

AMENDMENTS TO APPENDIX B GUIDELINES AND REGULATIONS FOR AREAS AND ACTIVITIES OF STATE INTEREST AS PREVIOUSLY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO, ON JUNE 6, 2013, AND AS RECORDED ON JUNE 19, 2013, AT RECEPTION NO. 213079830 OF THE RECORDS OF THE EL PASO COUNTY CLERK AND RECORDER'S OFFICE, AND AS AVAILABLE ON THE FOLLOWING COUNTY WEB SITE: http://adm.elpasoco.com/Development_Services

The following underscored language shall be added to Chapter 1, Section 1.110, Definitions:

(7) *Director*: the person designated by resolution of the Board of County Commissioners to be the Executive Director of the Development Services Department and manage the Development Services Department or that person's equivalent position or delegated representative.

The following underscored language shall be added to Chapter 1, Section 1.106 as a new subsection (10):

Section 1.106 Relationship of These Regulations to Other Requirements

(10) Land use regulations by their very nature, generally, and these Regulations specifically, impose limitations on private property rights. These limitations are lawful and have been upheld by the courts; however, the intent of these Regulations is not to limit private property rights inconsistently with guarantees set forth in the Colorado and United States Constitutions as so interpreted by the courts.

The following underscored language shall be added to Chapter 2, Section 2.105:

2.105 Judicial Review

Any action seeking judicial review of a final decision of the Permit Authority is expressly limited to the Applicant and shall be initiated within twenty eight (28) days after the decision is made, in the District Court in and for El Paso County, pursuant to Rule 106 of the Colorado Rules of Civil Procedure. These Regulations are not intended to create third-party rights of enforcement by any person, including the general public, and the County shall not construe such rights to have been created hereby.

The following underscored language shall be added, and existing language that will be deleted is shown as strikethrough, to Chapter 6, Section 6.105:

(3)(d) Developments within Incorporated Municipalities.

These Regulations apply to stormwater discharge at points in the unincorporated portion of El Paso County, which discharge is created by development, as herein defined anywhere in the County, including, within ~~un~~unincorporated municipalities. The following options are available for application of the Regulations to these discharges to the unincorporated portions of the County:

- (i) Option 1. Single Municipal Permit. The municipality may submit an application to the County Development Services Department for a one-time, universal permit to address stormwater impacts to unincorporated portions of the County created by development within the incorporated municipality. The terms of such permit shall be negotiated between the municipality and the Permit Authority.

- (ii) Option 2. County as Outside Review Agency. The municipality's Engineer shall review the development proposed within the municipality, and if development exceeds the limits established in Step 1, if satisfied the proposed development meets all of the municipality's drainage and stormwater criteria, and the proponent has provided to the municipality a Master Development Drainage Plan (MDDP), the municipality's Engineer will provide an executive summary within a written memorandum to the County stating that the development is in compliance with the municipality's standards and criteria, and therefore, stormwater resulting from said development will not adversely impact the unincorporated area of the County. Upon receipt of said memorandum, the Director of Development Services shall issue a permit through Administrative Approval for the development, which states that, based on representations of the municipality's Engineer, there is a presumption that the development meets 1041 criteria; however, the County will reserve the right to require remediation or revoke the Administrative Approval if stormwater from said development results in adverse impacts to the unincorporated area of the County. The County's Development Services Department shall complete the engineering review of the municipality's memorandum within three (3) business days of receipt. If the municipality does not receive acknowledgement of the permit through Administrative Approval within three

(3) business days of receipt, said permit is deemed automatically approved.

(iii) Option 3. Individual Discharge Permits. If a municipality does not exercise Options 1 or 2 above, the proponent of development within a municipality that will cause increased stormwater discharge in the unincorporated County above the limits established at Section 6.105(3) shall submit a permit application directly to the County along with a copy of the municipality's approval, after the municipality approves the proponent's Master Development Drainage Plan (MDDP) and/or drainage report, for review of those stormwater discharge impacts, in the manner as set forth in Steps Two and Three above. The County's Development Services Department shall complete the engineering review of the proponent's permit application and the municipality's approval within three (3) business days of receipt. If the proponent does not receive acknowledgement of the permit through Administrative Approval within three (3) business days of receipt of the above, said permit is deemed automatically approved.

~~(iv) The municipality may agree to municipal stormwater discharge permit process with limited County review, performed as an Outside Agency Review (OAR) by County staff.~~

(4) The intent and scope of these Regulations is not to require permits for or otherwise directly regulate physical development activities in incorporated municipalities. Rather, these Regulations address, and require a permit for, the act of releasing increased stormwater discharge, above the limits established at Section 6.105(3), at any point in unincorporated El Paso County within the designated areas shown on the maps at **Exhibit D**. Often, however, such increased discharge to the unincorporated County is the result of development activities in incorporated municipalities. The Colorado courts have held that counties have the authority under the Areas and Activities of State Interest Act, C.R.S. §§ 24-65.1-101, *et seq.*, to regulate impacts to the unincorporated areas of counties resulting from development or activities occurring within an incorporated municipality. See, *City of Colorado Springs v. Bd. Of County Comm'rs Eagle County*, 895 P.2d 1105 (Colo. App. 1994).