

## CHAPTER 11: PERMIT FOR A NEW COMMUNITY (1041)

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<b>Section 11.1</b>	<b>AUTHORIZATION</b> .....	<b>1</b>
A.	Designation .....	1
B.	Relationship to Other Regulations .....	1
C.	Relationship to Other Development Applications .....	1
<b>Section 11.2</b>	<b>PURPOSE</b> .....	<b>2</b>
<b>Section 11.3</b>	<b>DEFINITION OF "NEW COMMUNITY"</b> .....	<b>2</b>
A.	Definition.....	2
B.	Intergovernmental Agreements.....	3
<b>Section 11.4</b>	<b>RELATIONSHIP TO ZONING</b> .....	<b>4</b>
<b>Section 11.5</b>	<b>NEW COMMUNITY DESIGN</b> .....	<b>4</b>
<b>Section 11.6</b>	<b>SUBMITTAL REQUIREMENTS</b> .....	<b>4</b>
A.	Capability Evidence.....	4
B.	Economic Profile .....	5
C.	Environmental Impact.....	5
D.	Government Infrastructure.....	5
E.	Land Use Impacts .....	6
F.	Man-Made Environment Description .....	6
G.	Planning Area-Wide Description .....	7
H.	Schedule.....	7
I.	Site Location Analysis .....	7
J.	Social Environment Description and Analysis .....	7
<b>Section 11.7</b>	<b>REVIEW PROCESS</b> .....	<b>8</b>
A.	Concurrent Applications .....	8
B.	Review of Application .....	9
C.	Standards.....	9
D.	Duration of Permit .....	11
<b>Section 11.8</b>	<b>APPEAL OF A NEW COMMUNITY PERMIT DECISION</b> .....	<b>12</b>



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## CHAPTER 11: PERMIT FOR A NEW COMMUNITY (1041)

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### Section 11.1

#### Section 11.1 AUTHORIZATION

Colorado Revised Statute §24-65.1-101 *et seq.* (Article 65.1: Areas and Activities of State Interest), authorized by the Colorado State legislature in 1974 as “HB-1041,” grants to Teller County the right to supervise land use with regard to specific **areas** of State interest (such as mineral resource areas) and **activities** of State interest (such as the creation of new communities), and to create guidelines for their administration.

- A. Designation.** Pursuant to Resolution 4-23-92(32), adopted by the Board of County Commissioners on April 23, 1992 Teller County designated, after public hearing and in accordance with other requirements of CRS § 24-65.1-301, the formation of New Communities (the establishment of urbanized growth centers in unincorporated areas) an activity of State interest for which the County has the authority to hold hearings and grant or disapprove development permit applications, which designation is hereby confirmed. Resolution 9-24-92(75), adopted by the Board of County Commissioners on September 24, 1992 and re-adopted January 18, 1993 by Resolution 1-18-93(10), established, as directed by statute, the initial guidelines and regulations applicable to said activity.
- B. Relationship to Other Regulations.** Nothing in these Permit for a New Community (1041) regulations shall be construed as exempting an Applicant from the requirement to obtain a permit or comply with all other requirements of Teller County or these Regulations, or other State or Federal laws and regulations. Whenever the provisions of these 1041 regulations are found to be inconsistent with any other Federal, State and local statutes, laws, codes, resolutions, ordinances, and regulations, or other enactment of Teller County, the more restrictive enactment governs. In the event that these 1041 regulations are found to be more stringent than the statutory standards for administration of matters of State interest set forth in CRS § 24-65.1-202, and CRS § 24-65.1-204, these Regulations control pursuant to the authority of CRS § 24-65.1-402(3).
- C. Relationship to Other Development Applications.** No person, individual, firm, corporation, partnership, or other entity, may locate a New Community as defined below within the unincorporated area of Teller County without first obtaining a permit pursuant to these Regulations. If any department of Teller County receives a development permit application (by way of example **only**: an application for rezoning or subdivision, or a Building Permit, or road access or road cut permit) which it determines is a development permit application in connection with an otherwise unpermitted New Community as defined in these

**Section 11.C**

Regulations, the application shall be held in abeyance until such time as the Applicant obtains a permit pursuant to *Chapter 11 Permit for a New Community (1041)* of these Regulations.

**Section 11.2**

**Section 11.2**

**PURPOSE**

The purpose of these Permit for a New Community (1041) regulations is to ensure that growth and development in Teller County occurs in a safe, efficient, and coordinated manner consistent with the purposes, goals, objectives and policies of all applicable legislatively adopted Teller County master plan(s) and map(s); to ensure that activities are sited, constructed and developed and operated in a manner that is consistent with County land use policies; and to promote the health, safety and general welfare of the citizens of the County. Specifically, these 1041 regulations are adopted to achieve the following goals:

- A. Provide for convenient transportation, waste disposal, schools, and other public services in a manner that will not overload the existing facilities and infrastructure of existing communities in the County.
- B. Provide for the development of total communities which provide for commercial and industrial activity as well as residences, and for internal transportation and circulation patterns.
- C. Achieve planned and orderly land use development.
- D. Promote efficient and economic use of public resources.
- E. Provide conveniently located transportation, commercial, recreational and educational facilities.
- F. Be innovative in all types of development so that the demands of a growing population may be met by greater variety in type, design and layout of all buildings, and by the conservation of open space, and by the more efficient use of open space in relation to said buildings.
- G. Protect environmental resources and ensure sustainable environmental, social, and economic development throughout the County.
- H. Be reviewed at the earliest possible point in the planning process.

**Section 11.3**

**Section 11.3**

**DEFINITION OF "NEW COMMUNITY"**

- A. **Definition.** "New Community" means the major revitalization of existing municipalities OR the establishment of urbanized growth centers in unincorporated areas [CRS § 24-65.1-104(13)]. The term

**Section 11.3.A**

"establishment of urbanized growth centers in unincorporated areas," as used in Teller County, is defined to mean any proposed residential development within the unincorporated area of the County, **except for** proposed development that has one or more of the following characteristics:

1. Is less than one-half mile from the boundaries of any incorporated municipality.
2. Is within the Divide Town Center as defined in the Divide Regional Plan.
3. Is less than three-quarters of a mile from the center of the intersection of U.S. Highway 24 and Teller County Road 1.
4. Is for fewer than five residential units and not more dense than one unit per 10 acres where central water and central sewer are not available.
5. Is a subdivision of four lots or less having the following characteristics:
  - a. Is within or adjoining and/or adjacent to an existing platted subdivision.
  - b. Is equal to, or lesser, in density than the existing platted subdivision.
  - c. Is not closer than one-fourth mile to another such four lot or less subdivision around the perimeter of the platted subdivision.
  - d. Has not been created within the past five years from another such four lot or less subdivision within or adjoining and/or adjacent to the platted subdivision.
6. Meets any of the conditions set forth in CRS § 24.65-1.107 as of May 17, 1974.

**B. Intergovernmental Agreements.** If the Board of County Commissioners enters into an intergovernmental agreement with an incorporated municipality within the County, and if said agreement provides for joint administration by the municipality and the County of unincorporated areas adjoining and/or adjacent to the municipality, said agreement may also provide that these guidelines and regulations are suspended within the area of joint administration. The agreement may also provide that these guidelines and regulations apply within the area of joint administration, even if all or a portion of the area of joint administration is closer to the boundaries of the municipality than the

areas excepted above.

**Section 11.4**

**Section 11.4  
RELATIONSHIP TO ZONING**

Technically, a 1041 “New Community” is a **permit** rather than a zone district. However, Teller County has historically recognized these permits on its Official Zone District Map as a type of overlay to the underlying zone district. Unless otherwise changed by an amendment to the Official Zone District Map of Teller County (a “rezoning”), the Standards of the zone district underlying the 1041 Permit remain in effect.

**Section 11.5**

**Section 11.5  
NEW COMMUNITY DESIGN**

When applicable, or as may otherwise be provided by law, a new community design shall, at a minimum, provide for transportation, waste disposal, schools, and other governmental services in a manner that will not overload facilities and infrastructure of existing communities of the region and meet all requirements of *Chapter 4 Infrastructure* of these Regulations. Priority will be given to the development of total communities which provide for commercial and industrial activity, as well as residences, and for internal transportation and circulation patterns.

**Section 11.6**

**Section 11.6  
SUBMITTAL REQUIREMENTS**

The application for approval of a Permit for a New Community (1041) shall contain the materials specified in *Section 3.2 Minimum Contents of Application*, and the following additional materials:

- A. Capability Evidence.** Evidence demonstrating the technical and administrative capability of the Applicant to plan and develop a new community, including experience, successes and failures on other new community projects, and experience and expertise of Applicant's personnel; and the financial plan of the Applicant, including:
1. All anticipated costs of developing public and publicly financed services, infrastructure and facilities;
  2. The manner by which, and the sources from which, development costs will be met, including anticipated revenues from the development, financial resources of the Applicant, proposed funding sources, and special districts;
  3. A procedure allowing for periodic updating of the financial plan to take into consideration changes in costs, revenues, market

Section 11.6.A.4

conditions, and other relevant changes affecting the development;

4. Marketing strategy for residential, commercial and industrial property.

**B. Economic Profile.** Description of the economic profile of the proposed new community and its impact area, including the following:

1. Type of industry, commerce and other private enterprises contributing to the economic base of the proposed new community;
2. Analysis of employment characteristics and labor market of proposed new community and its impact area;
3. Description of potential economic effects of the proposed new community on its impact area.

**C. Environmental Impact.** Analysis, prepared by a qualified professional or professionals, of the characteristics of the natural environment of the site and of the impact area, and any environmental impacts of the proposed new community on the following:

1. Quality and quantity of surface waters including streams and rivers, groundwater aquifers and groundwater recharge areas;
2. Ambient air quality, including indirect sources;
3. Plant communities;
4. Wild animal communities and migration corridors;
5. Geomorphology, geology and soils by type and suitability;
6. Climatological conditions specific to the property;
7. Scenic corridors and other scenic elements;
8. Noise levels;
9. Archaeological and other historic resources;
10. Topography.

**D. Government Infrastructure.** Description of existing governmental infrastructure in, or new infrastructure to be provide for, the proposed new community site and its impact area, including the following:

1. Map at a scale acceptable to the Planning Director describing

**Section 11.6.D.1**

existing and proposed governmental institutions, special districts and other jurisdictions, the services provided by each, and the proposed method of governance of each;

2. Proposed methods of generating public revenue through existing and proposed governmental jurisdictions;
3. Estimates of revenue generating capacity of each method described in the preceding paragraph and identify identification of new sources of revenue created by the new community;
4. Estimates of operating revenue and expenditures of proposed new public and publicly funded services, infrastructure and facilities;
5. Estimates of public debt expected as a result of development of new public and publicly funded services, infrastructure and facilities;
6. Evaluation of existing public services to meet projected needs.

**E. Land Use Impacts.** Description of the impacts of the proposed new community on existing land use patterns within five miles of the boundaries of the proposed new community, unless the Planning Director determines that a smaller or larger impact area is appropriate in any particular case.

**F. Man-Made Environment Description.** Description, including maps at a scale acceptable to the Planning Director, of existing and proposed features of the man-made environment of the proposed new community site and its impact area, including the following:

1. Existing and proposed housing identified by income group;
2. Industrial facilities and sites, including mineral extraction and processing sites;
3. Commercial establishments and sites;
4. Recreation facilities and sites, and open space;
5. Transportation systems and facilities, including parking facilities;
6. Agricultural uses by classification;
7. Utility services, including water supply systems, sanitary sewage systems, storm drainage systems, solid waste disposal systems, natural gas services, electrical services and communication services;

**Section 11.6.F.9**

8. Public institutions and structures including schools, government buildings and other public facilities;
9. Public lands;
10. Lands owned by mining companies.

**G. Planning Area-Wide Description.** Description of area-wide planning and development, and explanation of the relationship of the proposed new community plan to the following:

1. The purposes, goals, objectives and policies of all applicable legislatively adopted Teller County master plan(s) and map(s), State and regional plans, Federal programs and plans, and plans of neighboring local government jurisdictions, as all of said plans relate to the proposed new community site and its impact area;
2. Approved and proposed public projects;
3. Capital improvement programs of jurisdictions neighboring the proposed new community site and its impact area.

**H. Schedule** A description of the proposed development schedule, including:

1. Detailed schedule of proposed development;
2. Proposed phasing of development;
3. Relationship of timing of construction to operation of public facilities and infrastructure to serve new populations.

**I. Site Location Analysis.** A site location analysis of the total area proposed for the development, including:

1. Standards, data assumption, and conditions used in determining the site location;
2. The natural and man-made features, conditions, trends, and hazards which influenced the selection of the proposed site; and
3. Comparison of alternative potential sites and feasibility of including any which may be suggested by the Planning Director.

**J. Social Environment Description and Analysis.** Description, including maps at a scale acceptable to the Planning Director, of the proposed social environment of the proposed new community and its impact on the current social environment in the new community site and the impact area. The description and analysis is to include:

**Section 11.6.J.2**

1. Demography: Current population, proposed population, past trends, forecasts.
2. Housing: Existing housing, types of housing proposed to meet needs of new population, including low and moderate income housing; price range of housing types; density; and housing market conditions.
3. Community Facilities: Existing and proposed facilities, planned community programs, diversity of facilities and programs to meet needs of the new population; current services.
4. Education: Expected school enrollments at all levels, distances of schools from neighborhoods, transportation of students, new facilities required, existing facilities.
5. Existing and Proposed Health Services: Hospitals and clinics, emergency health care services, including ambulance services, and medical personnel.
6. Public Safety Services: Police, fire, and rescue.
7. Social Services.
8. Recreation: Existing and proposed facilities; present and future adequacy and needs; present and future open space acquisitions; accessibility to open space.

**Section 11.7**  
**REVIEW PROCESS**

**Section 11.7**

- A. Concurrent Applications.** Applicant may submit a development permit application for Subdivision and/or PUD Sketch Plan together with a development permit application for a Permit for a New Community (1041). In order that these separate development permit applications may proceed together, thereby creating efficiency in consideration and avoiding possible inconsistent separate decisions, Applicant, by making such development permit applications, automatically agrees that the decision date for all concurrent development permit applications is the date agreed to for the last of the concurrent development permit applications to be considered and decided. In the event the development permit application for a Permit for a New Community is disapproved, the Applicant should withdraw the development permit application for Subdivision Sketch Plan and/or PUD Sketch Plan. Absent such withdrawal, the Planning Commission shall recommend to the Board of County Commissioners disapproval of the Subdivision Sketch Plan and/or PUD Sketch Plan.

**Section 11.7.B**

- B. Review of Application.** The submission of an application for approval of a Permit for a New Community (1041), determination of its sufficiency, Staff review of, and notice and scheduling of a public hearing for the development permit application shall comply with the procedures established in *Section 3.4 Common Procedure for Review of Applications*.
- 1. Permit Authority.** The Planning Commission is the decision-making authority for a Permit for a New Community (1041).
  - 2. Action by the Planning Commission.** Approval, approval with conditions, or disapproval of the proposed Permit for a New Community (1041) shall be pursuant to *Section 3.4.F.1.a Planning Commission Decision* and the Standards of *Section 11.7.C*.
- C. Standards.** A development permit application for site selection and construction of a 1041 “New Community” shall be approved only if the proposed site and development complies with the Teller County Land Use Regulations and satisfies all of the following standards:
1. All required information has been submitted.
  2. There is a clear need for the proposed new community.
  3. The health, welfare and safety of the citizens of Teller County are protected and served.
  4. The natural and socio-economic environments of the impact area, and all of the unincorporated areas of the County will be protected and enhanced.
  5. All reasonable alternatives to the proposed development have been adequately assessed and the proposed development represents the best alternative for development under these Land Use Regulations, and fulfills the specific Purpose of these New Community (1041) regulations.
  6. A program to sufficiently mitigate all adverse impacts has been presented and will be implemented by the Applicant.
  7. The nature and location of the proposed development is in harmony with the purposes, goals, objectives and policies of all applicable legislatively adopted Teller County master plan(s) and map(s).
  8. The proposed development plan meets the existing and reasonably foreseeable needs for public services within the proposed development site and its impact area.

**Section 11.7.C.10**

9. The proposed development will not create increases in the demand for public services beyond the capacity of the new community and neighboring public entities to provide such services.
10. The proposed development will not interfere with any existing easements or rights-of-way for roads, utilities, canals or mineral claims.
11. Sufficient public utility services exist in the area of the development, or will be provided by the Applicant.
12. The proposed development will not interfere with any significant wildlife habitat or migration corridor, nor will it adversely affect any threatened wildlife species, unique natural resources or archaeological or other historic landmarks within the area of the proposed development or its impact area.
13. The proposed development, as well as anticipated growth and development related to the proposed development, will not cause air quality in the area of the proposed development and its impact area to materially deteriorate.
14. The existing water quality of affected waters will not be adversely affected by the proposed development.
15. The site and proposed uses for the proposed development are suitable considering location, size, topography, microclimate and soil characteristics, and the harmonious relationship of these uses with neighboring communities.
16. The land use and transportation circulation plans and the proposed population density and distribution are planned in such a way as to promote the safe and smooth flow of traffic both within the proposed development as well as at those points where its traffic joins the general flow of traffic within the County.
17. Sufficient provisions have been made by the Applicant to preserve such natural features as water bodies and steep slopes, and to establish and maintain an easily accessible open-space network for conservation, natural beauty, and recreation.
18. Sufficient measures have been taken by the Applicant to prevent environmental pollution, reduce potential natural hazards to acceptable levels, and reduce noise pollution to acceptable levels.
19. The proposed development uses current design and technology for energy and water conservation with respect to use of land, materials and methods of construction, and the provision of

Section 11.7.C.20

community facilities and services, and is innovative in meeting social and economic problems of the proposed development and its impact area.

20. The proposed development is in harmony with the County's goal of assuring that housing is provided for all income groups and age groups.
21. The proposed development is economically feasible.
22. The Applicant has the technical and financial capability to completely plan and develop the proposed development within a reasonable period of time determined by the Planning Commission.
23. Existing and proposed governmental entities will be able to adequately govern and provide governmental services to the development.

**D. Duration of Permit.** The permit is valid for a period of two years from the date of its issuance. If the Applicant fails to take substantial steps to initiate the permitted development within said two years, or if, after having so initiated the permitted development, the Applicant fails to take substantial action during any 12-month period to continue the permitted development, the Teller County Planning Director shall cause 30 days notice to be issued to the Applicant to appear before the Planning Commission to show cause why the permit should not be deemed to have expired. Said notice shall be mailed by first class mail to the Applicant at the address given in the development permit application. At the hearing before the Planning Commission, the only issue to be considered is whether the Applicant took the required substantial steps to initiate and/or to continue the permitted development within said two years.

1. **Extension of Permit.** In the event that the Planning Commission finds that Applicant took the required substantial steps to initiate and/or to continue the permitted development within said two years, the Planning commission may grant an extension of the Permit not to exceed two years provided the Permit complies with the now current Teller County Land Use Regulations and the purposes, goals, and objectives of all applicable legislatively adopted Teller county master plan(s) and map(s).
2. **Expiration of Permit.** Once a permit has expired, it may not be extended. If the Applicant wishes to renew the formerly permitted development, the Applicant must first obtain a new permit pursuant to the requirements of these Permit for a New Community (1041) Regulations.

**Section 11.8**  
**APPEAL OF A NEW COMMUNITY PERMIT DECISION**

**Section 11.8**

Any person, individual, firm, corporation, partnership, or other entity, having standing may appeal a Permit for a New Community (1041) decision of the Planning Commission to the Board of Adjustment pursuant to the requirements and procedures of *Section 1.14 Appeal or Request for Review*. The Applicant, and any person, individual, firm, corporation, partnership, or other entity, who resides in or owns property within the impact area has standing to appeal.

**Section 11.8**