

**GUIDELINES AND REGULATIONS FOR
AREAS AND ACTIVITIES OF STATE INTEREST
COUNTY OF CHAFFEE
STATE OF COLORADO**

ADOPTED: December 10, 1991;

REVISED: June 17, 2003.

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CHAPTER 1

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Article 1 Introductory and General Provisions

1-101 Title and Citation

- (1) These various sections constituting Chapters 1 through 9 are entitled and may be cited as the "Guidelines and Regulations for Areas and Activities of State Interest of Chaffee County," the "Guidelines and Regulations, or the "Regulations."
- (2) These various sections constituting Chapter 1 of the "Guidelines and Regulations for Areas and Activities of State Interest of Chaffee County" may be cited as the "Administrative Regulations."

1-102 Purpose and Findings

- (1) The general purpose of the Guidelines and Regulations is to facilitate identification, designation, and administration of matters of state interest consistent with the statutory requirements and criteria set forth in Section 24-65.1-101, et seq., C.R.S., and the Guidelines for Identification and Designation of Areas and Activities of State Interest approved by the Colorado Land Use Commission.
- (2) The additional general purposes of these Guidelines and Regulations are:
 - (a) To promote the health, safety, and general welfare of the citizens of Chaffee County;
 - (b) To encourage and strengthen the established industries of agriculture, mining, tourism, recreation and education;
 - (c) To plan for adequate transportation, water, wastewater treatment, electricity, telephone, schools, parks and other similar facilities, and to provide for the phased development of such services and facilities;
 - (d) To protect the beauty of the landscape and the rural character of the County, to enhance recreational opportunities for residents and visitors, to preserve important archeological and historic sites and significant wildlife habitat, to protect air and water quality, and to conserve soil, water and forestry resources;
 - (e) To protect and enhance the economic strength of the private and governmental sectors of the County;

- (f) To regulate development projects that would otherwise cause excessive noise, water, and/or air pollution, or which would otherwise degrade or threaten the existing environmental quality within the County; and
 - (g) To ensure, to the maximum extent practicable, that growth will pay for itself, and to ensure that the present residents do not have to subsidize new growth and development through increased taxes and/or degradation of their existing quality of life.
- (3) The Board of County Commissioners, County of Chaffee, finds that:
- (a) The notice and public hearing requirements of Section 24-65.1-404, C.R.S. have been followed;
 - (b) These Regulations are necessary because of the intensity of current and foreseeable development pressures on and within this County;
 - (c) These Regulations were adopted after taking into consideration applicable guidelines adopted and issued by the Colorado Land Use Commission;
 - (d) These Regulations apply to the entire unincorporated territory of the County of Chaffee;
 - (e) These Regulations interpret and apply to any regulations adopted for specific areas of state interest and specific activities of state interest which have been or may be designated by the Board of County Commissioners.

1-103 Authority

These Regulations are authorized by, inter alia, Section 24-65.1-101, et seq., C.R.S.; Section 30-28-101, et seq., C.R.S.; Section 30-28-201, et seq., C.R.S.; Section 29-20-101, et seq., C.R.S.; and Section 24-32-111, C.R.S. These Regulations are necessary for the preservation of the public health, safety and welfare.

1-104 Applicability

These Regulations shall apply to all proceedings concerning identification and designation of any developments in any area of state interest or any activity of state interest which has been or may hereafter be designated by the Board of County Commissioners.

1-105 Exemptions

The portions of these Guidelines and Regulations 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 if, on the effective date of their adoption:

- (1) The specific development or activity is covered by a current (as of adoption of these Regulations) building permit issued by the County of Chaffee;
- (2) The specific development or activity has been approved by the electorate of the County of Chaffee; provided that, approval by the electorate of any bond issue by itself shall not be construed as approval of the specific development or activity;
- (3) The specific development or activity is on land which has been finally approved for planned unit development which specifically contemplated said specific development or activity;
- (4) The specific development or activity is to be on land which has been zoned in response to an application which specifically contemplated said specific development or activity; or
- (5) The specific development or activity is to be on land with respect to which a final plat for a subdivision has been approved, with or without conditions, pursuant to the Chaffee County Land Use Code, §§ 30-28-101, -110, -133, -136 or -137, C.R.S., which specifically contemplated said development or activity.

1-106 Relationship of Regulations to Other County, State and Federal Requirements

- (1) Whenever these Guidelines and Regulations are found to be inconsistent with any other resolution, ordinance, code, regulation, or other enactment of the County of Chaffee, the enactment imposing the more restrictive standards or requirements shall control.
- (2) In the event these Guidelines and 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) In the event these Guidelines and Regulations are found to be more stringent than the statutory criteria for administration of matter

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) These Guidelines and Regulations are intended to be applied in addition to, and not in lieu of, all other regulations of the County of Chaffee, including, without limitation, the Chaffee County Land Use Code.

1-107 Maps

- (1) Each map referred to in designations and regulations for any particular matter of State interest adopted by the Board of County Commissioners of the County of Chaffee is deemed adopted therein as if set out in full.
- (2) Maps referred to in any such designation and regulations shall be filed with and be available for inspection at the office of the Clerk and Recorder of the County of Chaffee and shall also be available for inspection in the office of the Board of County Commissioners.
- (3) Where interpretation is needed as to the exact location of the boundary of any designated area and where there appears to be a conflict between a mapped boundary and actual field conditions, the Board of County Commissioners as the Permit Authority shall make the necessary determination of the boundary. Any person contesting the location of the boundary shall be given an opportunity to present a case on the subject to the Permit Authority.

1-108 Duties of the Board of County Commissioners

Unless otherwise specifically provided, it shall be the duty of the Board of County Commissioners of Chaffee County to perform all functions set forth in all regulations pertaining to matters of state interest.

1-109 Severability

If any section, clause, provision, or portion of these Guidelines and Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

1-110 Definitions

The words and terms used in these Guidelines and Regulations for administration of areas and activities of state interest shall have the meanings set forth below unless the context requires otherwise:

- (1) Applicant: any person or entity applying for a permit under these Regulations.
- (2) Board of County Commissioners: the Board of County Commissioners, County of Chaffee, State of Colorado.
- (3) County: the County of Chaffee, Colorado.
- (4) Designation: only that legal procedure specified by Section 24-65.1-401, et seq., C.R.S., carried out by the Board of County Commissioners.
- (5) Development: any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs.
- (6) Development Area: those geographic areas within the County which will be developed or altered directly by construction or operation of the proposed project.
- (7) Legal description: any description from which it is possible to locate accurately on the ground the boundaries of the land being described.
- (8) Matter of state interest: an area of state interest or an activity of state interest or both.
- (9) 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 impact area, facility or service; or *compensation* for the impact for replacing or providing for the replacement of biological or physical conditions, services or facilities.
- (10) Municipality: a home rule or statutory city, town, or a city and county or a territorial charter city.
- (11) Nonconforming Use: a use in existence at the time of the adoption of these Regulations, which use, were it a new use, would be one for which a permit is required under these Regulations.
- (12) Permit Authority: the Board of County Commissioners.

- (13) Person: any private individual, partnership, corporation, association, company, or any public or corporate body, including the federal government, and any municipality, or political subdivision, agency, instrumentality, or corporation of the State or the United States government.
- (14) Proposed Project or Project: the proposed development for which a permit is sought under these Regulations.
- (15) Receipt of Application: the time at which the application is deemed complete and accepted by the Permit Authority.
- (16) Significant: deserving to be considered important; notable and not trifling.
- (17) Source Development Area: that geographic area or region wholly or partially within the unincorporated territory of this County which will be developed or altered in connection with development in a designated area of state interest or a designated activity of state interest.

Article 2 (Reserved)

Article 3 Designation of Matter of State Interest

1-301 Board of County Commissioners to Make Designations

Designations and amendments of designations may be initiated in three ways:

- (1) The Board of County Commissioners may in its discretion designate and adopt regulations for the administration of any matter of state interest.
- (2) The Chaffee County Planning Commission may on its own motion or upon request by the Board of County Commissioners, recommend the designation of matters of state interest. The Board of County Commissioners shall decide, in its sole discretion, whether or not to designate any or all of the requested matters of state interest.
- (3) If the Colorado Land Use Commission submits a formal request to the Board of County Commissioners under Section 24-65.1-407, C.R.S., with regard to a specific matter which the Colorado Land Use Commission considers to be of state interest within the County of Chaffee, the Board of County Commissioners shall publish notice

and conduct a hearing pursuant to Section 24-65.1-407(1)(a), C.R.S. After the Board of County Commissioners has received such a request, no person shall engage in development in the area or conduct the activity specifically described in said request until the Board of County Commissioners has held its hearing and issued its order relating thereto.

1-302 (Reserved)

1-303 Public Hearing Required

- (1) The Board of County Commissioners shall hold a public hearing before designating any matter of state interest and adopting regulations for the administration thereof. Said hearing shall be held not less than thirty (30) days nor more than sixty (60) days after the giving of public notice of said hearing.
- (2) In the event that the Colorado Land Use Commission submits a formal request to take action, such public hearing for designation shall be held within ninety (90) days after receipt of the formal request.

1-304 Notice of Public Hearing, Mailing List, Publication

- (1) The Board of County Commissioners shall prepare a notice of the designation hearing which shall include:
 - (a) The time and place of the hearing;
 - (b) The place at which materials relating to the matter to be designated and any guidelines and regulations for the administration thereof may be examined;
 - (c) The telephone number where inquiries may be answered;
 - (d) A description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to property which would be included. The notice should include, when practicable, both the legal description of the property as well as any general or popular names of the property.
- (2) The Board of County Commissioners shall maintain a mailing list of the names of those persons requesting of the Clerk of the Board of County Commissioners that their names and addresses be placed on the list and paying to the Clerk an annual fee of twelve dollars

(\$12.00) to cover the costs of production, handling and mailing of notices of all such hearings pursuant to Sections 24-65.1-404(2)(b) and 24-65.1-501(2)(c), C.R.S. In order to have a name and address retained on said mailing list, the person shall resubmit their name and address and pay said annual fee before January 31 of each year.

- (3) At least thirty (30) days, but no more than sixty (60) days before the public hearing, the Board of County Commissioners shall publish the notice in a newspaper of general circulation in the County and shall mail the notice by first class mail to each of the following:
 - (a) The Colorado Land Use Commission and other state and federal agencies, as deemed appropriate in the discretion of the Board of County Commissioners;
 - (b) Persons on the mailing list (subsequent to the initial adoption of guidelines and regulations);
 - (c) In the discretion of the Board of County Commissioners, members of the news media and any other person considered likely to be affected by the proposed designation; and
 - (d) If any other local governmental jurisdiction would be directly or indirectly affected, the proposed designation similarly may be mailed to such government in the sole discretion of the Board of County Commissioners.

1-305 Matters to be Considered at Designation Hearing

At the public hearing, the Board of County Commissioners shall receive into the public record:

- (1) Relevant testimony and documents from any and all persons or organizations desiring to appear and be heard, including County staff; and
- (2) The recommendations of the Chaffee County Planning Commission, and other local, state and federal agencies, if any.

1-306 Record of Designation Proceeding

- (1) The Board of County Commissioners shall collect and preserve the following record of the public hearing:
 - (a) A copy of the notice of the hearing;

- (b) The certificate of publication of the notice of the hearing and a listing of all persons to whom the notice was mailed;
 - (c) The names and addresses of persons who presented written or oral statements or offered documentary evidence;
 - (d) Any written statements, comments or documents presented in support of or in opposition to the proposed designation of the matter of state interest;
 - (e) Any recording or transcript, if any, of the hearing as provided in Section 1-306(2);
 - (f) The order of designation of the area or activity of state interest; and
 - (g) A map or maps depicting each area of state interest designated.
- (2) Any person may, at his or her own expense, provide for the recording of the hearing and transcription thereof, provided, however, that a copy of the recording or transcript thereof, if transcribed, shall be furnished free of charge to the Board of County Commissioners and shall become part of the record.

1-307 Adoption of Designation and Regulations

- (1) At the conclusion of the hearing, or within thirty (30) days thereafter, the Board of County Commissioners may adopt, adopt with modification, or reject the proposed designation which was the subject of public hearing. If designation and regulation under Section 24-65.1-101, et seq., C.R.S., is rejected, the Board of County Commissioners may regulate the matter under any other available land use control authority or it may reject the regulation of the matter entirely.
- (2) In making any such designation, the Board shall take into consideration:
 - (a) All testimony, evidence and documents taken and admitted at the public hearing;
 - (b) The intensity of current and foreseeable development pressures in the County;

- (c) The adopted planning documents of the County of Chaffee and the cities and towns located within the County of Chaffee;
 - (d) The matters and considerations set forth in any applicable guidelines or model regulations issued by the Colorado Land Use Commission and other state agencies; and
 - (e) Reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.
- (3) In the event the Board of County Commissioners finally determines that any matter is a matter of state interest, the Board shall adopt a resolution designating such matter and adopt regulations for the administration thereof.
- (4) Each designation order¹ adopted by the Board of County Commissioners shall:
- (a) Specify the boundaries of the designated area of state interest or the boundary of the area in which an activity of state interest has been designated;
 - (b) State reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner;

1-308 Submission of Material to Colorado Land Use Commission

Upon adoption of a designation order, all relevant materials including the record of any public hearing relating to the designation and regulations, as described in Section 1-306 above, shall be forwarded by the Board of County Commissioners to the Colorado Land Use Commission for review, pursuant to Section 24-65.1-406, C.R.S. If within thirty (30) days after receipt of a designation order and regulation the Colorado Land Use Commission has notified the Board of County Commissioners that modification of the designation or regulations is recommended, the Board of County Commissioners shall, within thirty (30) days after receipt of the recommended modifications:

¹ Exhibit A is a sample designation order form.

- (1) Modify the original order in a manner consistent with the recommendations of the Colorado Land Use Commission and resubmit the order to the Colorado Land Use Commission, or
- (2) Notify the Colorado Land Use Commission that the Commission's recommendations are rejected.

1-309 Recording of Notice of Designation

A notice of the designation shall be certified by the Board of County Commissioners to the County Clerk and Recorder for filing in the same manner as any document affecting real property.

1-310 Effect of Designation - Moratorium Until Final Determination

After a matter of state interest is designated pursuant to Section 1-307, 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.

CHAPTER 2

PERMIT REGULATIONS

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Article 1 Permit Authority

2-101 Title and Citation

These various sections constituting Chapter 2 of the "Guidelines and Regulations for Areas and Activities of State Interest of Chaffee County" may be cited as the "Permit Regulations."

2-102 Purpose

The purpose and intent of the Permit Regulations is to facilitate administration of matters of state interest consistent with statutory requirements and criteria set forth in Section 24-65.1-101, et seq., C.R.S., and Guidelines for Identification and Designation approved by the Colorado Land Use Commission.

2-103 Permit Authority Established

- (1) The Chaffee County Permit Authority is hereby established, the members of which shall be the Board of County Commissioners.
- (2) The Permit Authority shall exercise all powers and duties granted in this Chapter 2, and elsewhere in the Regulations and Section 24-65.1-101, *et seq.*, C.R.S.

Article 2 Permit Application

2-201 Permits Required After Designation; Receipt of Application Form

- (1) Any person desiring to engage in a development in a designated area of state interest or to conduct a designated activity of state interest must apply for and obtain a permit from the Permit Authority, in the form attached hereto as Exhibit B, and maintained in the office of the County Administrator (for water and/or sewage treatment systems or extensions thereof, the site application form adopted by the Colorado Water Quality Control Commission and/or the Colorado Department of Public Health and Environment must be completed and attached to the permit application.) In the event a development or activity is proposed as an integral part of a subdivision or PUD, it shall be the responsibility of the service provider and/or developer to comply with the requirements of these Regulations.
- (2) When an applicant seeks a permit to engage in development in more than one area of state interest and/or to conduct more than

one activity of state interest and/or to engage in development in one area of state interest and to conduct one activity of state interest, a single application may be completed for all such activities or developments and may be reviewed by the Permit Authority in one consolidated hearing.

2-202 Application Fee/Deposit

- (1) The complete application must be accompanied by an initial deposit of five thousand dollars (\$5,000) toward the application fee. Within thirty days following receipt of a completed application and \$5,000 deposit in the form of certified funds, the Permit Authority shall determine and set a fee in an amount necessary to cover the estimated costs (including County staff time and expenses) incurred in the review and consideration of the permit application, including all hearings conducted therefore, and shall notify the applicant in writing of said fee and its amount. If the County does not have qualified staff to review certain elements of any application or referral agencies are not able to adequately advise the Permit Authority regarding certain elements of an application, the Permit Authority may authorize the review be performed by a consultant engaged or approved by the Permit Authority. At the time of determining the need for a consultant, the Permit Authority shall determine whether the applicant shall pay all, part of, or none of the consultants' fees, based upon the nature and extent of consulting expertise required.
- (2) If the application fee exceeds the initial deposit, the applicant shall present, within ten (10) working days following receipt of such notice, to the Permit Authority, certified funds for the difference between the deposit and application fee. The Permit Authority will establish and administer a schedule for the payment of subsequent installments of the application fee, which installments will be structured so that, throughout the application process, the County retains a balance of at least one thousand dollars (\$1,000) for covering future processing costs and expenses. If the balance falls below one thousand dollars (\$1,000), the County may cease processing the application pending receipt of additional installments bringing the balance to at least one thousand dollars (\$1,000). The County will deposit that portion of the application fee which is not necessary to cover current costs and expenses in an interest-bearing account. The County will obligate, encumber or use such funds, from time to time, at its discretion, when necessary to cover the cost of processing the application. Interest earned on the

account will belong to the applicant and will be applied by the County toward subsequent installments of the application fee.

- (3) The County will maintain accurate records of the manner in which the application fee is used and will make such records available for inspection by the applicant and the public at reasonable times as determined by the County.
- (4) Any portion of the application fee submitted by the applicant, or any interest earned on such fee pursuant to subparagraph (2) of this section, which is not necessary to cover the cost of processing the application will be reimbursed to the applicant.
- (5) The Permit Authority will take no action or will suspend further action on the application until all fees and expenses related to the application review process have been paid. The application fee may be increased at any time if it is determined by the Permit Authority that the fee is not sufficient to cover all costs associated with the application.
- (6) A referral agency may impose a fee for the review of an application. No hearings by the Permit Authority will be held if any such referral agency's fee has not been paid.

2-203 Application Submittal Requirements

In addition to specific materials required for an application of a particular matter of State interest, the applicant shall submit ten copies of the following general application submittal information:

- (1) A completed application form.
- (2) Information describing the applicant.
 - (a) The names, addresses, and phone numbers 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, of individuals who are or will be responsible for constructing and operating the Project.
 - (c) Authorization of the application by the Project owner, if different than the applicant.

- (d) Documentation of the applicant's financial and technical capability to develop and operate the Project, including a description of the applicant's experience developing and operating similar projects.
 - (e) Written qualifications of report preparers.
- (3) Information describing the Project.
- (a) Location and scope of the Project in sufficient detail to determine all potential impacts.
 - (b) Plans and specifications of the Project, including proposed construction of structures and improvements associated with the Project, prepared by a registered professional engineer, architect or other appropriate professional in sufficient detail to evaluate the application against the applicable permit application approval criteria.
 - (c) Descriptions of alternatives to the Project considered by the applicant.
 - (d) Schedules for designing, permitting, constructing and operating the Project, including the estimated life of the Project.
 - (e) The need for the Project, including 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.
 - (f) Description of all conservation techniques to be used in the construction and operation of the Project.
 - (g) Describe and indicate on a map, the present zoning and surface and subsurface uses of the land in the development area and Source Development Area including, but not necessarily restricted to the following categories: residential, commercial, industrial, significant geological and historic areas, open space, outdoor recreation, agricultural and forest land.
 - (h) Describe provisions from the Chaffee County Comprehensive Plan or Land Use Code that are applicable to the Project and assess whether the Project will comply with these provisions.

- (i) Specify whether the demand for the Project is associated with development within or contiguous to existing service areas.
- (4) Property rights, other permits and approvals.
- (a) A list of all other federal, state and local permits and approvals that will be required for the Project, together with any proposal for coordinating these approvals with the County permitting process. Supply 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, if any, 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 any 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; and the existing uses of the water; and information on any agricultural water rights decreed to lands within unincorporated portions of the County and converted to provide the supply. 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) Verification that the proposed project is consistent with relevant portions of County, state, federal and regional land use and water quality plans;
- (5) Description of the technical and financial feasibility of the Project.
- (a) The estimated timing and phasing of construction and construction costs 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) Where applicable, the projected assessed valuation, as build-out occurs, of the property to be included within the service area.
- (6) Socioeconomic impacts.

A comprehensive socioeconomic impact analysis including the following areas. Include an identification and explanation of assumptions and methodologies employed in the preparation of such analysis.

- (a) Recreation and tourism.
 - (i) A map and descriptions of present and potential recreational uses, with and without the proposed project, on both public and private lands to be impacted by the proposed project, including existing and projected direct and indirect costs incurred and economic benefits derived, or to be derived from such uses.
 - (ii) Descriptions of the impact and net effect of the proposed project on present and potential recreational uses and recreational economies.
 - (iii) A description of streamflows and lake levels needed for minimum and optimum recreational use.
- (b) Agriculture and grazing.
 - (i) A map and descriptions of the present and potential agricultural operations and grazing use on both public and private lands, with and without the project, together with a description of the existing and potential direct and indirect economic benefits.

- (ii) Descriptions of the impact and net effect of the proposed project on present and potential agricultural operations, and economics
- (c) Transportation.
 - (i) A map and description of the transportation network to be impacted by the proposed project, including current and projected road locations, conditions and capacities, and maintenance provisions and costs.
 - (ii) A map and description of current commuting patterns, traffic volumes and types of vehicle use existing as baseline, and those resulting from projected settlement patterns during construction and operation of the project.
 - (iii) Descriptions of the impact and net effect of the proposed project on the transporting network, including the cost of any necessary improvements required in order for the project to proceed, or as a result of project construction and/or operation.
- (d) Population.
 - (i) A description of the permanent and seasonal resident population to be impacted by the proposed project, including ages, persons per household and personal income levels within each incorporated community and in the unincorporated portion of the impact area.
 - (ii) Descriptions of the impact and net effect of the proposed project on permanent, seasonal and visitor populations to be impacted by the proposed project, including projected in-migrations and settlement patterns, household forecasts, and characteristics and length of residency.
- (e) Employment.
 - (i) A description of current and past (to within five years prior to the date of the application) employment characteristics including: basic economic sectors by principal employer, labor force participation, and the local service to basic employment multiplier.

- (ii) Descriptions of the impacts and net effect of the proposed project on each employment sector, including employment and multiplier projections, potential lag times, labor force projections and labor participation rates, and wage and income levels for temporary, seasonal and permanent employment, forecasted annually as baseline, and to be generated by the project.
- (f) Public service and facilities.
 - (i) A description of the existing levels, demand for, adequacy, and the operational costs of public services and facilities.
 - (ii) Descriptions of the impacts and net effect of the proposed project on public services and facilities, including the levels of population and use that will require increased levels of service and additional facilities.
- (g) Local government revenues and expenditures.
 - (i) A description of current and past (to within ten years prior to the date of the application) annual total revenues and expenditures of the County and those municipalities and special districts that would be financially impacted by the proposed project.
 - (ii) Descriptions of the impacts and net effect of the proposed project on annual total revenues and expenditures of the County and those municipalities and special districts that would be financially impacted by the project.
- (h) Housing.
 - (i) A description of existing seasonal and permanent housing, including numbers of dwelling units, conditions, types, costs, locations, and average number of persons per household.
 - (ii) Descriptions of the impacts and net effect of the proposed project on housing during both construction and operation stages, including numbers of dwelling units, types, costs, locations and, average number of

persons per household that would be required to serve populations generated by this project, and the means of providing this housing.

- (7) Any additional information as deemed necessary by the Permit Authority to assist in making a determination on any one of the approval criteria for the proposed project.

2-204 Waiver of Submission Requirements

- (1) The Permit Authority may waive any part but not all of the submission requirements imposed by these Regulations upon petition of the applicant that full compliance with the submission requirements would be unreasonably burdensome for the applicant and that the submission requirements so waived would not address or disclose a substantial impact on the County or its residents. A waiver of submission requirements may be granted by the Permit Authority upon a written determination that the information to be submitted is sufficient for the Permit Authority to arrive at a permit decision in full compliance with the law and these Regulations.
- (2) The petition shall be considered and the decision rendered by the Permit Authority at a public hearing held in substantial compliance with the provisions of Sections 2-301 and 2-302 of these Regulations.
- (3) In the event the waiver request is denied, the applicant shall provide the required additional information on or before ten (10) days prior to the date set for hearing of the application itself. If the applicant fails to provide such information, the Permit Authority may in its discretion vacate the public hearing on the application itself and require complete reapplication, or may continue the hearing in accordance with Section 2-303(2) of these Regulations.

2-205 Intergovernmental Agreements

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

- (a) The state or political subdivision applicant and the County must both be authorized by Article XIV, Section 18(2) of the Colorado Constitution and Sections 29-1-201 et seq., 29-20-105 and 29-20-107, C.R.S., to enter into the agreement.
- (b) The purpose and intent of these Guidelines and Regulations must be satisfied by the terms of the agreement.
- (c) A public hearing must be conducted by the Permit Authority in conformance with Section 2-302 of these Regulations [with the exception that the references to "permit application" in Section 2-302(5)(a), (c) and (g) shall be deemed replaced with "proposed intergovernmental agreement,"]. Prior to the hearing, the Board of County Commissioners shall approve the form of any proposed intergovernmental agreement, provided, however, that the final approval of the agreement shall take place at the conclusion of or subsequent to the public hearing. The public hearing shall be for the purpose of taking comment upon the proposed intergovernmental agreement, the provisions of which have been determined to be acceptable to the applicant and to the County.
- (d) Any approval by the Permit Authority and the governing body of the state or political subdivision applicant must be in the manner required of each of them by the Colorado Constitution, statutes and any applicable charter, ordinance or resolution.
- (e) Exercise of the provisions of this Section by the state or political subdivision applicant will not prevent that entity from electing at any time to proceed under the permit provisions of these Regulations. Additionally, any entity which has previously proceeded under the permit provisions of these Regulations may at any time elect to proceed instead under this Section 2-204.

Article 3 Permit Hearing

2-301 Notice of Permit Hearing

Not later than thirty (30) days after receipt of a completed application for a permit, the Permit Authority shall set and publish notice(s) of the date, time and place for hearing(s) on said application and any required separate hearing on any requested waiver of submission requirements. Notice of the public hearing shall be published once in a newspaper of general circulation in the County of Chaffee, not less than thirty (30) nor more than sixty (60) days before the date set for hearing and shall also be given to other persons and entities in the same manner as set forth for the notice of a designation hearing in Section 1-304.

2-302 Conduct of Permit Hearing

- (1) The Permit Authority shall conduct the public hearing in a manner affording procedural due process to the applicant, supporters of the project and any person who opposes issuance of the permit.
- (2) The Permit Authority shall hear testimony and receive evidence, including:
 - (a) The recommendations of the Chaffee County Planning Commission, if any; and
 - (b) Relevant testimony and documents from any and all persons or organizations desiring to appear and be heard, including County staff and review agency representatives.
- (3) Although the Colorado Rules of Civil Procedure do not govern the conduct of the hearing, all persons appearing at the hearing, in person or by counsel, shall be afforded the right of cross-examination as well as reasonable opportunity to offer relevant evidence in rebuttal.
- (4) Any person may, at his own expense, provide for the recording of the hearing and transcription thereof, provided, however, that a copy of the recording or transcript thereof, if transcribed, shall be furnished free of charge to the Permit Authority and shall become part of the record.
- (5) The Permit Authority shall collect and preserve the following record of the public hearing:
 - (a) The permit application;

- (b) A copy of the notice of the hearing, the certificate of publication of the notice of hearing, and a listing of all persons to whom the notice was mailed;
 - (c) Any written statements, documents and review agency comments presented in support of or in opposition to the permit application;
 - (d) The names and addresses of all persons who presented oral or written statements, appeared as witnesses, or offered documentary evidence;
 - (e) Any recording or transcript, if any, of the hearing as provided in Section 2-302(4);
 - (f) Written minutes of the Permit Authority relating to the public hearing;
 - (g) The resolution of the Permit Authority granting or denying the permit application; and
 - (h) A copy of the permit, if issued.
- (6) In cases in which the development or activity must also comply with PUD and/or subdivision regulations, the permit hearing required by these Regulations may be held at the same time as the preliminary plat or plan hearing.

2-303 Approval or Denial of Permit Application

- (1) A permit application for a proposed project may not be approved unless the applicant satisfactorily demonstrates that the proposal, including all mitigation measures proposed by the applicant, complies with all of the applicable criteria set forth in these Regulations. If the application does not comply with all of the applicable criteria, the permit shall be denied, unless the Permit Authority determines, in its discretion, that reasonable conditions can be imposed on the permit which will enable the applicant to comply with the criteria.
- (2) If the Permit Authority finds that there is not sufficient information concerning any material feature of a proposed project, the Permit Authority may deny the application or it may continue the hearing until the additional information has been received. However, no such continuance may exceed sixty (60) days unless agreed to by the applicant.

- (3) The burden of proof shall be upon the applicant to show compliance with the provisions of the Guidelines and Regulations governing the area or activity of state interest involved.
- (4) The Permit Authority shall state, in writing, reasons for its decision on a permit application, and its findings and conclusions.
- (5) The Permit Authority shall act upon a permit application within sixty (60) days after the completion of the permit hearing(s), or the permit shall be deemed approved.

Article 4 Issuance, Revocation or Suspension of Permits

2-401 Issuance of Permits

- (1) The permit shall be issued on the form adopted by the Board of County Commissioners. An example permit is attached hereto as Exhibit C.
- (2) The permit may be issued for an indefinite or specific term, and may be transferable or nontransferable.

2-402 Financial Security

- (1) Before any permit is issued, the Permit Authority may, in its discretion, require the applicant to file a guarantee of financial security deemed adequate by the Permit Authority and payable to the County of Chaffee. Any requirement for a financial guarantee shall be specified in the written decision of the Permit Authority.
- (2) The purpose of the financial guarantee shall be to assure that the applicant or permittee shall faithfully perform all requirements of the permit or applicable regulations adopted by the Board of County Commissioners.
- (3) The amount of said financial guarantee shall be established by the Permit Authority upon consideration of the following criteria:
 - (a) The estimated cost of returning the site of the permitted development or activity to its original condition or to a condition acceptable to the Permit Authority in accordance with standards adopted by the Permit Authority for the matter of state interest for which the permit is being granted;
 - (b) The estimated cost of completing the permitted development or activity; and

- (c) The estimated cost of complying with the conditions of the permit.
- (4) Estimated cost shall be based on the applicant's submitted cost estimate plus the Permit Authority's estimate of the additional cost to bring in personnel and equipment to accomplish any unperformed purposes 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 shall be adjusted upon receipt of bids.
- (5) One hundred percent of the amount of the financial guarantee shall be in cash deposited with the County Treasurer and shall be placed in an earmarked escrow or trust account (non-interest bearing) mutually agreeable to the County and the applicant.
- (6) 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 thereof has been returned to its original condition or to a condition acceptable to the Permit Authority in accordance with standards adopted by the Permit Authority for the matter of state interest for which the permit was granted;
 - (c) The project has been satisfactorily completed; or
 - (d) Applicable guaranteed conditions have been satisfied.
- (7) Any security may be cancelled by a surety only upon receipt of the Permit Authority's written consent which may be granted only when such cancellation will not detract from the purposes of the security.
- (8) If the license to do business in Colorado of any surety upon a security filed pursuant to these Regulations is suspended or revoked by any State authority, then the applicant or permittee, within sixty (60) days after receiving notice thereof, shall substitute a good and sufficient surety licensed to do business in the State. Upon failure of the permittee to make substitution of surety within the time allowed, the Permit Authority shall suspend the permit until proper substitution has been made and the permittee shall cease all activity.

- (9) If the Permit Authority determines that a financial guarantee should be forfeited because of any violation of the permit, it shall provide written notice to the surety and to the permittee that the financial guarantee will be forfeited unless the permittee makes written demand to the Permit Authority within thirty (30) days after permittee's receipt of notice, requesting a hearing before the Permit Authority. If no demand is made by the permittee within said period, then the Permit Authority shall order the financial guarantee forfeited.
- (10) The Permit Authority shall hold a hearing within thirty (30) days after the receipt of the demand by the permittee. At the hearing, the permittee may present statements, documents, and other information with respect to the alleged violation. At the conclusion of the hearing, the Permit Authority shall either withdraw the notice of violation (with or without conditions) or enter an order forfeiting the financial guarantee.
- (11) The cash deposit described in subsection (5) above may be used by the Permit Authority in the event of the default or alleged default of the permit holder only for the purposes of recovering on the surety or fulfilling the permit obligations of the permit holder. In the event that the ultimate reviewing court determines that there has been no default by the permittee, that portion of any monies expended by the Permit Authority from the escrow funds relating to such default, less expenditures of material benefit to the permit holder, shall be replaced in the escrow account by the Board of County Commissioners immediately following such determination. The Permit Authority may arrange with a lending institution, which provides money for the permit holder, that said institution may hold in escrow any funds required for said cash deposit. Funds shall be disbursed out of escrow by the institution to the County upon the County's demand for the purposes specified in this Section.
- (12) If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, the Chaffee County attorney shall take such steps as deemed proper to recover such costs.
- (13) Upon request, the Permit Authority may waive all or any portion of the financial security requirements set forth in this Section for applicants which are state agencies or political subdivisions of the state. A precondition to such waiver shall be that the activities are funded from, or secured by, general revenues of the applicant state agency or political subdivision, or revenues from any established

special or enterprise fund of the applicant. Such waiver shall not be unreasonably withheld, but shall be in the sole discretion of the Permit Authority.

2-403 Annual Review

- (1) Within thirty (30) days prior to each annual anniversary date of the granting of a permit by the Permit Authority, the permittee shall submit a report detailing all past activities conducted by the permittee pursuant to the permit including a satisfactory showing that the permittee has complied with all conditions of the permit and applicable regulations. The permittee need not inform the Permit Authority of activities, such as operational changes, which are not the subject of a permit condition.
- (2) The Permit Authority shall review the report set forth in Section 2-403(1) within thirty (30) days from the date of submittal thereof. If the Permit Authority determines, based upon its review, that the permittee is likely to have violated the provisions of the permit and/or applicable regulations, it shall consider the matter at a scheduled public hearing. If the Permit Authority determines at the public hearing that the permittee has violated the provisions of the permit and/or applicable regulations, the Permit Authority may suspend and/or revoke the permit in accordance with Section 2-501.
- (3) Upon fulfillment of all permit conditions or, by petition of the permittee and a showing of good cause therefore, annual review requirements may be waived by the Permit Authority in its discretion.

Article 5 Administration, Enforcement and Penalties

2-501 Enforcement and Penalties

- (1) When it comes to the attention of the Permit Authority that the provisions of any permit have been violated by the permittee, the Permit Authority, if it determines that enforcement action is appropriate, shall give the permittee written notice of the specific violation and of a public hearing on the proposed violation which the Permit Authority shall schedule no sooner than thirty (30) days after the date of the written notice. If the Permit Authority determines that an emergency exists the Permit Authority may schedule the hearing sooner than thirty (30) days, provided that the permittee receives at least five (5) working days' prior notice of the hearing.
- (2) If the permittee fails to correct the violation by the public hearing date, and the Permit Authority, determines at the public hearing that the violation exists, the Permit Authority, in its discretion, may impose an appropriate sanction, including but not necessarily limited to temporary suspension of the permit for a reasonable time period; an order to correct the violation within a reasonable time period; the requirement for additional financial guarantees; or revocation of the permit.
- (3) The Permit Authority shall have the authority to seek an injunction or other appropriate relief in the appropriate state or federal district court if the permittee fails to correct the violation or comply with any sanction imposed by the Permit Authority at the public hearing.
- (4) Any permit issued under these Regulations shall be deemed to include the granting of the permittee's consent to entry and inspections by the Permit Authority or its authorized representative as may be necessary at any time during regular County business hours, without prior notice to the permittee, to determine compliance with the terms of the permit.
- (5) No person may engage in a development in a designated area of state interest or conduct a designated activity of state interest within the unincorporated territory of the County without first obtaining a permit pursuant to these Regulations. Any person engaging in a development in a designated area of state interest or conducting a designated activity of state interest who does not obtain a permit pursuant to these Regulations may be enjoined by the Permit Authority from engaging in such development or conducting such

activity, and may be subject to such other criminal or civil liability as may be prescribed by law.

- (6) No local authority may issue a building permit for purposes of development in a designated area of state interest or conducting a designated activity of state interest within the unincorporated territory of the County without the applicant first having obtained a permit pursuant to these Regulations.

2-502 Relationship of Regulations to Other County, State and Federal Requirements

- (1) Nothing in these Regulations shall be construed as exempting an applicant for a permit from any other requirements of this County or other state or federal laws and regulations.
- (2) Permit requirements included in these Regulations shall be in addition to and in conformance with all applicable state and federal water quality laws, rules and regulations, including but not limited to the following:
 - (a) Section 28-8-702, C.R.S. as amended, sewage treatment plant site approval;
 - (b) Section 25-8-501, *et seq.* C.R.S. as amended, point source pollutant discharge permits;
 - (c) Section 208, as amended (33 U.S.C. Section 1288) areawide wastewater treatment management planning;
 - (d) Section 303, as amended (33 U.S.C. Section 1313) river basin water quality management planning;
 - (e) Disposal of sewage sludge (33 U.S.C. Section 1345, as amended);
 - (f) Section 32-1-201, *et seq.* C.R.S. as amended, Special District Control Act;
 - (g) 16 U.S.C. Section 661-666(c) (1970) as amended, the Fish and Wildlife Coordination Act;
 - (h) Section 102(c) 42 U.S.C. Section 4321, *et seq.* as amended, the National Environmental Policy Act;
 - (i) Section 404 of the Federal Clean Water Act as amended; and

(j) Section 30-20-103, C.R.S. as amended, solid waste disposal.

(3) In the implementation of these Regulations, the Permit Authority shall endeavor where possible and appropriate, to avoid duplicative requirements.

2-503 Nonconforming Uses

(1) The provisions of these Regulations shall not apply to any nonconforming use as it existed on the date the area is designated or subjected to these Regulations, provided that, when such a nonconforming use shall be discontinued for six months or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the appraised value, any reuse, reconstruction, or replacement of such structure shall be deemed a new use and shall be subject to the provisions of these Regulations.

(2) A state agency or political subdivision of the state which owns or operates any nonconforming use existing on the date the activity is designated or subjected to these Regulations, which would otherwise be deemed a new use subject to the provisions of these Regulations, may request continued treatment as a nonconforming use by demonstrating that the operation of the nonconforming use has not been discontinued for such an extended period of time as would indicate an attempt to (a) abandon the facility or (b) forego any necessary repair or replacement thereof as necessary to make it operable.

(3) The provisions of these Regulations shall likewise not apply to the following activities where such activities are undertaken by a state agency or political subdivision of the state: (a) modifications or repairs to an existing use or facility, where such modifications or repairs are necessitated by federal, state or local law; (b) modifications or repairs to an existing use, where such modifications or repairs do not cause impacts different in type or degree from those of the existing use. Notwithstanding the foregoing, expansions or extensions of existing uses defined in Sections 3-103(3); or 5-103(2) or (3) herein shall require a permit pursuant to these Regulations.

2-504 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 Chaffee, pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

CHAPTER 3

REGULATIONS FOR EFFICIENT UTILIZATION OF MUNICIPAL AND INDUSTRIAL WATER PROJECTS

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Article 1 General and Introductory Provisions

3-101 Title and Citation

These various sections constituting Chapter 3 of the "Guidelines and Regulations for Areas and Activities of State Interest of Chaffee County," may be cited as the "Regulations for Efficient Utilization of Municipal and Industrial Water Projects."

3-102 Purpose and Intent

In addition to the purposes set forth in Chapter 1, the purpose and intent of the regulations contained in this Chapter 3 are:

- (1) To insure that municipal and industrial water projects are developed in a manner so as to emphasize the most efficient use of water, including, to the extent permissible under law, the recycling and reuse of water;
- (2) To insure that urban development, population densities, and site layout and design of stormwater and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas;
- (3) To insure that municipal and industrial water projects are developed in such a manner so as not to pollute rivers, streams, lakes, reservoirs, ponds and aquifer recharge areas within the Source Development Area;
- (4) To insure that the off-site impacts of municipal and industrial water projects are effectively mitigated; and
- (5) To insure that the impacts of the proposed project do not significantly impact the County's economy in terms of its recreational, agricultural and natural resources.

3-103 Definitions

- (1) "Aquifer recharge area" means any area where surface waters may infiltrate to a water bearing stratum of permeable rock, sand or gravel. This definition also includes wells used for disposal of wastewater or other toxic pollutants.
- (2) "Efficient use of water" means the employment of methods, procedures, techniques, and controls to insure that the amount of water and the purpose for which water is used will yield the greatest

possible benefit to the greatest number of people. Such benefits will consider, but not be limited to, economic, social, aesthetic, environmental, agricultural and recreational benefits.

- (3) "Municipal and industrial water project" means a system and all integrated components thereof through which a municipality(ies) and/or industry derives its water supply from either surface or subsurface sources (exclusive of such systems with an estimated capacity of less than 30-acre feet/year), on a year-round, continuous basis with municipal water, or the equivalent amount of water for industrial or commercial purposes. This term also includes the following:
- modifications to or extensions of existing municipal or industrial water projects which are estimated to increase capacity by at least 30-acre feet/year;
 - a system and all integrated components thereof through which a municipality or industry derives water exchanged or traded for water it uses for its own needs (exclusive of systems with an estimated capacity of less than 30-acre feet/year);
 - storm water and wastewater disposal systems of a municipality or industry (exclusive of systems with an estimated capacity of less than 30-acre feet/year).

Excluded from this term is a system comprising exclusively of a storage vessel approved by the Board of County Commissioners as part of a County-wide master plan for an aquifer recharge program.

- (4) "Recycling" means the treatment of wastewater in a manner that will replenish its quality to the standard established by the Colorado Department of Public Health and Environment where permissible by Colorado water law.

3-104 Applicability

- (1) These Regulations shall apply to the development of municipal and industrial water projects wholly or partially within the unincorporated territory of this County.
- (2) A permit under these Regulations shall also be required prior to or in conjunction with subdivision or PUD preliminary plan phase application approval, but in every case must be obtained prior to commencement of construction of the project.

Article 2 Designation of Municipal and Industrial Water Projects

3-201 Designation of Municipal and Industrial Water Projects

The Board of County Commissioners having considered the intensity of current and foreseeable development pressures and applicable guidelines for identification and designation adopted and issued by the Colorado Land Use Commission, it is the order of this Board of County Commissioners that efficient use of municipal and industrial water projects be designated a matter of state interest and regulated pursuant to the provisions of these Regulations.

3-202 Boundaries of Area Covered by Designation

Development of municipal and industrial water projects wholly or partially within the unincorporated territory of this County shall be subject to this designation and these Regulations.

3-203 Reasons for Designation

Development of municipal and industrial water projects is hereby designated as a matter of state interest for the reasons stated in Sections 1-102 and 3-102 of these Regulations.

Article 3 Permit Applications and Permits

3-301 Application Procedure

The procedures concerning permit applications, notice and conduct of permit hearings, review of Permit Authority decisions, and the issuance and content of permits to engage in development of a municipal or industrial water project shall comply with the provisions set forth in Chapter 2, the Permit Regulations.

3-302 Submission Requirements

In addition to requirements set forth in Section 2-203, an application for a permit to engage in development of a municipal or industrial water project shall be accompanied by ten copies of the following documents and information:

- (1) Preliminary review and comment on the proposal by the appropriate agency of the Colorado Department of Natural Resources and/or the Colorado Department of Public Health and Environment, as deemed applicable by the County planning office;

- (2) A detailed report on the proposed municipal or industrial water project to include:
 - (a) Proposed methods of insuring efficient and beneficial use of water resources within the municipality or industrial area and the source development area. Such methods should consider metering of all users, examination of rate structure to discourage waste and recycling of water for reuse where permissible by Colorado water law;
 - (b) Assurance that the proposed municipal or industrial water project is capable of supplying water of a quality acceptable to the Colorado Department of Public Health and Environment;
 - (c) Assurance that the proposed municipal or industrial water project will not affect the ability of municipalities or districts within the County of Chaffee to renew water discharge permits.

- (3) Environmental Impact Analysis:
 - (a) Describe the agricultural productivity capability of the land in the Development Area and the Source Development Area (NRCS classification) and describe the potential effects of the diversion of water for the municipal or industrial water project on that agricultural productivity capability.
 - (b) Water Resources
 - (i) Surface Water: Describe and indicate on an appropriate map all surface waters located in the Development Area or Source Development Area or which to be impacted by the Project, and describe the potential effects of the Development on the quantity and quality of such surface water, including the below-described features and 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:
 - 1) Daily streamflows and lake and reservoir levels for a typical year, one-in-ten wet year, and one-in-ten dry year.

- 2) Monthly streamflows, lake and reservoir levels for an historical period of record at least 20 consecutive years, the final year being within the five years immediately prior to the date of the project application.
- 3) Physical stream, lake and reservoir features, including dimensions, capacities, and functions.
- 4) Existing chemical and biological quality including water quality parameters as defined in the Colorado Water Quality Control Commission Basic Standards and Methodologies including pH, conductivity, temperature, dissolved oxygen, nutrients, ions, total dissolved solids, metals, hardness and total alkalinity, and total suspended sediments; and the fishery community, including phytoplankton and zooplankton and a description of the benthic habitat (all measurements shall be taken at points which will reflect the most accurate readings).
- 5) The present uses, the water need of the present uses, and use classifications and designations of the surface waters.
- 6) All instream flow requirements that apply to the surface waters, including all instream flow filings by the Colorado Water Conservation Board and all minimum bypass requirements of the U.S. Forest Service.
- 7) Descriptions of provisions of the applicable regional water quality management plan that apply to the Project and assessment of whether the Project would comply with those provisions.
- 8) Descriptions of the immediate and long-term impact and net effects that the proposed project would have on the quantity and quality of surface water under both average and worst case conditions.

- (ii) Groundwater: Describe and indicate on an appropriate map all groundwater, including any aquifers, located in the Development Area or Source Development Area or which to be impacted by the Project, and describe the potential effects of the Development on the quantity and quality of such groundwater on the below-described features and 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:
- 1) The permeability, thickness, volume, and depth of the aquifers.
 - 2) Aquifer recharge areas and recharge rates and the methodology used to calculate recharge.
 - 3) The geology of strata overlying the aquifers (e.g., percolation rates and travel time).
 - 4) The seasonal levels of the water table in unconfined aquifers, and of the artesian pressure in confined aquifers.
 - 5) Chemical, physical, and biological water quality of the aquifers.
 - 6) The uses of the aquifers.
 - 7) Groundwater flow directions and levels.
 - 8) Descriptions of the impacts and net effect that the proposed project would have on the quality and quantity of groundwater under both average and worst case conditions.
 - 9) Location of all water and wells and their uses.
 - 10) For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of aquifers to impound groundwater and aquifer storage capacity.
 - 11) 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.

(b) Air Quality:

- (i) Describe and indicate on a map the air quality classification of the airsheds to be impacted by the proposed project.
- (ii) Describe the airsheds to be impacted by the proposed project, including the seasonal pattern of air circulation and microclimates.
- (iii) Describe and indicate on a map the ambient air quality of the airsheds to be impacted by the proposed project, including particulate matter and aerosols, oxides, hydrocarbons, oxidants and other chemicals, temperature effects and atmospheric interactions.
- (iv) Describe the impacts and net effect that the proposed project would have on ambient air quality, visibility and microclimates during both construction and operation, and under both average and worst case conditions.

(c) Floodplains, Wetlands and Riparian areas:

- (i) Map and/or describe all floodplains, wetlands, and riparian areas to be affected by the proposed project, including a description of the types of wetlands, species composition, and biomass and a delineation of the 100-year flood event.
- (ii) Describe the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).
- (iii) Describe the impacts and net effect that the proposed project would have on the floodplains, wetlands, and riparian areas.

(d) Terrestrial and Aquatic Animals and Habitat:

- (i) Describe and indicate on a map 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) Describe and indicate on a map 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) Describe the impacts and net effect that the Project would have on terrestrial and aquatic animals, habitat and food chain.

(e) Terrestrial and Aquatic Plant Life

- (i) Map and/or describe terrestrial and aquatic plant life including the type and density, and threatened or endangered plant species and habitat.
- (ii) Describe the impacts and net effect that the Project would have on terrestrial and aquatic plant life.

(f) Visual Quality:

- (i) Describe the current visual qualities of the source development area.
- (ii) Map all access and travel routes, public areas, recreational trails and residential, resort or other recreational facilities and areas that would have a view of the proposed project.
- (iii) Describe the impacts and net effect that the proposed project would have on the visual quality.

(g) Noise, Vibration and Odors:

- (i) Describe and indicate on a map the current levels of noise, vibration and odors which will be impacted by the proposed project.
- (ii) Describe the impacts and net effect that the proposed project would have on noise, vibration, and odor levels.

(h) Soils/Geology/Natural Hazards:

- (i) Describe and indicate on a map the soil and geologic conditions to be impacted by or that will impact the proposed project, including topography, soil morphology, soil productivity, natural drainage, avalanche areas, rockslide areas, landslide/earthflow areas, mud flows and debris fans, unstable and potentially unstable slopes, special seismic considerations, areas of high radioactivity, subsidence areas, expansive soils and rock, soil erosion potential, stream sedimentation and geomorphology, lake/reservoir sedimentation, safety of existing reservoirs, and the stability of stream channels and lake and reservoir banks.
 - (ii) Describe the impact and net effect of the proposed project on soil and geologic conditions in the source development area.
 - (iii) Descriptions of the impact and net effect of the soil and geologic conditions in the development area on the proposed project, including the impact and net effect of earthquakes, floods, fires, snow slides, avalanches, rockslides, landslides, subsidence and expansive soils and rocks.
 - (iv) Describe the risks to the proposed project from natural hazards.
- (4) Any demographic data needed to fulfill the requirements of these Regulations shall be consistent with those used by the Colorado State Demographic office or it's successor;
 - (5) A description of how the benefits accruing to the County and its citizens from the Project outweigh the losses of any natural, agricultural or recreational resources within the County, or the losses of opportunities to develop such resources.
 - (6) For each alternative site or expansion area for which a permit is being sought by the applicant, the information specified in this Section, as set forth above.

3-303 Action on Permit Application

- (1) The Permit Authority shall act upon the permit application within 60 days after the public hearing on the application has been concluded. In determining whether to approve, approve with

conditions, or disapprove a permit application, the Permit Authority shall take into consideration the following criteria:

- (a) To the extent applicant's service area is located within or partially within the boundaries of the County, the need for the proposed project can be substantiated;
- (b) The proposed project is consistent with relevant provisions of adopted land use or comprehensive plans of the county, municipalities within the County and state, federal and regional land use regulations, comprehensive plans and water quality plans.
- (c) The proposed project emphasizes the most efficient use of water, including, to the extent permissible under existing law, the recycling and reuse of water. Urban development, population densities, and site layout and design of stormwater and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas;
- (d) The proposed project is capable of providing water meeting the requirements of the Colorado Department of Public Health and Environment, the Colorado Water Conservation Board, and other state and federal water supply, in-stream flow, and water quality requirements;
- (e) The proposed project and the proposed diversion of water from the Source Development Area shall not decrease the quality and total maximum daily load of peripheral or downstream surface water resources. In determining impacts to surface water quality, the following considerations shall apply:
 - (i) Changes to existing water quality.
 - (ii) Changes in non-point and point source pollution, including without limitation whether the project affects the ability of municipalities within the County of Chaffee to renew wastewater discharge permits.
- (f) The project shall not significantly degrade groundwater quality. In determining impacts to groundwater quality, the following considerations shall apply:

- (i) Changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
 - (ii) Changes in capacity and function of wells within the Source Development Area.
 - (iii) Changes in quality of well water within the Source Development Area.
- (g) The construction of structures, buildings, and improvements associated with the proposed Project will not significantly impact existing or proposed communities within the development area and source development area and will be consistent with the County's regulations and ordinances regarding land use and building.
- (h) The proposed Project will not significantly deteriorate:
- (i) Air quality;
 - (ii) Wetlands and floodplain areas;
 - (iii) Terrestrial or aquatic animal life or its habitats;
 - (iv) Terrestrial plant life or plant habitat; or
 - (v) Soils and geologic conditions; or
 - (vi) Existing visual quality.
- (i) The proposed Project will not cause significant noise, vibrations or odors in the Source Development Area.
- (j) The proposed Project is not subject to significant risk from natural hazards.
- (k) The proposed Project will not have a significantly adverse net effect on any segment of the local economy (e.g. recreation, tourism, agriculture, and mining) within the County or any portion of the impact area. The determination of effects of the project shall include the following considerations:
- (i) Changes to projected revenues generated from each economic sector (including recreation, tourism, agriculture, and mining);

- (ii) Changes to existing and projected amounts of recreation visitation in the impact area;
- (iii) Changes in the quality or quantity of the recreation experiences available in the impact area;
- (iv) Changes in the value of agricultural, grazing, recreational, and other lands, and the loss of tax revenues caused by such lands being removed from production or becoming unavailable for those uses;
- (v) Changes in opportunities for economic diversification.
- (vi) The benefits accruing to the County and its citizens from the Project outweigh the losses and any natural, agricultural, or recreational resources within the County, or the losses of opportunities to develop such resources.

CHAPTER 4

REGULATIONS FOR SITE SELECTION AND CONSTRUCTION
OF MAJOR NEW DOMESTIC WATER AND
SEWAGE TREATMENT SYSTEMS

Article 1 General and Introductory Provisions

- 4-101 Title and Citation
- 4-102 Purpose and Intent
- 4-103 Definitions
- 4-104 Applicability

Article 2 Designation of Site Selection and Construction of Major New Domestic
Water and Sewage Treatment Systems

- 4-201 Designation of Site Selection and Construction of Major New Domestic
Water and Sewage Treatment Systems
- 4-202 Boundaries of Area Covered by Designation
- 4-203 Reasons for Designation

Article 3 Permit Applications and Permits

- 4-301 Application Procedure
- 4-302 Submission Requirements
- 4-303 Action on Permit Application

Article 1 General and Introductory Provisions

4-101 Title and Citation

These various sections constituting Chapter 4 of the "Guidelines and Regulations for Areas and Activities of State Interest of Chaffee County" may be cited as the "Regulations for Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems."

4-102 Purpose and Intent

In addition to the purposes set forth in Chapter 1, the purpose and intent of the regulations contained in this Chapter 4 are:

- (1) To insure that new domestic water and sewage treatment systems are 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 within this County and encourage the focus of such development around existing communities;
- (2) To insure that site selection and construction of major new domestic water and sewage treatment systems are conducted in such a manner as to minimize environmental impacts associated with such development;
- (3) To insure that site selection and construction of major new domestic water and sewage treatment systems are planned and developed in a manner so as not to impose an undue economic burden on existing or proposed communities within this County;
- (4) To insure that urban development, population densities, and site layout and design of water, wastewater, storm water and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas;
- (5) To insure that the off-site impacts of new domestic water and sewage treatment systems are effectively mitigated; and
- (6) To insure that the impacts of the proposed project do not significantly impact the County's economy in terms of its recreational, agricultural and natural resources.

4-103 Definitions

- (1) "Major new domestic water system" means a new system for provision of piped water for human consumption or a system for the provision of piped water which will be used in exchange for water for human consumption, if such system: is intended or estimated (a) to obtain, treat, sell or distribute at least 30-acre feet of water per year; or (b) to divert groundwater through wells pumping at the following minimum volume: 30-acre feet per year.
- (2) "Major new domestic sewage treatment system" means a new sewage treatment system and collector system capable of treating the wastewater generating 27,000/gallons/day by any system or set of systems (actual capacity rather than average capacity)
- (3) "Domestic water and sewage treatment system" means a wastewater treatment plant, water treatment plant, or water supply system, and any system of pipes, structures, and facilities through which water and wastewater is collected for treatment as more specifically defined below.
 - (a) "Wastewater treatment plant" means the facility or group of units used for treatment of wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes.
 - (b) "Water supply system" means the system of wells, diversions, pipes, structures and facilities including impoundments and their related structures through which a water supply is obtained, collected, treated and sold or distributed for human consumption or the system of pipes, structures and facilities through which a water supply is obtained which will be exchanged or traded for water which will be used for human consumption.
 - (c) "Water treatment plant" means the facility or facilities within the water supply system which can alter the physical, chemical or bacteriological quality of the water.
 - (d) Each of the following are excluded from the term "domestic water and sewage treatment system":
 - A system comprising exclusively of a storage vessel having a capacity not exceeding 100-acre feet, approved by the Board of County Commissioners as part of a County-wide master plan for an aquifer recharge program.

- A storage vessel having a capacity not exceeding 50-acre feet, used exclusively for agricultural purposes.
- (4) "Collector system" means a network of pipes and conduits through which sewage flows to a sewage treatment plant.
- (5) "Distribution system" means a network of pipes and conduits through which water is piped for human consumption or through which water is piped for exchange or trade for water which will be used for human consumption.

4-104 Applicability

- (1) These Regulations shall apply to the site selection and construction of all major new domestic water and sewage treatment systems wholly or partially within the unincorporated territory of this County, excluding projects intended or anticipated to exclusively service areas located wholly within a "municipal growth area" adopted by the Board of County Commissioners pursuant to an intergovernmental planning agreement between any incorporated area within Chaffee County and Chaffee County.
- (2) A permit under these Regulations shall also be required prior to or in conjunction with subdivision, PUD or preliminary plan approval, but in every case must be obtained prior to commencement of construction of the project.

Article 2 Designation of Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems

4-201 Designation of Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems

The Board of County Commissioners having considered the intensity of current and foreseeable development pressures and applicable Guidelines for Identification and Designation adopted and issued by the Colorado Land Use Commission, it is the order of this Board of County Commissioners that site selection and construction of major new domestic water and sewage treatment systems be designated a matter of state interest and regulated pursuant to the provisions of this Chapter.

4-202 Boundaries of Area Covered by Designation

The site selection and construction of any major new domestic water and sewage treatment systems wholly or partially within the unincorporated

territory of this County shall be subject to this designation and these Regulations.

4-203 Reasons for Designation

Site selection and construction of major new domestic water and sewage treatment systems is hereby designated as a matter of state interest for the reasons stated in Sections 1-102 and 4-102 of these Regulations.

Article 3 Permit Applications and Permits

4-301 Application Procedure

The procedures concerning permit applications, notice and conduct of permit hearings, review of Permit Authority decisions, and the issuance and content of permits to engage in site selection and development of major new domestic water and sewage treatment systems shall comply with the provisions set forth in Chapter 2, the Permit Regulations.

4-302 Submission Requirements

In addition to requirements set forth in Section 2-203, an application for a permit to locate or construct a major new domestic water or sewage treatment system shall be accompanied by ten copies of the following documents and information:

- (1) Preliminary review and comment on the proposal by the appropriate agency of the Colorado Department of Natural Resources and/or the Colorado Department of Public Health and Environment, as deemed applicable by the County planning office;
- (2) A detailed report on the project:
 - (a) The detailed engineering plans and specifications of the proposed project as required in Section 2-203(2), shall include proposed system capacity and service area plans mapped at a scale determined by the Permit Authority;
 - (b) Provide a description of all existing or approved proposed domestic water or sewage treatment systems within the development area and source development area;
 - (c) Describe the design capacity of each domestic water or sewage treatment system and the distribution or collection network in the development area and source development area and specify at what percentage of the design capacity

the current system is now operating in the development area and source development area:

- (d) Describe the excess capacity of each treatment system and distribution or collection network in the development area and source development area;
- (e) Provide an inventory of total commitments already made for current water or sewage services in the development area and source development area;
- (f) Describe the operational efficiency of each existing system in the development area and source development area, including age, state of repair, and level of treatment;
- (g) Specify how the proposed development will utilize existing easements or rights-of-way for new associated distribution or collector networks;
- (h) Describe existing water utilization water rights pertaining to the proposed project including historic yield from rights and use by category such as agricultural, municipal and industrial and supply obligations to other systems; and
- (i) Assurance that the proposed Domestic Water System is capable of supplying water of a quality acceptable to the Colorado Department of Public Health and Environment;
- (j) Assurance that the proposed Domestic Water and/or Sewage Treatment System will not affect the ability of municipalities or districts within the County of Chaffee to renew water discharge permits.

(3) Environmental Impact Analysis:

- (a) Describe the agricultural productivity capability of the land in the Development Area and the Source Development Area (NRCS classification) and describe the potential effects of the diversion of water for the municipal or industrial water project on that agricultural productivity capability.
- (b) Water Resources:
 - (i) Surface Water: Describe and indicate on an appropriate map all surface waters located in the Development Area or Source Development Area or

which to be impacted by the Project, and describe the potential effects of the Development on the quantity and quality of such surface water, including the below-described features and 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:

- 1) Daily streamflows and lake and reservoir levels for a typical year, one-in-ten wet year, and one-in-ten dry year.
- 2) Monthly streamflows, lake and reservoir levels for an historical period of record at least 20 consecutive years, the final year being within the five years immediately prior to the date of the project application.
- 3) Physical stream, lake and reservoir features, including dimensions, capacities, and functions.
- 4) Existing chemical and biological quality including water quality parameters as defined in the Colorado Water Quality Control Commission Basic Standards and Methodologies including pH, conductivity, temperature, dissolved oxygen, nutrients, ions, total dissolved solids, metals, hardness and total alkalinity, and total suspended sediments; and the fishery community, including phytoplankton and zooplankton and a description of the benthic habitat (all measurements shall be taken at points which will reflect the most accurate readings).
- 5) The present uses, the water need of present users and use classifications and designations of the surface waters.
- 6) All instream flow requirements that apply to the surface waters, including all instream flow filings by the Colorado Water Conservation Board and all minimum bypass requirements of the U.S. Forest Service.

- 7) Descriptions of provisions of the applicable regional water quality management plan that apply to the Project and assessment of whether the Project would comply with those provisions.
 - 8) Descriptions of the immediate and long-term impact and net effects that the proposed project would have on the quantity and quality of surface water under both average and worst case conditions.
- (ii) Groundwater: Describe and indicate on an appropriate map all groundwater, including any aquifers, located in the Development Area or Source Development Area or which to be impacted by the Project, and describe the potential effects of the Development on the quantity and quality of such groundwater on the below-described features and 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:
- 1) The permeability, thickness, volume, and depth of the aquifers.
 - 2) Aquifer recharge areas and recharge rates and the methodology used to calculate recharge.
 - 3) The geology of strata overlying the aquifers (e.g., percolation rates and travel time).
 - 4) The seasonal levels of the water table in unconfined aquifers, and of the artesian pressure in confined aquifers.
 - 5) Chemical, physical, and biological water quality of the aquifers.
 - 6) The uses of the aquifers.
 - 7) Groundwater flow directions and levels.
 - 8) Descriptions of the impacts and net effect that the proposed project would have on the quality

and quantity of groundwater under both average and worst case conditions.

- 9) Location of all water wells and their uses.
- 10) For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of aquifers to impound groundwater and aquifer storage capacity.
- 11) 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.

(c) Air Quality:

- (i) Describe the airsheds to be impacted by the proposed project, including the seasonal pattern of air circulation and microclimates.
- (ii) Describe and indicate on a map the ambient air quality and state air quality standards of the airsheds to be impacted by the proposed project, including particulate matter and aerosols, oxides, hydrocarbons, oxidants and other chemicals, temperature effects and atmospheric interactions.
- (iii) Describe the impacts and net effect that the proposed project would have on ambient air quality, visibility and microclimates during both construction and operation, and under both average and worst case conditions.

(d) Floodplains, Wetlands and Riparian areas:

- (i) Map and/or describe all floodplains, wetlands, and riparian areas to be affected by the Project, including a description of the types of wetlands, species composition, and biomass and a delineation of the 100-year flood event.
- (ii) Describe the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).

- (iii) Describe the impacts and net effect that the proposed project would have on the floodplains, wetlands, and riparian areas.
- (e) Terrestrial and Aquatic Animals and Habitat:
- (i) Describe and indicate on a map 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) Describe and indicate on a map critical wildlife habitat and livestock range to be affected by the proposed project including migration routes, calving areas, summer and winter range, and spawning beds.
 - (iii) Describe the impacts and net effect that the proposed project would have on terrestrial and aquatic animals, habitat and food chain.
- (f) Terrestrial and Aquatic Plant Life
- (i) Map and/or describe terrestrial and aquatic plant life including the type and density, and threatened or endangered plant species and habitat.
 - (ii) Describe the impacts and net effect that the Project would have on terrestrial and aquatic plant life.
- (g) Visual Quality:
- (i) Describe the current visual qualities of the source development area.
 - (ii) Map all access and travel routes, public areas, recreational trails and residential, resort or other recreational facilities and areas that would have a view of the proposed project.
 - (iii) Describe the impacts and net effect that the proposed project would have on the visual quality.
- (h) Noise, Vibration and Odors:

- (i) Describe and indicate on a map the current levels of noise, vibration and odors which will be impacted by the proposed project.
 - (ii) Describe the impacts and net effect that the proposed project would have on noise, vibration, and odor levels.
- (i) Soils/Geology/Natural Hazards:
- (i) Describe and indicate on a map the soil and geologic conditions to be impacted by or that will impact the proposed project, including topography, soil morphology, soil productivity, natural drainage, avalanche areas, rockslide areas, landslide/earthflow areas, mud flows and debris fans, unstable and potentially unstable slopes, special seismic considerations, areas of high radioactivity, subsidence areas, expansive soils and rock, soil erosion potential, stream sedimentation and geomorphology, lake/reservoir sedimentation, safety of existing reservoirs, and the stability of stream channels and lake and reservoir banks.
 - (ii) Describe the impact and net effect of the proposed project on soil and geologic conditions in the source development area.
 - (iii) Descriptions of the impact and net effect of the soil and geologic conditions in the development area on the proposed project, including the impact and net effect of earthquakes, floods, fires, snow slides, avalanches, rockslides, landslides, subsidence and expansive soils and rocks.
 - (iv) Describe the risks to the proposed project from natural hazards.
- (4) Financial impact analysis, including but not limited to the following:
- (a) Review and summary of any existing engineering and/or financial feasibility studies, assessed taxable property valuations, property tax collection experience, and all other matters of aid in determining the feasibility of the new facility, including such as related to:

- (i) Assessed valuation of the property to be included within the service area and/or boundaries;
 - (ii) Applicable methods of transmitting, storing, treating and delivering water, and collecting, transmitting, treating and discharging sewage (including effluent and/or sludge disposal);
- (b) If the new water or sewage treatment system exceeds the proposed ten (10) year projected increase in demand, then describe the excess service capacity and the cost of such excess capacity to the community.
 - (c) 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 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) Any demographic data needed to fulfill the requirements of these regulations shall be consistent with those used by the Colorado State Demographic office or its successor.
- (6) A description of how the benefits accruing to the County and its citizens from the Project outweigh the losses of any natural, agricultural or recreational resources within the County, or the losses of opportunities to develop such resources.
- (7) For each alternative site or expansion area for which a permit is being sought by the applicant, the information specified in this Section 4-302 as set forth above.

4-303 Action on Permit Application

- (1) The Permit Authority shall act upon the permit application within 60 days after the public hearing on the Application has been concluded. In determining whether to approve, approve with conditions, or disapprove a permit application, the Permit Authority shall take into consideration the following criteria:
 - (a) The proposed project shall be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly and efficient development of domestic water and sewage treatment systems within this County within the development area and source development area.
 - (b) The proposed project is consistent with relevant provisions of adopted land use or comprehensive plans of the County, municipalities within the County and state, federal and regional land use regulations, comprehensive plans and water quality plans.
 - (c) The proposed development does not adversely affect either surface or subsurface water rights of upstream or downstream users; in determining whether there is an adverse effect, the mere exercise of a senior water right in such a manner as to not cause material injury to other water rights in accordance with state statutes, decided case law and decrees of the water court, shall not be considered to create any adverse water rights impact upon such junior water rights;
 - (d) Existing domestic water treatment systems which are located in the County and supply the service area must be at or greater than eighty percent (80%) of operational capacity and without the capability to expand to accommodate the proposed development and/or service area;
 - (e) Existing domestic sewage treatment facilities which are located in the County and supply the service area must be at or greater than fifty percent (50%) of operational capacity and without the capability to expand to accommodate the proposed development and/or service area;
 - (f) The scope and nature of the proposed development will not compete with existing water and sewage services or create duplicative services within the County;

- (g) If the purpose and need of the proposed project is to replace aging facilities within the County, the age of existing water and sewage systems, operational efficiency, state of repair or level of treatment is such that replacement is warranted;
- (h) If the proposed project is designed to serve all or part of the County, area and community development and population trends demonstrate clearly a need for such development;
- (i) If the proposed project is designed to serve all or part of the County, existing facilities cannot be upgraded or expanded to meet waste discharge permit conditions of the Colorado Water Quality Control Commission;
- (j) Appropriate easements can be obtained for any associated collector or distribution system that will serve existing and proposed needs;
- (k) The benefits of the proposed Project outweigh the losses of any natural resources or agricultural lands rendered unavailable or less productive as a result of the proposed development;
- (l) The proposed development or its associated collector or distribution system or new service areas will not violate federal or state air quality standards.
- (m) The proposed Project shall not decrease the quality and total maximum daily load of peripheral or down-stream surface or subsurface water resources. In determining impacts to surface water quality, the following considerations shall apply:
 - (i) Changes to existing water quality.
 - (ii) Changes in non-point and point source pollution, including without limitation whether the Project affects the ability of municipalities within the County of Chaffee to renew waste water discharge permits.
- (n) The proposed Project shall not significantly degrade groundwater quality. In determining impacts to groundwater quality, the following considerations shall apply:

- (i) Changes in aquifer recharge rates, groundwater levels and aquifer capacity including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
 - (ii) Changes in capacity and function of wells within the Source Development Area.
 - (iii) Changes in quality of well water within the Source Development Area.
- (o) The proposed 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 development 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.
- (p) Water treatment offset plans, if required, have been approved by the Permit Authority and required fees associated therewith, if any, have been paid.
- (q) The construction of structures, buildings and improvements associated with the proposed development will not significantly impact existing or proposed communities within the development area and source development area and will be consistent with the County's regulations and ordinances regarding land use and building.
- (r) The proposed development is capable of providing water meeting the requirements of the Colorado Department of Public Health and Environment, the Colorado Water Conservation Board and other state and federal water supply, in-stream flow, and water quality requirements.
- (s) The proposed Project will not significantly degrade:
- (i) Air Quality;
 - (ii) Wetlands and floodplain areas;
 - (iii) Terrestrial or aquatic animal life or its habitats;
 - (iv) Terrestrial plant life or plant habitat;
 - (v) Soils and geologic conditions; or

- (vi) Existing visual quality.
- (t) The proposed Project will not cause significant noise, vibrations or odors in the Source Development Area; and
- (u) The proposed Project is not subject to significant risk from natural hazards.
- (v) The proposed Project will not have a significantly adverse net effect on any segment of the local economy (e.g. recreation, tourism, agriculture, or mining) within the County or any portion of the impact area. The determination of effects of the project shall include the following considerations:
 - (i) Changes to projected revenues generated from each economic sector (including recreation, tourism, agriculture, or mining);
 - (ii) Changes to existing and projected amounts of recreation visitation in the impact area;
 - (iii) Changes in the quality or quantity of the recreation experiences available in the impact area;
 - (iv) Changes in the value of agricultural, grazing, recreational, and other lands, and the loss of tax revenues caused by such lands being removed from production or becoming unavailable for those uses;
 - (v) Changes in opportunities for economic diversification.
 - (w) The benefits accruing to the County and its citizens from the Project outweigh the losses of any natural, agricultural or recreational resources within the County, or the losses of opportunities to develop such resources.

CHAPTER 5

REGULATIONS FOR MAJOR EXTENSION OF EXISTING DOMESTIC WATER AND SEWAGE TREATMENT SYSTEMS

Article 1 General and Introductory Provisions

- 5-101 Title and Citation
- 5-102 Purpose and Intent
- 5-103 Definitions
- 5-104 Applicability

Article 2 Designation of Major Extension of Existing Domestic Water and Sewage Treatment Systems

- 5-201 Designation of Major Extension of Existing Domestic Water and Sewage
Treatment Systems
- 5-202 Boundaries of Area Covered by Designation
- 5-203 Reasons for Designation

Article 3 Permit Applications and Permits

- 5-301 Application Procedure
- 5-302 Submission Requirements
- 5-303 Action on Permit Application

Article 1 General and Introductory Provisions

5-101 Title and Citation

- (1) These various sections constituting Chapter 5 of the "Guidelines and Regulations for Areas and Activities of State Interest of Chaffee County" may be cited as the "Regulations for Major Extension of Existing Domestic Water Supply and Sewage Treatment Systems."

5-102 Purpose and Intent

In addition to the purposes set forth in Chapter 1, the purpose and intent of the regulations contained in this Chapter 5 are:

- (1) To insure that anticipated growth and development that may occur as a result of major extension of domestic water and sewage treatment systems can be accommodated within the financial and environmental capacity of the development area and source development area to sustain such growth and development;
- (2) To insure the planned and orderly land use development that may occur as a result of major extension of domestic water and sewage treatment systems within the development area and source development area and encourage the focus of such development around existing communities; and
- (3) 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.

5-103 Definitions

- (1) "Domestic water and sewage treatment system" means a wastewater treatment plant, water treatment plant, or water supply system and any system of pipes, structures, and facilities through which wastewater is collected for treatment.
 - (a) "Wastewater treatment plant" means the facility or group of units used for treatment of wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes.
 - (b) "Water supply system" means the system of wells, diversions, pipes, structures and facilities including impoundments and their related structures through which a

water supply is obtained, treated and sold or distributed for human consumption or the system of pipes, structures and facilities through which water is obtained which will be exchanged or traded for water which will be used for human consumption.

(c) "Water treatment plant" means the facility or facilities within the water supply system which can alter the physical, chemical or bacteriological quality of the water.

(d) Each of the following are excluded from the term "domestic water and sewage treatment system":

- A system comprising exclusively of a storage vessel having a capacity not exceeding 100-acre feet, approved by the Board of County Commissioners as part of a County-wide master plan for an aquifer recharge program.
- A storage vessel having a capacity not exceeding 50-acre feet, used exclusively for agricultural purposes.

(2) "Major extension of an existing domestic water treatment system" means (1) the intended or estimated expansion of existing domestic water treatment capacity for storage by at least one million gallons; or (2) any extension of existing water supply systems which is intended or estimated: (a) to obtain, treat, sell or distribute an additional 30-acre feet or more of water per year; or (b) which diverts groundwater through wells pumping at the following minimum volume: 30-acre feet per year.

(3) "Major extension of an existing sewage treatment system" means any modification of an existing sewage treatment plant 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, by at least 27,000/gallons/day by any system or set of systems (actual additional capacity rather than average capacity).

(4) "Collector system" means a network of pipes and conduits through which sewage flows to a sewage treatment plant.

(5) "Distribution system" means a network of pipes and conduits through which water is piped for human consumption or a network of pipes and conduits through which water is piped in exchange or trade for water for human consumption.

5-104 Applicability

- (1) These Regulations shall apply to the site selection and construction of all major extensions of existing domestic water and sewage treatment systems wholly or partially within the unincorporated territory of this County, excluding projects intended or anticipated to exclusively service areas located wholly within a “municipal growth area” adopted by the Board of County Commissioners pursuant to an intergovernmental planning agreement between any incorporated area within Chaffee County and Chaffee County.
- (2) A permit under these Regulations shall also be required prior to or in conjunction with subdivision, PUD or preliminary plan approval, but in every case must be obtained prior to commencement of construction of the project.

Article 2 **Designation of Major Extension of Existing Water and Sewage Treatment Systems**

5-201 Designation of Major Extension of Existing Domestic Water and Sewage Treatment Systems

The Board of County Commissioners having considered the intensity of current and foreseeable development pressures and applicable Guidelines for Identification and Designation adopted and issued by the Colorado Land Use Commission, it is the order of this Board of County Commissioners that major extension of existing domestic water and sewage treatment systems be designated a matter of state interest and regulated pursuant to the provisions of this Chapter.

5-202 Boundaries of Area Covered by Designation

Major extension of existing domestic water and sewage treatment systems wholly or partially within the unincorporated territory of this County shall be subject to this designation and these Regulations.

5-203 Reasons for Designation

Major extension of existing domestic water and sewage treatment systems is hereby designated as a matter of state interest for the reasons stated in Section 5-102 of this Chapter.

Article 3 **Permit Applications and Permits**

5-301 Application Procedure

The procedures concerning permit applications, notice and conduct of permit hearings, review of Permit Authority decisions, and the issuance and content of permits to engage in a major extension of existing domestic water and sewage treatment systems shall comply with the provisions set forth in Chapter 2, the Permit Regulations.

5-302 Submission Requirements

In addition to requirements set forth in Section 2-203, an application for a permit to develop a major extension of an existing domestic water or sewage treatment system shall be accompanied by ten copies of the following documents and information:

- (1) A completed application form;
- (2) The documents and information described at Section 4-302 of these Regulations, which Section is hereby incorporated by this reference.

5-303 Action on Permit Application

- (1) The Permit Authority shall act upon the permit application within 60 days after the public hearing on the application has been concluded. In determining whether to approve, approve with conditions, or disapprove a permit application, the Permit Authority shall take into consideration the criteria listed at Section 4-303(1), inclusive, which criteria are hereby fully incorporated by this reference.