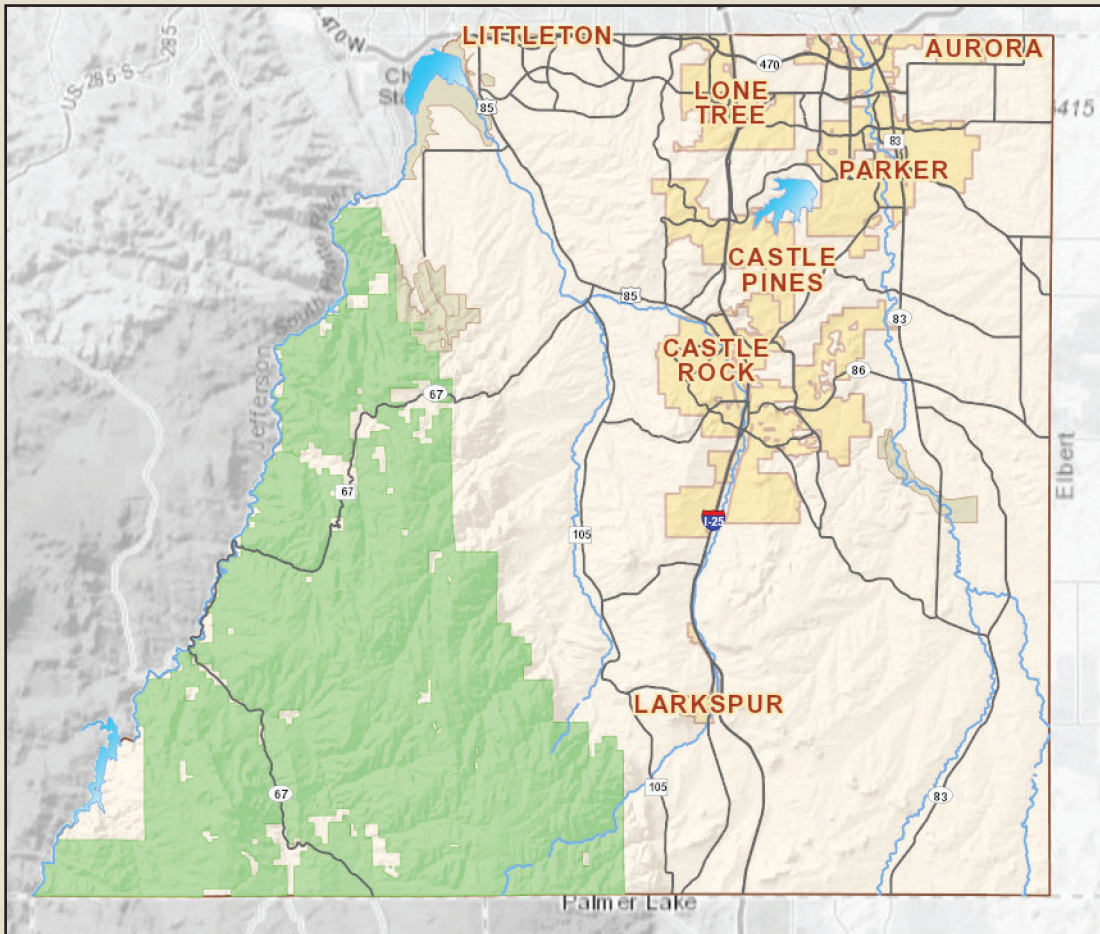


Matters of State Interest



AREAS and ACTIVITIES of
DOUGLAS COUNTY DESIGNATED as

MATTERS OF STATE INTEREST

Adopted 10/19/87
Amended 01/5/88
Amended 12/15/88
Amended 08/22/90 – (R-990-107)
Amended 06/21/00 – (R-000-107)
Amended 10/12/05 – (R-005-144)
Amended 06/24/08 – (R-008-106)
Amended 06/11/19 – (R-019-067)

RESOLUTION NO. 019-067

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

A RESOLUTION ADOPTING AMENDMENTS TO DOUGLAS COUNTY
REGULATIONS FOR AREAS AND ACTIVITIES DESIGNATED AS MATTERS OF
STATE INTEREST REGULATIONS (“AMENDMENTS”)

WHEREAS, the Department of Community Development has prepared Amendments to Douglas County Regulations for Areas and Activities Designated as Matters of State Interest, which are attached hereto and incorporated herein as Exhibit A (Project No. DR2019-001); and

WHEREAS, pursuant to §24-65.1-404, C.R.S., after proper notice a public hearing was held by the Board of County Commissioners on June 11, 2019; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of the County of Douglas, State of Colorado, that pursuant to §24-65.1-402, C.R.S., the Douglas County’s Matters of State Interest, is hereby amended to read as provided on said Exhibit A effective immediately.

PASSED AND ADOPTED, this 11th day of June 2019, in Castle Rock, Douglas County, Colorado.

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

BY: 
Roger A. Partridge, Chair

ATTEST:



Emily Wrenn, Clerk to the Board



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(See Resolution #R-019-067)

June 11, 2019

100 General and Introductory Provisions

101 Intent

These regulations are established to define, identify, and evaluate “Matters of State Interest”, as accorded by § 24-65.1-101, C.R.S. et. seq. as follows:

- 101.01 To guide major growth and development consistent with the Douglas County Comprehensive Master Plan, as amended, and the County’s regulations and standards; *(Amended 10/12/05)*
- 101.02 To promote the safe, efficient, and economic use of public resources in developing and providing needed community and area wide infrastructure, facilities, and services in a manner that will not overload facilities of existing governmental service providers;
- 101.03 To preserve significant open space areas in the County while accommodating major growth and development activities;
- 101.04 To ensure that development is planned and built so as to minimize the environmental impacts and that proposed development in hazard areas is limited to low-intensity uses;
- 101.05 To minimize adverse air and water quality impacts;
- 101.06 To protect and preserve identified high-priority wildlife habitat areas;
- 101.07 To provide for development compatible with surrounding land uses and which will complement existing and planned development with a balance of commercial, industrial, and residential land uses;
- 101.08 To balance and monitor the inventory of approved residential, commercial, and industrial land uses with the projected need for these types of development as ascertained through local and regional population estimates and forecasts;
- 101.09 To protect and maintain the separate identity of the Towns of Castle Rock, Larkspur, and Parker; the City of Lone Tree; the City of Castle Pines and other developing areas and to maintain community buffers by utilizing the natural topographic and geologic features of the land to define and separate these communities; *(Amended 6/11/19)*

101.10 To encourage coordinated planning among Douglas County and the Towns of Castle Rock, Larkspur, and Parker; the City of Lone Tree; and the City of Castle Pines and including regional and state governmental jurisdictions, specifically respecting each other's Master Plans; and
(Amended 10/12/05)

101.11 To encourage the review of identified activities of State interest at the earliest possible point in the planning process. *(Amended 12/15/98)*

102 Authority

These regulations are adopted pursuant to § 24-65.1-101, C.R.S. et. seq., and § 29-20-101, C.R.S. et. seq.

103 Designation and Applicability

The following activities or areas are hereby designated Matters of State Interest requiring permit approval from the Board of County Commissioners of Douglas County (BCC) pursuant to these regulations and prior to development of any of the following activities. The Matters of State Interest Regulations apply to proposals located wholly or partially outside the Municipal Planning Areas (MPAs) as identified by the Douglas County Comprehensive Master Plan, as amended unless otherwise specified herein. These regulations shall not apply to projects in which the County of Douglas is a joint participant. Nor shall these regulations apply to a project that has already received a Matters of State Interest permit from Douglas County. A new Matters of State Interest permit is required for any modification or expansion of the permit or activity, unless the proposal is subject to regulation through the Douglas County Zoning Resolution, as amended and/or the Douglas County Subdivision Resolution, as amended. *(Amended 6/11/19)*

103.01 Airports

The Site Selection of any municipal or County Airport or Airport under the jurisdiction of the Airport authority including the Site Selection of a new facility, or the expansion of an existing facility within Douglas County. *(See Section 600)*
(Amended 10/12/05)

103.02 Shorelands of Major Reservoirs

Site Selection or construction of proposed Recreational Development on or along Shorelands of Major Reservoirs when located wholly or partially outside (a) the MPAs as identified by the Douglas County Comprehensive Master Plan, as amended or (b) the Primary Urbanization Area (PUA) as identified in the Douglas County Comprehensive Master Plan as amended. *(See Section 700)* *(Amended 6/11/19)*

103.03 (Reserved)

103.04 New Communities *(Amended 12/15/98)*

The establishment of an Urbanized Growth Center in unincorporated Douglas County in the non-urban areas, including: *(See Section 900) (Amended 10/12/05)*

103.04.1 Incorporation *(Amended 6/24/08)*

Any incorporation of an existing or proposed Urbanized Growth Center in Douglas County. *(Amended 6/24/08)*

103.04.2 Rezoning

Any application to Douglas County for rezoning, for the purpose of establishing an Urbanized Growth Center when located within the non-urban area identified on the Douglas County Comprehensive Master Plan Land Use Map, as amended. *(Amended 10/12/05)*

103.04.3 Special District Expansion

Any expansion of the area of a special district of more than 20%.

103.05 Highways

The Site Selection, Construction, Modification or Expansion of a new or existing Arterial Highway, Collector Highway, or Interchange. *(See Section 1000) (Amended 10/12/05)*

103.06 Areas Around Key Facilities *(Added 10/12/05)*

The area so designated is limited to Interchanges and land areas directly affected by the Interchange. *(See Section 1100) (Amended 6/24/08)*

Any proposed land use or activity that is subject to regulation through the Douglas County Zoning Resolution, as amended, and/or the Douglas County Subdivision Resolution, as amended, is exempt from provisions herein associated with Areas Around Key Facilities.

103.07 Mining *(Added 8/22/90)*

Any application for Mining in a designated Mineral Resource Area shall require a Matters of State Interest permit. A Mineral Resource Area shall be defined to include those areas located outside the MPAs as identified in the Douglas County Comprehensive Master Plan Land Use Map, as amended. *(See Section 1200) (Amended 10/12/05)*

Exemptions from these regulations may be approved by the Director of Community Development for one or more of the following: *(Amended 10/12/05)*

103.07.1 Earthwork performed within public rights-of-way;

103.07.2 Earthwork performed which is consistent with an approved site improvement plan or an approved and recorded final plat;

103.07.3 Earthwork performed as part of construction per an approved building permit; and

103.07.4 Borrow sites, as defined in the Douglas County Zoning Resolution.

104 Nonconforming Uses

104.01 The provisions of this chapter shall not apply to, or affect, any development described herein, if these regulations were adopted pursuant to only § 24-65.1-101, C.R.S., et. seq. *(Amended 10/12/05)*

104.02 The provisions of this chapter shall not apply to any existing uses that become nonconforming as a result of the adoption of these regulations. Should such Nonconforming Use be altered, or be proposed for alteration, then the changes shall be deemed a new use and shall be subject to the provisions of these regulations.

105 Relationship of Regulations to Other Requirements

105.01 Nothing in these regulations shall be construed as exempting an applicant for a permit from other requirements of Douglas County or other state or federal laws and regulations.

105.02 In the event that these regulations are found to be more stringent than the statutory criteria for administration of Matters of State Interest set forth in § 24-65.1-202 and 204, C.R.S., these regulations shall control pursuant to the authority of § 24-65.1-402(3), C.R.S.

105.03 In the event that these guidelines and regulations are found to be less stringent than the statutory criteria for administration of Matters of State Interest set forth in § 24-675.1-202 and 204, C.R.S., the statutory criteria shall control.

105.04 To the extent that the requirements of these regulations differ from any other applicable requirements, the more restrictive requirements shall apply.

105.05 Requirements set forth in these regulations shall be in addition to all federal, state, and local laws, rules, and regulations pertaining to any or all aspects of the Matters of State Interest as defined herein. *(Amended 10/12/05)*

106 Applicability and Exemptions

106.01 Exemptions for conditions prior to May 17, 1974

The portions of these regulations authorized exclusively under § 24-65.1-101, C.R.S., et. seq., shall not apply to any development in an Area of State Interest if, on May 17, 1974:

- 106.01.1 The specific development or activity was covered by a building permit issued by this jurisdiction;
- 106.01.2 The specific development or activity was directly approved by the electorate of the state or this jurisdiction, provided that approval by the electorate of any bond issue by itself shall not be construed as approval of the specific development or activity;
- 106.01.3 The specific development or activity is on land which had been finally approved, with or without conditions, for a planned unit development or for a use other than a subdivision substantially the same as planned unit development;
- 106.01.4 The specific development or activity is on land which was either zoned or rezoned in response to an application which specifically contemplated said specific development or activity; or
- 106.01.5 The specific development or activity is on land with respect to which a final plat for subdivision had been approved, with or without condition, pursuant to the provision of Sections 2-11 of Chapter 81, 30-28-101, 110, 133, 136 and 137, C.R.S.

107 Amendments

These regulations may be amended by the BCC according to the procedures required by State law for initial enactment of such regulations.

108 Maps

- 108.01 Maps referred to herein for any particular Matter of State Interest adopted by the BCC is deemed adopted herein as if set out in full. *(Amended 10/12/05)*
- 108.02 Maps referred to in any such designation and regulations shall be filed with and be available for inspection at the Douglas County Community Development Department and Clerk and Recorder.

109 Mapping Disputes

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 Douglas County Community Development Director shall make the necessary determination of the boundary. Any person contesting the location of the boundary, as determined by the Director, shall be given an opportunity to present his case to the Douglas County Board of County Commissioners at a regular business meeting, when submitted to the Planning Division in writing within 30 days of the Director's decision. *(Amended 6/24/08)*

200 Procedural Requirements *(Amended 10/12/05)*

201 Presubmittal Review

201.01 A permit presubmittal meeting is required between the applicant and the Douglas County Community Development Department in order to clarify procedural questions and submittal requirements and to establish the Impact Area associated with the Matter of State Interest. *(Amended 10/12/05)*

201.02 An application for a permit may be concurrently processed with any other application requirement. *(Added 1/5/88)*

202 Application

202.01 Following the presubmittal meeting, the applicant shall submit to the Planning Division the filing fee and 6 copies each of the narrative and exhibits. An application shall not be accepted unless it is complete. Once the Planning Division determines the application to be complete, it shall notify the applicant in writing and will inform the applicant of the documents and number of copies required for referrals. The information and plans shall be properly folded, compiled, and placed in addressed, unsealed manila envelopes for distribution to referral agencies. The referral agencies shall have 35 calendar days from the date of mailing by the Planning Division to review the material and respond to the Planning Division in writing. *(Amended 10/12/05)*

202.02 Within 30 days after receipt of an acceptable and complete application for a permit, Douglas County shall publish notice of a hearing on the application before the BCC and shall inform the applicant of the date on which the Planning Division will submit its staff report to the BCC. Such notice shall be published once in a newspaper of general circulation in Douglas County, not less than 30 days nor more than 60 days before the date set for hearing. *(Amended 10/12/05)*

- 202.03 Once the referral agencies have responded to the proposal, the Planning Division shall contact the applicant if there are problems or concerns prior to preparation of the staff report. The applicant shall thoroughly address all concerns raised by the referral agencies and by Douglas County in writing in a response delivered to the Planning Division at least 10 business days prior to the due date for the Planning Division's staff report. *(Amended 10/12/05)*
- 202.04 The Planning Division shall schedule the application for a Planning Commission meeting taking into consideration the 30-day BCC public notice requirement. *(Amended 10/12/05)*
- 202.05 The BCC shall conduct a hearing to review the application, take public testimony, and take one of the following actions:
- 202.05.1 Approval of the proposal;
 - 202.05.2 Approval of the proposal with conditions; *(Added 10/12/05)*
 - 202.05.3 Denial of the proposal indicating for the record the reasons for denial;
or
 - 202.05.4 Continue the request until a date and time certain in order to obtain more information to help clarify or support the request before them.
- The BCC shall state, in writing, reasons for its decision, its findings and conclusions, and preserve a record of such proceedings.
- 202.06 In the event the permit is denied by the BCC, no new application for the same or substantially the same request (as determined by the Director of Community Development) shall be submitted or accepted within 1 year of such denial. The applicant may appeal the decision of the Director to the Douglas County Board of Adjustment by delivering a written appeal to the County Attorney within 10 business days of such decision. *(Amended 10/12/05)*
- 202.07 The permit may be issued for an indefinite term or for a specific period of years.

203 Fee

Any application for a permit to conduct those activities or develop in those areas designated Matters of State Interest as described herein shall be accompanied by an application fee.

204 General Submittal Requirements

All permit applications shall be accompanied by a narrative providing the following general information:

- 204.01 Name, address and phone number of the applicant and their representative
- 204.02 Statement of intent including the scope and timing of development, and a complete narrative description of the proposal *(Amended 10/12/05)*
- 204.03 Explanation of how this application is consistent with the goals, policies, guidelines, and intent of the Douglas County Comprehensive Master Plan, as amended *(Amended 10/12/05)*
- 204.04 Consistency with the maps contained in the Douglas County Comprehensive Master Plan, as amended *(Amended 10/12/05)*
- 204.05 Compatibility with surrounding land uses and zoning
- 204.06 Environmental constraints and hazards existing on the site
- 204.07 Integration of the transportation system into the Douglas County Transportation Plan, as amended *(Amended 10/12/05)*
- 204.08 Impacts on the existing road network and on the future road network as contained in the Douglas County Transportation Plan, as amended, and proposed mitigation. *(Contact the Douglas County Planning Division for traffic impact report requirements) (Amended 10/12/05)*
- 204.09 Compliance with the Best Management Practices of the applicable basin authority and the corresponding basin water quality master plan
- 204.10 Impact on wildlife and proposed mitigation
- 204.11 An analysis justifying the need for the proposal documenting existing approvals, percent of residential and commercial buildout in Douglas County, and growth forecasts and trends in the identified Impact Area
- 204.12 Description of the area-wide planning and development and an explanation of the relationships of the New Community plan or development with the following: *(Amended 10/12/05)*
 - 204.12.1 State or regional plans, and federal programs and plans of surrounding jurisdictions in the Impact Area *(Amended 10/12/05)*
 - 204.12.2 Approved or proposed public projects

- 204.12.3 Capital improvements programs of surrounding governmental jurisdictions, including special districts, in the identified Impact Area
- 204.13 Fiscal impact, in 5-year increments to buildout, on government institutions, service districts, etc., and a detailed description of any measures intended to mitigate the impacts of the proposal *(Amended 10/12/05)*
- 204.14 The application shall be accompanied by a map, showing the proposal, prepared on a 24" X 36" sheet, at a scale of 1" = 100' or 1" = 200', unless otherwise approved by the Community Development Director, that includes the following information:
 - 204.14.1 Topography at 10-foot contour intervals, include low and high spot elevations
 - 204.14.2 Trees and major stands of scrub oak
 - 204.14.3 Shadow all areas having slopes greater than 25%
 - 204.14.4 100-year floodplains, wetlands, major drainages, and other natural hazard areas *(Amended 10/12/05)*
 - 204.14.5 Surrounding zoning and land uses
 - 204.14.6 A north arrow and date of preparation
 - 204.14.7 A vicinity map drawn at a scale of 1" = 2,000' superimposed on a current Douglas County subdivision map showing the relationship of the site to the surrounding area within a minimum 1 mile radius
 - 204.14.8 Scenic areas
 - 204.14.9 Historic or archaeological sites *(Amended 10/12/05)*
 - 204.14.10 Major roads on or adjacent to the site and their existing and proposed functional classification
- 204.15 Project location map that depicts the entire County and shows the location of the proposal *(Amended 10/12/05)*
- 204.16 List of mineral and water rights owners and their rights affected by the project site
- 204.17 Completed permit application

300 Waiver of Submittal and Procedural Requirements (Amended 1/5/88)

301 The BCC may waive the submittal and procedural requirements imposed by these regulations when compliance with the submittal requirements would be unreasonable and when the proposed development will not have a substantial adverse impact on the surrounding area and the County in general, or otherwise determined to be consistent with the intent of these regulations, as noted in Section 101 of these regulations. The decision by the BCC to waive requirements must consider the demonstrated need for the development proposal, the capacity or availability of existing infrastructure, including transportation, water, and wastewater systems, and consistency with the Douglas County Comprehensive Master Plan, as amended. Such a waiver may be granted or conditionally granted, after due consideration by the BCC, upon a written determination that the information available is sufficient for the BCC to arrive at a decision in compliance with the law and these regulations. (Amended 10/12/05)

302 A request for waiver of these regulations shall be made pursuant to application forms supplied by the County Planning Division. A waiver request shall be considered and a decision rendered thereon by the BCC at a public hearing. The party requesting the waiver is required to notice the public hearing in the designated Douglas County newspaper of general circulation 20 days prior to the hearing, and provide an affidavit of such notice to the Planning Division prior to the hearing with the BCC. (Amended 10/12/05)

400 Approval Criteria

401 The BCC shall deny the application if the development of the Matter of State Interest does not substantially meet all of the approval criteria.

402 If specific submittal requirements have been waived, then the appropriate criteria under this section may also be waived.

403 Permit approval for any of those areas or activities designated herein as Matters of State Interest does not constitute approval of any other permit or application required by the County or any other agency.

404 The BCC shall approve the permit for such activity or area designated a Matter of State Interest if it can be demonstrated that all of the following criteria are met:

404.01 Approval Criteria - General

404.01.1 All of the provisions of the permit application procedures have been complied with;

- 404.01.2 The proposed development is consistent with the intent, goals, guidelines, and maps of the Douglas County Comprehensive Master Plan and with other applicable regional, state, and national plans, as amended; *(Amended 10/12/05)*
- 404.01.3 The proposal is compatible with existing and surrounding land uses;
- 404.01.4 The proposal is compatible with existing natural environmental conditions of the site;
- 404.01.5 The proposal will not result in detrimental impacts to the existing or planned transportation system as depicted in the Douglas County Transportation Plan, as amended, and has been demonstrated that adequate access has or will be constructed including any external roadways, interchanges, and railroad crossings necessitated by the buildout of the development;

The criteria for determining necessary improvements include the consideration of public health and safety and a service level C for rural roadways, and a service level D for urban roadways. Rural and urban classifications are determined by the Colorado Department of Transportation *(state roads)* and by the Douglas County Comprehensive Master Plan, as amended *(all other roadways)*; *(Amended 10/12/05)*

- 404.01.6 The nature and location of the development will not overload or impair facilities of existing communities nor create an expansion of the demand for government services beyond the reasonable capacity of the community or region to provide such services;
- 404.01.7 The proposed development is in compliance with the best management practices of the applicable basin authority and the corresponding basin water quality master plan; and
- 404.01.8 The nature and location of the development will not interfere with significant wildlife habitats or adversely affect any threatened wildlife species, unique natural resource or historic or archaeological landmark within the development area unless it can be demonstrated that adequate mitigation measures will be taken.

500 Administration and Enforcement

501 Severability

If any section, clause, provision, or portion of these regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder

of this regulation shall not be affected thereby and is hereby declared to be necessary for the public health, safety, and welfare.

502 Enforcement and Penalties

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 for administration, who does not comply with permit requirements, or who acts outside the authority of the permit, may be enjoined by the County 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. *(Amended 10/12/05)*

503 Financial Security

503.01 Before any permit is issued, the BCC may, in its discretion, require the applicant to file a guarantee of financial security deemed adequate by the BCC and payable to the County of Douglas. The financial security may be required to be in the form of an irrevocable letter of credit, drawn on a bank that is satisfactory to the County. The letter of credit shall remain in full force and effect for one (1) year longer than the full term of the County's potential financial exposure for the failure of the applicant or permittee faithfully to perform all requirements of the permit and applicable regulations adopted by the BCC. The irrevocable letter of credit shall provide that the issuer will notify the County in writing 30 days prior to the expiry date of the letter of credit if it does not intend to renew the letter of credit and that upon receiving such notice, the County shall have the unconditional right to immediately call the letter of credit and demand payment under the letter of credit. The financial security shall be in the amount of 115% of the County's estimate of the amount of its potential financial exposure in the event that the applicant or permittee fails faithfully to perform all requirements of the permit and applicable regulations adopted by the BCC. *(Amended 10/12/05)*

503.02 The purpose of said financial security guarantee shall be to assure that the applicant or permittee shall faithfully perform all requirements of the permit or applicable regulations adopted by the BCC.

503.03 The base amount of said financial guarantee before the addition of the 15% for contingencies shall be established by the BCC upon consideration of the following applicable criteria: *(Amended 10/12/05)*

503.03.1 The estimated cost of returning the site of the permitted development or activity to its original condition or to a condition acceptable to the County in accordance with standards adopted by the County for the Matter of State Interest for which the permit is being granted;

- 503.03.2 The estimated cost of completing the permitted development or activity; and
- 503.03.3 The estimated cost of complying with any conditions of the permit.
- 503.04 Estimated cost shall be based on the applicant's submitted cost estimate plus the BCC estimate of the additional cost to the County of bringing in personnel and equipment to accomplish any unperformed purposes of the financial guarantee. The BCC shall consider the duration of the development or activity and compute a reasonable projection of increases due to inflation and may require, as a condition of the permit, that the financial security shall be adjusted upon receipt of bids. The 15% for contingencies shall be added to the final adjusted figure. *(Amended 10/12/05)*
- 503.05 The financial guarantee may be released only when:
- 503.05.1 The permit has been surrendered to the BCC before commencement of any physical activity on the site of the permitted development or activity and before any other action has occurred that could expose the County to financial liability. *(Amended 10/12/05)*
- 503.05.2 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 County in accordance with standards adopted by the County for the Matter of State Interest for which the permit is being granted, and one (1) year has elapsed since the site has been restored. *(Amended 10/12/05)*
- 503.05.3 One (1) year has elapsed since the project has been satisfactorily completed. This shall allow for partial release of the financial guarantee in line with project phasing as determined appropriate by the BCC. *(Amended 10/12/05)*
- 503.05.4 One (1) year has elapsed since applicable guaranteed conditions have been satisfied. *(Amended 10/12/05)*
- 503.06 Any security may be cancelled by a surety or bank only upon receipt of the BCC written consent that may be granted only when such cancellation will not detract from the purposes of the security. *(Amended 10/12/05)*
- 503.07 If the license to do business in Colorado of any surety upon a security filed pursuant to this regulation is suspended or revoked by any state authority, then the applicant, within 15 days after receiving notice thereof, shall substitute a good and sufficient surety licensed to do business in the state in accordance herewith. Upon failure of the

permittee to make substitution of surety within the time allowed, the BCC shall suspend the permit, and all work under the permit shall cease immediately, until proper substitution has been made. *(Amended 10/12/05)*

- 503.08 If the County elects to require a letter of credit, it is a condition of a permit under these regulations that an irrevocable letter of credit drawn on a bank satisfactory to the County be in place during the entire period of the County's potential exposure for the failure of the applicant or permittee faithfully to perform all requirements of the permit and applicable regulations adopted by the BCC, plus a period of one (1) year after the end of such period of potential exposure, as provided for in the County's Matters of State Interest Improvement Agreement. The letter of credit must provide that the issuing bank shall notify the County in writing thirty (30) days prior to the expiry of the letter of credit if the issuing bank intends not to renew the letter of credit and, that, if the County receives such a notification from the issuing bank, the County shall have the unconditional right to call the letter of credit, and the issuing bank will honor the letter of credit and pay the County the full amount of the letter of credit immediately upon the County's presentation to the bank of a demand for payment. The County shall have these rights regardless of whether any other event of default has occurred, and the permittee shall not be entitled to a hearing or a right to cure, or a temporary suspension, notwithstanding any other provision of these regulations to the contrary. If the County calls a letter of credit after having received notice from the issuing bank that the letter of credit will not be renewed, the permit shall immediately be terminated. If the permittee wants the permit reinstated, it must apply anew for a permit and must post a new letter of credit.

If the County needs to call a letter of credit, it will perform or cause to be performed all of the work, which the permittee was required to perform under the permit and the regulations, using the proceeds of the letter of credit to pay for the work. If the quality of the work continues to be satisfactory one (1) year after the work is completed, the County will refund any excess funds. *(Amended 10/12/05)*

- 503.09 If the BCC requires a financial guarantee in a form other than a letter of credit, and the BCC determines that a financial guarantee should be forfeited because of any violation of the permit or any applicable regulations adopted by the BCC, 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 BCC within 30 days after permittee's receipt of notice, requesting a hearing before the BCC. If no demand is made by the permittee within said period, then the BCC shall order the financial guarantee forfeited. *(Amended 10/12/05)*

503.10 The BCC shall hold a hearing within 30 days after the receipt of the demand by the permittee. At the hearing, the permittee may present for the consideration of the BCC statements, documents, and other information with respect to the alleged violation. At the conclusion of the hearing, the BCC shall either withdraw the notice of violation or enter an order for forfeiting the financial guarantee.

503.11 If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, the Douglas County Attorney shall take such steps as he deems proper to recover such costs where recovery is deemed possible. *(Amended 10/12/05)*

504 Revocation or Suspension of Permits

504.01 When it comes to the attention of the BCC that the provision of any permit or the terms of any regulation of any permit or the terms of any regulation for administration have been violated by the holder of the permit, the BCC may temporarily suspend the permit for a period of 30 days. Before making such a temporary suspension, the BCC shall give the permit holder written notice of the specific violation and shall allow the permit holder a period of at least 15 days to correct the violation(s).

If the permit holder does not concur that he is in violation, he shall, within 15 days of his receipt of such notice, show cause to the BCC why temporary suspension should not be ordered. A hearing shall be held within said 30-day period.

504.02 Either prior to or subsequent to a temporary suspension, the BCC may permanently revoke or suspend the permit after conducting a public hearing in substantially the same manner and after substantially the same notice as for permit hearings, and if it finds that:

504.02.1 A violation of the provisions of the permit or any applicable regulation for administration which may have been adopted by the BCC; or
(Amended 10/12/05)

504.02.2 The applicant has failed to take substantial steps to initiate the permitted development or activity within 12 months from the date of the permit, or if such steps have been taken, the applicant has failed to complete the development or activity with reasonable diligence.

505 Annual Review

505.01 Annual review shall be required unless waived by the BCC at the time of permit approval. Review shall proceed as follows:

Within 30 days prior to each annual anniversary date of the granting of a permit by the BCC, the permittee shall submit to the Planning Division on behalf of the BCC a report detailing any and all past activities conducted by the permittee pursuant to the permit including, but not limited to, a satisfactory showing that the permittee has complied with all conditions of the permit and applicable regulations. *(Amended 10/12/05)*

- 505.02 If a violation shall be found to exist, the BCC or its authorized representative shall by written order direct that such remedial action be taken forthwith as will result in full compliance with the applicable regulations, provided however, that the issuance of such order shall in no way or manner be deemed a prerequisite to the institution of such enforcement proceedings as are set forth in the regulations; and provided further, that compliance with such order shall not necessarily be deemed to be a defense to any alleged violation of this or other applicable regulations in any court action instituted seeking full compliance therewith.

600 Airports

601 Intent - Specific to Airports

- 601.01 To minimize dangers to public health and safety or to property including dangers from aircraft crashes, aircraft noise, traffic congestion, and air pollution;
- 601.02 To minimize disruption to the environment of existing communities, minimize the impact on existing community services, and complement the economic and transportation needs of the state and the area; and
- 601.03 To consider the type of development which will occur within the Airport area of influence and the effects of such development on existing communities, natural resources, agriculture, wildlife, historic sites, and the ability to provide service to such development.

602 Approval Criteria - Airports

An application for a permit to locate or expand an Airport in Douglas County shall be approved only if the proposed Airport site or expansion complies with these regulations, other relevant guidelines and regulations and meets all of the following criteria in addition to the general approval criteria:

- 602.01 The nature and location of the Airport site or expansion will minimize disruption to the environment to existing communities and will minimize the impact on existing community services;

- 602.02 The nature and location of the Airport site for expansion complements the existing and reasonable foreseeable economic and transportation needs of the state and of the area immediately served by the Airport;
- 602.03 The geological and topographic feature of the Airport site are adequate for all construction, clearing, grading, drainage, vegetation, and other needs of the Airport; and
- 602.04 Immediate and future noise levels in communities within the Airport area of influence to be caused by the Airport location or expansion and any anticipated future expansion will not violate any applicable local, state, or federal laws or regulations; provided that in any area with a potential noise level of LDN or more, no structure shall be allowed and existing structures shall be relocated.

603 Submittal Requirements – Airports *(Amended 10/12/05)*

In addition to the general submittal requirements herein, provide a narrative supplemented by appropriate maps that describe:

- 603.01 Size and type of Airport presently required; ultimate size and type required
- 603.02 Airport operations including:
 - 603.02.1 Volume of aircraft traffic expected, immediate and future
 - 603.02.2 Type of aircraft traffic expected, immediate and future
 - 603.02.3 Runway alignment, immediate and future
 - 603.02.4 The expected noise levels generated by immediate and future Airport operation and aircraft traffic in existing communities near the Airport and in the expected or existing Airport Area of Influence indicated on a LDN contour map
- 603.03 Airport lighting requirements
- 603.04 Airport access considerations, including traffic impact, survey, existing access routes, expansions or enlargements of access routes, and parking needs, immediate and future
- 603.05 Approach and clear zone plan and profiles determined according to current FAA regulations. The purpose of this drawing is to show obstructions, including irremovable terrain

- 603.06 Removable obstructions - poles, trees, stacks, towers, houses, railroads, roads, etc.
- 603.07 Ability to obtain needed easements for avigation, drainage, power or telephone lines, roads, etc.
- 603.08 Provision of water and sanitary sewage treatment
- 603.09 Number of families and businesses requiring relocation

700 Shorelands of Major Reservoirs

701 Intent - Specific to Shorelands of Major Reservoirs

- 701.01 To protect shorelands and natural resources, including the public water supply, from the effects of Site Selection or construction of proposed Recreational Development on or along Shorelands of Major Reservoirs; *(Amended 10/12/05)*
- 701.02 To minimize environmental impacts and impacts to significant archaeological and historic resources; and
- 701.03 To minimize risk from natural hazards.

702 Approval Criteria - Shorelands of Major Reservoirs

A permit application for Site Selection or construction of proposed Recreational Development on or along Shorelands of Major Reservoirs shall be approved if the proposal complies with the following criteria in addition to the general approval criteria: *(Amended 10/12/05)*

- 702.01 The proposal will not significantly deteriorate aquatic habitats, marshlands and wetlands, groundwater recharge areas, water quality, and the public water supply and storage facilities, steeply sloping or unstable terrain, forests and woodlands, significant wildlife habitat and migration routes, waterfowl habitat and nesting areas and the habitats of threatened and endangered species, public outdoor recreation areas, and unique areas of geologic, historic, or archaeological importance, unless adequate mitigation measures can be substantiated; *(Amended 10/12/05)*
- 702.02 The proposal will not significantly degrade existing natural or scenic characteristics, create blight, or cause other nuisance factors such as excessive noise or obnoxious odors; and *(Amended 10/12/05)*
- 702.03 The proposal will not create an undue financial burden on existing or future residents of the area or County. *(Amended 10/12/05)*

703 Submittal Requirements – Shorelands of Major Reservoirs

In addition to the general submittal requirements herein, provide a narrative supplemented by appropriate maps, which describe the impact resulting from Site Selection or construction of proposed Recreational Development on or along the Shorelands of Major Reservoirs, including any proposed mitigation. The narrative shall address the following: *(Amended 10/12/05)*

703.01 Emergency services

703.02 Landowners within the affected area *(Amended 10/12/05)*

703.03 Significant natural scenic areas

703.04 Aquatic habitats, marshlands and wetlands, groundwater recharge areas, steeply sloping or unstable terrain, forests and woodlands, significant wildlife habitat and migration routes, waterfowl migratory habitats and nesting area and the habitats of threatened and endangered species, public outdoor recreation areas, and unique areas of geologic, historic or archaeological importance *(Amended 10/12/05)*

800 (Reserved)

900 New Communities

901 Intent - Specific to New Communities

901.01 Through the designation of Municipal Planning Areas (MPAs) and the County's Primary Urbanization Area (PUA), as identified in the Douglas County Comprehensive Master Plan, as amended, the County and the Towns/Cities have planned to accommodate growth in excess of regional and County population forecasts for a 20-year period. Therefore, in order to maximize community services and the development and extension of infrastructure, it is the general intent to guide development to these identified planned areas; *(Amended 10/12/05)*

901.02 To provide for the development of total communities which provide for commercial and industrial activity, as well as, residences, and for internal transportation and circulation patterns;

901.03 To achieve planned and orderly land use;

901.04 To encourage the provision of transportation, commercial, recreational, and educational facilities conveniently located by housing of all types and design;

- 901.05 To encourage innovations in residential, commercial, and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design, and layout of buildings;
- 901.06 To encourage the planning and building of New Communities which incorporate the best design and balance of uses; and *(Amended 10/12/05)*
- 901.07 To ensure the provision of an adequate water supply.

902 Approval Criteria - New Communities

A permit application for the Site Selection and construction of New Communities shall be approved only if the proposed Site Selection and development complies with these regulations and other relevant guidelines and regulations, complies with the Douglas County Comprehensive Master Plan, as amended, criteria for approval, and meets all of the following criteria in addition to the general approval criteria: *(Amended 10/12/05)*

- 902.01 The health, welfare, and safety of the citizens of this jurisdiction and surrounding jurisdictions affected will be protected and served;
- 902.02 The land use and transportation network and population density and distributions are planned in such a way as to promote adequate internal accessibility; *(Amended 10/12/05)*
- 902.03 Provisions have been made to preserve such natural features as water bodies and steep slopes, and to establish and maintain an accessible open-space network for conservation, natural beauty, and recreation;
- 902.04 Measures to prevent environmental pollution, reduce potential natural hazards, and minimize noise problems have been taken;
- 902.05 The development plan utilizes current design and technology for energy conservation with respect to land use;
- 902.06 Priority is given to the development of a balanced community that provides for commercial and industrial activity, and residential development that provides housing for all income groups and use groups; *(Amended 10/12/05)*
- 902.07 The applicant has the technical and financial capability to completely plan and develop the New Community within a reasonable time;
- 902.08 The proposal is economically feasible. This is demonstrated by providing evidence that; *(Amended 10/12/05)*

- 902.08.1 The technical and administrative capability of the applicant to plan and develop a New Community, including experience, success and/or failures on other New Community projects, and expertise and experience of personnel management;
- 902.08.2 The financial capability of the applicant including all anticipated costs of developing public and publicly-funded services and facilities, and the extent to which the development costs will be met by financial resources of the developer, borrowing, and/or special districts if any;
(Amended 1/5/88)
- 902.09 Demonstrate that the applicable basin authority, Chatfield or Cherry Creek, has allocated phosphorous for development; *(Amended 1/5/88)*
- 902.10 The project is in proximity to primary and secondary schools of adequate capacity, or provision for school facilities has been demonstrated by the applicant. Proximity shall be defined for this purpose as a distance no greater than 1 mile for an elementary school, 4 miles for a middle school and 6 miles for a high school;
- 902.11 Adequate provisions for sewage treatment have been or will be made;
- 902.12 An adequate water supply can be demonstrated in compliance with the Water Supply - Overlay District, of the Douglas County Zoning Resolution, as amended;
- 902.13 To efficiently utilize public and private investments in infrastructure and urban service areas, moderate buildout must be demonstrated in the PUA and within MPAs; moderate shall be defined as 40% buildout of residential and 20% buildout of industrial, commercial and business. This particular requirement will be waived if it can be demonstrated that there is a particular benefit which accrues to the County and all other criteria are met; *(Amended 10/12/05)*
- 902.14 The applicant has demonstrated that the social, economic, or land use conditions of the County either have changed or are in the process of change in such a manner to warrant approval; and
- 902.15 If negative fiscal impacts to Douglas County or other units of government occurs as a result of the project, either mitigation of such negative fiscal impacts or particular benefits to Douglas County must be demonstrated to the satisfaction of the BCC to offset such impacts.
- 903 Additional criteria for incorporation: *(Amended 6/24/08)*
 - 903.01 The Incorporation is in compliance with applicable statutory requirements for incorporation; and *(Amended 10/12/05)*

- 903.02 A Master Plan for the proposed incorporated area has been reviewed by Douglas County and approved for inclusion on the Douglas County Comprehensive Master Plan Land Use Map, as amended. *(Amended 10/12/05)*

904 Submittal Requirements - New Communities

In addition to the general submittal requirements herein, on the 24" X 36" sheet, identify the proposed location of residential, commercial/office/industrial, parks and trails, open space and school sites, as applicable. In a narrative, on 8.5" X 11" paper, address the following: *(Amended 10/12/05)*

- 904.01 Proposed number of dwelling units and square feet of commercial, office and business *(Amended 10/12/05)*
- 904.02 Provision for a mix of housing including attainable housing *(Amended 10/12/05)*
- 904.03 Provision for water/wastewater treatment and waste disposal
- 904.04 Proximity to nearest primary and secondary schools, current capacity and projected enrollment, planned capital construction program and new facilities required by the development
- 904.05 Proximity and provision for fire protection and health-care services
- 904.06 Applicant's financial capability to completely plan and develop the New Community and the anticipated costs of development, the intent to use district financing, and the outstanding general obligation bond indebtedness within the Impact Area
- 904.07 Letter from the basin authority attesting to phosphorus allocation

1000 Highways

- 1001 Intent - Specific to Arterial Highways, Collector Highways, and Interchanges *(Amended 10/12/05)*
 - 1001.01 To ensure that community traffic needs are met;
 - 1001.02 To preserve desirable community patterns; *(Amended 10/12/05)*
 - 1001.03 To encourage the coordination of Highway planning with community and development plans;
 - 1001.04 To minimize traffic hazards and congestion; *(Amended 10/12/05)*

1001.05 To ensure that congestion will not be substantially increased on other Highways; and *(Added 10/12/05)*

1001.06 To minimize traffic noise and air pollution. *(Amended 10/12/05)*

1002 Approval Criteria - Arterial Highways, Collector Highways, and Interchanges
(Amended 10/12/05)

An application for a permit for Site Selection of an Arterial Highway, Collector Highway, or Interchange wholly or partially in Douglas County, shall be approved only if the proposal complies with these regulations, other relevant guidelines and regulations, and meets all the following requirements and criteria in addition to the general approval criteria: *(Amended 10/12/05)*

1002.01 The proposal serves to ensure that community and through-travel traffic needs are met; *(Amended 10/12/05)*

1002.02 A clear and reasonable need has been demonstrated for the proposal; *(Added 10/12/05)*

1002.03 The proposal serves to ensure that the diversion of traffic onto other Highways is minimized; *(Added 10/12/05)*

1002.04 The proposal does not serve to create demand for government services beyond the reasonable capacity of the community to provide such services as determined by the County; *(Added 10/12/05)*

1002.05 The proposal facilitates the smooth flow of traffic on Arterial Highways, Collector Highways or Interchanges and on other Highways affected; *(Added 10/12/05)*

1002.06 The proposal serves to minimize traffic noise and air pollution; *(Added 10/12/05)*

1002.07 Other reasonable modes of transportation are incorporated into the proposal; *(Amended 10/12/05)*

1002.08 Desirable local and regional community patterns are not disrupted by the implementation of the proposal; *(Amended 10/12/05)*

1002.09 The proposal serves to complement the efficient extension of planned urban services, utilities and development in general; *(Amended 10/12/05)*

1002.10 The proposal will not contribute to overuse, improper use or congestion of, or cause unnecessary diversion of regional traffic onto, other Highways, unless such impacts are effectively mitigated at the sole expense of the permit applicant; *(Added 10/12/05)*

- 1002.11 The proposal does not serve to substantially isolate neighborhoods from public facilities, including schools, hospitals, mass transit, pedestrian and bikeway recreational areas, open spaces, and to commercial services such as employment centers; *(Amended 10/12/05)*
- 1002.12 The proposal is justified in relation to other possible expansion and modification alternatives and not solely in relation to the no-build alternative of no expansion or modification; *(Added 10/12/05)*
- 1002.13 Where a proposal consists of adding one or more toll lanes to an existing Arterial Highway, Collector Highway, or Interchange, whether by replacing existing free lanes with toll lanes or by adding toll lanes to existing free lanes, the effects and utility of adding toll lanes have been reasonably demonstrated to be superior to the effects and utility of adding the same number of free lanes to the same stretch of Highway for both the Highway to which the toll lanes are added retroactively and for the area affected. If the proposal would create Interchanges between the two types of lanes, the effects and utility of the Interchanges must be reasonably demonstrated to be superior to the effects and utility of adding the same number of free lanes to the same stretch of Highway without Interchanges for both the Highway to which the toll lanes are added retroactively and for the area affected *(Added 6/24/08)*
- 1002.14 Noise levels caused by the proposal do not exceed 55 decibels as measured by a 24-hour Equivalent Sound Level metric at any residence, school, church, or other noise-sensitive location, unless the BCC determines that meeting such sound level is infeasible, that all feasible avoidance or mitigation measures have been incorporated, and the public benefit of any new or modified Arterial Highway, Collector Highway, or Interchange necessitates the proposal; *(Added 10/12/05)*
- 1002.15 The proposal does not impede the delivery of essential community services and goods; *(Added 10/12/05)*
- 1002.16 The proposal serves to complement the compact and efficient extension of planned public services, utilities, and development in general, both regionally and within the County; *(Added 10/12/05)*
- 1002.17 The proposal serves to minimize visual impacts, including view of the Highway or Interchange from residential areas, and to blend into the surroundings; Interchanges are attractively landscaped consistent with Douglas County regulations; and *(Added 10/12/05)*
- 1002.18 Health and safety hazards are minimized. *(Added 10/12/05)*

1003 Site Selection of Arterial Highways, Collector Highways, and Interchanges Submittal Requirements *(Amended 10/12/05)*

In addition to the general submittal requirements herein, provide a narrative describing the proposed Site Selection of the Arterial Highway, Collector Highway, or Interchange and any proposed mitigation. For the proposed and all reasonable alternative corridor locations or designs or all reasonable alternative Interchange locations or designs, the narrative shall address the following: *(Amended 10/12/05)*

- 1003.01 Type and scale of the improvement
- 1003.02 Detailed cost estimate and funding source *(Amended 10/12/05)*
- 1003.03 Investment grade financing plan and tolling feasibility study, where appropriate *(Added 10/12/05)*
- 1003.04 Approximate time-table for right-of-way acquisition and construction *(Amended 10/12/05)*
- 1003.05 Identify major traffic generators in the Impact Area *(Added 10/12/05)*
- 1003.06 Traffic Demand Modeling Study that describes the increased demand that the proposal will place on other Arterial Highways, Collector Highways, and Interchanges within three miles *(Added 10/12/05)*
- 1003.07 The planned level of service in relationship to projected user demand both regionally and within the County in five (5) year increments for a twenty (20) year period *(Amended 10/12/05)*
- 1003.08 A map(s) and description of existing land use in the Impact Area, both regionally and within the County, in relationship to the existing circulation system *(Added 10/12/05)*
- 1003.09 A map(s) of the regional Impact Area and the Impact Area within Douglas County showing planned, proposed, or expected land use at each year of population projection, with and without the impacts of the proposal *(Added 10/12/05)*
- 1003.10 The approximate number of users of the proposed Highway or Interchange in terms of existing County residents, projected County residents, and non-Douglas County residents *(Added 10/12/05)*
- 1003.11 Plans for promoting the use of alternative modes of transportation *(Added 10/12/05)*

- 1003.12 Anticipated noise levels resulting from the proposal, including noise levels expressed through 8-hour and 24-hour Equivalent Sound Level metrics, as well as single event noise metrics *(Added 10/12/05)*
- 1003.13 The local and regional air quality impacts of the proposal, including attainment of federal and state ambient air quality standards and risk to human health and the environment posed by air pollutants, including, but not limited to, formaldehyde, benzene, 1,3-butadiene, diesel particulates and other fuel combustion by-products *(Added 10/12/05)*
- 1003.14 The impacts of the proposal on accessibility to and from existing public facilities, commercial and industrial facilities, and residential areas, both regionally and within the County *(Added 10/12/05)*
- 1003.15 Any health and safety hazards, including exposure to hazardous materials, which may result from the proposal *(Added 10/12/05)*
- 1003.16 The impact to future development in the affected area, measured in terms of land values, land availability, land use controls, vacancy rates, indices of accessibility to school/education, utility services, other public and quasi-public services, local and regional amenities, employment opportunities, and the demographic indices identified above, that would result from the implementation of the proposal *(Added 10/12/05)*
- 1003.17 The increased demand that the potential development described above will place on the public services, including but not limited to: other Highways, mass transit, trails, bike paths and other transportation, housing, employment, schools, commercial services, health services, police and fire protection, solid waste disposal, water supply systems, wastewater collection and disposal systems, stormwater collection and release systems, power, communications, parks, open space and recreation, other public and quasi-public utilities, and other planned public services *(Added 10/12/05)*
- 1003.18 A traffic operations and safety study, including detailed analysis of weaving sections *(Added 10/12/05)*
- 1003.19 All feasible alternatives for mitigating adverse effects of the proposal described above including, but not limited to, effects on the level of public services, access to public services, division of existing communities, water quality, air quality, noise levels, and scenic, historical, recreational archaeological, or natural resources. Mitigation alternatives to be considered include, but are not limited to:
- alternative locations, configurations and access, including but not limited to, grade separated Interchanges and complete or partial construction below grade with cover and landscaping suitable for

recreational use or for construction of streets, bike paths or pedestrian walkways

- alternative pavement types
- alternative Highway maintenance and snow removal methods
- sound walls and other sound mitigating structures, such as transparent noise barriers
- berms and/or landscaping
- speed limits
- speed control devices
- limits on the use of compression brakes
- wildlife crossings and pedestrian bridges *(Added 10/12/05)*

1100 Areas Around Key Facilities *(Section added 10/12/05)*

1101 Intent Specific to Areas Around Key Facilities;

1101.01 To ensure that community traffic needs are met;

1101.02 To discourage traffic congestion;

1101.03 To minimize traffic hazards and congestion;

1101.04 To minimize dangers to public health and safety and dangers to property;

1101.05 To minimize congestion on other Highways as identified in the Douglas County Transportation Plan, as amended;

1101.06 To encourage the smooth flow of motorized and nonmotorized traffic; and

1101.07 To minimize noise and air pollution.

1102 Approval Criteria - Specific to Areas Around Key Facilities *(Section added 10/12/05)*

An application for a permit for Construction, Modification or Expansion of an Interchange involving an Arterial Highway shall be approved only if the proposal complies with these regulations and other relevant guidelines and regulations, and meets all the following requirements and criteria in addition to the general approval criteria:

1102.01 The proposal does not serve to create a danger to public health and safety or property;

1102.02 The proposal serves to encourage the smooth flow of motorized and nonmotorized traffic on Highways affected;

1102.03 The proposal serves to discourage traffic congestion on Highways affected; and

1102.04 The proposal serves to foster development of the area affected in a manner calculated to preserve the smooth flow of motorized and non motorized traffic *(Amended 6/24/08)*

1103 Submittal Requirements - Areas Around Key Facilities *(Section added 10/12/05)*

In addition to the general submittal requirements herein, provide a narrative that describes the following:

1103.01 The design of the proposed Interchange involving an Arterial Highway and all reasonable alternatives thereto

1103.02 A study analyzing the operation of the Interchange and the impacts of the Construction, Modification or Expansion and operation of the proposed Interchange on any Highway immediately and directly affected thereby

1103.03 A traffic operations and safety study, including detailed analysis of weaving sections

1103.04 A Traffic Demand Modeling Study that describes the effect of operation of the Interchange on traffic demand and burden on any Highway immediately and directly affected by the Interchange

1103.05 The effect of operation of the Interchange on the smooth flow of traffic on any Highway immediately and directly affected by the Interchange

1103.06 All feasible mitigation measures that will be implemented

1200 Mineral Resources

1201 Intent - Specific to Mineral Resource Areas *(Added 8/22/90)*

1201.01 To ensure compatibility between mineral-extraction operations, and surrounding land uses;

1201.02 To protect and enhance the quality of life in the County;

1201.03 To protect environmentally and visually sensitive areas from the negative impacts of mineral extraction;

1201.04 To ensure development of a transportation system adequate to support Mining-related traffic;

- 1201.05 To protect and preserve important historic and archaeological resources; *(Amended 10/12/05)*
- 1201.06 To safeguard the County's air and water quality;
- 1201.07 To address the potential negative visual impact of Mining operations;
and
- 1201.08 To provide for appropriate end use of Mining sites.

1202 Approval Criteria - Mineral Resource Area Extractive Use

A permit application for development of a mineral resource shall be approved if the proposed operation complies with the following criteria in addition to the general approval criteria:

- 1202.01 Development of the Mineral Resource Area will be compatible with surrounding land uses;
- 1202.02 The positive impacts of development outweigh the negative impacts;
- 1202.03 Access is provided over haul routes with adequate capacity, design, and maintenance levels;
- 1202.04 Significant wildlife habitat is protected;
- 1202.05 Historical and archaeological resources are identified and protected;
- 1202.06 Monitoring and mitigation are adequate to protect the County's air quality;
- 1202.07 Erosion control, wetland protection, and other necessary water quality control safeguards are provided to ensure the area's water quality;
- 1202.08 Noise monitoring and noise abatement programs are sufficient to protect sensitive uses and areas from noise pollution;
- 1202.09 The blasting plan provides the surrounding area thorough protection from noise and blasting;
- 1202.10 Open space, parks, and recreation areas are protected from the potential negative impacts of Mining, and open space, and recreational values are considered in the end-use plan;
- 1202.11 Visual impact is thoroughly analyzed and the duration, extent, and the exposure of project visibility are reasonable;

1202.12 Project phasing results in reasonable intermediate site restoration;

1202.13 End uses are compatible with surrounding areas, and with the goals and policies of the Douglas County Comprehensive Master Plan, as amended; and *(Amended 10/12/05)*

1202.14 Development of the resource will not cause significant danger to the public health and safety.

1203 Mineral Resource Area - Submittal Requirements *(Added 8/22/90)*

In addition to the general submittal requirements, provide all submittal requirements for extractive use applications required in the Douglas County Zoning Resolution, as amended. *(Amended 10/12/05)*

DEFINITIONS

Airport: Any municipal or county or private airport or airport under the jurisdiction of an airport authority formed under the public Airport authority act of 1965, as amended.

Airport Area of Influence: An area encompassing the flight patterns, critical zones, airport height zone, LDN noise zones, and other areas adjacent to the airport site. (See Centennial Airport Review Area (CARA) - Overlay District contained in the Douglas County Zoning Resolution, as amended for land-use compatibility with Centennial Airport.) *(Amended 10/12/05)*

Applicant: Any individual, limited liability company, partnership, corporation, association, company, or other public or corporate body, including the federal government, and includes any political subdivision, agency, instrumentality, or corporation of the state. *(Amended 10/12/05)*

Area Around Key Facility(ies): The Interchange itself and the area immediately and directly affected by the Construction, Modification or Expansion of an Interchange involving an Arterial Highway. *(Amended 6/24/08)*

Arterial Highway: Any limited-access Highway that is part of the federal aid interstate system, or any limited-access Highway constructed under the supervision of the Colorado Department of Transportation. *(Added 10/12/05)*

Bedrock Groundwater: That water contemplated in § 37-90-137(4), C.R.S.

Board of County Commissioners (BCC): the Board of County Commissioners, County of Douglas, State of Colorado.

Collector Highway: Any major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers, or recreation areas, or industrial centers, and constructed under guidelines and standards established by, or under the

supervision of, the Colorado Department of Transportation. "Collector Highway" does not include a city street or local service road or a county road designated for local service and constructed under the supervision of local government. *(Added 10/12/05)*

Constructed Under the Supervision Of, or Constructed Under Guidelines and Standard Established By: Shall include, without limitation, any of the below listed forms of participation by the Colorado Department of Transportation:

(a) where the Colorado Department of Transportation, the Colorado Tolling Enterprise, or any entity formed directly or indirectly by, or by contract or agreement with (including, without limitation, any enterprise formed under Article 4 of Title 43 of the Colorado Revised Statutes of non-profit entity formed by such enterprise), the Colorado Department of Transportation, or of the Colorado Transportation Commission:

(i) is an applicant;

(ii) sells, leases, loans, donates, grants, conveys, assigns, transfers, or otherwise provides any real or personal property or interests therein used or to be used in the proposed Construction, Modification or Expansion of the Arterial Highway or Interchange or Collector Highway, including transfer or assignment of any contract to the applicant that may have been awarded for the proposed Construction, Modification or Expansion of the Arterial Highway or Interchange or Collector Highway;

(iii) delegates authority to the applicant or is a signatory to any intergovernmental agreement or other form of contract, agreement, conveyance, delegation, or authorization required for the applicant to construct, modify, or expand the Arterial Highway or Interchange or Collector Highway; or

(iv) performs or funds any planning, design, study, construction, supervision, or maintenance functions associated with all or any portion of the Construction, Modification or Expansion of the Arterial Highway or Interchange or Collector Highway to a State Highway either within or without Douglas County. *(Added 10/12/05)*

Construction, Modification or Expansion: As the context requires, all activity associated with and involved in constructing or reconstructing, or modifying or expanding, including the completed reconstruction, construction, modification or expansion. This definition includes any construction, modification or expansion associated with an Arterial Highway, Collector Highway, or Interchange. Notwithstanding the foregoing, operational or safety improvements to an existing interchange shall not constitute "Construction, Modification or Expansion" if the County finds that the operational or safety improvements do not negatively impact the smooth flow of traffic, traffic safety, or other desirable existing community patterns. *(Amended 6/24/08)*

Designation: Only that legal procedure specified by § 24-65.1-101, C.R.S., et seq. It is carried out by the BCC.

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

Expansion of an Existing Airport: Land acquisition or construction that will allow, or is likely to lead to, the following:

- 1) use of the Airport by larger or noisier aircraft;
- 2) first-time jet aircraft use; or
- 3) any significant increase in air or ground traffic that is likely to disrupt the environment, or cause an impact on the services, of existing communities.

FAA: The Federal Aviation Administration. *(Added 12/15/98)*

Highway(s): Any Arterial Highway, Collector Highway, or County Highway, road, or street, or municipal road or street. *(Added 10/12/05)*

Impact Area: An area surrounding the proposed activity or area of state interest which is likely to be affected positively or negatively by development, the boundaries of which are determined by Douglas County.

Interchange(s): The intersection of two or more Highways, roads, or streets, at least one of which is an Arterial Highway, as identified in the Douglas County Transportation Plan, as amended and/or the slip ramps and/or weaving sections between general purpose lanes and toll lanes or other restricted use traffic lanes. At such intersection there must be direct access to and from the Arterial Highway. *(Amended 6/24/08)*

Key Facility(ies): An Airport, Major Facilities of a Public Utility, Interchange involving an Arterial Highway, or Rapid and mass transit terminals, stations and fixed guideways. *(Amended 6/24/08) see 24-65.1-105(7)*

LDN: The day/night noise level rating as computed pursuant to FAA standards and procedures. A LDN noise zone is an area arranged in contours on a map indicating expected noise levels from aircraft.

Limited Access Highway: A Highway which gives preference to through traffic by providing access connection with selected roads only. A Highway may be considered a limited access highway even though it has some crossings at grade and private driveway connections. *(Added 10/12/05)*

Major Reservoir(s): Any body of water within the State of Colorado having a surface area at high water line, in excess of 100 acres as defined in § 37-87-105, C.R.S., excepting livestock water tanks as defined in Article 49 of Title 35, C.R.S. 1973, for which public funds have been used in the construction of all or any part of the dam or where a public entity or agency owns or administers the described property. *(Amended 1/5/88)*

Master Plan/Comprehensive Plan/General Plan: A plan for the physical development of the County as defined by § 30-28-106 (3)(a), (b), (c), 30-28-107, and 31-23-106 (1)(a), (b), (c), (d), C.R.S., including subarea master plans.

Matter of State Interest: An area or an activity of state interest, or both.

Mineral: An inanimate constituent of the earth in either solid, liquid, or gaseous state which, when extracted from the earth, is useable in its natural form or is capable of conversion into useable form as a metal, a metallic compound, a chemical, an energy source, a raw material for manufacturing, or construction material. This definition does not include surface or groundwater subject to appropriation for domestic, agricultural, or industrial purposes, nor does it include geothermal resources. *(Added 8/22/90)*

Mineral Resource Area: An area in which minerals are located in sufficient concentration in veins, deposits, bodies, beds, seams, fields, pools, or otherwise as to be capable of economic recovery, including, but not limited to, any area in which there has been significant Mining activity in the present, Mining development is planned or in progress, or mineral rights are held by mineral patent or valid Mining claim with the intention of Mining.

Unless it includes part or all of another area of state interest, an area of oil and gas or geothermal resource development shall not be designated as an area of state interest unless the state oil and gas conservation commission identifies such an area for designation. *(Added 8/22/90)*

Mining: The process of removing or extracting minerals and building stone from naturally-occurring vein, deposits, bodies, beds, seams, fields, pools, or other concentrations in the earth's crust. This term also includes the preliminary treatment of such ore or building stone. *(Added 8/22/90)*

New Community(ies): The establishment of an Urbanized Growth Center in unincorporated Douglas County, including:

- 1) any incorporation of an existing or proposed Urbanized Growth Center in Douglas County when located wholly or partially outside the Municipal Planning Areas as identified on the Douglas County Comprehensive Master Plan Land Use Map, as amended; *(Amended 6/11/19)*
- 2) any application to Douglas County for rezoning for the purpose of establishing an Urbanized Growth Center within the nonurban area identified on the Douglas County Comprehensive Master Plan Land Use Map, as amended; *(Amended 10/12/05)*
- 3) any expansion of the area of a special district of more than 20%. *(Amended 12/15/98)*

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 this regulation.

Person: means applicant. *(Added 10/12/05)*

Planned Highway: Any Highway that appears in the Douglas County Transportation Plan, as amended. *(Added 10/12/05)*

Primary Urbanization Area (PUA): That area identified on the Douglas County Comprehensive Master Plan, as amended, intended to accommodate urban development. *(Amended 10/12/05)*

Recreational Development: The siting, design, construction, or significant expansion or modification of any hotel, resort, wharf, marina or similar major facility intended for recreational use that benefits from water related activities on or along shoreland of a Major Reservoir, either above (toward dry land) or below (toward the middle of the Reservoir) the shoreland, except for Rueter-Hess Reservoir or a Major Reservoir operated by the U.S. Army Corps of Engineers, including Chatfield Reservoir. Parks, trails, open space, and golf courses are examples, but not a comprehensive list, of types of facilities that do not fall within the definition of Recreational Development. *(Amended 6/11/19)*

Reservoir(s): An area of water storage usually created by building a dam to impound water for the uses of hydro-electric production, agricultural irrigation, flood control, wildlife habitat, recreation, or domestic or industrial uses.

Shoreland(s) of Major Reservoir(s): Three hundred feet (300) beyond the proposed maximum spillway crest elevation plus one foot. *(Added 10/12/05)*

Site Selection: The identification of a specific location, including a corridor located entirely or partially within Douglas County in which:

- (a) Construction of an Arterial Highway or Interchange or Collector Highway is proposed; or
- (b) Expansion or modification of an existing Arterial Highway or Interchange or Collector Highway is proposed that would result in one or more of the following impacts, provided, however, that operational or safety improvements to an existing Interchange shall not constitute Site Selection if the County finds that the operational or safety improvements do not negatively impact the smooth flow of traffic, traffic safety, or other desirable existing community patterns: *(Amended 6/24/08)*
 - (i) an increase in Highway capacity by one or more toll lanes or more than one general purpose lane through widening or alternative lane configurations, or an equivalent increase in capacity produced by access controls, technological, or other types of Highway improvements; or *(Amended 6/24/08)*
 - (ii) a decrease in free Highway capacity by at least one lane, through imposing tolls or other charges paid by the motorist for use of an existing Arterial Highway, Interchange, or Collector Highway within Douglas County, or portion

- of an existing Arterial Highway, Interchange, or Collector Highway within Douglas County; or
- (iii) the elimination of direct, at-grade access from a public road or street within Douglas County to such existing arterial or Collector Highway; or
- (c) Expansion or modification of an existing Highway is proposed which would result in a change in classification to Arterial Highway or Collector Highway. *(Amended 10/12/05)*
- (d) Construction of new tolled lanes and associated infrastructure is proposed, which infrastructure shall include but not be limited to: *(Added 6/24/08)*
- (i) ramps or Interchanges accessing tolled lanes; and *(Added 6/24/08)*
 - (ii) any lanes or facilities, including but not limited to slip ramps and weaving sections, connecting tolled lanes with, or separating tolled lanes from, existing free lanes or Interchanges. *(Added 6/24/08)*

State Highway: A road or Highway that is under the primary jurisdiction of the Colorado Department of Transportation, as opposed to under the primary jurisdiction of Douglas County. *(Added 10/12/05)*

Urbanized Growth Center: Any residential development with a gross density greater than one (1) dwelling unit per 2.5 acres and more than 250 total dwelling units; or any commercial, business, office or industrial development. *(Amended 6/11/19)*