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**RESOLUTION NO. 13-267**

**BOARD OF COUNTY COMMISSIONERS  
COUNTY OF EL PASO, STATE OF COLORADO**

**RESOLUTION DESIGNATING MATTERS OF STATE INTEREST INCLUDING  
AREAS AND ACTIVITIES OF STATE INTEREST OF EL PASO COUNTY,  
COLORADO AND ADOPTING GUIDELINES AND REGULATIONS FOR  
AREAS AND ACTIVITIES OF STATE INTEREST OF EL PASO COUNTY**

**WHEREAS**, pursuant to C.R.S §§ 30-11-101(1)(e), 30-11-103, and 30-11-107(1)(e), the Board of County Commissioners of El Paso County, Colorado (hereinafter "Board" or "County"), has the legislative authority to manage the business and concerns of the County and to exercise such other and further powers as are conferred by law when deemed by the Board to be in the best interests of the County and its inhabitants, and is further authorized by *inter alia*, C.R.S. §§ 30-28-101, *et seq.*, C.R.S. §§ 30-28-201, *et seq.*, and C.R.S. §§ 29-20-101, *et seq.*, to adopt regulations for the protection of the public health, safety, and welfare of the inhabitants of El Paso County; and

**WHEREAS**, the Board has specific authority to consider and designate matters of state interest including areas and activities of state interest and to adopt guidelines and regulations for administration of areas and activities of state interest pursuant to the Areas and Activities of State Interest Act, C.R.S. §§ 24-65.1-101, *et seq.*, in El Paso County; and

**WHEREAS**, by Resolution No. 13-192 dated April 30, 2013, and recorded at Reception No. 213056551 of the records of the El Paso County Clerk and Recorder's Office, the Board directed that a public hearing be scheduled on June 6, 2013, at which time the Board would consider designating certain areas and activities of state interest, pursuant to C.R.S. §§ 24-65.1-101, *et seq.*, adopting "Guidelines and Regulations for Areas and Activities of State Interest of El Paso County" that will establish a permit process for development in certain areas of state interest and for conduct of certain activities of state interest, and to consider and approve conforming amendments to the El Paso County Land Development Code; and

**WHEREAS**, legal notice of the hearing on June 6, 2013, in conformance with the requirements of C.R.S. §§ 24-65.1-404(2)(a), was published in *The Gazette* on May 1, 2013, and said notice and materials relating to this matter, including draft proposed "Guidelines and Regulations for Areas and Activities of State Interest of El Paso County" were made available on line at the following web address: [http://adm.elpasoco.com/Development\\_Services](http://adm.elpasoco.com/Development_Services). In compliance with statute, copies of the same were made available on May 1, 2013, for public examination at the El Paso County Development Services Department and at the Board of County Commissioners Office. An updated redline draft was also made available for public examination online and at the Development Services Department; and

**WHEREAS**, on June 6, 2013, the Board conducted a public hearing to consider designation of the above listed matters of state interest and adoption of guidelines and regulations for the administration thereof, at which hearing various witnesses and exhibits were heard and presented for the Board's consideration, and testimony was taken from the general public and any and all persons desiring to appear and give such testimony and present evidence; and

**WHEREAS**, based on the evidence, testimony, exhibits, and presentations by County representatives, the general public, any and all interested persons, and comments by the County Commissioners, **THE BOARD DOES FIND AS FOLLOWS:**

1. That proper publication and public notice were provided as required by law for the hearing before the Board.
2. That the public hearing as required before the Board was extensive and complete, that all pertinent facts, matters, and issues were submitted, and that the general public and all interested persons were heard at the hearing.
3. That all exhibits were received into evidence.
4. That the Board incorporated by reference and received into evidence the documents and testimony of the public hearing on June 6, 2013, which included the following:
  - a. The April 30, 2013 draft Guidelines and Regulations for Areas and Activities of State Interest of El Paso County and the May 31, 2013 revised redline draft Guidelines and Regulations for Areas and Activities of State Interest of El Paso County including Exhibits attached thereto or referenced therein, including the Maps at Exhibit D.
  - b. PowerPoint presentation and exhibits submitted handouts by County representatives.
  - c. Exhibits presented by the general public and all interested persons.
  - d. Presentation made by Gerald Dahl, Special Counsel hired by the Board to review its current regulations and local interest and to draft the proposed "Guidelines and Regulations for Areas and Activities of State Interest of El Paso County."
5. That major growth and development pressures are increasing in El Paso County, and as a result, the demand for development in the areas and activities specified in State law and in those areas and activities the Board is designating has increased.

6. That the very reasons why the areas and activities of state interest the Board is designating are of public interest are set forth in the Purpose and Intent Sections of the proposed “Guidelines and Regulations for Areas and Activities of State Interest of El Paso County” as follows:

**1.101 Purpose and Findings**

- (1) The purpose and intent of these Regulations is to facilitate identification, designation, and administration of matters of state interest consistent with the statutory requirements and criteria set forth in Section 24-65.1-101, et seq., C.R.S.
- (2) (a) That these Regulations are necessary because of the intensity of current and foreseeable development pressures on and within this County;  
  
(b) That these Regulations are necessary for the preservation of the public health, safety and welfare;  
  
(c) That except as otherwise provided in Chapter 6, these Regulations apply to the entire unincorporated territory of El Paso County; and  
  
(d) That these Regulations interpret and apply to any regulations adopted for specific areas of state interest and specific activities of state interest which have been or may be designated by the Board of County Commissioners.

**3.102 Purpose and Intent**

- (1) To protect the public health, safety, convenience, order, property and welfare of present and future inhabitants of El Paso County and the State of Colorado.
- (2) To ensure planned, orderly, efficient and economical land use development.
- (3) To provide for the needs of agriculture, existing businesses, residential communities, and recreation now and in the future in El Paso County and adjacent communities which are integral to the economy of El Paso County.
- (4) To ensure that municipal and industrial water projects are located to avoid conflict with County land use plans.
- (5) To regulate municipal and industrial water projects that could cause extensive water and air pollution or that would otherwise degrade or threaten environmental quality within the County or the beauty of its landscape and the integrity of its waterways, rivers and creeks.

- (6) To ensure that municipal and industrial water projects emphasize the most efficient use of water, including to the extent permissible under existing law, and when appropriate, the recycling, reuse, and conservation of water.
- (7) To ensure that new municipal and industrial water be concentrated in areas which would result in the proper utilization of existing treatment plants and the orderly distribution of water and sewage systems of adjacent communities.
- (8) To ensure that major extensions of municipal and industrial water systems be permitted only in areas in which the anticipated growth and development that may occur as a result of such extensions can be accomplished within the financial and environmental capacity of the area to sustain such growth and development.
- (9) To protect lands from development which would cause immediate or foreseeable material danger to significant wildlife habitat or threaten or endanger a wildlife species.
- (10) To preserve areas of historical and archaeological importance.
- (11) To regulate location of activities and developments which may result in significant changes in population density.
- (12) To provide for planned development of services and facilities.
- (13) To regulate use of land and water resources on the basis of impact thereof on the community or surrounding areas, including existing and proposed development.
- (14) To provide planned and orderly use of land and water resources and protection of the environment in a manner consistent with constitutional rights and private property rights.
- (15) To ensure that new development will pay for itself to the maximum extent practicable and to ensure that the present residents of El Paso County will not have to unduly subsidize new development through increased cost of public services or degradation of the quality of life.

#### **4.102 Purpose and Intent**

- (1) To ensure that new domestic water and sewage treatment systems and/or major extensions of the same are constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage systems of adjacent communities.

- (2) To ensure that site selection and construction of major new domestic water and sewage treatment systems and/or major extensions of the same are conducted in such a manner as to minimize environmental impacts associated with such development.
- (3) To ensure that site selection and construction of major new domestic water and sewage treatment systems and/or major extensions of the same are planned and developed in a manner so as not to impose an undue economic burden on existing or proposed communities.
- (4) To ensure that the impacts to County roads of site selection and construction of major new domestic water and sewage treatment systems and/or major extensions of the same are adequately mitigated.

**5.102 Purpose and Intent**

- (1) To regulate the site selection and construction of major facilities of a public utility to prevent significant deterioration or degradation of existing air and water quality in El Paso County;
- (2) To avoid or reduce conflicts with the El Paso County Master Plan;
- (3) To regulate the site selection and construction of major facilities of a public utility to preserve the health and welfare of the citizens of El Paso County; and
- (4) To avoid or reduce incompatible uses adjacent to County roads and County trails and to avoid unreasonable or burdensome expenditure of public resources by minimizing impacts by public utilities to said County roads and County trails.

**6.103 Purpose and Intent**

- (1) Promote the public health, safety and general welfare and to protect private property.
- (2) Regulate various floodplains constituting natural hazards of state interest, development of which are likely to cause the unreasonable or burdensome expenditure of public resources or which will pose a continuing and greater future danger to life and property without proper regulation of their use and occupation.
- (3) Protect floodplain areas from impact of increased stormwater discharge.
- (4) Minimize significant hazards to public health and safety or to property in flood hazard areas, to encourage open space activities such as agriculture and recreation, and to ensure that any combination of these activities is conducted in a mutually compatible manner.

- (5) Prohibit the placement of fill, materials and structures which would significantly obstruct flood flows and stormwater discharge to the potential damage of others or cause potentially damaging debris to be carried downstream.
  - (6) Protect the public from the burden of avoidable financial expenditures for flood control and stormwater projects and flood relief measures.
  - (7) Minimize damage to public utilities, roads, streets and bridges.
  - (8) Protect the County and its residents from:
    - (a) Stream bank erosion;
    - (b) Siltation;
    - (c) Increased stormwater control costs for downstream development, local governments or communities;
    - (d) Adverse impacts to the natural habitat of wetland animal and plant species;
    - (e) Adverse impacts to aquatic species;
    - (f) Adverse impacts on significant wildlife habitat or adverse impacts to threatened or endangered animal or plant species and/or their critical habitat; or
    - (g) Adverse impacts to open space, conservation easements, regional or neighborhood parks, public trails, or County infrastructure including roads and drainage structures.
7. That the Board has taken into consideration the following:
- a. The intensity of current and foreseeable development pressures within the County; and
  - b. All the testimony, evidence, and documents taken into evidence at the hearing; and
  - c. Reasons why the particular matters are of state interest, the danger that would result from uncontrolled development, and the advantage of development in a coordinated manner.
8. That based on the above considerations, the Board has determined that it would serve the best interests of the public and is in the best interests of the health, safety, and welfare of the citizens of El Paso County to approve and adopt the proposed designation of areas and activities of state interest and the proposed

“Guidelines and Regulations for Areas and Activities of State Interest of El Paso County.”

9. That all requirements of law have been met.

**NOW THEREFORE, BE IT RESOLVED AND ORDERED:**

That the following matters of state interest are hereby designated as matters of state interest within El Paso County, Colorado:

1. Efficient Utilization of Municipal and Industrial Water Projects;
2. Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and/or Major Extension of Existing Domestic Water and Sewage Treatment Systems;
3. Site Selection and Construction of Major Facilities of a Public Utility; and
4. Floodplain Natural Hazard Areas.

That the May 31, 2013 redline version of the "Guidelines and Regulations for Areas and Activities of State Interest of El Paso County," as further amended during the hearing and incorporated herein by this reference are hereby approved and adopted as Appendix B of the El Paso County Land Development Code and are fully incorporated herein by this reference.

That all of the above designations and "Guidelines and Regulations for Areas and Activities of State Interest of El Paso County," shall apply to all unincorporated territory of El Paso County, Colorado, except where specifically indicated therein.

That a copy of the above-adopted “Guidelines and Regulations for Areas and Activities of State Interest of El Paso County” shall be kept in the office of the El Paso County Development Services Department and there made available for public inspection.

That the County Attorney’s Office and Special Counsel are authorized to make additional form and style-type revisions including but not limited to spelling, numbering, statutory references and other conforming-type revisions, but not revisions that are substantive in nature.

**BE IT FURTHER RESOLVED**, that Dennis Hisey, duly elected, qualified member and Chair of the Board of County Commissioners, or Amy Lathen, duly elected, qualified member and Vice Chair of the Board of County Commissioners, be and is hereby authorized and appointed on behalf of the Board to execute any and all documents necessary to carry out the intent of the Board as expressed herein.

Upon motion duly made and seconded, the foregoing Resolution was adopted by the following vote:

Commissioner Hisey	Aye
Commissioner Lathen	Absent
Commissioner Clark	Aye
Commissioner Glenn	Aye
Commissioner Littleton	Aye

**BE IT FURTHER RESOLVED, the effective date of the designations of areas and activities of state interest and the "Guidelines and Regulations for Areas and Activities of State Interest of El Paso County" shall be as follows:**

<b>Chapters 1-5</b>	<b>June 6, 2013</b>
<b>Chapter 6</b>	<b>August 6, 2013</b>

**DONE** this 6th day of June, 2013.

ATTEST

By: 

Lynn Williams  
County Clerk and Recorder

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

By: 

Dennis Hisey, Chair