the Airport or Heliport would not result in the actual or constructive use of a resource protected under Section 4(f) of the Department of Transportation Act, as the same may be amended.
 - (i) The forecast operations of aircraft and ground vehicles at the Airport or Heliport would not create a measurable increase in the risk associated with air toxics.
 - (j) The forecast operations of aircraft and ground vehicles at the Airport or Heliport would not result in a measurable degradation of visibility

within any national park or wilderness area.

- (k) The forecast operations of ground vehicles in connection with the Airport or Heliport will not cause an unacceptable degradation of traffic conditions on streets and highways within the County.

12.40.150 ADDITIONAL CRITERIA APPLICABLE TO SITE SELECTION OF ARTERIAL HIGHWAYS, INTERCHANGES AND COLLECTOR HIGHWAYS

- A. In addition to the general criteria in Section 12.40.10, the following criteria shall apply to applications proposing location and construction of arterial highways, interchanges and collector highways.
 - (1) The site selected for the Project shall not conflict with the Pitkin County Master Plan, municipal master plans, and regional or state transportation plans.
 - (2) Arterial highways and interchanges shall be located and designed so that community traffic needs are met.
 - (3) Arterial highways and interchanges shall be located and designed so that desirable community patterns are not disrupted.

12.40.160 ADDITIONAL CRITERIA APPLICABLE TO RAPID OR MASS TRANSIT FACILITIES

- A. In addition to the general criteria in Section 12.40.10, the following criteria shall apply to applications proposing to develop Rapid or Mass Transit Facilities:
 - (1) The location of Rapid or Mass Transit Facilities shall not conflict with the Pitkin County Master Plan, municipal master plans, and regional or state transportation plans.
 - (2) Activities involving Rapid or Mass Transit Facilities shall be conducted with reasonable considerations to the character of the area and its peculiar suitability for particular uses.
 - (3) Rapid or Mass Transit Facilities shall be located so as to preserve the value of buildings at the site and avoid demolition of businesses or residences to the extent possible.
 - (a) Proposed locations of Rapid or Mass Transit Facilities which will not require the demolition of residences or businesses shall be given preferred consideration over competing alternatives.
 - (4) Rapid or Mass Transit Facilities shall be located in a manner that encourages

the most appropriate use of land through the affected corridor.

- (5) Proposed location of a Rapid or Mass Transit Terminal, Station, or Fixed Guideway that imposes a burden or deprivation on a local government shall not be justified on the basis of local benefit alone, nor shall a permit for such a location be denied solely because the location places a burden or deprivation on one local government.
- (6) Stations, shelters and terminals shall be appropriately located to meet transit needs and to attract maximum ridership.
 - (a) The length of passenger platforms shall equal or exceed the maximum length of any train or other conveyance that will load and unload passengers at the station.
- (7) Rapid or Mass Transit Facilities shall have adequate and safe ingress and egress for all transit modes.
- (8) The location of fixed guideways shall maximize joint use of rights-of-way for trails and bikeways and other transportation alternatives.
- (9) Rapid or Mass Transit Facilities shall be designed and located in a manner that will reduce traffic congestion and resulting air pollution.
- (10) Rapid or Mass Transit Facilities shall be located and designed so as to minimize noise and to protect and preserve unique natural and cultural factors and visual amenities.
- (11) Guideway design and location shall not permit snow plumes from snow removal equipment on the guideway to reach the travel surface of a plowed public road except at intersections, nor shall guideways be placed or designed so that snow plumes from snow removal equipment on public roads will reach the guideway.
 - (a) In determining the right-of-way and corridor alignment for rapid transit, consideration shall be given to areas needed for snow storage along the guideway.
- (12) The parking areas associated with a Rapid or Mass Transit Terminal or Station shall be capable of holding a number of automobiles that equals the number of passengers expected to ride on peak periods multiplied by a factor of .75 unless the applicant can demonstrate through studies that a lesser number is sufficient.
 - (a) The required capacity for parking areas associated with a terminal or station may be modified based upon sufficient evidence of passenger

loading from other forms of intermodal transfer (such as Amtrak, tour buses, regional surface buses, carpools, etc.).

- (b) The applicant may initially provide a smaller number of parking spaces if the total area dedicated to potential parking expansion is shown to be large enough to accommodate the required number of parking spaces and the applicant provides financial security acceptable to the Board which guarantees that the required number can be built if actual need is shown after operation begins.
- (13) Access roads to a Rapid or Mass Transit Station or Terminal shall be designed, constructed or improved to accommodate, during a 15 minute period, the maximum number of automobiles anticipated to arrive before the scheduled departure of the mass transit conveyance without causing cars to back up onto the public road serving the facility.
- (14) The Manual on Traffic Control Devices shall apply to safety devices at intersections of a fixed guideway and other transportation corridors.

12.50 FINANCIAL GUARANTEE

12.50.10 FINANCIAL GUARANTEE REQUIRED

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

- (1) Faithful performance of the requirements of the Permit and applicable regulations.
- (2) That the Project or activity is completed and, if applicable, that the development area is properly reclaimed.
- (3) That the applicant performs all mitigation requirements and Permit conditions in connection with the construction, operation and termination of the Project.
- (4) That increases in public facilities and services necessitated by the construction, operation and termination of the Project are borne by the permittee.

12.50.20 AMOUNT OF GUARANTEE

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

- (1) The estimated cost of completing the Project or activity and, if applicable, of returning the development area to its original condition or to a condition

acceptable to the County.

- (2) The estimated cost of performing all mitigation requirements and Permit conditions in connection with the construction, operation, and termination of the Project, including:
 - (a) The estimated cost of providing all public services necessitated by the Project until two (2) years after the Project ceases to operate; and
 - (b) The estimated cost of providing all public facilities necessitated by the Project until all such costs are fully paid.

12.50.30 ESTIMATE

- (1) Estimated cost shall be based on the applicant's submitted cost estimate plus the Permit Authority's estimate of the additional cost to the County of bringing in personnel and equipment to accomplish any unperformed purpose of the financial guarantee. The Permit Authority shall consider the duration of the development or activity and compute a reasonable projection of increases due to inflation. The Permit Authority may require, as a condition of the Permit, that the financial security be adjusted upon receipt of bids to perform the requirements of the Permit and these Regulations.
- (2) Revisions to the estimate may be required based on information available to the County.

12.50.40 FORM OF GUARANTEE

- (1) The guarantee shall be in a form acceptable to the County Attorney.

12.50.50 RELEASE OF GUARANTEE

- (1) The financial guarantee may be released only when:
 - (a) The Permit has been surrendered to the Permit Authority before commencement of any physical activity on the site of the permitted development or activity.
 - (b) The development or activity has been abandoned and the site has been returned to its original condition or to a condition acceptable to the County in accordance with criteria adopted by the County for the matter of state interest for which the Permit is being granted.
 - (c) The Project has been satisfactorily completed.

- (d) A phase or phases of the Project have been satisfactorily completed allowing for partial release of the financial guarantee consistent with Project phasing and as determined appropriate by the Board of County Commissioners.
- (e) The applicable guaranteed conditions have been satisfied.

12.60 PERMIT ADMINISTRATION AND ENFORCEMENT

12.60.10 ENFORCEMENT AND PENALTIES

- (1) Any person engaging in a development in the designated area of state interest or conducting a designated activity of state interest who does not obtain a Permit pursuant to these Regulations, who does not comply with Permit requirements, or who acts outside the jurisdiction of the Permit may be enjoined by the County from engaging in such development or conducting such activities and may be subject to such other criminal or civil liability as may be prescribed by law.
- (2) If the County determines at any time that there are material changes in the construction or operation of the Project from that approved by the County, the Permit shall be immediately suspended and a hearing shall be held to determine whether new conditions are necessary to ensure compliance with Permit Application Approval Criteria or if the Permit should be revoked.

12.60.20 PERMIT SUSPENSION OR REVOCATION

- (1) The Permit Authority may temporarily suspend the Permit for a period of thirty (30) days for any violation of the Permit or these Regulations. Prior to any permit suspension, the Permit Authority shall provide the permit holder with written notice of the violation and will have a minimum of fifteen (15) days to correct the violation. If the violation is not corrected, the Permit shall be temporarily suspended for thirty (30) days.
- (2) The Permit Authority may, following notice and hearing, revoke a Permit granted pursuant to these Regulations if any of the activities conducted by the permittee violates the conditions of the Permit or these Regulations. No less than thirty (30) days prior to the revocation hearing, the Permit Authority shall provide written notice to the permittee setting forth the violation and the time and date for the revocation hearing. Following the hearing, the Permit Authority may revoke the Permit or may specify a time by which action shall be taken to correct any violations for the Permit to be retained.

12.60.30 JUDICIAL REVIEW

Any action seeking judicial review of a final decision of the Permit Authority shall be

initiated within thirty (30) days after the decision is made, in the District Court in and for the County of Pitkin, pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

APPENDIX A

Following are considerations that the Permit Authority will consider on balance in determining whether a Project complies with the Permit Application Approval Criteria in Sections 12.40.10, 12.40.20, and 12.40.30.

12.40.10(5) The Project is technically and financially feasible. The determination of technical and financial feasibility of the Project may include but is not limited to the following considerations:

- (a) Amount of debt associated with the Project.
- (b) Debt retirement schedule and sources of funding to retire the debt.
- (c) Estimated construction costs and construction schedule.
- (d) Estimated annual operation, maintenance and monitoring costs.

12.40.10(6) The Project is not subject to significant risk from natural hazards. The determination of risk from natural hazards to the Project may include but is not limited to the following considerations.

- (a) Faults and fissures.
- (b) Unstable slopes including landslides, rock slides and avalanche areas.
- (c) Expansive or evaporative soils and risk of subsidence.
- (d) Wildfire hazard areas.
- (e) Floodplains.

12.40.10(7) The Project will not have a significant adverse effect on land use patterns. The determination of effects of the Project on land use patterns may include but is not limited to the following considerations:

- (a) Whether the Project complies with and is consistent with applicable plans.
- (b) Likelihood that the Project will/will not cause or contribute to urban sprawl or “leapfrog” development.
- (c) Significant changes in the amount of impervious surfaces.
- (d) Contiguity of development associated with the Project to existing growth centers.
- (e) Changes to unique land forms.

- (f) Changes in the amount of character of open space.
- (g) Changes to traffic patterns, road capacity and congestion.

12.40.10(8) The Project will not have a significant adverse effect on the capability of local governments affected by the Project to provide services, or exceed the capacity of service delivery systems. The determination of the effects of the Project on local government services may include but is not limited to the following considerations:

- (a) Existing and potential financial capability of local governments to accommodate development related to the Project.
- (b) Current and projected capacity of roads, schools, infrastructure, housing, and other services necessary to accommodate development, and the impact of the Project upon the current and projected capacity.
- (c) Changes caused by the Project in the cost of providing education, transportation networks, water treatment and wastewater treatment, emergency services, or other governmental services or facilities.
- (d) Changes in short or long term housing availability, location, cost or condition.
- (e) Need for temporary roads to access the construction of the Project.
- (f) Change in demand for public transportation.
- (g) Reduction in the amount of water available for future water supply in the County, including seasonal reductions.

12.40.10(9) The Project will not create an undue financial burden on existing or future residents of the County. The determination of the financial effects of the Project 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 Project.
- (c) Changes in tax revenues caused by agricultural lands being removed from production.
- (d) Changes in costs to water users to exercise their water rights.
- (e) Changes in costs of water treatment or wastewater treatment.
- (f) Effects on wastewater discharge permits.

(g) Changes in total property tax burden.

12.40.10(10) The Project will not significantly degrade any current or foreseeable future sector of the local economy. The determination of the effects of the Project on the economy may include but is not limited to the following considerations:

(a) Changes to projected revenues generated from each economic sector.

(b) Changes in the value or productivity of any lands.

(c) Changes in opportunities for economic growth and diversification.

12.40.10(11) The Project will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience. The determination of effects of the Project on recreational opportunities and experience may include but is not limited to the following considerations:

(a) Changes to existing and projected visitor days.

(b) Changes to duration of kayaking and rafting seasons.

(c) Changes in quality and quantity of fisheries.

(d) Changes in instream flows or reservoir levels.

(e) Changes in access to recreational resources.

(f) Changes to quality and quantity of hiking trails.

(g) Changes to the wilderness experience or other opportunity for solitude in the natural environment.

(h) Changes to hunting experiences.

12.40.10(13) The Project will not significantly degrade air quality. The determination of effects of the Project on air quality may include but is not limited to the following considerations.

(a) Changes to seasonal ambient air quality.

(b) Changes in visibility and microclimates.

(c) Applicable air quality standards.

12.40.10(14) The Project will not significantly degrade existing visual quality. The determination of visual effects of the Project may include but is not limited to the following

considerations:

- (a) Visual changes to ground cover and vegetation, waterfalls and streams, or other natural features.
- (b) Interference with viewsheds and scenic vistas.
- (c) Changes in appearances of forest canopies.
- (d) Changes in landscape character types of unique land formations.
- (e) Compatibility of building and structure design and materials with surrounding land uses.

12.40.10(15) The Project will not significantly degrade surface water quality. The determination of effects of the Project on surface water quality may include but is not limited to the following considerations:

- (a) Changes to existing water quality, including patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color or taste of water.
- (b) Applicable narrative and numeric water quality standards.
- (c) Changes in point and nonpoint source pollution loads.
- (d) Increase in erosion.
- (e) Changes in sediment loading to waterbodies.
- (f) Changes in stream channel or shoreline stability.
- (g) Changes in stormwater runoff flows.
- (h) Changes in trophic status or in eutrophication rates in lakes and reservoirs.
- (i) Changes in the capacity or functioning of streams, lakes or reservoirs.
- (j) Changes in flushing flows.
- (k) Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.

12.40.10(16) The Project will not significantly degrade groundwater quality. The determination of effects of the Project on groundwater quality may include but is not limited to the following considerations:

- (a) Changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
- (b) Changes in capacity and function of wells within the impact area.
- (c) Changes in quality of well water within the impact area.

12.40.10(17) The Project will not significantly degrade wetlands and riparian areas. The determination of effects of the Project on wetlands and riparian areas may include but is not limited to the following considerations:

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

12.40.10(18) The Project will not significantly degrade terrestrial or aquatic animal life or habitats. The determination of effects of the Project on terrestrial or aquatic life may include but is not limited to the following considerations:

- (a) Changes that result in loss of oxygen for aquatic life.
- (b) Changes in flushing flows.
- (c) Changes in species composition or density.
- (d) Changes in number of threatened or endangered species.
- (e) Changes to habitat and critical habitat, including calving grounds, mating grounds, nesting grounds, summer or winter range, migration routes, or any other habitat features necessary for the protection and propagation of any terrestrial animals.
- (f) Changes to habitat and critical habitat including stream bed and banks, spawning grounds, riffle and side pool areas, flushing flows, nutrient accumulation and cycling, water temperature, depth and circulation, stratification, and any other

conditions necessary for the protection and propagation of aquatic species.

- (g) Changes to the aquatic and terrestrial food webs.
- (h) Alterations in population size that threaten population viability, disrupt community dynamic, or affect ecosystem processes.
- (i) Continued provision of historical access or agreed upon new access other than the historical access, for the Colorado Division of Wildlife to manage wildlife and to monitor wildlife activities.
- (j) Changes in turbidity.

12.40.10(19) The Project will not significantly deteriorate terrestrial or aquatic plant life or plant habitat. The determination of effects of the Project on terrestrial and aquatic 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.

12.40.10(20) The Project will not significantly deteriorate soils and geologic conditions. The determination of effects of the Project on soils and geologic conditions may include but is not limited to the following considerations:

- (a) Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and floodplains.
- (b) Changes to stream sedimentation, geomorphology, and channel stability.
- (c) Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs.
- (d) Changes to avalanche areas, mudflows and debris fans, and other unstable and potentially unstable slopes.
- (e) Exacerbation of seismic concerns and subsidence.

12.40.10(21) The Project will not cause a nuisance. The determination of nuisance effects of the

Project may include but is not limited to the following considerations:

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

12.40.10(23) The Project will not result in unreasonable risk of releases of hazardous materials.

The determination of the risk of release of hazardous materials caused by Project may include but is not limited to the following considerations:

- (a) Plans for compliance with federal and state handling, storage, disposal, and transportation requirements.
- (b) Use of waste minimization techniques.
- (c) Adequacy of spill prevention and response plans.

12.40.20(1) The Project shall emphasize the most efficient utilization of water, including the recycling, reuse and conservation of water.

The determination of whether the Project emphasizes the most efficient use of water may include but is not limited to the following considerations:

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

12.40.20(2) The Project will not result in excess capacity in existing domestic water or wastewater treatment services or create duplicate services.

The determination of whether the Project will result in excess capacity or create duplicate services may include but is not limited to the following considerations:

- (a) Whether the Project creates overlapping or competing service areas.

- (b) Whether the Project differs significantly from the provider's facility plan.
- (c) Whether the Project impacts other water and wastewater permits.

12.40.20 (3) The Project shall be necessary to meet community needs and demands. The determination of whether the Project meets community development and population demands may include but is not limited to the following considerations:

- (a) Relationship to reasonable growth projections and local land use plans.
- (b) Relationship to other water and wastewater provider's service area.

12.40.20 (4) 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. The determination of potential for pollution of the aquifer recharge areas by the Project may include but is not limited to the following considerations:

- (a) Proximity of urban development and population densities to aquifer recharge areas.
- (b) Proximity of stormwater and sanitation systems to aquifer recharge areas.
- (c) Changes in water quality in the aquifer recharge areas.

12.40.30(1) The Project shall be reasonably necessary to meet projected community development and population demands, or to comply with regulatory or technological requirements. The determination of whether the Project is reasonably necessary may include but is not limited to the following considerations:

- (a) Relationship to reasonable growth projections and local land use plans.
- (b) Relationship to other water and wastewater provider's service area.
- (c) Whether the Project is not in compliance with regulatory or technological requirements or will not be in compliance in the near future.

12.40.30(2) To the extent feasible, wastewater and water treatment facilities shall be consolidated with existing facilities within the area. The determination of whether consolidation is **feasible** shall include but is not limited to the following considerations:

- (a) Whether there is an opportunity for consolidation.
- (b) The environmental, financial and social feasibility of consolidation.

12.40.30(3) New domestic water and sewage treatment systems shall be constructed in areas

which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities. The determination shall include but is not limited to the following considerations:

- (a) Relationship to reasonable growth projections and local land use plans.
- (b) Proximity to other water and wastewater provider's service area.

12.40.30(4) The Project shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development. The determination shall include but is not limited to the following considerations:

- (a) Relationship of the Project to approved land use plans for the area.
- (b) The environmental, financial and social impacts related to such development.

APPENDIX B

Guidelines for Compliance with the Scientific/Social Framework for Managing Impacts of Water Diversions to Protect Stream Health in Pitkin County, Colorado

The following guidelines apply to persons or entities that are required to comply with the Scientific/Social Framework for Managing Impacts of Water Diversions to Protect Stream Health in Pitkin County, Colorado (the “Framework”).

- 1) **Establish a Hydrologic Foundation** to characterize natural and pre-project stream flow regimes, and the effects of a proposed project upon those stream flow regimes
 - i. Create a hydrologic model in accordance with Step 1a of the Framework
 - ii. Using the hydrologic modeling, establish natural, pre-project and post-project hydrographs in accordance with Steps 1b and 1c of the Framework
 - iii. Characterize flow alteration in accordance with Step 1d of the Framework

- 2) **Develop Flow-Ecology Relationships** specific to Pitkin County’s streams and stream segments that would be affected by the proposed project
 - i. Develop a flow-ecology hypotheses for relationships between stream flows and the aquatic and riparian ecosystem in accordance with Step 2a of the Framework, using detailed, site-specific information (if available), or the combined Range of Variability Approach/Percent of Flow Approach described in Step 2a
 - ii. Collect additional data to test the flow-ecology hypotheses in accordance with Step 2b of the Framework
 - iii. Predict ecological responses to proposed flow alterations in accordance with Step 2c of the Framework

- 3) **Engage in a Stakeholder Process to Define Values, Needs and Standards** and provide a starting point for the adaptive management process
 - i. Define social values, water needs and acceptable ecological conditions in accordance with Step 3a of the Framework
 - ii. Establish environmental flow standards in accordance with Step 3b of the Framework, including utilization of recommended daily flow levels

- 4) **Implement, Monitor and Engage in Adaptive Management**
 - i. Design and implement an adaptive water management plan that implements the initial flow standards in accordance with Step 4 of the Framework
 - ii. Monitor the results of the flow experiments in accordance with Step 4 of the Framework
 - ii. Adapt the management plan iteratively to achieve the desired balance between human water needs and environmental health in accordance with Step 4 of the Framework

