

**RESOLUTION NO. 15-229**

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

**RESOLUTION AMENDING GUIDELINES AND REGULATIONS FOR AREAS AND ACTIVITIES OF STATE INTEREST OF EL PASO COUNTY BY AMENDING CERTAIN EXISTING PROVISIONS AND ADDING NEW PROVISIONS IN CHAPTER 5, SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY, PERTAINING TO THE LOCATION OF TRANSMISSION LINES AND NATURAL GAS PIPELINES WITH RESPECT TO COUNTY ROADS.**

**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**, in the exercise of this authority, by Resolution No. 13-267 dated June 6, 2013, following a public hearing, the Board adopted “Guidelines and Regulations for Areas and Activities of State Interest of El Paso County,” including Chapter 5 thereof: Site Selection and Construction of Major Facilities of a Public Utility; and

**WHEREAS**, by Resolution No. 14-146 dated April 22, 2014, and recorded on April 23, 2014, at Reception No. 214033406 of the records of the El Paso County Clerk and Recorder’s Office, following a public hearing, the Board amended the “Guidelines and Regulations for Areas and Activities of State Interest of El Paso County” by amending certain provisions and adding new provisions to Chapter 7, Site Selection and Expansion of Airports, and the Guidelines and Regulations, as thereby amended, were recorded in their entirety on August 6, 2014 at Reception No. 214070625, which version of the Guidelines and Regulations is currently enacted and in effect at this time; and

**WHEREAS**, the El Paso County Public Services Department (“PSD”) has determined that Sections 5.104 and 5.202 of Chapter 5, Site Selection and Construction of Major Facilities of a Public Utility, pertaining to the location of transmission lines and natural gas pipelines with respect to County roads, as currently enacted, creates problems for PSD when it is conducting roadway improvement projects that require relocation of public utilities located adjacent to or near the existing County right-of-way in private easements. The current provisions prohibit the

CHUCK BROERMAN

El Paso County, CO

05/28/2015 02:25:54 PM

Doc \$0.00

Page

Rec \$0.00

1 of 9



215053671

location of any electric transmission line or pipeline within 105' of the centerline of a County road with current or proposed classification as arterial or expressway. The approvals under the El Paso County Engineering Criteria Manual authorized in Sections 5.104 and 5.202 of Chapter 5 do not apply to these utility relocations. Therefore, this prohibition requires PSD to relocate said utilities beyond 105' of the centerline of the County road, which likely will cause both delays to the Project and more expensive relocation costs; and

**WHEREAS**, PSD recommends that Chapter 5, Site Selection and Construction of Major Facilities of a Public Utility, be amended as proposed; and

**WHEREAS**, legal notice of the hearing scheduled on May 26, 2015, in conformance with the requirements of C.R.S. §§ 24-65.1-404(2)(a), was published in the *El Paso County and Fountain Valley Advertiser and News* on April 22, 2015, and said notice and materials relating to this matter, including draft amendments to Chapter 5, Site Selection and Construction of Major Facilities of a Public Utility, of the Guidelines and Regulations for Areas and Activities of State Interest of El Paso County, were made available online at the following web address: <http://adm.elpasoco.com/Development%20Services/Pages/default.aspx>. In compliance with statute, copies of the same were made available beginning on April 22, 2015, for public examination at the El Paso County Development Services Department and at the Board of County Commissioners Office; and

**WHEREAS**, on May 26, 2015, the Board conducted the public hearing to consider amending Chapter 5, Site Selection and Construction of Major Facilities of a Public Utility, of the Guidelines and Regulations for Areas and Activities of State Interest of El Paso County specifically revising Sections 5.104 and 5.202 of Chapter 5 pertaining to the location of transmission lines and natural gas pipelines with respect to County roads, plus other correcting and clarifying amendments to Section 5.104, at which hearing various witnesses were heard and exhibits were presented for the Board's consideration, and testimony was taken from County staff, 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 staff, 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 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, which included the following:
  - a. Copies of the legal notice of the hearing scheduled for May 26, 2015.

- b. Draft Proposed Amendments to Chapter 5 of Appendix B Guidelines and Regulations for Areas and Activities of State Interest of the El Paso County Land Development Code, dated May 26, 2015 (attached hereto at **Exhibit 1** and incorporated herein by this reference).
    - c. Testimony and exhibits presented by the general public and all interested persons.
    - d. Presentation made by County staff concerning the amendments proposed for the Guidelines and Regulations for Areas and Activities of State Interest of El Paso County, including additional minor revisions identified during the public review and hearing process.
4. 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 has designated has increased.
5. That the reasons why the matters of state interest the Board has designated regarding Site Selection and Construction of Major Facilities of a Public Utility are of public interest are set forth in Chapter 5, Section 5.102, Purpose and Intent, of the “Guidelines and Regulations for Areas and Activities of State Interest of El Paso County,” which section is incorporated herein by this reference.
6. 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 more coordinated manner, which will result from the amendments to Sections 5.104 and 5.202 of Chapter 5, pertaining to the location of transmission lines and natural gas pipelines with respect to County roads.
7. 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 amendments to Chapter 5, Site Selection and Construction of Major Facilities of a Public Utility, specifically Sections 5.104 and 5.202 of Chapter 5, pertaining to the location of transmission lines and natural gas pipelines with respect to County roads, plus other correcting and clarifying amendments to Section 5.104, contained within the “Guidelines and Regulations for Areas and Activities of State Interest of El Paso County” dated April 22, 2014, and to make such amendments to Chapter 5 effective immediately upon approval by the Board.

8. That all requirements of law have been met.

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

That Chapter 5, and specifically Sections 5.104 and 5.202 of Chapter 5, pertaining to the location of transmission lines and natural gas pipelines with respect to County roads, plus other correcting and clarifying amendments to Section 5.104, of the "Guidelines and Regulations for Areas and Activities of State Interest of El Paso County," as amended on April 22, 2014, is hereby further amended as set forth on the attached **Exhibit 1**, which is incorporated herein by this reference.

That these said amendments to Chapter 5 are hereby declared to be effective upon the effective date of this Resolution.

That the County Attorney's Office is authorized to make additional form and style revisions including but not limited to spelling, numbering, statutory references and other conforming and non-substantive corrections, prior to public distribution and recording.

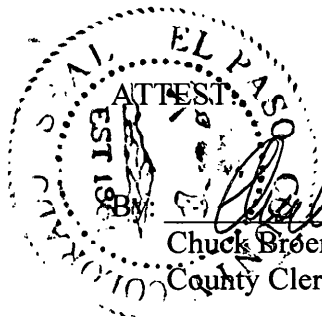
That the "Guidelines and Regulations for Areas and Activities of State Interest of El Paso County," as amended on April 22, 2014, and recorded on August 6, 2014 at Reception No. 214070625, shall not be re-recorded at this time with these amendments to Chapter 5, but rather, shall be further amended by these amendments to Chapter 5, and only these amendments to Chapter 5 shall be filed for recording with the Office of the El Paso County Clerk & Recorder, which amendments thereby shall replace and supersede only those applicable sections of Chapter 5 recorded on August 6, 2014 at Reception No. 214070625. The "Guidelines and Regulations for Areas and Activities of State Interest of El Paso County," as amended on April 22, 2014, and recorded on August 6, 2014 at Reception No. 214070625, as amended by these amendments to Chapter 5, shall constitute the now currently enacted and effective version, and shall be kept in the office of the El Paso County Development Services Department and there made available for public inspection.


**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	<u>Aye</u>
Commissioner Lathen	<u>Aye</u>
Commissioner Clark	<u>Aye</u>
Commissioner Glenn	<u>Aye</u>
Commissioner Littleton	<u>Aye</u>

DONE this 26th day of May, 2015.



  
\_\_\_\_\_  
Chuck Broerman  
County Clerk and Recorder

BOARD OF COUNTY COMMISSIONERS  
OF EL PASO COUNTY, COLORADO

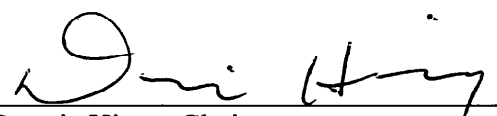
By:   
\_\_\_\_\_  
Dennis Hisey, Chair

EXHIBIT 1

PROPOSED AMENDMENTS TO CHAPTER 5 OF APPENDIX B  
GUIDELINES AND REGULATIONS FOR  
AREAS AND ACTIVITIES OF STATE INTEREST  
OF THE  
EL PASO COUNTY  
LAND DEVELOPMENT CODE  
MAY 26, 2015

Section 5.104(2) shall be REPEALED AND REENACTED to read in its entirety as follows:

"5.104(2). No electric transmission line or pipeline shall be constructed, located, relocated, reconstructed, enlarged or upgraded within 105 feet of the centerline of any County road with a current or proposed classification as arterial or expressway, as set forth in the El Paso County Major Transportation Corridors Plan and in the El Paso County Engineering Criteria Manual, except pipelines less than 12" in diameter and electric transmission, distribution, and service lines less than 115 kilovolts, along with necessary appurtenant facilities, when: (1) such action is necessary in order to cross such road at or near a perpendicular angle or to provide service to an individual utility customer, (2) approval has been granted pursuant to the El Paso County Engineering Criteria Manual at Chapter 4 and Sections 5.3 and 5.5, or (3) a county, municipal, rural transportation authority, or state public construction, relocation, realignment, or improvement project results in partially or completely overtaking a private easement or a deeded or platted public utility easement occupied by the electric transmission line or pipeline."

Section 5.202(3) shall be DELETED as follows:

~~(3) Unless approval has been granted pursuant to the El Paso County Engineering Criteria Manual at Chapter 4 and Sections 5.3 and 5.5, no electric transmission line or pipeline shall be constructed, located, relocated, reconstructed, enlarged or upgraded within 105 feet of the centerline of any County road with a current or proposed classification as arterial or expressway, as set forth in the El Paso County Major Transportation Corridors Plan and in the El Paso County Engineering Criteria Manual, except to cross such road at or near a perpendicular angle or to provide service to an individual utility customer.~~

Section 5.104(3) shall be AMENDED with the following underscored word to read in part as follows:

"A Permit is not required under this Chapter for the following activities: repair of storm damage, reframing, pole replacement, reconductor and maintenance in the normal course of business. . . ."

Section 5.104(6) shall be AMENDED to include two new subparagraphs (a) and (b) as follows:

"(6) This Chapter shall not apply to interstate natural gas pipeline facilities regulated by the Federal Energy Regulatory Commission (FERC), or its successor, provided the following requirements and procedures are complied with by persons or entities proposing to site and

construct the interstate natural gas pipeline facility whenever site selection and construction of such facility will be partly located within El Paso County:

- (a) Copies of all materials (i.e., environmental impact statement, applications for certification of public convenience and necessity and related materials) filed or to be filed with a federal and/or State regulatory agency shall also be filed with the Director of the El Paso County Development Services Department within five (5) working days after the same are submitted to such federal and/or State regulatory agency; and
- (b) Written notice of all scheduled public proceedings before the federal and/or State regulatory agency concerning the natural gas pipeline facility shall be given to the Director of the El Paso County Development Services Department not less than forty-five (45) days prior to any scheduled proceeding before any such agency, provided further, however, that if the applicant before such federal or State agency receives less than forty-five (45) days' notice, it shall give written notice to the Development Services Department Director within five (5) working days after it receives notice of the same."