

PARK COUNTY

**PARK COUNTY
REGULATIONS FOR 104
WILDLIFE HABITAT
AREAS**



Adopted by the
Board of Park County
Commissioners

SEPTEMBER 13, 1999



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PARK COUNTY, COLORADO

Resolution No. 2002- 29

A RESOLUTION ESTABLISHING A FEE SCHEDULE FOR IMPLEMENTATION OF THE 1041 WILDLIFE HABITAT AREAS REGULATIONS

WHEREAS, Section 1-202 of the Park County Regulations for 1041 Wildlife Habitat Areas authorizes the Board of County Commissioners (BOCC) to establish a fee schedule for different categories of development subject to the Regulations,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS FOR PARK COUNTY, COLORADO, THAT:

The BOCC hereby establishes the following fee schedule for implementation of the 1041 Wildlife Habitat Areas Regulations:

For All Applications:

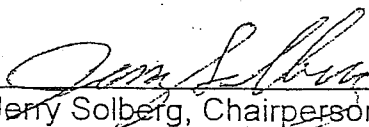
Non-Refundable Application Fee: \$ 1,000.00

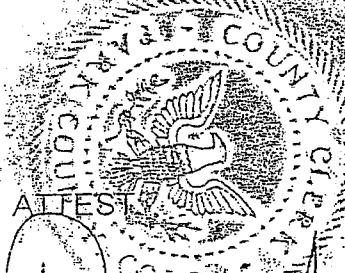

Plus:

For applications requiring Formal Permit processing in accordance with Section 2-105 of the 1041 Wildlife Habitat Area Regulations, in an amount equal to a deposit, the estimated cost of review of the application as established by the Administrator. Any amount of such deposit not expended in the processing of the application shall be refunded to the applicant upon the applicant's request following final decision upon the application by the Permit Authority.

Approved this 16 day of May, 2002.

BOARD OF COUNTY COMMISSIONERS


Jerry Solberg, Chairperson


ATTEST

Debra A. Green
County Clerk and Recorder or Deputy

RESOLUTION NO. 99- 74

A RESOLUTION AND ORDER DESIGNATING SIGNIFICANT WILDLIFE HABITAT AREAS AS BEING OF STATE INTEREST AND ADOPTING REGULATIONS AND GUIDELINES TO BE USED IN CONNECTION THEREWITH; ESTABLISHING THE BOARD OF COUNTY COMMISSIONERS OF PARK COUNTY AS THE PARK COUNTY PERMIT AUTHORITY TO RECEIVE APPLICATIONS FOR DEVELOPMENT IN AN AREA OF STATE INTEREST AND TO EXERCISE OTHER POWERS GRANTED IT IN CONNECTION THEREWITH.

WHEREAS, the Board of County Commissioners of Park County, State of Colorado, is authorized pursuant to Article 65.1, Title 24 of the Colorado Revised Statutes, 1973, as amended, to establish and designate certain areas and activities of State interest;

AND WHEREAS, the Board of County Commissioners is authorized pursuant to Article 65.1, Title 24, of the Colorado Revised Statutes, 1973, as amended, to adopt guidelines and regulations for administration of areas and activities of the State interest;

AND WHEREAS, the Board of County Commissioners is authorized pursuant to Article 65.1, Title 24, of the Colorado Revised Statutes, 1973, as amended, to establish and designate a local Permit Authority to receive applications for development in or conduct of matters of State Interest and to exercise other powers in connection therewith;

AND WHEREAS, the Board of County Commissioners is authorized pursuant to Article 65.1, Title 24, of the Colorado Revised Statutes, 1973, as amended, to establish a reasonable fee for the cost of processing applications for development in or conduct of matters of State interest and the holding of hearings in connection therewith;

AND WHEREAS, a public hearing was scheduled and held on Sept. 13, 1999 to consider this Resolution;

AND WHEREAS, public notice of such hearing was published in the Park County Republican and Fairplay Flume at least thirty (30) days prior to but within sixty (60) days of such hearing;

AND WHEREAS, copies of the proposed regulations were made available to the public at the office of this Board of County Commissioners prior to public hearing;

AND WHEREAS, this Board has been granted general authority by the State Legislature to adopt land use regulations;

AND WHEREAS, the Board having considered all of the testimony, regulations, guidelines, exhibits and other evidence presented at said public hearing;



DOTH FIND AS FOLLOWS:

1. That the Colorado Division of Wildlife has identified wildlife habitat in Park County and the designation of significant wildlife habitat areas is necessary to protect wildlife and the natural environment of the County.
2. That development in wildlife habitat areas could negatively impact the wildlife in the County unless the impacts to wildlife habitat and wildlife are adequately mitigated.
3. That the adoption of the appended regulations will provide standards and guidelines for development in wildlife habitat areas of the County that will form the basis for mitigation of negative impacts to wildlife habitat and wildlife.
4. That the County Commissioners have consulted with the Colorado Division of Wildlife during the preparation of the appended regulations.
5. That all requirements of law have been met, all public notices required have been given, and a public hearing has been held as required.

NOW, THEREFORE, BE IT RESOLVED:

- A. That significant wildlife habitat areas are designated areas of State interest and the "Park County Regulations for Wildlife Habitat Areas" is adopted.
- B. That portions of Park County are designated as significant wildlife habitat based on those areas identified by the Colorado Division of Wildlife as moderate, very high and high potential for wildlife impact.

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

<u>Lynda James</u>	Aye
<u>Cherise</u>	Aye
<u>Gregg Salberg</u>	Aye

Commissioners



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3 of 31 R 0.00 D 0.00 BARBARA J PASCO PARK CO

STATE OF COLORADO)
) ss.
COUNTY OF PARK)

I Barbara J Pasco, County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the above and foregoing Resolution dated Sept. 13, 1999, is a true and correct copy of the resolution appearing in the records and minutes of the Board of County Commissioners of Park County, Colorado.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Fairplay, this 13 day of Sept., A.D., 1999.

by Handa S Stevenson
Chief Deputy Clerk




DESIGNATION OF AREA OF STATE INTEREST

Pursuant to C.R.S., 1973, §24-65.1-101, et seq., (1974 Colo. S.L., pp. 335-352), on the 13 day of ~~Feb.~~ ^{Sept.}, 1999, the Board of County Commissioners of Park County, Colorado designated significant wildlife habitat areas as an area of State interest. Furthermore, pursuant to C.R.S., 1973, §24-65.1-101, et seq., (1974 Colo. S.L., pp. 335-352), on the 13 day of Sept., 1999, the Board of County Commissioners of Park County, Colorado designated those areas of moderate, high and very high potential for wildlife impact as designated on Colorado Division of Wildlife Composite Map of Significant Wildlife Habitat for Park County, Colorado, as amended from time to time, as significant wildlife habitat. Development, as defined by the Park County Regulations for Wildlife Habitat Areas, may not be conducted within Park County without a permit.

Procedures for obtaining such a permit are available at the office of the Board of County Commissioners of Park County, which is located in the Park County Annex at Fairplay, Colorado.

DATED THIS 13 day of Sept, 1999.



Chairman
Board of County Commissioners of
Park County, Colorado

Barbara J. Pasco
Park County Clerk & Recorder

by Manda S. Stevenson
Deputy Clerk



**PARK COUNTY REGULATIONS
FOR
WILDLIFE HABITAT AREAS**

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PARK COUNTY REGULATIONS FOR WILDLIFE HABITAT AREAS

CHAPTER 1

GENERAL PROVISIONS AND PROCESS FOR DESIGNATION

ARTICLE 1

INTRODUCTORY AND GENERAL PROVISIONS

1-101 Title and Citation.

These various chapters and articles may be cited as the "Park County Regulations for Wildlife Habitat Areas."

1-102 Purpose and Intent.

The general purpose of these wildlife regulations is to protect areas that are essential for wildlife habitat as authorized by § 24 § 24-65.1-101, et seq., C.R.S. 1973.

The specific purposes and intent of these wildlife regulations are as follows:

- (1) To preserve wildlife habitat and to ensure that impacts associated with land use and development are mitigated in areas essential to wildlife.
- (2) To ensure that land use activities in significant wildlife habitat areas are carried out in a manner that is consistent with the land use policies set forth in the Park County Comprehensive Plan and Park County Land Use Regulation.

1-103 Findings.

The Board finds that:

- (1) All applicable notice and public hearing requirements have been followed;
- (2) Wildlife within the County is a resource of statewide importance;
- (3) These wildlife regulations are necessary because of the intensity of current and foreseeable development pressures on and within the County which, if left unmitigated, could cause negative impacts in areas essential to wildlife; and
- (4) These wildlife regulations are necessary for the protection of the natural resources and environment of the County and the State of Colorado and the health, welfare and safety of the people of the County.

1-104 Authority.

These wildlife regulations are authorized by, inter alia, §§ 24-32-111, 24-65.1-101, et seq., 30-28-101, et seq., 30-28-201, et seq., 29-20-101, et seq., 30-30-101, et seq., and 30-11-101, et seq., C.R.S.

1-105 Scope, Application and Designation.

These wildlife regulations shall apply to any Development in significant wildlife habitat areas as defined in Section 1-111 of these wildlife regulations except as exempted pursuant to Section 1-106 of these wildlife regulations.

1-106 Exemptions.

The portions of these wildlife regulations authorized exclusively under § 24-65.1-101, et seq., C.R.S., shall not apply to:

- (1) Any Development which met any one of the following conditions as of May 17, 1974:
 - (a) The Development is 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.
 - (b) The Development is on land which had been conditionally or finally approved for planned unit development or for a use substantially the same as planned unit development.
 - (c) The Development is on land which has been zoned for the use contemplated by such Development.

(d) The Development is on land for which a development plan has been conditionally or finally approved.

(e) The Development is on land for which a final plat for a subdivision has been approved conditionally and finally pursuant to the provisions of §§ 30-28-101, 110, 133, 136, and 137, C.R.S. 1973, and said subdivision approval specifically contemplated the Development or activity.

(2) Any Development which is covered by a current building permit or development permit granted prior to the effective date of these wildlife regulations.

(3) Any Development grading, excavation or construction associated with one single-family dwelling unit. Such activities shall, however, be subject to Section 1-301 of these wildlife regulations.

(4) Any development land preparation, reclamation or cultivation associated with farming or ranching operations.

1-107 Interpretation with Other Enactments and Plans.

(1) Whenever the Board finds that the provisions of these wildlife regulations are inconsistent with any other resolution, ordinance, code, regulation, other enactment or master plan of the County, these wildlife regulations shall control.

(2) If the Board finds that any portion of these wildlife regulations authorized exclusively under § 24-65.1-101 et seq., C.R.S., is less stringent than the statutory criteria for administration of matters of state interest set forth in §§ 24-65.1-202, -204, C.R.S., the statutory criteria shall control.

(3) If the Board finds that any portion of these wildlife regulations authorized exclusively under § 24-65.1-101 et seq., C.R.S., is more stringent than the statutory criteria for administration of matters of state interest set forth in §§ 24-65.1-202, -204 C.R.S., then such portion of these wildlife regulations shall apply pursuant to § 24-65.1-402(3), C.R.S.

1-108 Relationship of Wildlife Regulations to Other State and Federal Requirements.

Nothing in these wildlife regulations shall be construed as exempting an applicant from any other requirements of this County or other state or federal laws and regulations.

1-109 Duties of the Administrator.

Unless otherwise specifically provided, it shall be the duty of the Administrator to perform all functions set forth in these wildlife regulations.

1-410 Severability.

If any section, clause, provision, or portion of these wildlife regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of this wildlife regulation shall not be affected thereby and is hereby declared to be necessary for the public health, safety, and welfare. Nor will such a finding affect the validity of any permit previously issued, financial security previously accepted, or action previously taken by the County, except as specifically adjudicated by the Court.

1-111 Definitions.

The words and terms used in these wildlife regulations for administration of areas and activities of state interest shall have the meanings set forth below unless the context requires otherwise:

ADMINISTRATOR. The County Administrator or another person designated by the Board of County Commissioners.

ADVERSE. Unfavorable, harmful.

BOARD. The Board of County Commissioners of Park County.

BUFFER ZONES. An area with no, or limited, human related disturbance, created either on a seasonal or permanent basis to protect territory necessary to the survival of wildlife where the use of this territory by wildlife is dependent on freedom from human activity.

COUNTY. Park County, State of Colorado.

DEVELOPMENT. Any construction or activity which changes the basic character or use of the land, including, without limitation, the construction of any fence or other barrier that may impair wildlife movement.

DEVELOPMENT AREA. Those geographic areas within the County which will be developed or altered directly by construction or operation of the proposed project.

DISTRICT WILDLIFE MANAGER. The local District Wildlife Manager of the State of Colorado Division of Wildlife assigned to the area encompassed by Park County, State of Colorado or designee.

IMPACT. Any alteration or change resulting from a development project whether beneficial or harmful.

IMPACT AREA. Those geographic areas, including the development area, in which any impacts are likely to be caused by the proposed project.

INCLUDE. Including without limitation.

MATTER OF STATE INTEREST. An area of or an activity of state interest or both as listed in §§ 24-65.1-201(1), -203(1), C.R.S.

MITIGATION. Any one or any combination of the following:

- (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; and
- (5) compensating for the impact by replacing or providing suitable biological and physical conditions;
- (6) by replacing or providing suitable services and facilities.

NET EFFECT. The impact of an action after mitigation.

PERMIT. A permit issued pursuant to these wildlife regulations.

PERMIT AUTHORITY. The Board of County Commissioners, or its designee.

PERSON. Any individual, entity, partnership, corporation, association, company, municipality, or other public or corporate body, including the federal government, or any political subdivision, agency, instrumentality, or corporation of a state or the United States.

PROPOSED DEVELOPMENT. The construction and operation of a proposed development project 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.

SIGNIFICANT WILDLIFE HABITAT AREA. Those areas of moderate, high and very high potential for wildlife impact as designated on Colorado Division of Wildlife Composite Map of Significant Wildlife Habitat for Park County, Colorado, as amended from time to time, have been designated as significant wildlife habitat area pursuant to § 24-65.1-404, C.R.S.

WILDLIFE HABITAT. A geographic area containing those elements necessary for the survival and health of a wildlife species during all or any part of its life cycle, and containing those elements of food, water, cover, space, and general welfare in combination and in quantities adequate to support the wildlife species.

** 1 WILDLIFE REGULATIONS. The various chapters and articles that make up the Park County Regulations for Wildlife Habitat Areas.

WILDLIFE SPECIES. Wild native vertebrates, mollusks, and crustaceans, and any species introduced or released by the Colorado Division of Wildlife.

CHAPTER 1

GENERAL PROVISIONS AND PROCESS FOR DESIGNATION

ARTICLE 2

DESIGNATION OF SIGNIFICANT WILDLIFE HABITAT AREAS

1-201 Designation of Significant Wildlife Habitat Areas.

The Board has designated Significant Wildlife Habitat Areas as Areas of State Interest after having considered testimony in public hearings about the intensity of current and foreseeable development pressures; the matters and considerations set forth in applicable guidelines for identification and designation; reasons why wildlife habitat areas are matters of state interest; dangers that would result from uncontrolled development in significant wildlife habitat area, and the advantages of development of such areas in a coordinated manner.

1-202 Fee Schedule to Be Established by Resolution.

The Board is hereby authorized to establish an application fee schedule to apply to different categories of Development subject to these wildlife regulations.

CHAPTER 1

GENERAL PROVISIONS AND PROCESS FOR DESIGNATION

ARTICLE 3

NOTIFICATION OF SIGNIFICANT WILDLIFE HABITAT

1-301 Notice to Building Permit Applicants for Single Family Dwellings.

After receiving an application for a building permit to construct any single family dwelling, but prior to issuing such building permit, the County shall notify the applicant if the area affected by the application is within a Significant Wildlife Habitat Area. The Park County Building Department may also provide the applicant with suggestions concerning how the applicant may proceed with the project and better protect and/or enhance wildlife and wildlife habitat.

1-302 Notice to Landowners of Parcels Thirty-Five Acres or Larger

Prior to recording a deed with the clerk and recorder for a parcel of real property that: (1) is thirty-five (35) acres or larger; and (2) is smaller than the entire parcel of property owned by the previous owner, the landowner shall notify the Administrator in writing of the landowner's intent to record such deed. The County shall notify the landowner if the area subject to the deed is within a Significant Wildlife Habitat Area. The Park County Building Department may also provide the landowner with suggestions concerning how the landowner may protect and/or enhance wildlife and wildlife habitat. The landowner may record the deed at anytime after notifying the Administrator of intent to record.

CHAPTER 2
PERMIT PROCESS

ARTICLE 1

APPLICATION AND REVIEW PROCESS

2-101 Scope.

The permitting process set forth in this Chapter 2 applies to all Development within Significant Wildlife Habitat Areas unless the Development falls within the Exemptions, Section 1-106.

2-102 Permit or Statement of No Impact Required for Development Within Significant Wildlife Habitat Areas.

- (1) No person may engage in any Development located wholly or partially within a Significant Wildlife Habitat Area without first obtaining a Statement of No Impact or a Permit from the Permit Authority pursuant to these wildlife regulations.
- (2) No building permit shall be issued for any Development that does not comply with these wildlife regulations.

2-103 Notice to Division of Wildlife.

Any person seeking to engage in Development as that term is defined in Section 1-111 shall first submit a Notice of the Proposed Development to the District Wildlife Manager. The Notice shall consist of the following:

- (1) Applicant's name, address and phone number.
- (2) Map prepared at an easily readable scale showing:
 - (a) Boundary of the Proposed Development site.
 - (b) Relationship of the development site to surrounding topographic and cultural features, such as roads, streams, and existing structures.
 - (c) Proposed building, improvement, and infrastructure locations associated with the Development.
 - (d) Legend which includes:
 - (i) A complete and accurate legal description of the Proposed Development site.

- (ii) Total acreage of parcel.
 - (iii) Title, scale and North arrow.
 - (iv) Date, including revision dates, if applicable.
- (3) Written statement of nature and density of Proposed Development.

2-104 Review of Notice.

The Notice shall be reviewed by the District Wildlife Manager as follows:

- (1) The District Wildlife Manager shall review the Notice and determine whether the Proposed Development will adversely impact wildlife species, wildlife habitat and/or wildlife movement patterns/displacement and adaptation of wildlife populations within the Proposed Development area. Following the review, the District Wildlife Manager shall take one of the following actions:
- (a) Find, in writing, that the Proposed Development is not likely to adversely impact wildlife species, wildlife habitat and/or wildlife movement patterns/displacement and adaptation of wildlife populations within the Proposed Development area and recommend that the Permit Authority issue a Statement of No Impact for the Proposed Development; or
 - (b) Find, in writing, that the Proposed Development is likely to adversely impact wildlife species, wildlife habitat and/or wildlife movement patterns/displacement and adaptation of wildlife populations within the Proposed Development area and recommend that the Permit Authority require the applicant to apply for a Permit under these wildlife regulations.
- (2) The District Wildlife Manager shall deliver a copy of the Notice along with the District Wildlife Manager's written recommendation to the Permit Authority within thirty (30) days after receiving the Notice. Failure by the District Wildlife manager to timely deliver a Notice and written recommendation to the Permit Authority shall be construed as a recommendation that the Permit Authority issue a Statement of No Impact for the Proposed Development pursuant to section 1-104(1)(a).
- (3) The Administrator shall administratively review and consider the District Wildlife Manager's recommendation, if any such recommendation was timely delivered to the Permit Authority, along with the Notice. The Permit Authority reserves the right to determine whether any particular Development must obtain a Permit. The Administrator shall take one of the following actions within thirty (30) days of receiving the pre-application package and the District Wildlife Manager's

recommendation, if any such recommendation was timely delivered to the Permit Authority:

(a) Determine that the Proposed Development will not impact wildlife species, wildlife habitat and/or wildlife movement patterns/displacement and adaptation of wildlife populations within the Proposed Development area. Prepare a written Statement of No Impact specifying that the Administrator found that the Proposed Development will have no impact on wildlife species, wildlife habitat and/or wildlife movement patterns/displacement and adaptation of wildlife populations within the Proposed Development area and that the requirements of these wildlife regulations have been satisfied for the Proposed Development; or

(b) Determine that the Proposed Development may impact wildlife species, habitat and/or wildlife species and/or wildlife movement patterns/displacement and adaptation of wildlife populations within the Proposed Development area and notify the applicant that the applicant must obtain a Permit to satisfy the requirements of these wildlife regulations.

2-105 Formal Permit Application Procedure.

If and only if a Permit for the Proposed Development is determined to be necessary under section 2-104(b) of these wildlife regulations, the following process is required:

(1) Prior to the submittal of an application:

(a) The applicant shall meet with the Administrator for the purpose of providing information on the nature and scope of the proposed project. The Administrator shall provide the applicant with an overview of the applicable provisions of these wildlife regulations.

(2) Following the pre-application conference, the applicant shall submit the complete application package to the Administrator.

(a) An application may be concurrently processed with any other application for County land use approval that is required for the Proposed Development.

(3) An application shall not be accepted unless it is complete. If the Administrator determines that the application is incomplete, the Administrator shall specify in writing the additional information that is required. When an application is deemed complete, the Administrator shall note upon the application the date and hour of receipt.

(4) Once the Administrator has determined that the application is complete, the applicant shall submit twelve (12) copies of the application to the Administrator.

2-106 Application Submittal Requirements.

A complete application consists of the following items:

- (1) Application on form prescribed by the Colorado Land Use Commission.
- (2) A non-refundable application fee payable to Park County, State of Colorado,
- (3) The District Wildlife Manager's written recommendation pursuant to section 2-104(1), if such recommendation was timely delivered to the Permit Authority.
- (4) Map prepared at an easily readable scale showing:
 - (a) Boundary of the Proposed Development site.
 - (b) Relationship of the site to surrounding topographic and cultural features, such as roads, streams, and existing structures.
 - (c) Proposed building, improvement, and infrastructure locations.
 - (d) Legend which includes:
 - (i) A complete and accurate legal description the Proposed Development site.
 - (ii) Total acreage of parcel.
 - (iii) Title, scale and North arrow.
 - (e) Date, including revision dates, if applicable.
- (5) Wildlife impact report addressing all of the following:
 - (a) Total acres in the project area.
 - (b) Wildlife species known to be present or occurring on the site.
 - (c) Location and total acres of each species' habitat in the development area.
 - (d) Location and total acreage of open space areas in the project area.
 - (e) Use patterns of wildlife habitat within the project site (movement corridors, feeding areas, etc.).

(f) Critical connections or relationships with adjoining habitats outside the project site.

(g) Potential impacts of the proposed project on wildlife habitat, wildlife species and/or wildlife movement patterns/displacement wildlife populations.

(h) List of proposed mitigation methods for each wildlife habitat, wildlife species and/or wildlife movement patterns/displacement of wildlife populations.

(i) Any other information deemed necessary by the Permit Authority, in consultation with the District Wildlife Manager, to adequately assess the impact of the proposal on wildlife habitat, wildlife species and wildlife habitat and/or wildlife movement patterns/displacement and adaptation of wildlife populations within the Proposed Development area.

- (6) If warranted by the scope or scale of the Proposed Development, the Administrator may waive one or more of the application submittal requirements.

2-107 Notice of Permit Hearing.

Not later than thirty (30) days after receipt of a complete application for a Permit, the Permit Authority shall set and publish notice of a date, time, and place for a hearing on said application. Such notice shall be published once in a newspaper of general circulation in the County, not less than thirty (30) days nor more than sixty (60) days before the date set for hearing and shall also be given to other persons and entities as deemed appropriate by the Permit Authority by mail, not more than sixty (60) days, and not less than fourteen (14) days prior to the hearing date.

CHAPTER 2
PERMIT PROCESS

ARTICLE 2

PERMIT AUTHORITY

2-201 Permit Authority Established.

- (1) The Park County Permit Authority is hereby established.
- (2) The Permit Authority shall exercise all powers and duties granted it by these wildlife regulations.

2-202 Judicial Review.

- (1) Any action seeking judicial review of a final decision of the Permit Authority shall be initiated within thirty (30) days after the decision is made, in the District Court in and for the County, pursuant to Rule 106 of the Colorado Rules of Civil Procedure.

CHAPTER 2
PERMIT PROCESS

ARTICLE 3

PERMIT APPROVAL AND ISSUANCE

2-301 Permit Application Hearing.

(1) The Permit Authority shall conduct the public hearing in a manner to afford procedural due process to the applicant as well as all other participants in the hearing.

(2) The Permit Authority shall hear testimony and receive evidence, including but not limited to:

(a) The recommendation of the District Wildlife Manager if such recommendation was timely delivered to the Permit Authority; and

(b) Relevant testimony and documents presented at the hearing, including those presented by the applicant, county staff, and the public.

(3) Although the Colorado Rules of Civil Procedure do not govern the conduct of the hearing, all persons appearing at the hearing, in person or by counsel, shall be afforded a reasonable opportunity to offer evidence in rebuttal.

(4) The County shall record the hearing. Any person may, at his own expense, provide for the transcription thereof, provided, however, that a copy of the transcript, once transcribed, shall be furnished free of charge to the Administrator and shall become part of the record.

(5) The Administrator shall collect and preserve the following record of the public hearing:

(a) The permit application;

(b) The District Wildlife Manager's written recommendation pursuant to section 2-104(1), if such recommendation was timely delivered to the Permit Authority;

(c) Any written statements or documents presented in support of or in opposition to the permit application;

(d) The names and addresses of all persons making oral or written statements, appearing as witnesses, or offering documentary evidence;

- (e) Any recording or transcript, if any, of the hearing as provided in subsection (4) above;
- (f) Written minutes of the Permit Authority relating to the public hearing;
- (g) The resolution of the Permit Authority granting or denying the permit application; and
- (h) A copy of the Permit, if issued.

2-302

Procedure for Approval or Denial of Permit Application.

- (1) If information presented at the hearing leads the Permit Authority to find that additional information concerning the proposed project must be submitted before the Permit Authority can determine whether all criteria have been met, the Permit Authority may continue the hearing for not more than sixty (60) days unless a longer time is agreed to by the applicant, or the Permit Authority may, at its discretion, deny the Permit.
- (2) The Permit Authority shall approve a Permit application if it determines that the applicant has proven that the project complies with all applicable requirements of these wildlife regulations. If the applicant fails to meet any one of the applicable requirements, the Permit may either be approved with conditions to ensure compliance with such requirements, or it shall be denied.
- (3) The Permit Authority will prepare a written resolution that addresses each of the applicable requirements of these wildlife regulations and the reason for its decision.

2-303

Issuance of Permits.

- (1) The Permit shall be issued on the form adopted by the Permit Authority.
- (2) At the time the Permit Authority grants a Permit, the Permit Authority shall identify the time period within which the Development must be commenced. If the Development is not commenced within such time period, the Permit shall automatically expire unless reviewed by the Permit Authority prior to expiration.
- (3) The Permit Authority may not revoke a Permit once it has been issued.
- (4) Copies or notices of the Permit shall be sent to the Colorado Land Use Commission and, at the Permit Authority's discretion, may be sent to

any regional planning commission and to any other person requesting a copy upon payment of the cost of reproduction.

- (5) A copy of the Permit shall be certified by the Permit Authority to the County Clerk and Recorder for recording in the same manner as any other document relating to real property, and the certified copy of the Permit shall be presented by the Permit Authority to the Clerk and Recorder for recording.
- (6) To the fullest extent allowed by law, the permittee's rights in the Permit will vest, if at all, only after the Permit has been issued.

2-304 Performance Bond or Other Guarantee of Financial Security.

(1) Before any Permit is issued, the Permit Authority may require the applicant to file a guarantee of financial security deemed adequate by the Permit Authority and payable to the County.

(2) The purpose of said financial security guarantee is to ensure that the applicant/permittee will faithfully perform all requirements of the Permit and applicable regulations adopted by the Permit Authority with regard to any required mitigation.

(3) The amount of said financial guarantee shall be established by the Permit Authority upon consideration of the following applicable criteria:

(a) The estimated cost of returning the site or the permitted development or activity to its original condition; and

(b) The estimated cost of complying with any conditions of the Permit with regard to any required mitigation.

(4) Estimated cost shall be based on the applicant's submitted cost estimate plus the Permit Authority'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 Permit Authority shall consider the duration of the Development or activity and compute a reasonable projection of increases due to inflation. The Permit Authority 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.

(5) Unless otherwise agreed to by the Permit Authority, the financial guarantee shall be a performance bond, letter of credit or cash deposited with the County treasurer and placed in an earmarked escrow account mutually agreeable to the County and applicant.

(6) The financial guarantee shall be released by the County when:

(a) The Permit has been surrendered to the Permit Authority before commencement of any physical activity on the site of the permitted Development or activity; or

(b) The Development or activity has been abandoned and the site has been returned to its original condition or to a condition acceptable to the County in accordance with standards adopted by the County for the matter of state interest for which the Permit is being granted;

(c) The project has been satisfactorily completed and applicable guaranteed conditions have been satisfied.

(7) Any security may be canceled by a surety only upon receipt of the Permit Authority's written consent which may be granted only when such cancellation will not detract from the purposes of the security.

(8) If the license to do business in Colorado of any surety upon a security filed pursuant to this wildlife regulation is suspended or revoked, then the applicant or permittee, within sixty (60) days after receiving notice thereof, shall substitute a good and sufficient surety licensed to do business in the state. Upon failure of the permittee to make substitution of surety within the time allowed, the Permit Authority shall suspend the Permit until proper substitution has been made.

(9) The financial guarantee may be forfeited and used by the County under the following conditions:

(a) If the Permit Authority determines that a financial guarantee should be forfeited because of any violation of the Permit as to conditions specified in writing as satisfying any required mitigation 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 Permit Authority within thirty (30) days after permittee's receipt of notice, requesting a hearing before the Permit Authority. If no demand is made by the permittee within said period, then the Permit Authority shall order the financial guarantee forfeited.

(b) The Permit Authority 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 Permit Authority statements, documents, and other information with respect to the alleged violation. At the conclusion of the hearing, the Permit Authority shall either withdraw the notice of violation or enter an order forfeiting the financial guarantee.

(c) The financial guarantee described in subsection (5), above, may be used by the Permit Authority 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 obligations of the Permit holder. In the event that the ultimate reviewing court determines that there has been no 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 Permit Authority 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 the County's demand for the purpose specified in this section.

(10) If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, the County's attorney may take such steps as deemed proper to recover up to an additional twenty-five percent (25%) of the amount of the financial guarantee, but in no case, more than twenty-five percent (25%).

CHAPTER 2
PERMIT PROCESS

ARTICLE 4

APPROVAL STANDARDS AND CRITERIA

2-401 Permit Approval Criteria.

A Permit application may be approved if the applicant demonstrates to the Permit Authority's satisfaction that the net effect of the Proposed Development Project, as evaluated after implementation of all mitigation measures:

(1) Will not have a significant adverse net effect on wildlife species within the Proposed Development area. Assessment of net effect on wildlife species shall be based on the following:

(a) The resultant disturbance or harassment to individual animals, groups of animals or wildlife species.

(b) Site development or activities that disrupt necessary life-cycle functions resulting in stress to the extent that physiological damage is done to an individual animal, group of animals or wildlife species. Examples include, but are not limited to, introduction of non-native vegetation, excessive use of fertilizers and other chemicals, placement of structures in close proximity to nesting and feeding areas and excessive exterior lighting.

(c) Species' reliance on specific, unique habitat features that may be affected.

(d) Uniqueness of species to area of Proposed Development within Park County.

(e) Uniqueness of species to Park County.

(f) Mitigation efforts that directly address the negative effects of the proposed land use on wildlife species or specific wildlife species impacted.

(g) Any other significant factor(s) the Permit Authority deems relevant.

(2) Will not have a significant adverse net effect on wildlife habitat within the Proposed Development area. Assessment of net effect on wildlife habitat shall be based on the following:

(a) The amount of vegetation/habitat removal and/or alteration within the development site.

(b) The amount of habitat of similar type and quality within the Development that remains contiguous.

(c) The existing and proposed amount of lot coverage.

(d) The existence of contiguous habitat of similar type and quality on adjoining land.

(e) The effect on surface and subsurface water quantity and quality.

(f) Uniqueness of habitat to the Proposed Development within Park County.

(g) Uniqueness of habitat to Park County.

(h) Mitigation efforts that directly address the negative effects of the proposed land use on wildlife habitat.

(i) Any other significant factor(s) the Permit Authority deems relevant.

(3) Will not have a significant adverse net effect on wildlife movement patterns/displacement and adaptation of wildlife populations within the Proposed Development area. Assessment of net effect on wildlife movement patterns/displacement and adaptation of wildlife populations shall be based on the following:

(a) Proposed Development's effect on preventing wildlife from using a habitat they would normally use, such as blocking migration patterns from summer to winter range.

(b) Proposed Development's effect on causing wildlife to find new routes that expose them to significantly increased predation, interaction with vehicles, intense human activity, or more severe topography and climactic conditions.

(c) The size of the affected habitat and availability of similarly sized and quality habitat within the surrounding area.

(d) Inability of the specie or species to adapt to significant alteration of their current habitat.

(e) Inability of the specie or species to find a new habitat that is sufficient to sustain the species over the long term.

(f) Mitigation efforts that directly address the negative effects of the proposed land use on wildlife movement patterns, adaptation and/or displacement of wildlife populations.

(g) Any other significant factor(s) the Permit Authority deems relevant.

2-402 Mitigation Standards.

To meet the intent of these wildlife regulations, mitigation measures must be in-kind, that is, targeted to the specific species or habitat impact brought about by a particular development.

2-403 Mandatory Mitigation.

The following steps shall be followed in all Developments requiring a Permit pursuant to these wildlife regulations:

- (1) All measures should first be considered that avoid potential impacts to wildlife and wildlife habitat. If not deemed feasible and practical then;
- (2) All measures should be considered that minimize potential impacts to wildlife and wildlife habitat. If not deemed feasible and practical then;
- (3) Measures should be taken to rectify and reduce impacts to wildlife and wildlife habitat. If not deemed feasible and practical then;
- (4) Measures should be taken to compensate for the impacts to wildlife and wildlife habitat by replacing or providing substitute habitat. If not deemed feasible and practical then;
- (5) A Permit should be denied.

2-404 Permit Denial

A Permit application shall be denied if the applicant fails to demonstrate to the Permit Authority's satisfaction that the proposed project will not have a significant adverse net effect on wildlife species within the Proposed Development area.

CHAPTER 2
PERMIT PROCESS

ARTICLE 5

ADMINISTRATION, ENFORCEMENT, AND PENALTIES

2-501 Enforcement and Penalties.

Any person engaging in a Development located wholly or partially within a significant wildlife habitat without first obtaining a Statement of No Impact or a Permit pursuant to these wildlife regulations, who does not comply with Permit requirements, or who acts outside the authority of the Statement of No Impact or Permit, may be enjoined by the County or the Land Use Commission from engaging in such Development or conducting such activity, and may be subject to such other criminal or civil liability as may be prescribed by law and be subject to reimburse the County for legal and administrative costs related to such enforcement.

2-502 Mapping Disputes.

Where interpretation is needed as to the exact location of the boundary of any designated area and where there appears to be a conflict between a mapped boundary and actual field conditions, the Permit Authority shall make the necessary determination of the boundary. Any person contesting the location of the boundary shall be given an opportunity to present his case to the Permit Authority.

2-503 Inspection.

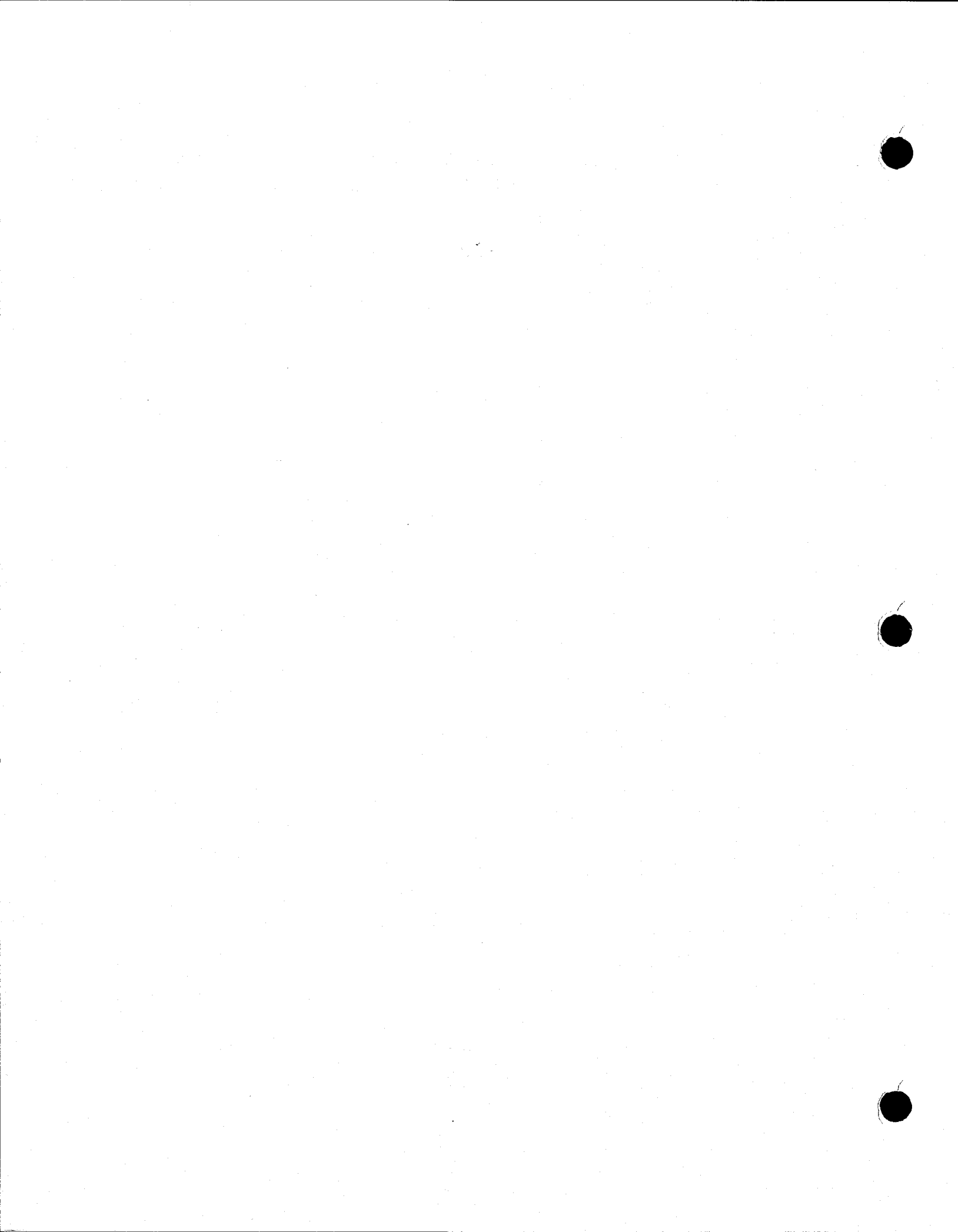
- (1) The Permit Authority or its authorized representative is empowered and directed to inspect and examine the use, occupation, Development or activity in each and every area subject to these regulations for the purpose of determining from time to time whether or not any use, occupation, Development or activity is in violation of any of the provisions of these wildlife regulations or of any Permit issued or required pursuant to this or other applicable regulations.
- (2) If a violation is found to exist, the Permit Authority or its authorized representative shall by written order direct that such remedial action be taken immediately as will result in full compliance with the applicable regulations; provided, however, that the issuance of such order shall in no way or manner be deemed a prerequisite to the institution of other enforcement proceedings as are set forth in these wildlife regulations, and provided further that compliance with such order shall not necessarily be deemed to be a defense to any alleged violation of this or other

applicable regulations in any court action instituted seeking full compliance with the order.

2-504

Failure to Provide Notice.

The failure of the County to provide written notice to any person as required by these regulations shall not constitute a material violation of these regulations or invalidate any action taken at or in connection with the proceeding or event which was the subject of the notice, provided that the Board has made a reasonable effort to provide written notice and has published a notice of the pertinent proceeding or event as required by these regulations.



**COLORADO DIVISION OF WILDLIFE
COMPOSITE MAP OF SIGNIFICANT WILDLIFE HABITAT
PARK COUNTY, COLORADO, APRIL 2004**



The Colorado Division of Wildlife (CDOW) has a responsibility under House Bill 1041 (HB1041) to identify significant wildlife habitats for local governments. The CDOW has developed a system to record and display wildlife distributions; this system is referred to as the **Wildlife Resource Information System (WRIS)**. Within the WRIS system distribution of many different species are mapped by biologists and district wildlife managers on USGS 1:50,000 scale county series maps. This information is then transferred into a computer mapping system known as a **Geographic Information System (GIS)**, which enables CDOW to reproduce species distribution maps for each county as well as allowing analysis of the distribution data.

Geographic distribution of 20 wildlife species has been mapped in Park County. Selection criteria for this list of species were based on several categories. Economically important species, such as big game, were included. Indicator species, those with restricted distributions or highly specific habitat requirements, such as beaver, waterfowl, and osprey were selected because they serve as barometers of change. Threatened and endangered species such as bald eagle were selected to meet legal requirements. Availability of adequate information to map the occurrence of species in Park County was also considered. The CDOW began mapping wildlife distributions in 1977. Since that time CDOW mapping criteria have been refined and wildlife distributions may have changed, necessitating a mapping update.

Once the select wildlife species are mapped a composite map of Significant Wildlife Habitat is created. The wildlife composite map is a way for CDOW to summarize and present wildlife information on one map in an easily understood format. This composite map is produced by "stacking" activity areas for each of the 20 individual species mapped for Park County. Personnel from the CDOW review the individual species maps and rank activity areas using a dual ranking system that combines a potential impact factor and a status factor. Rankings are based on knowledge of the species biology and, in particular, knowledge of a species habitat needs. The first ranking is known as the Impact Factor and ranges from 1 to 5. A ranking of one (1) is assigned to those activity areas with the least potential for impact from development or human disturbance and a ranking of (5) to those activity areas with the greatest potential impact. These rankings also reflect the relative importance of an activity area to the species. For example, lambing areas (Impact Rank of 5) are more important to the life cycle of bighorn sheep than is the more general overall distribution (Impact Rank of 1).

A Second ranking was also given to each species and is referred to as the Status Factor. The Status Factor is a weight assigned to each species based on a combination of factors related to rarity, such as Federal or State Threatened or Endangered, sensitivity to environmental disturbance, species for which there exists special concern, and whether the species is economically important. Status Factors range in value from 1 to 5 with a one (1) being assigned to species with no weight value and a five (5) being assigned to Federal Endangered Species. A more detailed explanation of Status Factors and a listing of each species' assigned value are

included.

The Impact Factor and Status Factor are then combined and a ranking is assigned based on their Total Factor Ranking. The Total Factor Ranking ranges in value from 1 to 10. The Total Factor is then subdivided into the following five (5) categories that reflect Potential for Impact to Wildlife from disturbance:

TOTAL FACTOR RANKING VALUES	
NUMERIC RANK	POTENTIAL FOR IMPACT
1-3	Low
4-5	Moderately Low
6	Moderate
7-8	High
9-10	Very High

The computer then groups the five impact categories and generates the composite map of Significant Wildlife Habitat. The benefit of the composite map is its simplicity; it is much easier to tell what impact a development may have on wildlife by looking at one map instead of 20 individual species maps. One can still find out what individual species are affected from the composite map by utilizing a Wildlife Impacts Worksheet and the individual species maps. Once the wildlife maps and a companion process are adopted, they then provide another tool with which Park County Commissioners, utilizing CDOW expertise, can make a more informed decision regarding development proposals.

Riparian areas have tremendous value to a wide variety of wildlife. The cottonwood-willow riparian ecosystem associated with Colorado's rivers, streams, and lakes has the highest wildlife species richness and density in the State, and is used by over 429 of the 680 species of vertebrate wildlife found in Colorado. Awareness of these values has increased in recent years along with concern for increasing activities in and degradation of these critical wildlife habitats. Typically, maps depicting riparian habitat are unavailable and the Division attempts to identify this valuable wildlife habitat indirectly by mapping species dependent on this habitat type. However, in Park County, riparian habitat was mapped through a cooperative effort with the U.S. Forest Service and Bureau of Land Management. Due to their importance, these riparian habitat areas are ranked in the Very High Potential Impact category and incorporated in the map of significant wildlife habitat.

Some areas of Park County have experienced conflicts with wildlife. These areas are not necessarily important to the life cycle of a species, but are places where human/wildlife conflicts have been documented and, most likely, will occur again unless preventive measures are initiated. Although not considered an important activity area, the Division chose to assign a High Potential Impact Ranking to these areas to proactively initiate consultation and imposition of preventive measures through the land use planning process. Currently, human/wildlife conflict areas are mapped for both

black bear and mountain lion. Examples of preventive measures include the use of bear-proof trash containers, restrictions on the use of hummingbird and suet feeders, and the storage and placement of pet food.

**DESCRIPTION OF IMPACT AND STATUS FACTORS
PARK COUNTY, COLORADO**

IMPACT FACTORS:

The impact factor is a ranking of activity area importance for each species and how disturbance from development activity might impact the species. Impact factors were assigned to each species' activity area by Park County District Wildlife Managers and Wildlife Biologists. For example, lambing areas are of greater importance to the life cycle of bighorn sheep than is the more generally mapped overall distribution. The rating scale ranges from 1 to 5 with a rank of 5 being assigned to those activity areas most susceptible to disturbance from development and a 1 to those least susceptible to disturbance from development.

STATUS FACTORS:

The status factor is a ranking assigned to each species based on the following criteria:

- 5 Federal Endangered Species
- 4 Federal Threatened, State Endangered
- 3 State Threatened, Federal Candidate Species
- 2 Species of State Special Concern, Biological Indicator Species, Sensitive Wildlife Species, Economic Species
- 1 All Other Species

The Status Factor ranking is applied to all selected activity areas for each species in question. A list of each species Status Factor is presented below. A summary of the final combined ranking for each species and their activity areas is presented in the Select Wildlife Species Ranking Table.

SUMMARY OF PARK COUNTY STATUS FACTOR ASSIGNMENTS:

Status Factor 5:

None

Status Factor 4:

Bald Eagle

Federal Threatened/State Threatened

Status Factor 3:

None

Status Factor 2:

Abert's Squirrel

Economic Species

Beaver

Economic Species

Bighorn Sheep

Economic Species

Black Bear

Economic Species

Blue Grouse

Economic Species

Elk

Economic Species

Geese

Economic Species

Great Blue Heron

Biological Indicator Species

Mule Deer

Economic Species

Mountain Goat

Economic Species

Mountain Lion

Economic Species

Mountain Plover

State Special Concern

Moose

Economic Species

Osprey

Biological Indicator Species

Peregrine Falcon

State Special Concern

Pronghorn

Economic Species

Ptarmigan

Economic Species

Merriam's Turkey

Economically Important

White Pelican

Biological Indicator Species

Status Factor 1:

None

**Select Wildlife Species Ranking List
Park County, Colorado**

Species	Activity Area	Impact Factor	Status Factor	Total	Potential for Conflict
Abert's Squirrel	Overall Range	2	2	4	Moderately Low
Bald Eagle	Winter Range	4	4	8	High
	Roost Site	5	4	9	Very High
Black Bear	Overall Range	1	2	3	Low
	Human/Bear Conflict Area	5	2	7	High
	Fall Concentration Area	4	2	6	Moderate
	Summer Concentration Area	2	2	4	Moderately Low
Beaver	Overall Range	5	2	7	High
Bighorn Sheep	Overall Range	1	2	3	Low
	Production Area	5	2	7	High
	Summer Range	1	2	3	Low
	Summer Concentration Area	4	2	6	Moderate
	Winter Range	4	2	6	Moderate
	Winter Concentration Area	5	2	7	High
Blue Grouse	Overall Range	1	2	3	Low
Elk	Overall Range	1	2	3	Low
	Summer Range	1	2	3	Low
	Summer Concentration Area	2	2	4	Moderately Low
	Production Area	5	2	7	High
	Migration Corridor	5	2	7	High
	Winter Range	1	2	3	Low
	Winter Concentration Area	5	2	7	High
	Severe Winter Range	4	2	6	Moderate
Geese	Production Area	5	2	7	High
Great Blue Heron	Foraging Area	5	2	7	High
	Nesting Area	5	2	7	High
Mule Deer	Overall Range	1	2	3	Low
	Summer Range	1	2	3	Low
	Concentration Area	5	2	7	High
	Winter Range	1	2	3	Low
	Winter Concentration Area	5	2	7	High
	Severe Winter Range	4	2	6	Moderate
Moose	Overall Range	1	2	3	Low
	Summer Range	1	2	3	Low
	Winter Range	2	2	4	Moderately Low
Mountain Goat	Overall Range	1	2	3	Low
	Summer Range	1	2	3	Low
	Winter Range	4	2	6	Moderate
Mountain Lion	Overall Range	1	2	3	Low
	Human/Lion Conflict Area	5	2	7	High

Mountain Plover	Overall Distribution	2	2	4	Moderately Low
	High Potential Habitat	4	2	6	Moderate
	Conservation Sites	5	2	7	High
Osprey	Foraging Area	5	2	7	High
Peregrine Falcon	Nesting Area	5	2	7	High
Pronghorn Antelope	Overall Range	1	2	3	Low
	Concentration Area	5	2	7	High
	Winter Range	1	2	3	Low
	Winter Concentration Area	5	2	7	High
	Severe Winter Range	4	2	6	Moderate
Ptarmigan	Overall Range	4	2	6	Moderate
	Winter Concentration Area	5	2	7	High
Merriam's Turkey	Overall Range	2	2	4	Moderately Low
	Production Area	5	2	7	High
	Winter Range	4	2	6	Moderate
White Pelican	Feeding Area	5	2	7	High
	Nesting Area	5	2	7	High

RANKING VALUES	
NUMERIC RANK	POTENTIAL FOR IMPACT
1-3	Low
4-5	Moderately Low
6	Moderate
7-8	High
9-10	Very High