

**ARTICLE XIV
AREAS AND ACTIVITIES OF STATE INTEREST**

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ARTICLE XIV AREAS AND ACTIVITIES OF STATE INTEREST

DIVISION 1 GENERAL

Section 14-101 Purpose and Intent. The purpose of this Article XIV is to facilitate the identification, designation, and administration of matters of state interest consistent with the statutory requirements and the criteria set forth in Section 24-65.1-101, et seq., C.R.S.

Section 14-102 Authority. These Regulations are authorized by, inter alia, Section 24-65.1-101, et. seq.; Section 30-28-101, et. seq.; Section 30-28-201, et. seq.; Section 29-20-101, et. seq.; and Section 24-32-111, C.R.S.

Section 14-103 Applicability. These Regulations shall apply to the designation and regulation of any area or activity of state interest wholly or partially in the unincorporated areas of Garfield County, whether on public or private land, that has been or may hereafter be designated by the Board of County Commissioners.

- A.** Designations in effect as of the date of these Regulations are as follows:
1. Site selection and construction of arterial highways, interchanges and collector highways.
 2. Areas around arterial highways, interchanges and collector highways.
 3. Site selection and construction of rapid or mass transit terminals, stations or guideways.
 4. Areas around rapid or mass transit terminals, stations or guideways.
 5. Site selection for Airport or Heliport location or expansion.
 6. Areas around an Airport or Heliport, including the following:
 - a. The outer extremities of the Imaginary Surfaces for the particular Airport or Heliport.

- b. If the Noise Impact Boundary extends beyond the outer extremities of the Imaginary Surfaces, the Imaginary Surfaces shall be extended to incorporate the Noise Impact Boundary for purposes of these Regulations.
 - c. All lands, water, airspace, or portions thereof which are located within these boundaries or surfaces.
7. Efficient utilization of municipal and industrial water projects.

Section 14-104 Exemptions

A. Statutory Exemptions. These Regulations shall not apply to any development in an area of state interest or any activity of state interest if any one of the following is true:

- 1. As of May 17, 1974,
 - a. The specific development or activity was covered by a current building permit issued by the County; or
 - b. The specific development or activity was directly approved by the electorate of the state or the County, provided that approval by the electorate of any bond issue by itself shall not be construed as approval of the specific development or activity; or
 - c. The specific development or activity is on land which has been finally approved, with or without conditions, for planned unit development or land use similar to a planned unit development; or
 - d. The specific development or activity is on land which was either zoned or rezoned in response to an application which specifically contemplated said specific development or activity.

B. Specific Exemptions. These Regulations shall not apply to a Project proposing development in the area around an Airport or Heliport if the Proposed Project meets *all* of the following criteria

- 1. All buildings and structures are less than 35 feet in height; and

2. All proposed development occurs on property located entirely outside the Approach Surface; and
3. The proposed development does not involve industrial, mining or similar uses that emit smoke, dust or steam; sanitary landfills or water impoundments; or radio, radiotelephone, television or similar transmission facilities or electrical transmission lines; and
4. The proposed development does not involve the creation of wetlands or wetland mitigation, enhancement or restoration.

Section 14-105 Interpretation With Statutes, Other Enactments and Comprehensive Plan.

A. Enactments, Intergovernmental Agreements and Comprehensive Plan. Whenever the provisions of these Regulations are found to be inconsistent with any other resolution, ordinance, code, regulation, intergovernmental agreement or the Comprehensive Plan, the enactment imposing the more restrictive standards or requirements shall control.

B. Statutory Criteria More Stringent. If these Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in Sections 24-65.1-202 and 24-65.1-204, C.R.S., the statutory criteria shall control.

C. Statutory Criteria Less Stringent. If these Regulations are found to be more stringent than the statutory criteria for administration of matters of state interest set forth in Sections 24-65.1-202 and 24-65.1-204, C.R.S., these Regulations shall control pursuant to the authority of Section 24-65.1-402(3), C.R.S.

D. Compliance with Other Applicable County, State and Federal Requirements. Nothing in these Regulations exempts an applicant from compliance with any other applicable County requirements or other state, federal or local requirements.

E. Compliance with These Regulations. No federal, state, or local approval to carry out a development or activity shall preempt or otherwise obviate the need to comply with these Regulations.

F. No Intent to Conflict. These Regulations shall not be applied to create an operational conflict with any state or federal law or regulations.

1. **Coordinated Review and Permitting.** Any applicant for a permit under these Regulations that is also subject to the regulations of other state or federal agencies may request that the County application and review process be coordinated with that of the other agency. The County will attempt to eliminate redundant application submittal requirements and will coordinate its review of the application with that of other agencies as appropriate.

2. **Coordinated Permit Conditions.** The County, to the extent practicable, will attempt to coordinate the terms and conditions of approval, with that of other agencies as appropriate.

Section 14-106 Permit Required.

A. Three Possible Levels of Permit Review. There are three possible levels of Permit review for a Proposed Project: a finding of no significant impact; a minor permit review; and a major permit review. The Director shall make the initial determination of the appropriate level of Permit review based upon the Pre-Application meeting and submittals.

B. Permit Required Prior to Engaging in Designated Activity or Development in Designated Area. No person may engage in a designated activity of state interest, or engage in development in an area of state interest without first obtaining either a Permit or a Finding of No Significant Impact under these Regulations for Areas and Activities of State Interest.

C. Permit or Finding of No Significant Impact Required Prior to Development Approval by the County. No development approval shall be issued by the County for a designated activity of state interest or for development in a designated area of state interest without the applicant having first obtained a Finding of No Significant Impact or a Permit under these Regulations for Areas and Activities of State Interest.

D. Term of Permit. Approval of a Permit shall lapse after twelve (12) months, unless:

1. Activities described in the Permit have substantially commenced; or

2. The Board specifies a different time period in which building permits must be obtained or activities must commence in its action, in the Board's resolution granting or denying the Permit.

E. Renewal. Permits issued under these Regulations may be renewed following the same procedure for approval of new permits set forth in Division 4

of these Regulations. The Board may impose additional conditions at the time of renewal if necessary to ensure that the Project will comply with these Regulations.

F. Permit Not A Site Specific Development Plan. Permits issued under these Regulations shall not be considered to be a Site Specific Development Plan and no statutory vested rights shall inure to such Permit.

Section 14-107 Permit Authority Established. The Board of County Commissioners shall serve as the Permit Authority. The Permit Authority shall exercise all powers and duties granted it by these Regulations.

Section 14-108 Severability. If any section, subsection, sentence, clause, or phrase of these Regulations is, for any reason, held to be invalid or unconstitutional by a court of law, such decision shall not affect the validity of these Regulations as a whole or any part other than the part declared invalid.

DIVISION 2 DEFINITION OF WORDS AND TERMS

Section 14-201 Definitions. The words and terms used in these Regulations for Areas and Activities of State Interest shall have the meanings set forth below. Where there is a conflict between these definitions and the definitions contained in Article XVI, *Definitions* of this Code, these definitions shall control for purposes of this Article XIV.

Adverse. Unfavorable, harmful.

Affected Party. Any person with an interest in the outcome of the permit decision for the Proposed Project.

Airport. The area comprising land used by aircraft for taking off and landing, together with all adjacent land and facilities used in connection with aircraft and flight operations, existing and proposed.

- 1. Airports, Publicly Owned.** The area comprising Airports owned by a public agency such as the County or a municipal government.

Airport Elevation. The highest point of an airport's usable runway, measured in feet above mean sea level.

Airport Imaginary Surfaces. Imaginary areas in space and on the ground, defined by FAR Part 77, which are established in relation to the Airport and its runways. Imaginary areas are defined by the Primary Surface, Runway

Protection Zone, Approach Surface, Horizontal Surface, Conical Surface and Transitional Surface.

1. **Primary Surface.** A surface longitudinally centered on a runway with dimensions as specified by FAR Part 77.
2. **Runway Protection Zone (RPZ).** An area off the runway end used to enhance the protection of people and property on the ground. The RPZ is trapezoidal in shape and centered about the extended runway centerline. The dimensions are specified in FAA Advisory Circular 150/5300-13.
3. **Approach Surface.** A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. Dimensions are defined by FAR Part 77. The Approach Surface is sometimes designated as the "Approach Zone".
4. **Horizontal Surface.** A horizontal plane 150 feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of specified radii from the center of each end of the primary surface of each runway of each airport and connecting the adjacent arcs by lines tangent to those arcs. The radius of each arc is defined by FAR Part 77.
5. **Conical Surface.** A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
6. **Transitional Surface.** Those surfaces that extend upward and outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to the point of intersection with the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces which project through and beyond the limits of the conical surface extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at a 90 degree angle to the extended runway centerline.

Airport or Heliport Impact Areas.

1. **Direct Impact Area.** The area located within 5,000 feet of an Airport runway or 2,000 feet of a Heliport, excluding lands within the

Runway Protection Zone and Approach Surface. The Direct Impact Area is sometimes designated as the "Flight Pattern Area".

2. **Secondary Impact Area.** The area located between 5,000 and 10,000 feet from an Airport runway or between 2,000 and 4,000 from a Heliport.

Airport Reference Code. A code comprised of the Aircraft Approach Category and the Airplane Design Group as defined in FAA Advisory Circular 150/5300-13.

Airport Sponsor. The owner, manager, or other person or entity designated to represent the interests of an airport.

Area Around a Rapid or Mass Transit Facility. An area immediately and directly affected by a rapid or mass transit facility as defined herein.

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.

Board. Board of County Commissioners of Garfield County.

Building Restriction Line. A line which identifies suitable building area locations.

Code, or Land Use Code. The Garfield County Land Use Resolution.

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

Development Area. Those geographic areas within the County which will be developed or altered directly by construction or operation of the Project.

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

FAA. The Federal Aviation Administration.

FAA's Technical Representative. The federal agency providing the FAA with expertise on wildlife and bird strike hazards as they relate to airports. This may include, but is not limited to, the USDAAPHIS-Wildlife Services.

Fixed Guideway. A transportation facility consisting of a separate right-of-way or rail line for the exclusive use of rapid or mass transit vehicles.

Hazard. As it relates to Airport and Heliport operations, the term hazard shall include any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or heliport, or is otherwise hazardous to such landing or takeoff of aircraft.

1. As it relates to bird strike hazards, the term "significant hazard" means a level of increased flight activity by birds across an Approach Surface or runway that is more than incidental or occasional, considering the existing ambient level of flight activity by birds in the vicinity.

Height. The highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level.

Heliport. The area of land, water or a structure used or intended to be used for the landing and takeoff of helicopters, together with appurtenant buildings and facilities.

1. **Heliports, Publicly Owned.** The area comprising Heliports owned by a public agency such as the County or a municipal government.

Helistop. A minimally developed heliport for landing and discharging passengers or cargo not intended for refueling or maintaining itinerant helicopters.

Highway. State and federal highways and major county arterials.

Highway, Arterial. A principal arterial road as defined in the Garfield County Road and Bridge Design and Construction Standards that has an average daily traffic count of 5000 or greater.

Highway, Collector. An arterial road as defined in the Garfield County Road and Bridge Design and Construction Standards that has an average daily traffic count of at least 2500 but not more than 4999.

Itinerant Aircraft. Shall mean and include any aircraft using the Airport, the operator of which has not entered into a lease agreement or other special agreement for a period of less than thirty (30).

Impact Area (Project). Those geographic areas, including the Development Area, in which any impacts are likely to be caused by the Project.

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

Landing Strip. A minimally developed airport for landing and discharging passengers or cargo not intended for refueling or maintaining itinerant aircraft.

Ldn. Day Night Level (DNL/LDN). A 24-hour average noise level with a 10-decibel (dB) penalty for nighttime.

Mass Transit. A coordinated system of one or more transit modes providing regular transportation to the general public including, but not limited to, bus or rapid transit but not including charter, school bus or sightseeing transportation.

Mass Transit Facility. A station or terminal constructed to provide and facilitate passenger access and egress to a rapid or mass transit system, fixed guideways, dedicated highway lanes restricted to use by only mass transit vehicles, restricted dedicated flyovers and restricted dedicated access to terminals or stations, or highway access and egress facilities restricted to use only by mass transit vehicles.

Mass Transit System. A transportation system providing regular transportation to the general public over one or more transit modes including, but not limited to, bus and rapid transit but not including charter, school bus or sightseeing transportation.

Matter of State Interest. An area or an activity of state interest, or both, as listed in §§ 24-65.1-201 and 203, C.R.S.

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

1. Avoiding an impact by not taking a certain action or parts of an action.
2. Minimizing impacts by limiting the degree or magnitude of the action or its implementation.
3. Rectifying the impact by repairing, rehabilitating or restoring the impact area, facility or service.
4. Reducing or eliminating the impact over time by preservation and maintenance operations.

5. Compensating for the impact by replacing or providing suitable biological and physical conditions and by replacing or providing suitable services and facilities.

Net Effect. The impact of an action after mitigation.

Noise Impact Boundary. The areas within 1,500 feet of an airport runway or within established noise contour boundaries exceeding 55 Ldn.

Obstruction. Any structure or tree, plant or other object of natural growth, that penetrates an imaginary surface.

Permit. A permit for development in areas of state interest or for an activity of state interest, issued by the Board of County Commissioners pursuant to this Article XVII.

Permit Authority. The Board of County Commissioners, or its designee.

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

Public Assembly Facility. For purposes of these Regulations, public assembly facilities do not include parks, golf courses or similar facilities unless used in a manner where people are concentrated in reasonably close quarters. Public assembly facilities also do not include air shows, structures or uses approved by the FAA in an adopted airport master plan, or places where people congregate for short periods of time such as parking lots or bus stops.

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

Rapid Transit. The element of a mass transit system involving a mechanical conveyance on an exclusive lane or guideway, rail trackage, or monorail facility constructed solely for that purpose.

Regulations. Regulations for Areas and Activities of State Interest set forth in this Article XIV.

Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Service Area. The primary geographic area to be served by the Proposed Project.

Service Road. A street or road meeting County specifications running parallel to a county, state or federal highway used to provide ingress and egress to a development located adjacent to that highway.

Shelter. A building or structure designed primarily to provide a waiting area for transit passengers.

Site Selection, Airport or Heliport. The process for determining the location of Airports or Heliports, or the substantial expansion or relocation of an existing Airport or Heliport, by a recognized and bonafide agency or authority, the County, the state, or the federal government or any subdivision of each.

Site Selection, Rapid or Mass Transit Facility. The process for determining the location of rapid or mass transit facilities or the substantial expansion or relocation of an existing facility, by a recognized and bonafide mass transit agency or authority, the County, the state, or the federal government or any subdivision of each and, or any private entity or person.

Station or Terminal. A facility constructed to provide and facilitate passenger access to and from airplanes or a rapid or mass transit system, including areas necessary for vehicle operations, parking areas for commuters, and roadways connecting to the general road and street system of Garfield County. "Stations" shall include any proposed regularly scheduled stop or planned optional or seasonal boarding point on a rapid transit system. Dedicated park-and-ride facilities with fifty (50) or more parking spaces shall be deemed "stations or terminals" for the purposes of these Regulations, with or without a shelter facility. Shelters alone, or as part of traditional bus stops and pull-outs lacking fifty (50) dedicated spaces are not considered "stations or terminals" for the purposes of these Regulations.

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

Terminal. See “Station or Terminal.”

Transient Aircraft. Fixed or rotary-wing aircraft that do not use the airport or heliport landing strip or helistop as a home base.

Transportation Corridor. Any County or municipal street or road, any state or federal highway, and any railroad operating as a common carrier.

Water Impoundment. Includes wastewater treatment settling ponds, surface mining ponds, detention and retention ponds, artificial lakes and ponds, and similar water features. A new water impoundment includes an expansion of an existing water impoundment except where such expansion was previously authorized by land use action approved prior to the effective date of these Regulations.

DIVISION 3 DESIGNATION OF AREAS AND ACTIVITIES OF STATE INTEREST

Section 14-301 Applicability of Designation Process. The designation process set forth in this Article shall apply to the designation of any matter of state interest after the effective date of these Regulations. The designation process shall not apply to those matters of state interest designated by the Board of County Commissioners prior to the effective date of these Regulations, which designations shall remain in effect. The designations in effect as of the date of these Regulations are identified in Section 14-103, *Applicability*.

Section 14-302 Initiation of Designation Request. Designations and amendments or revocations of designations of areas or activities of state interest may be initiated by the Board of County Commissioners.

Section 14-303 Designation Process

A. Public Hearing by Board. A request for Designation of an area or activity of state interest shall be considered by the Board of County Commissioners at a public hearing, after proper notice, conducted pursuant to Section 4-103 G, *Conduct of Public Hearing* of Article IV.

- 1. Public Notice.** The Director shall publish a notice of the public hearing at least thirty (30) days and not more than sixty (60) days before the hearing, in a newspaper of general circulation in the County. Written notice of the public hearing shall be sent to the

Colorado Land Use Commission at least thirty (30) days and not more than sixty (60) days before the hearing.

- a. The Notice shall include the time and place of the hearing, a general description of the Designation requested, and the place at which relevant materials may be examined.

B. Matters to be Considered at Designation Hearing. At the Designation hearing, the Board of County Commissioners shall consider such evidence as may appear appropriate, including the following considerations.

1. The intensity of current and foreseeable development pressures.
2. The 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. Boundaries of the proposed area of state interest.
4. Applicable policies of the Comprehensive Plan.

C. Adoption of Designation and Regulations. Within thirty (30) days after completion of the public hearing, the Board shall take action by resolution to adopt, adopt with modifications, or reject the proposed Designation and regulations for an area or activity of state interest.

1. If the Designation and/or proposed regulations are rejected, the Board may at its discretion regulate the matter under any other available land use control authority or it may reject regulation of the matter entirely.
2. The Board action shall be taken by resolution.
3. Upon adopting a matter of state interest, it shall be the Board's duty to designate the matter and adopt regulations for its administration.

D. Record of Designation Proceedings. The record of decision shall include the following materials.

1. Notice of Public Hearing and Certificate of Publication of the Notice.
2. The minutes of the Designation hearing.

3. Written findings concerning each of the considerations set forth in Section 14-303(B), *Matters to be Considered at Designation Hearings*,
4. The recorded resolution adopting the Designation and guidelines.

E. Recordation with County Clerk. A Designation and regulations adopted by the Board of County Commissioners shall be certified by the Board to the Garfield County Clerk and Recorder for filing in the same manner as any document affecting real property.

F. Effect of Designation – Moratorium Until Final Determination. After a matter of state interest is designated pursuant to this Section 14-303, no person shall engage in development in the designated area or conduct of a designated activity until the Designation and regulations for such area or activity of state interest are finally determined pursuant to 24-65.1-404(4), C.R.S.

DIVISION 4 REVIEW PROCESS FOR PERMIT TO ENGAGE IN AN ACTIVITY OF STATE INTEREST OR DEVELOPMENT IN AN AREA OF STATE INTEREST

Section 14-401 Common Review Procedures

A. Consultants. The following provisions for consultant review apply to all applications proposing to engage in an activity of state interest or development in an area of state interest.

1. **Consultant Review.** The Director may authorize all or a portion of the review of an application for a Permit to be performed by an outside consultant.
2. **Applicant Responsible for Consultant Review Fees.** The costs of consultant and referral agency review are the responsibility of the applicant. The costs of consultant and referral agency review shall be paid pursuant Section 4-502(B)(2), *Fees of Article IV*.

B. Pre-Application Conference. An application for Permit to engage in an activity or development subject to these Regulations shall begin with a Pre-Application Conference between the applicant and the Director or staff.

1. **Procedure.** The applicant shall make a request for a pre-application conference through the Planning Department. At the conference, the Director shall explain the regulatory process and requirements and begin to evaluate the level of permit review that will be required.
 - a. **Scheduling of Pre-Application Conference.** The Director shall schedule a pre-application conference to be held within twenty (20) working days of receipt of a request for a pre-application conference.
 - b. **Materials.** At or before the pre-application meeting, the applicant shall submit a brief explanation of the Proposed Project, including the following materials.
 - (1) The applicant's name, address and phone number.
 - (2) Map prepared at an easily readable scale showing:
 - (a) Boundary of the proposed activity.
 - (b) Relationship of the proposed activity to surrounding topographic and cultural features such as roads, streams and existing structures.
 - (c) Proposed building, improvements and infrastructure.
 - (3) Written summary of the Project that is sufficient for determining the Level of Permit Review that will be required for the application.
 - c. **Participants.** In addition to the Planning Department staff, participants in the Pre-Application Conference shall include appropriate staff to address potential issues raised by the Proposed Project.

C. Determination of Level of Permit Review

1. **Three Possible Levels of Permit Review.** There are three possible levels of permit review for a Proposed Project: a finding of no significant impact; a minor permit review; and a major permit review. The Director shall make the initial determination of the

appropriate level of permit review based upon the Pre-Application meeting and submittals.

- a. The Determination of Level of Permit Review shall be made by the Director within a reasonable time following the Pre-Application meeting.
 - b. Within five (5) days of the Determination of Level of Permit Review, the Director shall notify the applicant and the Board of County Commissioners, in writing, of the determination.
2. **Finding of No Significant Impact.** Based upon review of the Pre-Application submittals and the information obtained at the Pre-Application meeting, the Director may determine that no significant impacts are likely to occur from the Proposed Project and that therefore, a permit under these Regulations will not be necessary.
 - a. The Director may make a Finding of No Significant Impact if the construction or operation of the activity, without mitigation, in its proposed location is unlikely to have any significant adverse impact to the County. The Director's decision shall take into consideration the approval standards set forth in Division 6 of this Article.
3. **Major and Minor Permit Review.** If the Director determines that a Finding of No Significant Impact is not appropriate based upon review of the Per-Application submittals and the information obtained at the Pre-Application meeting, then the Director shall determine whether the Proposed Project should be subject to the Major Permit Review or Minor Permit Review provisions of these Regulations.
 - a. **Major Permit Review.** The Director shall determine that Major Permit Review is required if:
 - (1) The Proposed Project is likely to have a significant adverse impact in two or more categories of standards as described Division 6, *Permit Approval Standards*, or
 - (2) The Proposed Project is likely to have severe adverse impact in any one category of standards as described in Division 6, *Permit Approval Standards*.

- b. Minor Permit Review.** The Director shall determine that Minor Permit Review is required unless the Proposed Project is determined to warrant Major Permit Review.

D. Reconsideration of Planning Director's Determination of Level of Permit Review.

- 1. Call-up by the Board.** The Board may, at its discretion, review and amend the Director's determination at the next regularly scheduled meeting of the Board for which proper notice can be accomplished, following the date of written notice of the determination of level of permit review.
- 2. Request for Reconsideration.** Any affected party, within seven days of the date of written notice of the Director's determination, may request that the Board reconsider the determination at its next regularly scheduled meeting for which proper notice can be accomplished. The Board may review or amend the Director's determination at its discretion.

E. Change in Level of Permit Review. At any time prior to the final decision by the Board on the application for a Permit under these Regulations, the County may decide that information received since the Pre-Application conference indicates that the nature and scope of the impacts of the Proposed Project are such that a different Level of Permit Review is required.

- 1.** If a different level of permit review is required, the Director shall notify the following.
 - a.** Notify the applicant immediately.
 - b.** Notify the Board, the County Manager and the County Attorney.

F. Notice of Public Hearing.

- 1. Notice by Publication.** At least thirty (30) calendar days but no more than sixty (60) calendar days prior to the date of a scheduled public hearing, the applicant shall have published a notice of public hearing in a newspaper of general circulation in the area that the Proposed Project is located. The notice shall follow a form prescribed by the County.

2. **Notice to Adjacent Property Owners.** At least thirty (30) calendar days but no more than sixty (60) calendar days prior to the date of a scheduled public hearing, the applicant shall send by certified mail, return receipt requested, a written notice of the public hearing to the owners of record of all adjacent property within a 200' radius. The notice shall include a vicinity map, the property's legal description, a short narrative describing the Proposed Project, and an announcement of the date, time and location of the scheduled hearing(s).
3. **Proof of Notice.** At the public hearing, the applicant shall provide proof of publication and payment for publication, and proof of notification of adjacent property owners.

G. Determination of Completeness. Within thirty (30) working days of receipt of the application materials, the Director shall determine whether the application is complete based on compliance with the submittal requirements set forth in Section 14-501, *Description of Submittal Requirements*.

1. **Application is Not Complete.** If the application is not complete, the Director shall inform the applicant of the deficiencies in writing and shall take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within sixty (60) calendar days, the application shall be considered withdrawn and returned to the applicant.
2. **Application is Complete.** If the application is complete, the Director shall certify it as complete and stamp it with the date of determination of completeness.
3. **Extension of Time for Determination of Completeness.** The Director may authorize an extension of time to complete review for Determination of Completeness, up to an additional thirty (30) working days. The extension of time for Determination of Completeness shall be based upon the following considerations.
 - a. **Scope of Application.** The scope of application is sufficient to require additional time for the Director to review the application for a Determination of Completeness.
 - b. **Staff Workload.** The Department's workload due to the volume and scope of pending land use change applications justifies the need for an extension of time to review the application for a Determination of Completeness.

H. Evaluation by Director/Staff Review. The Director shall review the application to determine if the Proposed Project satisfies the applicable standards set forth in Division 6, *Permit Approval Standards*. The Director shall prepare a staff report discussing whether the standards have been satisfied, issues raised through staff and referral review, mitigation requirements and recommended conditions for approval to ensure that approval standards are satisfied, and additional information pertinent to review of the application.

1. **Review by Referral Agencies.** The Director's evaluation of the application may include comment by referral agencies received under Section 4-103(D), *Review by Referral Agency*.
2. **Notice to Airport Sponsor.** Notice shall be provided to the Airport Sponsor if an application for development involves land located within the area of state interest, or within 10,000 feet of the sides or ends of a runway, or within 4,000 feet of a Heliport.

Section 14-402 Minor Permit Review Process.

A. Outline of Process. The Minor Permit Review process shall consist of the following procedures:

1. Pre-Application Conference
2. Application
3. Determination of Completeness
4. Evaluation by the Director/Staff Review
5. Public Hearing and Decision by the Board of County Commissioners

B. Review Process.

1. **Pre-application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 14-401(B), *Pre-Application Conference*.
2. **Application.** The application materials required for an application for permit to engage in an activity of state interest or development in an area of state interest are set forth in Section 14-501, *Description of Submittal Requirements*.

3. **Determination of Completeness.** The Director shall review the application for determination of completeness in accordance with the provisions of Section 14-401(G), *Determination of Completeness*.
4. **Schedule Public Hearing.** Upon a determination of completeness, the Director shall schedule the application for public hearing by the Board of County Commissioners.
 - a. Public notice of the hearing shall be made pursuant to Section 14-401(F), *Notice of Public Hearing*.
5. **Evaluation by Director/Staff Review.** Upon determination of completeness, the Director shall review the application and prepare a staff report pursuant to Section 14-401(H), *Evaluation by Director/Staff Review*.
6. **Review and Action by the Board of County Commissioners.** The Board of County Commissioners shall consider the application at a public hearing, upon proper public notice.
 - a. **Decision by Board.** Following a public hearing conducted pursuant to Section 4-103(G), *Conduct of Public Hearing* or Article IV, the Board of County Commissioners shall approve, approve with conditions or deny the application based upon compliance with the applicable standards in Division 6, *Permit Approval Standards*.
 - (1) **Approval of Application.** If the application satisfies all of the applicable standards, the application shall be approved. The application may be approved with conditions determined necessary for compliance with applicable standards.
 - (2) **Denial of Application.** If the application fails to satisfy any one of the applicable standards, the application shall be denied.

Section 14-403 Major Permit Review Process.

A. Outline of Process. The Major Permit Review process shall consist of the following procedures:

1. Pre-Application Conference
2. Application

3. Determination of Completeness
4. Evaluation by the Director/Staff Review
5. Public Hearing and Recommendation by the Planning Commission
6. Public Hearing and Decision by the Board of County Commissioners

B. Review Process.

1. **Pre-application Conference.** A pre-application conference shall be held in accordance with the provisions of Section 14-401(B), *Pre-Application Conference*.
2. **Application.** The application materials required for an application for permit to engage in an activity of state interest or development in an area of state interest are set forth in Section 14-501, *Description of Submittal Requirements*.
3. **Determination of Completeness.** The Director shall review the application for determination of completeness in accordance with the provisions of Section 14-401(G), *Determination of Completeness*.
4. **Schedule Public Hearing.** Upon a determination of completeness, the Director shall schedule the application for public hearing by the Planning Commission.
 - a. Public notice of the hearing shall be made pursuant to Section 14-401(F), *Notice of Public Hearing*.
5. **Evaluation by Director/Staff Review.** Upon determination of completeness, the Director shall review the application and prepare a staff report pursuant to Section 14-401(H).
6. **Review and Recommendation by the Planning Commission.** The Planning Commission shall consider the application at a public hearing, after proper notice, conducted pursuant to Section 4-103 (G), *Conduct of Public Hearing* of Article IV.
 - a. **Recommendation by Planning Commission.** The Planning Commission shall recommend approval, approval with conditions or denial of the application based upon compliance with the applicable standards set forth in Division 6, *Permit Approval Standards*.

- (1) **Recommendation of Approval.** If the application satisfies all of the applicable standards, the Planning Commission shall recommend that the application be approved. The Commission may recommend approval with conditions determined necessary for compliance with the applicable standards.
 - (2) **Recommendation of Denial.** If the application fails to satisfy all of the applicable standards the Planning Commission shall recommend that the application be denied.
7. **Schedule Public Hearing.** The Director shall schedule the application for public hearing by the Board of County Commissioners.
 - a. Public notice of the hearing shall be made pursuant to Section 14-401(F), *Notice of Public Hearing*.
 - b. Public hearing by the Board of County Commissioners shall be held within forty-five (45) calendar days of the date of the Planning Commission recommendation.
8. **Review and Action by the Board of County Commissioners.** The Board of County Commissioners shall consider the application at a public hearing, upon proper public notice.
 - a. **Decision by Board.** Following a public hearing conducted pursuant to Section 4-103(G), *Conduct of Public Hearing of Article IV*, the Board of County Commissioners shall approve, approve with conditions or deny the application based upon compliance with the applicable standards in Division 6, *Permit Approval Standards*.
 - (1) **Approval of Application.** If the application satisfies all of the applicable standards, the application shall be approved. The application may be approved with conditions determined necessary for compliance with applicable standards.
 - (2) **Denial of Application.** If the application fails to satisfy any one of the applicable standards, the application shall be denied.

Section 14-404 Permit Amendments and Technical Revisions. Any change in the construction or operation of the Project from that approved by the Board shall require either a “technical revision” or a “permit amendment.”

A. Technical Revisions. A proposed change will be considered a technical revision if the Director determines that there will be no increase in the size of the area affected by the Project or the intensity of impacts of the Project.

1. To obtain a technical revision, the applicant shall submit the following information and materials to the Director:
 - a. A copy of the current permit.
 - b. As-built drawings of the project.
 - c. Drawings and plans of proposed changes to the project.
 - d. Additional mitigation plans.
2. If staff does not foresee changes in the intensity of the impacts caused by the proposed activity, the Director shall approve the technical revision to the permit. The Director shall make a determination within thirty (30) days of receipt of request for a technical revision.
 - a. The Director may determine that even though the proposed changes will increase the size of the area affected or the intensity of the impacts, the impact is insignificant so as to warrant a “technical revision” as described in Section 14-404 (A), above.

B. Process for Permit Amendments. Changes other than technical revisions are considered permit amendments.

1. **New Permit Application.** A permit amendment will be reviewed and approved as if it were a new permit application.
2. **Written Notice of Director’s Determination.** Within five (5) days of the Director’s determination, the Director shall notify the applicant and the Board of County Commissioners, in writing, of the determination.

C. Reconsideration of Director's Determination of Whether Change is a Permit Amendment or a Technical Revision.

1. **Call-up by the Board of County Commissioners.** The Board may, at its discretion, review and amend the Director's determination of whether the change is a permit amendment or a technical revision at the next regularly scheduled meeting for which proper notice can be accomplished, following the date of written notice of the determination.
2. **Request for Reconsideration.** Any Affected Party may, within seven (7) days of the date of written notice of determination, request that the Board reconsider the Director's determination at its next regularly scheduled meeting for which proper notice can be accomplished. The Board may review and/or amend the Director's determination at its discretion.

DIVISION 5 PERMIT APPLICATION SUBMITTAL REQUIREMENTS

The following submittal requirements shall apply to any application for Permit to conduct an activity of state interest or engage in development of an area of state interest under these Regulations. The Director may waive one or more of the submittal requirements when the submittal information would not be relevant to a determination as to whether the Proposed Project complies with the approval criteria. The professional qualifications for preparation and certification of certain documents required by these Regulations for Areas and Activities of State Interest are set forth in Section 4-502, *Description of Submittal Requirements* of Article IV.

Section 14-501 Description of Submittal Requirements.

A. Application Fees. If a Permit is required under these Regulations, the application shall be accompanied by a base permit fee in the amount of five thousand dollars (\$5,000.00) and a written acknowledgement that the applicant will be responsible for advancing funds or reimbursing the County for the actual costs of reviewing and processing the application, including costs of copying, mailings, publications, labor, overhead and retention of consultants, experts and attorneys that the County deems necessary to advise it on the application package.

1. The Permit Authority may in its sole discretion waive all or a portion of the fees if the applicant demonstrates a special need or such

waiver of fees is found to be in the best interests of the citizens of Garfield County.

2. The County will take no action on the application package until all fees and expenses related to the application review process have been paid.

B. Application Form. The application form for a Permit to engage in a designated activity of state interest or development in an area of state interest shall be obtained from the Planning Department.

1. **Authorized Applicant.** Completed application forms and accompanying materials shall be submitted to the Director by the owner, or any other person having a recognized fee title interest in the land for which a land use change is proposed, or by any agent acting through written authorization of the owner.
 - a. **Authorized Agent.** If the applicant is not the owner of the land, or is a contract purchaser of the land, the applicant shall submit a letter signed by the owner consenting to the submission of the application.
 - b. **Applicant is Not the Sole Owner.** If the applicant is not the sole owner of the land, the applicant shall submit a letter signed by all other owners or an association representing all the owners, by which all owners consent to or join in the application.
2. **Information About Applicant.** The application form shall contain the following information describing the applicant.
 - a. The names, addresses, email address, fax number, organization form, and business of the applicant, and if different, the owner of the project.
 - b. The names, addresses and qualifications, including those areas of expertise and experience with projects directly related or similar to that proposed in the application package, of individuals who are or will be responsible for constructing and operating the project.
 - c. Authorization of the application by the 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.

C. Information Describing the Project.

1. **Project Narrative.** A narrative description of the Project including the location of the proposed facility by reference to its relationship to any physical features, intersections, towns, or other locations that are generally recognized by the citizens of Garfield County.
2. **Identification of Alternatives.** Descriptions of alternatives to the project that were considered by the applicant and reasons why they were rejected.
3. **Project Need.** 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.
4. **Compatibility with Comprehensive Plan.** Evidence that demonstrates that the Proposed Project is compatible with the Comprehensive Plan, municipal master plans, and other applicable state or federal plans.
5. **Maps.** Detailed map(s) showing the location of the proposed facilities together with proposed or existing transportation corridors, zoning classification and land use within 2000 feet.
6. **Plans and Specifications.** Detailed plans and specifications of the project.
7. **Project Schedules.** Schedules for designing, permitting, constructing and operating the project, including the estimated life of the project.
8. **Conservation Techniques.** Description of all conservation techniques to be used in the construction and operation of the project.

D. Property Rights, Permits and Other Approvals.

1. A list and copies of all other federal, state and local permits and approvals that have been or will be required for the project, together with any proposal for coordinating these approvals with the County permitting process.
2. Copies of all official federal and state consultation correspondence prepared for the project; a description of all mitigation required by federal, state and local authorities; and copies of any draft or final environmental assessments or impact statement required for the project.
3. Description of the water to be used by the Project and alternatives, including the source, amount, the quality of such water, the applicant's right to use the water, including adjudicated decrees, applications for decrees, proposed points of diversion, and the existing uses of water. If an augmentation plan has been filed in court, the applicant must submit a copy of that plan.

E. Description of Technical and Financial Feasibility of the Project.

1. The estimated construction costs and period of construction for each development component.
2. Revenues and operating expenses for the project.
3. The amount of any proposed debt and the method and estimated cost of debt service.
4. Details of any contract or agreement for revenues or services in connection with the project.
5. 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.
6. Cost of all mitigation measures proposed for the project.

F. Socioeconomic Impacts. A comprehensive socioeconomic impact analysis that addresses the manner in which the applicant will comply with the relevant approval standards in Division 6 of this Article. The impact analysis shall be limited to the impact area and shall include the following information:

1. **Land Use**

- a. Description of existing land uses within and adjacent to the impact area.
- b. Description of impacts and net effect that the Project would have on land use patterns.

2. Local Government Services

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

3. Housing

- a. Description of existing seasonal and permanent housing including number, condition and cost of dwelling units.
- b. Description of the impact and net effect of the Project on housing during construction and operation stages of the Project.

4. Financial Burden on County Residents

- a. Description of the existing tax burden and fee structure for government services including but not limited to assessed valuation, mill levy, rates for water and wastewater treatment, and costs of water supply.
- b. Description of impacts and net effect of the Project on financial burdens of residents.

5. Local Economy

- a. Description of the local economy including but not limited to revenues generated by the different economic sectors, and the value or productivity of different lands.

- b. Description of impacts and net effect of the Project on the local economy and opportunities for economic diversification.

6. Recreational Opportunities

- a. Description of present and potential recreational uses, including but not limited to the number of recreational visitor days for different recreational uses and the revenue generated by types of recreational uses.
- b. Map depicting the location of recreational uses such as fishery stream segments, access points to recreational resources, hiking and biking trails, and wilderness areas.
- c. Description of the impacts and net effect of the Project on present and potential recreational opportunities and revenues to the local economy derived from those uses.

7. Areas of Paleontological, Historic or Archaeological Importance

- a. Map and/or description of all sites of paleontological, historic or archaeological interest.
- b. Description of the impacts and net effect of the Project on sites of paleontological, historic or archaeological interest.

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

G. Environmental Impacts. Description of the existing natural environment and an analysis of the impacts of the Project to the natural environment. These descriptions shall be limited to the impact area, and shall include an analysis of existing conditions, supported with data, and a projection of the impacts of the Project in comparison to existing conditions. The analysis shall include a description of how the applicant will comply with the applicable approval standards set forth in Division 6.

1. Air Quality

- a. Description of the airsheds to be affected by the Project, including the seasonal pattern of air circulation and microclimates.

- b. Map and/or description of the ambient air quality and state air quality standards of the airsheds to be affected by the Project, including particulate matter and aerosols, oxides, hydrocarbons, oxidants, and other chemicals, temperature effects and atmospheric interactions.
- c. Descriptions of the impacts and net effect that the Project would have on air quality during both construction and operation, and under both average and worst case conditions.

2. Visual Quality

- a. Map and/or description of ground cover and vegetation, forest canopies, waterfalls and streams or other natural features.
- b. Description of viewsheds, scenic vistas, unique landscapes or land formations.
- c. Map and/or description of buildings and structure design and materials to be used for the Project.
- d. Descriptions of the impacts and net effect that the Project would have on visual quality.

3. Surface Water Quality

- a. Map and/or description of all surface waters to be affected by the Project, including:
 - (1) Description of provisions of the applicable regional water quality management plan that applies to the Project and assessment of whether the Project would comply with those provisions.
 - (2) Existing condition of streams and water bodies affected by the Project.
 - (3) Classification of streams and water bodies affected by the Project.
- b. Description of water quality data monitoring sources.

- c. Descriptions of the immediate and long-term impact and net effects that the Project would have on the quantity and quality of surface water under both average and worst case conditions.

4. Groundwater Quality

- a. Map and/or description of all groundwater, including any aquifers. At a minimum, the description should include:
 - (1) Seasonal water levels in each subdivision of the aquifer affected by the Project.
 - (2) Artesian pressure in aquifers.
 - (3) Groundwater flow directions and levels.
 - (4) Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.
 - (5) For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of aquifer to impound groundwater and aquifer storage capacity.
 - (6) 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.
 - (7) Existing groundwater quality and classification.
 - (8) Location of all water wells and their uses.
- b. Description of the impacts and net effect of the Project on groundwater.

5. Water Quantity

- a. Map and/or description of existing stream flows and reservoir levels.

- b. Map and/or description of existing Colorado Water Conservation Board held minimum stream flows.
- c. Descriptions of the impacts and net effect that the Project would have on water quantity.
- d. Statement of methods for efficient utilization of water.

6. Floodplains, Wetlands and Riparian Areas

- a. Map and/or description of all floodplains, wetlands (whether or not they are jurisdictional, wetlands as defined by the Corps of Engineers), and riparian areas to be affected by the Project, including a description of the types of wetlands, species composition, biomass and functions.
- b. Description of the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.) or riparian area.
- c. Description of the impacts and net effect that the Project would have on the floodplains, wetlands and riparian areas.

7. Terrestrial and Aquatic Animals and Habitat

- a. Map and/or description of terrestrial and aquatic animals including the status and relative importance of game and non-game wildlife, livestock and other animals; a description of streamflows and lake levels needed to protect the aquatic environment; description of threatened or endangered animal species and their habitat.
- b. Map and description of critical wildlife habitat and livestock range to be affected by the Project including migration routes, calving areas, summer and winter range, spawning beds and grazing areas.
- c. Description of the impacts and net effect that the Project would have on terrestrial and aquatic animals, habitat and food chain.

8. Terrestrial Plant Life

- a. Map and/or description of terrestrial and aquatic plant life including the type and density, and threatened or endangered plant species and habitat.
- b. Descriptions of the impacts and net effect that the Project would have on terrestrial and aquatic plant life.

9. Soils, Geologic Conditions and Natural Hazards

- a. Map and/or description of soils, geologic conditions, and natural hazards including but not limited to soil types, drainage areas, slopes, avalanche areas, debris fans, mud flows, rock slide areas, faults and fissures, seismic history, and wildfire hazard areas.
- b. Descriptions of the risks to the Project from natural hazards.
- c. Descriptions of the impact and net effect of the Project on soil and geologic conditions in the area.

H. Hazardous Materials Description.

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

I. Monitoring and Mitigation Plan.

- 1. Description of all mitigation that is proposed to avoid, minimize or compensate for adverse impacts of the Project and to maximize positive impacts of the Project.
 - a. Describe how and when mitigation will be implemented and financed.
 - b. Describe impacts that are unavoidable that cannot be mitigated.

2. Description of methodology used to measure impacts of the Project and effectiveness of proposed mitigation measures.
3. Description, location and intervals of proposed monitoring to ensure that mitigation will be effective.

J. Additional Information May Be Necessary. The Director may request that the applicant supply additional information related to the Project if the Permit Authority will not be able to make a determination on any of the approval standards without the additional information.

Section 14-502 Additional Submittal Requirements Applicable to Development in Areas Around Rapid or Mass Transit Facilities. In addition to the submittal requirements in Section 14-501, *Description of Submittal Requirements*, development in areas around Rapid or Mass Transit Facilities shall require the following additional submittals:

A. One or more maps at sufficient scale showing the location of the proposed development and its relationship to the rapid or mass transit station or terminal and the interchanges, streets, highways, parking lots, and public facilities which are adjacent to or form an integral part of the operation of the rapid or mass transit facility.

B. A narrative description of the motor vehicle, bicycle, and pedestrian traffic likely to be generated by the proposed development, including but not limited to traffic generation at various times of the day, potential congestion, and potential demand for parking generated by the development.

C. A narrative description of the impacts of the proposed development to the rapid or mass transit facility.

D. Maps or diagrams illustrating the pedestrian and bicycle routes that can be utilized to gain access between the proposed development and the adjacent rapid or mass transit facility.

Section 14-503 Additional Submittal Requirements Applicable to Arterial Highways, Interchanges and Collector Highways. In addition to the submittal requirements set forth in Section 14-501, *Description of Submittal Requirements*, an application proposing arterial highways, interchanges or collector highways shall include the following information.

A. Description of how project will affect traffic patterns as well as non-motorized traffic.

B. Description of how the new roads will likely affect surrounding land uses and existing community patterns.

C. Description of how new roads will serve community traffic demands.

D. Description of how new roads will comply with other local, state and federal regulations and master plans.

Section 14-504 Additional Submittal Requirements for Fixed Guideways. In addition to the submittal requirements set forth in Section 14-501, *Description of Submittal Requirements*, an application proposing fixed guideways shall include the following information.

A. Description of the type of motive power that will be used to propel transit vehicles along the guideway (e.g. diesel, electric, electrified third rail, catenary system).

B. Description of the minimum and the optimum width of the right-of-way necessary for the guideway together with maps showing the proposed right-of-way including its location within incorporated municipalities. Such maps or supporting documentation referring to the maps shall also indicate the maximum anticipated speed of transit vehicles along the various segments of the guideway.

C. Description of the minimum and maximum passenger capacity of the transit vehicles that will travel on the guideway and the anticipated frequency or scheduling of guideway use.

D. Description of the maximum length of any train that will travel upon the guideway with separate figures for the length of passenger carrying units and for propulsion units. Self propelled units shall be considered as passenger units.

E. The maximum proposed grade of the guideway and the maximum curvature. Proposed curves in excess of ten (10) degrees shall be indicated on the map.

F. Description of all buildings or other structures that must be removed in order for the proposed guideway to be built.

G. Description of the methods planned to prevent collisions at points where the proposed guideway crosses other transportation corridors.

Section 14-505 Additional Submittal Requirements for Stations and Terminals. In addition to the submittal requirements set forth in Section 14-501, *Description of Submittal Requirements*, an application proposing stations or terminals associated with a rapid or mass transit system shall include the following information.

A. Description of the type or types of mechanical transit conveyance that will be utilized to carry passengers to and from the station or terminal, and a description of the means of access to and from the station or terminal including pedestrian, bicycle, automotive, bus, carpool, gondolas, lifts, and other intermodal connections either existing or reasonably foreseen to be developed in the area.

B. An analysis of the passengers which will utilize the proposed facility. Such analysis shall be based on the best information available and shall include:

1. Whether the passengers will be utilizing the rapid or mass transit system to travel to and from employment or for some other purpose.
2. The number of automobiles that the passengers will drive to the station or terminal at or just before any scheduled departure.
3. The number of passengers that will likely ride only one way on any given day.
4. The number of passengers that can be expected to bring baggage, recreational equipment, tools, or other material.

C. The anticipated schedule of departures and arrivals at the station or terminal and the expected capacity of each transit unit. Separate figures shall be given for peak and off-peak hours, weekdays and weekends, and peak and off-peak seasons.

D. The maximum length of any train that will serve the station or terminal, excluding propulsion units.

E. Basic floor plans and architectural sketches of each proposed building or structure together with a site map showing the relative location of each building or structure. Such plans and sketches shall show the location and length of platforms to be used to load and unload passengers.

F. A map of all associated roadways, parking areas and other facilities. Design details such as width, layout, traffic flow, pavement markings and traffic

control devices shall either be illustrated on the map or adequately described in supporting documents.

Section 14-506 Additional Submittal Requirements for TPUD in Areas Around Mass Transit Stations or Terminals. In addition to the submittal requirements set forth in Section 14-501, *Description of Submittal Requirements* and the submittal requirements for a PUD set forth in Section 6-301 of Article VI, *PUD*, an application proposing a Transit PUD shall include the following information.

A. A written narrative describing the general nature of the proposed development, including a description of the location by reference to a planned or constructed mass transit station or terminal.

B. One or more maps showing the location of the proposed development and its relationship to the mass transit station or terminal and the interchanges, streets, highways, parking lots, and public facilities which are adjacent to or otherwise form an integral part of the operation of the mass transit station or terminal. [rapid or mass transit facility].

C. A narrative description with diagrams, charts or other descriptive elements analyzing the motor vehicle, bicycle, and pedestrian traffic likely to be generated by the proposed development, as opposed to traffic generated by the mass transit station or terminal. Such analysis shall include, where possible, numbers and peak times showing the generation of traffic, potential congestion, and potential demand for parking generated by non-transit industrial, commercial or residential uses and whether such traffic, congestion or parking requirements impacts favorably or unfavorably on operation of the mass transit station or terminal. The description shall include an analysis of how any commercial and residential space is designed to reinforce proximate neighborhood needs and transit utilization, as opposed to automobile dependent commercial or residential development.

D. Diagrams illustrating how the proposed development can be accessed during times of peak traffic at the mass transit station or terminal without such access crossing or otherwise conflicting with the traffic going to the mass transit facility. Proper design can be accomplished by turn lanes or other features of roadway design, but cannot be accomplished by any type of traffic signals that would stop traffic going to the mass transit station or terminal and associated parking lots.

E. A narrative description of any commercial services that will be provided in the proposed TPUD and an analysis of how those commercial services will

benefit or be utilized by persons using the adjacent mass transit station or terminal.

F. A narrative description of the types of residential uses proposed in the TPUD and a description of the price range and market niche proposed for residential units with an emphasis on the likelihood of transit use by future residents.

G. An analysis of the likely use of the proposed commercial services by people who do not use the adjacent mass transit station or terminal, including an analysis of the number of such persons, the likely time of day for their use, and the parking areas that will be required by them.

H. Maps or diagrams illustrating the pedestrian and bicycle routes that can be utilized to gain access between the residential units and the adjacent mass transit facility.

Section 14-507 Additional Submittal Requirements Applicable to Site Selection for Airport or Heliport Location or Expansion. In addition to the submittal requirements in Section 14-501, *Description of Submittal Requirements*, an application proposing to locate or expand an Airport or Heliport shall require the following submittals:

A. Lay-out Plans, Maps and Profiles.

- 1. Lay-out Plan for Airport.** A lay-out plan that includes the following information:
 - a. The Airport Reference Code.
 - b. The Airport elevation.
 - c. Ground contours at 10' intervals.
 - d. The location and dimensions of the runways and the Airport Imaginary Surfaces.
 - e. The layout of existing and planned facilities and features.
 - f. The building restriction lines.

- 5. Description of Effect on State and Local Economic and Transportation Needs.** Description of how the Airport or Heliport will affect economic and transportation needs of the state and the County.

Section 14-508 Additional Submittal Requirements Applicable to Land Use in Areas Around an Airport or Heliport. In addition to the submittal requirements in Section 14-501, *Description of Submittal Requirements*, an application proposing to develop land use in areas around Airports and Heliports shall require the following submittals:

- A. Map.** A map or drawing showing the location of the subject property in relation to Airport Imaginary Surfaces.
- B. Elevation Profiles and Site Plan.** Elevation profiles and a site plan including:
1. Location of existing and proposed structures in relation to Airport or Heliport Imaginary Surfaces
 2. Height of all existing and proposed structures, measured in feet above mean sea level.
- C. Written Agreements for Height Exception.** Written Agreements from the Airport/Heliport Sponsor and the FAA, if a height exception is requested.
- D. Declaration of Anticipated Noise Levels.** A declaration of anticipated noise levels for property located within Noise Impact Area boundaries.
1. For noise sensitive land use located in areas where the noise level is anticipated to be at or above 55 Ldn, the applicant shall demonstrate that a noise abatement strategy will be incorporated into the building design that will achieve an indoor noise level equal to or less than 55 Ldn.
- E. Avigation Easement.** An Avigation and Hazard Easement dedicated to the Airport Sponsor, in a form acceptable to the Airport Sponsor. The Avigation Easement shall allow unobstructed passage for aircraft and ensure safety and use of the airport for the public. A sample avigation easement is provided at in Article IV, Section 4-701, *Sample Avigation and Hazard Easement*
1. The Avigation and Hazard Easement shall be recorded in the office of the Garfield County Clerk and Recorder.

2. Applicant shall provide a copy of the recorded instrument prior to issuance of a building permit.

Section 14-509 Additional Submittal Requirements Applicable to Municipal and Industrial Water Projects.

- A. Description of efficient water use, recycling and reuse technology the Project intends to use.
- B. Map and description of other municipal and industrial water projects in the vicinity of the Project, including their capacity and existing service levels, location of intake and discharge points, service fees and rates, debt structure and service plan boundaries and reasons for and against hooking on to those facilities.
- C. Description of demands that this Project expects to meet and basis for projections of that demand.

DIVISION 6 PERMIT APPROVAL STANDARDS

Approval of a Permit to engage in activities of state interest or development in areas of state interest shall be based on whether the Proposed Project satisfies the following approval standards. In determining whether the Proposed Project satisfies applicable standards, the Board shall take into consideration the construction, operation and cumulative impacts of the Proposed Project.

Section 14-601 General Approval Standards. The following general standards shall apply to all applications subject to review under these Regulations.

- A. **Necessary Permits Will Be Obtained.** Documentation that prior to site disturbance associated with the Proposed Project, the applicant can and will obtain all necessary property rights, permits and approvals. The Board may, at its discretion, defer making a final decision on the application until outstanding property rights, permits and approvals are obtained.
- B. **Expertise and Financial Capability.** The applicant has the necessary expertise and financial capability to develop and operate the Proposed Project consistent with all requirements and conditions
- C. **Technical and Financial Feasibility.** The Proposed Project is technically and financially feasible.
- D. **Risk From Natural Hazards.** The Proposed Project is not subject to significant risk from natural hazards.

E. Consistent Sit Plans. The Proposed Project will be consistent with applicable comprehensive plans and master plans, and will encourage appropriate land uses.

F. Effect on Local Government Services. The Proposed Project will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.

G. Housing. The Proposed Project will not have a significant adverse effect on housing availability or cost.

H. Financial Burden. The Proposed Project will not create an undue financial burden on existing or future residents of the County

I. Effect on Economy. The Proposed Project will not significantly degrade any sector of the local economy.

J. Recreational Experience. The Proposed Project will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience.

K. Conservation. The planning, design and operation of the Proposed Project will reflect principals of resource conservation, energy efficiency and recycling or reuse.

L. Natural Environment. The Proposed Project will not significantly degrade the natural environment. Appendix "A" includes the considerations that will be used to determine whether there will be significant degradation of the environment. For purposes of this section, the term environment shall include:

1. Air quality.
2. Visual quality.
3. Surface water quality.
4. Groundwater quality.
5. Wetlands and riparian areas.
6. Terrestrial and aquatic animal life.
7. Terrestrial and aquatic plant life.

8. Soils and geologic conditions.

M. Nuisance. The Proposed Project will not cause a nuisance as defined within the Garfield County Land Use and Development Code.

N. Areas of Paleontological, Historic or Archaeological Importance. The Proposed Project will not significantly degrade areas of paleontological, historic, or archaeological importance.

O. Release of Hazardous Materials. The Proposed Project will not result in unreasonable risk of releases of hazardous materials. In making this determination as to such risk, the Board's consideration shall include:

1. Plans for compliance with federal and state handling, storage, disposal and transportation requirements.
2. Use of waste minimization techniques.
3. Adequacy of spill prevention and response plans.

P. Benefits Versus Loss of Resources. The benefits accruing to the County and its citizens from the proposed activity outweigh the losses of any resources within the County, or the losses of opportunities to develop such resources.

Q. Best Alternative. The Proposed Project represents the alternative that best complies with these Regulations.

R. Project Need. The Proposed Project is needed within the County and/or area to be served.

Section 14-602 Additional Standards Applicable to Rapid or Mass Transit Facilities. In addition to the general standards set forth in Section 14-601, the following additional standards shall apply to Rapid or Mass Transit Facilities:

- A.** Areas around rapid or mass transit facilities shall be administered to:
1. Promote the efficient utilization of the rapid or mass transit facility.
 2. Facilitate traffic circulation patterns of roadways serving the mass transit facility.

3. Promote development that will include bike and pedestrian paths providing access to the rapid or mass transit facility.
- B.** Site selection of Rapid or Mass Transit Facilities.
1. Rapid or Mass Transit Facilities shall be located in conformance with the County Comprehensive Plan and with applicable municipal master plans.
 2. Activities involving Rapid or Mass Transit Facilities shall be conducted with reasonable considerations to the character of the area and its peculiar suitability for particular uses
 3. Rapid or Mass Transit Facilities shall be located so as to preserve the value of buildings at the site and avoid demolition of businesses or residences to the extent possible.
 - a. Proposed locations of Rapid or Mass Transit Facilities which will not require the demolition of residences or businesses shall be given preferred consideration over competing alternatives.
 4. Rapid or Mass Transit Facilities shall be located in a manner that encourages the most appropriate use of land through the affected corridor.
 5. A proposed location of a Rapid or Mass Transit Terminal, Station, or Fixed Guideway that imposes a burden or deprivation on a local government cannot be justified on the basis of local benefit alone, nor shall a permit for such a location be denied solely because the location places a burden or deprivation on one local government as required by Section 24-65.1-204(4)(c).
 6. Stations, shelters and terminals shall be appropriately located to meet transit needs and to attract maximum ridership.
 - a. The length of passenger platforms shall equal or exceed the maximum length of any train or other conveyance that will load and unload passengers at the station.

7. Rapid or Mass Transit Facilities shall have adequate and safe ingress and egress for all transit modes.
8. The location of fixed guideways shall maximize joint use of rights-of-way for trails and bikeways and other transportation alternatives.
9. Rapid or Mass Transit Facilities shall be designed and located in a manner that will reduce traffic congestion and resulting air pollution.
10. Rapid or Mass Transit Facilities shall be located and designed so as to minimize noise and to protect and preserve unique natural and cultural factors and visual amenities.
11. Guideway design and location shall not permit snow plumes from snow removal equipment on the guideway to reach the travel surface of a plowed public road except at intersections, nor shall guideways be placed or designed so that snow plumes from snow removal equipment on public roads will reach the guideway.
 - a. In determining the right-of-way and corridor alignment for rapid transit, consideration shall be given to areas needed for snow storage along the guideway.
12. The parking areas associated with a Rapid or Mass Transit Terminal or Station shall be capable of holding a number of automobiles that equals the number of passengers expected to ride on peak periods multiplied by a factor of .75 unless the applicant can demonstrate through studies that a lesser number is sufficient.
 - a. The required capacity for parking areas associated with a terminal or station may be modified based upon sufficient evidence of passenger loading from other forms of intermodal transfer (such as Amtrack, Tour busses, regional surface buses, carpools, etc.).
 - b. The applicant may initially provide a smaller number of parking spaces if the total area dedicated to potential parking expansion is shown to be large enough to accommodate the required number of parking spaces and the applicant provides financial security acceptable to the Board which guarantees that the required number can be built if actual need is shown after operation begins.

13. Access roads to a Rapid or Mass Transit Station or Terminal shall be designed, constructed or improved to accommodate, during a 15 minute period, the maximum number of automobiles anticipated to arrive before the scheduled departure of the mass transit conveyance without causing cars to back up onto the public road serving the facility.
14. The Manual on Traffic Control Devices shall apply to safety devices at intersections of a fixed guideway and other transportation corridors.

Section 14-603 Additional Standards Applicable to Areas Around Arterial Highways, Interchanges and Collector Highways. In addition to the general standards set forth in Section 14-601, the following additional standards shall apply to areas around arterial highways, interchanges and collector highways:

A. Areas around arterial highways, interchanges, and collector highways shall be designed and administered to:

1. Encourage the smooth flow of traffic;
2. Foster the development of such areas in a manner calculated to preserve the smooth flow of such traffic; and
3. Preserve desirable existing community patterns.
4. Minimize danger associated with highway traffic.
5. Encourage compatibility with non-motorized traffic.

B. Site selection for arterial highways, interchanges and collector highways.

1. The site selected for the Proposed Project shall conform with the county Comprehensive Plan, municipal master plans, and regional or state plans.
2. Arterial highways and interchanges shall be located and designed so that community traffic needs are met.
3. Arterial highways and interchanges shall be located and designed so that desirable community patterns are not disrupted.

Section 14-604 Approval Standards for Site Selection of Airport or Heliport Location or Expansion. Airports and Heliports shall be located or expanded in a manner that will minimize disruption to the environment, minimize the impact on existing community services and complement the economic and transportation needs of the state and the area. In addition to the general standards set forth in Section 14-601, the following standards shall apply to all applications proposing the location or expansion of an Airport or Heliport.

A. Airport Layout. The Airport shall be developed in accordance with an FAA approved layout plan, or a layout plan approved by the Board of County Commissioners complying with FAA Advisory Circular 150/5300-13 and the current *Northwest Mountain Region Airport Layout Plan Checklist*, with the exception that aircraft tie-down dimensions need only be sufficient to provide adequate clearances for the aircraft to be tied down.

B. Heliport Layout. Heliports and helistops shall be developed in accordance with an FAA approved layout plan, or a layout plan approved by the Board of County Commissioners complying with FAA Advisory Circular 150/5390-2.

C. Ability to Obtain Necessary Permits. The applicant can and will obtain all necessary property rights, permits, approvals and easements (including needed easements for drainage, disposal, utilities, and aviation within airport area of influence) prior to site disturbance associated with the Proposed Project. The Board may, at its discretion, defer making a final decision on the application until outstanding property rights, permits and approvals are obtained.

D. Conflict with Existing Easements. The location of the Airport or Heliport site or expansion will not unduly interfere with any existing easements for power or telephone lines, irrigation, mineral claims or roads.

E. Relationship to Economic and Transportation Needs. The location of the Airport or Heliport site or expansion complements the existing and reasonably foreseeable economic and transportation needs of the state and of the area immediately served by the airport, particularly mass transit facilities.

F. Nuisance. The location of the Airport or Heliport site or expansion shall not cause a nuisance as defined within the Garfield County Land Use and Development Code.

1. The 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 CNR 110 or more, no structure shall be allowed and existing structures shall be relocated.

Section 14-605 Approval Standards Applicable to Areas Around Airports and Heliports.

A. Protection of Public Health, Safety and Welfare. Areas around Airports and Heliports shall be administered to avoid danger to public safety and health or to property due to aircraft crashes. In addition to the general standards set forth in Section 14-601, the following standards apply to land use in Areas Around Airports and Heliports.

1. **Communications Facilities and Electrical Interference.** No use shall cause or create electrical interference with navigational signals or radio communications between an airport/heliport and aircraft.
 - a. Location of new or expanded radio, radiotelephone, and television transmission facilities and electrical transmission lines within the Airport/Heliport Influence Area Overlay shall be coordinated with the Board of County Commissioners and the FAA prior to approval.
 - b. The approval of cellular and other telephone or radio communication towers on leased property located within Airport Imaginary Surfaces shall be conditioned upon their removal within ninety (90) calendar days following the expiration of the lease agreement. A bond or other security shall be required to ensure this requirement.
2. **Outdoor Lighting.** Lighting other than that associated with airport/heliport operations shall comply with the following standards.
 - a. Lighting shall not project directly onto an existing heliport, runway or taxiway or into existing Airport Approach Surfaces.
 - b. Lighting shall incorporate shielding to reflect light away from Airport Approach Surfaces.

- c. Lighting shall not imitate airport lighting or impede the ability of pilots to distinguish between airport/heliport lighting and other lighting.
- 3. **Use of Reflective Materials Prohibited.** No glare producing material, including but not limited to unpainted metal or reflective glass, shall be used on the exterior of structures located within an Airport Approach Surface or on nearby lands where glare could impede a pilot's vision.
- 4. **Industrial Emissions That Obscure Visibility Prohibited.** No development shall, as part of its regular operations, cause emissions of smoke, dust or steam that could obscure visibility within Airport Approach Surfaces.
- 5. **Height Restrictions.**
 - a. When height restrictions of the underlying zone district are more restrictive than those of the overlay district, the underlying zone district height limitations shall control.
 - b. No structure or tree, plant or other object of natural growth shall penetrate an Imaginary Surface except as follows:
 - (1) For areas within Airport or Heliport Imaginary Surfaces but outside the Approach and Transition Surfaces, where the terrain is at higher elevations than the Airport runway or Heliport surfaces such that existing structures and permitted development penetrate or would penetrate the Airport Imaginary Surface, structures up to thirty-five (35) feet in height may be permitted.
 - (2) Written agreement by the Airport Sponsor and the FAA shall be provided for other height exceptions requested.
- 6. **Wetland Construction, Enhancement, Restoration or Mitigation.** Projects proposing wetland construction, enhancement, restoration or mitigation within area around an Airport or Heliport shall comply with the following approval standards.

- a. Wetland projects shall be designed and located to avoid creating a wildlife hazard or increasing hazardous movements of birds across runways or Approach Surfaces.
- b. Wetlands projects that create, enhance or restore wetlands that are proposed to be located within an area around an Airport or Heliport facility and that would result in the creation of a new water impoundment or expansion of an existing water impoundment shall demonstrate the following:
 - (1) The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge.
 - (2) The resulting wetlands are designed, and shall be maintained in perpetuity, in a manner that will not increase hazardous movements of birds feeding, watering or roosting in areas across runways or approach surfaces.
- c. Expansion of existing wetland mitigation projects and new wetland mitigation projects located within areas around an Airport or Heliport shall demonstrate at least one of the following:
 - (1) Off-site mitigation is not practicable; or
 - (2) The affected wetlands provide unique ecological functions, such as critical habitat for threatened or endangered species or ground water discharge, and the area proposed for mitigation is located outside an Approach Surface; or
 - (3) The mitigation involves existing wetland within areas around an Airport or Heliport that have not been associated with attracting problematic wildlife to the Airport or Heliport vicinity.
- d. The proposed wetland project shall be coordinated with the Airport Sponsor, the Board, the FAA and FAA's technical representative, the Colorado Department of Fish & Wildlife (ODFW), the US Fish & Wildlife Service (USFWS), and the US Army Corps of Engineers (Corps) as part of the permit application.

- e. A Project proposing wetland construction, enhancement, restoration or mitigation within areas around an Airport or Heliport shall include measures deemed appropriate and necessary to prevent in perpetuity an increase in hazardous bird movements across runways and Approach Surfaces.
 - f. The establishment of wetland mitigation banks in the vicinity of Airports or Heliports but outside Approach Surfaces and areas around Airports or Heliports subject to these Regulations shall be encouraged.
- 7. Water Impoundments Within Approach Surfaces and Airport Direct and Secondary Impact Boundaries.** Any use or activity that would result in the establishment or expansion of a water impoundment shall comply with the following standards.
- a. New or expanded water impoundments of one-quarter acre in size or larger shall be prohibited in the following areas:
 - (1) Within an Approach Surface and within 5,000 feet from the end of a runway.
 - (2) On land owned by the Airport or Heliport Sponsor that is necessary for Airport or Heliport operations.
- 8. Use Restrictions, Areas Around Airports and Heliports.**
- a. **Runway Protection Zone (RPZ).** No structures shall be allowed within the Runway Protection Zone (RPZ). Exceptions shall be made for structures accessory to airport operations whose location within the RPZ has been approved by the FAA.
 - (1) For purposes of this document, tee markers, tee signs, pin cups and pins are not considered to be structures.
 - (2) Utilities, power lines and pipelines located in the RPZ must be underground.
 - b. **Approach Surfaces.**

- (1) Public assembly facilities may be allowed in an Approach Surface if the potential danger to public safety is minimal.
 - (2) High density uses and residential structures should be located outside Approach Surfaces unless no practicable alternatives exist.
- c. Uses Prohibited in Areas Around Airports or Heliports:**
- (1) **Sanitary Landfills.** Sanitary landfills are not permitted.
 - (2) **Water Treatment Plants.** Water treatment plants are not permitted.
- d. Uses Allowed in Areas Around Airports or Heliports:**
- (1) **Golf Courses.** Golf courses may be permitted upon demonstration that satisfactory management techniques will be utilized to reduce existing wildlife attractants and avoid the creation of new wildlife attractants. Such techniques shall be required as conditions of the approval.
 - (2) **Farm Use.** Farming practices complying with the recommendations of FAA Advisory Circular 150/5200-3A, *Hazardous Wildlife Attractants on or Near Airports* shall be encouraged.
 - (3) **Utilities.** The proposed height of utilities located in Approach Surfaces and Airport Direct and Secondary Impact Areas shall be coordinated with the Airport Sponsor.
- e. Restrictions In RPZ, Approach Surface, and Impact Areas.** The land uses restrictions in the RPA, Approach Surface, Direct Impact Areas and Secondary Impact Area are identified in the following use table.

Table: Use Restrictions, RPZ, Approach Surface, and Impact Areas.

Key:

P = Use is Permitted

L = Use is Allowed under Limited Circumstances (see footnotes)

N = Use is Not Allowed

	RPZ	APPROACH SURFACE ¹	DIRECT IMPACT AREA	SECONDARY IMPACT AREA
Public Airport	L	L	P	P
Residential	N	L ²	L	P
Commercial	N	L	L	P
Industrial	N	L	P	P
Institutional	N	L	L	P
Roads/Parking	L ³	P	P	P
Parks/Open Space	L	P	P	P
Athletic Fields	N	L	L	P
Mining	N	L	L	L

1. Within 10,000 feet from the end of the primary surface of a non-precision instrument runway, and within 50,000 feet from the end of the primary surface of a precision instrument runway.
2. Residential densities within approach and transitional surfaces should not exceed: (1) within 500 feet of the outer edge of the RPZ, 1 unit per acre; (2) within 500 to 1,500 feet of the outer edge of the RPZ, 2 units per acre; (3) within 1,500 to 3,000 feet of the outer edge of the RPZ, 4 units per acre.
3. Roads and parking areas are permitted in the RPZ only upon demonstration that there are not practicable alternatives. Lights, guardrails, and related accessory structures are prohibited. Cost may be considered in determining whether practicable alternatives exist.

Source: Model Public Use Airport Safety And Compatibility Overlay Zone (Visual and Instrument Approach Airports), Oregon Department of Aviation

B. Separation of Noise-Sensitive Land Use. Areas around Airports and Heliports shall be administered to encourage land use patterns that will separate uncontrollable noise sources from residential and other noise-sensitive areas.

1. Within Airport or Heliport Noise Impact Boundaries, the following land use restrictions shall apply, based upon noise levels:

Table: Use Restrictions Based On Noise Levels.

Key:

P = Use is Permitted

L = Use is Not Recommended but May be Allowed under Certain Circumstances

N = Use is Not Allowed

LAND USE	YEARLY DAY-NIGHT AVERAGE SOUND LEVEL (Ldn) IN DECIBELS					
	<65	65-70	70-75	75-80	80-85	>85
Residential except mobile homes & transient lodging	P	L	L	N	N	N
Mobile Home Parks	P	N	N	N	N	N
Transient Lodging	P	L	L	L	N	N
Schools, Hospitals & Nursing Homes	P	L	L	N	N	N
Churches, Auditoriums & Concert Halls	P	L	L	N	N	N
Government Service	P	P	L	L	N	N
Transportation	P	P	L	L	L	L
Parking	P	P	L	L	L	N
Commercial Use	P	P	L	L	N	N
Wholesale & Retail – building materials, hardware & farm equipment	P	P	L	L	L	N
Retail Trade - General	P	P	L	L	N	N
Utilities	P	P	L	L	L	N
Communication	P	P	L	L	L	N
Manufacturing & Production	P	P	L	L	L	N
Photographic & Optical	P	P	L	L	L	N
Agriculture (except livestock) & forestry	P	L	L	L	L	L
Livestock Raising & Breeding	P	L	L	N	N	N
Mining & Fishing	P	P	P	P	P	P
Outdoor Sports Arenas & Spectator Sports	P	L	L	N	N	N
Outdoor Music Shells, Amphitheatres	P	N	N	N	N	N
Nature Exhibits & Zoos	P	P	N	N	N	N
Amusements, Parks, Resorts & Camps	P	Y	Y	N	N	N
Golf Courses, Riding Stables & Water Recreation	P	P	L	L	N	N

Source: AC150/5020-1.

DIVISION 7 FINANCIAL GUARANTEE

Section 14-701 Financial Guarantee Required. Before any permit is issued under these Regulations, the Board shall require the applicant to file a guarantee of financial security deemed adequate by the Board and payable to the County. The purpose of the financial guarantee is to assure the following:

- A.** That the Proposed Project is completed and, if applicable, that the Development Area is properly reclaimed.
- B.** That the applicant performs all mitigation requirements and permit conditions in connection with the construction, operation and termination of the Proposed Project.
- C.** That increases in public facilities and services necessitated by the construction, operation and termination of the Proposed Project are borne by the permittee.
- D.** That shortfalls to County revenues are offset in the event that the Proposed Project is suspended, curtailed or abandoned.

Section 14-702 Amount of Financial Guarantee. In determining the amount of the financial guarantee, the County shall consider the following factors:

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

Section 14-703 Estimate. Estimated cost shall be based on the applicant's submitted cost estimate plus the Board's estimate of the additional cost to the

County of bringing in personnel and equipment to accomplish any unperformed purpose of the financial guarantee. The Board shall consider the duration of the development or activity and compute a reasonable projection of increases due to inflation. The Board may require, as a condition of the permit, that the financial security be adjusted upon receipt of bids to perform the requirements of the permit and Regulations.

Section 14-704 Form of Financial Guarantee

- A. The financial guarantee may be in any form acceptable to the Board.
- B. At least ten percent (10%) of the amount of the financial guarantee must be in cash deposited with the County's treasurer and placed in an earmarked escrow account mutually agreeable to the Board and applicant.

Section 14-705 Release of Guarantee. The financial guarantee may be released only when:

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

Section 14-706 Cancellation of the Financial Guarantee. Any financial guarantee may be canceled only upon the Board's written consent, which may be granted only when such cancellation will not detract from the purposes of the security.

Section 14-707 Forfeiture of Financial Guarantee

- A. If the Board determines that a financial guarantee should be forfeited because of any violation of the permit, mitigation requirements, conditions or any applicable Regulations adopted by the Board, it shall provide written notice to the

surety and the permittee that the financial guarantee will be forfeited unless the permittee makes written demand to the Board, within thirty (30) days after permittee's receipt of notice, requesting a hearing before the Board. If no demand is made by the permittee within said period, then the Board shall order the financial guarantee forfeited.

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

C. The deposit described above may be used by the Board in the event of the default or allowed default of the permit holder, only for the purposes of recovering on the surety or fulfilling the permit obligation of the permit holder. In the event that the ultimate reviewing court determines that there has been a default by the permit holder, that portion of any moneys expended by the County from the escrow funds relating to such default shall be replaced in the escrow account by the Board immediately following such determination. The County 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 deposit. Funds shall be disbursed out of escrow by the institution to the County upon County's demand for the purpose specified in this section.

D. If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, the County's attorney shall take such steps as deemed proper to recover such costs where recovery is deemed possible.

Section 14-708 Substitute of Financial Guarantee. 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 shall within sixty (60) days after receiving notice thereof, substitute a good and sufficient surety licensed to do business in Colorado. Upon failure of the permittee to make substitution within the time allowed, the Board shall suspend the permit until proper substitution has been made.

DIVISION 8 PERMIT ADMINISTRATION AND ENFORCEMENT

Section 14-801 Enforcement and Penalties

A. Any person engaging in development in the designated area of state interest or conducting a designated activity of state interest who does not obtain a Permit pursuant to these Regulations, who does not comply with Permit requirements, or who acts outside the jurisdiction of the Permit may be enjoined by the County or the Colorado Land Use Commission from engaging in such development, and may be subject to such other criminal or civil liability as may be prescribed by law.

B. If the County determines at any time that there are material changes in the construction or operation of the Project from that approved by the County, the Permit may be immediately suspended and a hearing shall be held to determine whether new conditions are necessary to ensure compliance with the approval standards or if the Permit should be revoked.

Section 14-802 Permit Suspension or Revocation

A. The Board may temporarily suspend the permit for a period of thirty (30) days for any violation of the permit or the applicable Regulations. The permit holder shall be given written notice of the violation and will have a minimum of fifteen (15) days to correct the violation. If the violation is not corrected, the permit shall be temporarily suspended for thirty (30) days.

B. The County may revoke a permit granted pursuant to these Regulations if any of the activities conducted by the permittee violates the conditions of the Permit or these Regulations, or the County determines that the project as constructed or operated has impacts not disclosed in the application. Prior to revocation, the permittee shall receive written notice and be given an opportunity for a hearing before the Board. The Board may revoke the Permit or may specify a time by which action shall be taken to correct any violations for the Permit to be retained.

Section 14-803 Transfer of Permits. A permit may be transferred only with the written consent of the Board. Consent shall be in the sole discretion of the Board. The Board shall ensure, in approving any transfer, that the proposed transferee can and will comply with all the requirements, terms, and conditions contained in the Permit, and these Regulations; that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public; and that an adequate guarantee of financial security can be made.

Section 14-804 Inspection. The Board may enter and inspect any property subject to these Regulations at reasonable hours for the purpose of determining whether the activity is in violation of these Regulations.

Section 14-805 Judicial Review. Any action seeking judicial review of a final decision of the Board shall be initiated within thirty (30) days after the decision is made, in the District Court in and for the County of Garfield, pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

APPENDIX A

This Appendix provides examples of the types of concerns that the Board of County Commissioners will take into consideration in determining whether an application for a permit has complied with the approval standards contained in Division 6 of these Regulations.

A.1 The determination of technical and financial feasibility may include but is not limited to the following considerations:

- a. Amount of debt associated with the proposed activity.
- b. Debt retirement schedule and sources of funding to retire the debt.
- c. Estimated construction costs and construction schedule.
- d. Estimated annual operation, maintenance and monitoring costs.
- e. Market Conditions.

A.2 The determination of risk from natural hazards may include but is not limited to the following considerations:

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

A.3 The determination of the effects of the proposed activity on capability of local government to provide services or exceed the capacity of service delivery systems may include but is not limited to the following considerations:

- a. Existing and potential financial capability of local governments to accommodate development related to the proposed activity.
- b. Current and projected capacity of roads, schools, infrastructure, housing, and other services and impact of the proposed activity upon the capacity.

- c. Changes caused by the proposed activity in the cost of providing education, transportation networks, water treatment and wastewater treatment, emergency services, or other governmental services or facilities.
- d. Changes in short or long term housing availability, location, cost or condition.
- e. Need for temporary roads to access the construction of the proposed activity.
- f. Change in demand for public transportation.
- g. Change in the amount of water available for future water supply in the County.

A.4 The determination of the effects of the proposed activity on the financial burden of existing or future residents of the County may include but is not limited to the following considerations:

- a. Changes in assessed valuation.
- b. Tax revenues and fees to local governments that will be generated by the proposed activity.
- c. Changes in tax revenues caused by agricultural lands being removed from production.
- d. Changes in costs to water users to exercise their water rights.
- e. Changes in costs of water treatment or wastewater treatment.
- f. Effects on wastewater discharge permits.
- g. Inability of water users to get water into their diversion structures.
- h. Changes in total property tax burden.

A.5 The determination of the effects of the proposed activity on any sector of the local economy may include but is not limited to the following considerations:

- a. Changes to projected revenues generated from each economic sector.

- b. Changes in the value or productivity of any lands.
- c. Changes in opportunities for economic diversification.

A.6 The determination of effects of the proposed activity on recreational opportunities and experience may include but is not limited to the following considerations:

- a. Changes to existing and projected visitor days.
- b. Changes to duration of kayaking and rafting seasons.
- c. Changes in quality and quantity of fisheries.
- d. Changes in access to recreational resources.
- e. Changes to quality and quantity of hiking trails.
- f. Changes to the wilderness experience or other opportunity for solitude in the natural environment.
- g. Changes to hunting.
- h. Changes to the quality of the skiing experience.

A.7 The determination of effects of the proposed activity on air quality may include but is not limited to the following considerations:

- a. Changes to seasonal ambient air quality.
- b. Changes in visibility and microclimates.
- c. Applicable air quality standards.

A.8 The determination of visual effects of the proposed activity may include but is not limited to the following considerations:

- a. Visual changes to ground cover and vegetation, waterfalls and streams, or other natural features.
- b. Interference with viewsheds and scenic vistas.
- c. Changes in appearances of forest canopies.
- d. Changes in landscape character types or unique land formations.

- e. Compatibility of building and structure design and materials with surrounding land uses.

A.9 The determination of effects of the proposed activity on surface water quality may include but is not limited to the following considerations:

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

A.10 The determination of effects of the proposed activity on groundwater quality may include but is not limited to the following considerations:

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

A.11 The determination of effects of the proposed activity on wetlands and riparian areas may include but is not limited to the following considerations:

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

A.12 The determination of effects of the proposed activity on terrestrial or aquatic life may include but is not limited to the following considerations:

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

A.13 The determination of effects of the proposed activity on terrestrial plant life or habitat may include but is not limited to the following considerations:

- a. Changes to habitat of threatened or endangered plant species.

- b. Changes to the structure and function of vegetation, including species composition, diversity, biomass, and productivity.
- c. Changes in advancement or succession of desirable and less desirable species, including noxious weeds.
- d. Changes in threatened or endangered species.

A.14 The determination of effects of the proposed activity on soils and geologic conditions may include but is not limited to the following considerations:

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

A.15 The determination of the risks of a release of hazardous materials from the proposed activity may include but is not limited to the following considerations:

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