

CHAPTER 12 SPECIFIC REGULATIONS

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SECTION 12-100 AREAS AND ACTIVITIES OF SPECIAL INTEREST

12-101 GENERAL PROVISIONS AND PROCEDURES

12-101.01 APPLICABILITY

The following regulations pertain to areas and activities of special interest which have been identified or as may be identified as such in the County Comprehensive Plan.

12-101.02 PROCEDURAL REQUIREMENTS

12-101.02 .01

Anyone proposing to begin development of an activity of special interest or development in an area of special interest shall submit to the platting process as outlined in the County Subdivision Regulations and shall further submit all other evidence as required by the applicable special area or activity regulations included in this Section of these Regulations. No person shall engage in any special development activity or develop in any area of special interest without approval of a Final Plat and/or Final and Master Development Plan, Location and Extent or Use by Special Review Plan, whichever may be applicable.

12-101.02.02

Hearings conducted for the purpose of approving development activities or development in areas of special interest shall be held in public following public notice of such meetings.

12-101.02.03

Any development activity which is to take place in an area not currently zoned for such activities shall also submit to the rezoning procedures outlined in these Regulations.

12-101.03 PROVISIONS

The provisions of this Section shall not apply to any nonconforming use existing prior to the date the area is identified or subjected to these Regulations, provided that when such nonconforming use shall be discontinued for six months or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty percent (50%) of the appraised value, any reuse, reconstruction or replacement of such structure shall be deemed a new use and shall be subject to the provisions of these Regulations, unless the Board of County Commissioners grants an extension of time.

12-101.04 ALTERATIONS

Any alteration, addition or repair to any nonconforming structure or significant change in land use permitted pursuant to various sections of this regulation shall be designed to minimize, mitigate or avoid the significant adverse impact of specific hazards or specific resource utilization.

12-101.05 ADDITIONAL REGULATIONS

Additional regulations regarding nonconforming uses may be further delineated in specific special area and activity regulations to follow.

12-102 RELATIONSHIP TO OTHER REQUIREMENTS

- A. Nothing in these regulations shall be construed as exempting an applicant from any other requirements of Arapahoe County or other state or federal laws and regulations.
- B. To the extent that the requirements of these regulations differ from any other applicable requirements, the more restrictive requirements shall apply.

12-103 APPLICATION FEE

An application fee shall be established by the Board of County Commissioners and paid to PWD.

12-104 REGULATIONS FOR AREAS OF SPECIAL INTEREST - MINERAL RESOURCE AREAS

12-104.01 PURPOSE AND INTENT

The purpose and intent of the regulations contained in this section shall be to:

12-104.01.01

Protect and administer mineral resource areas in such a manner as to permit the extraction and exploration of minerals therefrom, unless extraction and exploration would cause significant danger to public health and safety.

12-104.01.02

Permit development in mineral resource areas which will not interfere with the extraction and exploration of minerals.

12-104.01.03

Give preference to existing or requested uses other than mineral extraction if the economic value of the minerals present is of less value than those of other uses.

12-104.01.04

Administer areas containing sand, gravel, quarried rock, aggregate or limestone used for construction purposes according to §34-1-301, et seq., C.R.S. as amended.

12-104.01.05

Administer areas containing coal, oil and natural gas deposits.

12-104.01.06

Accomplish extraction and exploration of minerals from any area in a manner which causes the least practicable environmental disturbance and reclaim such surface areas disturbed thereby in accordance with the provisions of §34-32-101, et seq., or §34-40-101, et seq., C.R.S. as amended, whichever is applicable.

12-104.01.07

Prevent landslides, floods or erosion due to mineral extraction operations.

12-104.01.08

Preserve access to and extraction of mineral resources according to a rational plan for extraction of such resources.

12-104.01.09

Provide, during the mining process and after the mining operations have been completed, for the reclamation of land subjected to surface disturbance by mining and thereby conserve natural resources, aid in the protection of wildlife, aquatic, historic and archaeological resources and establish recreational, residential and industrial sites.

12-104.01.10

Extract commercial mineral deposits according to a rational plan, calculated to avoid waste of such deposits and cause the least practicable disruption of the environment and quality of life of the citizens of Arapahoe County.

12-104.01.11

Protect and perpetuate the taxable value of property.

12-104.01.12

Protect and promote the health, safety and general welfare of the people of Arapahoe County.

12-104.02 PERMITTED USES IN IDENTIFIED MINERAL RESOURCE AREAS

12-104.02.01

Agricultural uses such as general farming, grazing, truck farming, forestry, sod farming and wild crop harvesting.

12-104.02.02

Public and private recreational uses requiring only accessory, but not permanent structures such as parks, natural swimming areas, golf courses, driving ranges, picnic grounds, wildlife and nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges and hunting, fishing and hiking areas.

12-104.03 PROHIBITED USES IN IDENTIFIED MINERAL RESOURCE AREAS

12-104.03.01

No use shall be allowed which would interfere with the present or future extraction of such deposits by an operator, provided that uses may be allowed which do not permit erection of permanent structures upon or otherwise permanently preclude the extraction of commercial mineral deposits by an operator from land subject to said uses, unless such is allowed by approval of the Board of County Commissioners.

12-104.03.02

Uses which create a significant impact on the surrounding area, unless mitigated pursuant to Section 12-104.03.03, below.

12-104.03.03

Land uses which will create a significant impact on the surrounding area and which are generally prohibited in an identified mineral resource area may be allowed if it is determined that those impacts will be alleviated through the use of mitigation techniques. These include but are not limited to:

- A. Measures which will lessen potential dangers to health, safety, economy or resources to an acceptable level.
- B. Measures which will offset increased costs of providing any governmental services.
- C. Measures which will insure that air and water pollution resulting from development will meet applicable federal and state standards.
- D. Measures which will restrict noise and/or obnoxious odors to within the development.
- E. Measures which will prevent hazardous traffic patterns resulting from development of the site.

12-104.03.04

To the extent that a proposed use is not covered by Section 12-104.03.03 above, the provisions of 34-1-301 et seq., C.R.S. as amended or 34-32-101 et seq., C.R.S. as amended, shall apply.

12-104.04 DESCRIPTION OF IDENTIFIED MINERAL RESOURCE AREAS

12-104.04.01

Arapahoe County hereby declares that the areas identified or to be identified, upon application for development within these areas, shall be subject to these Mineral Resource Regulations.

12-104.04.02

One copy of all maps of identified mineral resource areas in unincorporated Arapahoe County shall be sent to the Colorado Geological Survey.

12-104.05 SUBMITTAL REQUIREMENTS

All applicants seeking to engage in development in a mineral resource area shall submit the following documents:

12-104.05.01

When applicable, the name, address and phone number of the corporation's registered agent.

12-104.05.02

Ownership of the mineral rights affected.

12-104.05.03

Aerial photographs of reasonable scale and date which reasonably portray the current condition of the area to be covered by the development application. The area covered by the development shall be outlined on the aerial photographs.

12-104.05.04

Type and location of mineral resources on or under the property.

12-104.05.05

An analysis of the commercial feasibility of extracting the mineral resources.

12-104.05.06

A map or maps portraying the geologic conditions of the area with particular attention given to the appropriate identified mineral resource deposit. If appropriate or needed, subsurface cross sections shall also be utilized to portray such conditions at depth. If possible, the maps shall be at the same scale and in the same format as the development plan maps.

12-104.05.07

An analysis of the fiscal impacts on local services and facilities.

12-104.05.08

A statement that the applicant will comply with all relevant federal, state and local requirements existing at the time the plan is to be implemented.

12-104.05.09

Descriptive material showing the relationship of the proposed development to existing master plans for the area involved.

12-104.05.10

Applicants seeking to engage in development of a mineral resource area without the intention of exploration or extraction of minerals also shall submit to the PWD Planning Division the number of copies requested as determined by referral needs containing the necessary information, maps, reports and/or data:

12-104.05.11

If the development is a subdivision, data equivalent to that required for a Preliminary and/or Final Plat by the County Subdivision Regulations.

12-104.05.12

Evidence that the development plan will present no obstacle to extraction of the mineral resource on or under the subject property or evidence that the proposed development will be of a greater economic value than the minerals present.

12-104.06 EXHIBIT REQUIREMENTS

Applicants seeking to engage in development of a mineral resource area with the intention of exploration or extraction of minerals shall also submit to the PWD Planning Division the number of copies requested as determined by referral needs containing the following information, maps, reports and/or data:

- A. When applicable, the name, address and phone number of the corporation's registered agent.
- B. Ownership of the substance to be mined.
- C. The source of the applicant's legal right to enter and mine on the land affected.
- D. Method of extraction and processing.
- E. Plan for transportation of extracted material.
- F. Time and duration of extraction.
- G. Number of permanent and temporary employees anticipated.
- H. The size of the area or areas to be worked at any one time.
- I. The timetable which will be required for the various stages of the operations.
- J. Anticipated traffic volumes and directional distributions related to the development.

K. An analysis of any potential health and/or safety hazards occasioned by the development, and a plan for mitigation thereof.

L. A description of wildlife occurrence on and in the vicinity of the application area including a narrative that describes:

1. Wildlife occurrence in the area.
2. Seasonal occurrence of the major species.
3. The presence of threatened/endangered species listed on either federal or state lists.
4. The impact of the operation on the wildlife with regard to displacement of wildlife and extent of replacement of suitable habitat for the post-operational wildlife that might inhabit the area.

M. A narrative, supplemented with diagrams and text, of the water resources on and in the vicinity of the application area shall be submitted. Such narrative shall include:

1. Both surface and subsurface resources.
2. A description of the impact of the operation on the quality and quantity of water resources.
3. Demonstration of water right ownership to supply any necessary water requirements for operations or impoundment's, whether temporary or permanent.
4. Data acquired for other permits which would fulfill these requirements may be submitted in lieu of the above.

N. Accompanying the development plan, every operator shall submit a reclamation plan and map.

O. The reclamation plan shall be based upon provisions for, or satisfactory explanation of, all general requirements for the type of reclamation proposed to be implemented by the operator. The plan shall be based upon the advice of technically trained personnel experienced in that type of reclamation on mined lands and upon scientific knowledge from research in reclaiming and utilizing mined lands. Reclamation shall be required on all the affected land.

P. The reclamation plan shall include a narrative describing:

1. Which of the approved uses the operator proposes to achieve in the reclamation of the affected land; why each use was chosen; and the amount of acreage accorded to each.
2. How the reclamation plan will be implemented to meet performance standards.
3. A proposed timetable indicating when and how the various stages of the mining and reclamation plan shall be implemented.
4. How the reclamation plan shall rehabilitate the surface disturbances affected by the mining operation. The narrative shall include, but not be limited to, the following factors: natural vegetation, wildlife, water, air and soil resources.

Q. The map accompanying the reclamation plan shall include all of the land to be affected by all phases of the mining operation. It shall indicate the following:

1. The expected physical appearance of the area to be mined and the area of land affected, correlated to the timetable.
2. Portrayal of the proposed reclaimed land use for each portion of the affected lands.
3. The applicant's estimated costs of each of the following segments of the reclamation process, including where applicable: backfilling, grading, highwall reduction, topsoiling (if done), planting, revegetation management and protection prior to vegetation establishment, and administrative costs.

R. The application shall also include maps showing the following information:

1. Identification of adjacent underground mining and adjacent surface owners.
2. Wells, roads, railroads, buildings, oil and gas wells and lines, and power and communication lines in the area of affected land and within two hundred feet of all boundaries of such area.
3. Total area involved in the operation, including the area to be mined.
4. Topography of the area with contour lines of sufficient detail to portray the direction and rate of slope of the land covered in the application.
5. General type, thickness and distribution of soil over the area covered by the development application.

6. Type, character and density of present vegetation occurring in the area covered by the development application.
7. Depth and thickness of the mineral resource to be mined and the thickness and type of overburden to be removed.
8. Topography of any aquifers in the area to be covered by the development application, both before and after the mining operation occurs, shall be shown by cross sections.

S. Applications for development in identified mineral resource areas shall include additional information if required by Arapahoe County.

T. At the discretion of the Board of County Commissioners, favorable recommendation from appropriate state agencies regarding development in mineral resource areas may be considered sufficient evidence for waiving portions or all of the extra submission requirements imposed by these regulations.

U. When two or more mineral resource areas overlap, the recommendations of the State Oil and Gas Conservation Commission shall have precedence over those of other agencies if the area has been previously identified as an oil or gas resource area.

12-104.07 Map Requirements

Unless otherwise specified above, the following map standards will be adhered to:

- A. All data shall be drawn on 24" x 36" sheets.
- B. Maps will be in compliance with national map accuracy standards.
- C. Topographic maps shall have a contour interval of two feet (2') or less.
- D. Map scale shall be sufficiently detailed to meet the objectives of this regulation, but in no case less detailed than 1 inch = 100 feet.
- E. All maps shall show a true north arrow, section corners, and the appropriate land grid, the name of the person who prepared the map, the map scale and the date the map was prepared.
- F. One of the copies of each map shall be in reproducible form.

12-104.08 Qualification of Investigators

A. All geologic maps and reports required under the requirements of this regulation shall be prepared by or under the responsible direction of and signed by a professional geologist as defined by §34-1-201, et seq., C.R.S. as amended.

B. All engineering work required under the requirements of this regulation shall be prepared by or under the responsible charge of a registered professional engineer as defined in §12-25-101, et seq., C.R.S. as amended. Such engineer shall also be experienced and competent in the engineering specialty required to meet the objectives of this regulation.

12-105 GEOLOGIC HAZARD AREAS

12-105.01 PURPOSE AND INTENT

The purpose and intent of this section is:

A. To minimize significant hazards to public health, safety or property in an identified geologic hazard area.

B. To promote safe use of geologic hazard areas.

C. To reduce the impact of geologic hazards on life and property by:

1. Prohibit certain land uses that are dangerous to life or property in geologic hazard areas.

2. Restrict the land uses that would be hazardous to the public health, safety or property in geologic hazard areas.

3. Restrict the land uses that are particularly vulnerable to geologic hazards so as to reduce the demands for public expenditures for relief and protection.

4. Require land uses permitted in geologic hazard areas, including public facilities which serve such uses, to be protected from geologic hazards by providing for investigation and avoidance or mitigation of such hazard impacts at the time of initial construction.
5. Protect geologic hazard area occupants or users from the impacts of geologic hazards by regulating the area or manner in which structures designed for human occupancy may be constructed so as to prevent danger to human life or property.
6. Protect geologic hazard area occupants or users from the impacts of geologic hazards by identifying, delineating and describing areas that could be adversely affected by geologic hazards so as to protect individuals from purchasing or improperly utilizing lands for purposes which are dangerous to human life or property.
7. Protect the public from the burden of excessive financial expenditures from the impacts of geologic hazards and relief by:
 - a) Regulating land uses within geologic hazard areas so as to produce a pattern of development of a soundly engineered manner of construction which will minimize the intensity and/or probability of damage to property and loss of life or injury to the inhabitants or users of geologic hazard areas.
 - b) Regulating the cutting, filling or drainage changes and other man-made changes which could initiate or intensify adverse conditions within geologic hazard areas.
 - c) Encouraging non-conflicting uses such as agriculture, grazing, greenbelt, open space and recreation within geologic hazard areas.

12-105.02 PERMITTED USES IN IDENTIFIED GEOLOGIC HAZARD AREAS

The following uses shall be permitted within identified geologic hazard areas unless they are prohibited in a particular area by these Regulations or other regulations. However, no such use shall be regarded as a use by right:

- A. Agricultural uses such as general farming, grazing, truck farming, forestry, sod farming and wild crop harvesting.
- B. Industrial or commercial uses such as loading areas, parking areas not requiring extensive grading or impervious paving, and storage yards for equipment or machinery easily moved or not subject to geologic hazard damage.
- C. Public and/or private recreational uses not requiring permanent structures designed for human habitation such as parks, natural swimming areas, golf courses, picnic grounds, driving ranges, wildlife and nature preserves, game farms, shooting preserves, target ranges, trap and skeet ranges, and hunting, fishing and hiking areas, if such uses do not cause concentrations of people in areas during periods of high hazard probability.

12-105.03 PROHIBITED USES IN IDENTIFIED GEOLOGIC HAZARD AREAS

12-105.03.01

Land uses which are dangerous to life or property in identified areas of geologic hazard.

12-105.03.02

Any type of development in an identified area of moderate and/or extreme expansive soil potential, unless mitigation techniques are incorporated into the design of the proposed development.

12-105.04 CONDITIONAL USES IN IDENTIFIED GEOLOGIC HAZARD AREAS
12-105.04.01

Land uses which are generally prohibited in an identified area of moderate and/or extreme expansive soil potential may be permitted if the following mitigation techniques are carried out:

12-105.04.02

Mitigation techniques shall correct adverse conditions within moderate and/or extreme expansive soil and rock areas through engineered design and construction. These methods should include:

- A. Engineered foundation design.
- B. Planned site drainage or moisture control.
- C. Landscaping to enhance drainage.
- D. Proper interior construction design.

12-105.05 DESCRIPTION OF IDENTIFIED OR REGULATED GEOLOGIC HAZARD AREAS

Arapahoe County hereby declares that the areas identified or to be identified as Geologic Hazard Areas, upon application for development within these areas, shall be subject to these Geologic Hazard Regulations.

12-105.06 SUBMITTAL REQUIREMENTS

A. Anyone proposing to develop land in an identified expansive soils area shall be required to submit a thorough soil engineering study conducted by a registered professional soil engineer to determine expansive soil potential at the time of the Preliminary Plat submittal as described in the County Subdivision Regulations.

B. The soils study shall include a minimum of one (1) test boring for every ten (10) lots or three (3) acres in the development with a minimum of one (1) sample per boring tested for swell. Some test borings may be deferred until later; however, the above requirements shall be met by the time of Final Plat submittal.

C. The report shall also include a description of the engineering design and construction mitigation techniques that will correct the adverse conditions within moderate and/or extreme expansive soil areas.

12-106 FLOOD HAZARD AREAS: FLOOD DAMAGE PREVENTION REGULATIONS – DELETED – SEE 12-2000