

APPENDIX A: CRIPPLE CREEK MINING OVERLAY DISTRICT

Section 1

Section 1 GENERAL PROVISIONS

- A. Purpose and Intent.** The Cripple Creek Mining Overlay District (CCMOD) recognizes the historical precious metal mining area of the Cripple Creek Mining District (District), established in 1891. These regulations have been developed exclusively to address precious metal mining within the CCMOD based upon the established boundaries of, and the unique conditions found in, the historic precious metal Mining District, the abundance of historic precious metals mining in the District, and the recent and ongoing permitting and precious metals mining in the District.
- 1. Other Types of Mining.** These CCMOD Regulations do not apply to the mining of other minerals, to construction materials (sand, gravel or aggregate) mining for sale and/or transportation off-site, coal mining, peat mining, oil and/or gas mining or drilling, or any other category of mining that may now or in the future take place within the boundaries of the CCMOD, nor do they affect any Teller County Conditional Use Permits for mining that may now or in the future exist under other regulations. Any such mining activity is subject to the general terms and conditions for mining as set forth in the Teller County Land Use Regulations, except that the use of residually mined sand, gravel or aggregate for public purposes as may be allowed by the State of Colorado under an approved Mined Land Reclamation Permit is exempt from this provision of the CCMOD Regulations.
- B. Location.** The boundaries of the CCMOD are shown on the map attached hereto as Exhibit "A". These boundaries may be amended by application to Teller County for amendment of the Official Zone District Map. To be eligible for inclusion within the CCMOD a property shall be contiguous with the CCMOD boundary at the time of application, and it must be demonstrated that the property has the geologic potential for precious metal resource development.
- 1. Interpretation of the CCMOD Boundary Map.** Notwithstanding what may be reflected in Exhibit "A," lots, parcels, tracts of land, or mining claims bisected by the CCMOD boundary are construed to lie entirely within the CCMOD.
 - 2. Who May Initiate a Change.** An amendment to the Official Zone District Map may be initiated by the Board of County Commissioners, the Planning Commission, the Planning Director, or by a development permit application from the owner of the land or their authorized agent pursuant to the Teller County Land Use Regulations.
 - 3. Standards.** In addition to the standards and criteria of the Teller County Land Use Regulations for an amendment to the Official Zone District Map, eligibility as set forth above must be

demonstrated.

- C. **Effective Date.** These CCMOD Regulations were approved and adopted by the Board of County Commissioners of Teller County on June 28, 2007 to take force and effect from and after that date. They supersede and replace in their entirety those "Appendix CC-10 Cripple Creek Mining Overlay District" regulations of the Teller County Land Use Regulations originally adopted by the Board of County Commissioners on May 25, 2000 (Resolution No. 5/25/00 (44) recorded at Reception No. 505622 in the public records of Teller County), as they may have been amended from time to time thereafter. Notwithstanding the foregoing, if and in the event the adoption of these CCMOD Regulations is challenged and overturned or voided, the replaced regulations shall be and remain in full force and effect.

- D. **Severability.** Should any section, subsection, or provision of these CCMOD Regulations be declared by the courts to be unconstitutional or invalid it shall be modified to the minimum extent necessary to overcome such declaration of unconstitutionality or invalidity, and such declaration shall not affect the validity of these CCMOD Regulations as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

- E. **Rules of Construction for these CCMOD Regulations.**
 - 1. **Conflicting Provisions.** Where a requirement of these CCMOD Regulations is in conflict with another section or subsection of these CCMOD Regulations or with any other State of Colorado or Federal statute, ordinance, or regulation, whichever imposes the more stringent restrictions shall control.

 - 2. **Interpretations.** In interpreting and applying the provisions of these CCMOD Regulations, they shall be held to be those requirements necessary for the promotion of the public safety, health, convenience, comfort, prosperity, and general welfare of Teller County and its citizens. In the interpretation and application of these CCMOD Regulations all provisions shall be:
 - a. Liberally construed in favor of the governing body; and
 - b. Deemed neither to limit nor repeal any other powers granted under State of Colorado statutes or laws.
 - c. In interpreting these CCMOD Regulations, the legislative intent of the Board of County Commissioners of Teller County shall, to the extent allowed by law, control.

 - 3. **Private Agreements.** Teller County shall not be responsible for monitoring or enforcing private agreements, including easements, covenants, deed restrictions, or other agreements between parties. The County shall apply the applicable regulation, statute or ordinance, regardless of any more restrictive or more permissive private agreement.

 - 4. **Text Versus Figure, Table, Illustration, Graphic Depiction or**

Caption. Should these CCMOD Regulations include figures, tables, illustrations, and graphic depictions, such, unless stated otherwise, are solely supplementary to these CCMOD Regulations, intended as summaries or examples for the sake of convenience or by way of explication only. If a conflict or overlap arises between the provisions of the text of these CCMOD Regulations and any table, illustration, graphic depiction or the captions for any section or subsection, the provisions of the text shall control.

5. Word Usage

- a. **Tense.** Words used in the past or present tense include the future, as well as the past or present.
- b. **Singular/Plural.** A word importing the singular number may extend and be applied to several persons and things as well as to one person or thing. The use of the plural number shall include any single person or thing, unless the context clearly indicates the contrary.
- c. **Masculine/Feminine.** The masculine gender shall include the feminine; and the feminine gender shall include the masculine.
- d. **Must/Shall/Will/May/Should.** The words “must,” “shall” and “will” mean mandatory; “may” means permissive; and “should” means preferred.
- e. **To Include/Including.** The words “include,” “to include,” and “including” shall be interpreted in their meaning of merely specifying particular parts of an unrestricted general whole, not as words of comprehensiveness, limitation, or expansion, and shall be interpreted as including “without limitation.”
- f. **Conjunctions.** Unless the context clearly suggests otherwise, conjunctions shall be interpreted as follows: “and” means that all connected items, conditions, provisions, or events apply; “or” means that one or more of the connected items, conditions, provisions, or events apply.
- g. **Common/Technical Terms.** Words and phrases shall be construed according to the common and approved usage of the term unless otherwise defined in the Teller County Land Use Regulations or elsewhere in these CCMOD Regulations. Technical words and phrases which have acquired a particular meaning shall be understood according to such meaning.
- h. **Citations.** References to and citations of specific Federal, State, or local statutes, laws, codes, resolutions, ordinances, regulations, as well as references to and citations of specific plans, maps, and other documents, are to that specific authority or its successors, or matter as it may be amended, supplemented, or replaced from time to time.

6. **Computation of Time.** In computing a period of days, the first day is excluded and the last day is included unless the last day of any period is a Saturday, Sunday, or legal holiday, in which case the last day shall be the next day that is not a Saturday, Sunday, or legal holiday.

F. **Applicability.** Precious metal mining activity within the CCMOD shall require an approved Mining Development Plan, the application for which shall be exclusively reviewed and approved through the process described in these CCMOD Regulations, and no such precious metal mining activity shall be established or carried out within the CCMOD without approval under these CCMOD regulations. Except as otherwise stated to the contrary, these CCMOD Regulations supersede and replace all other requirements and standards for precious metal mining in the CCMOD now contained in the Teller County Land Use Regulations.

1. **Cripple Creek & Victor Gold Mining Company Existing**

Approvals. Except as set forth below and in *Section 1.F.2 Effect of Establishment of the Cripple Creek & Victor Gold Mining Company Mining Development Plan*, nothing in these CCMOD Regulations shall affect, alter, or amend any existing and valid precious metal mining approvals within the CCMOD. Those approvals include those granted to the Cripple Creek & Victor Gold Mining Company, its successors, heirs and assigns which consist of the following and, collectively, shall, upon adoption of these CCMOD regulations automatically be, be deemed, and become, and will thereafter be considered, the single, consolidated, and approved Mining Development Plan (MDP) for the Cripple Creek & Victor Gold Mining Company as of the date of adoption of these CCMOD Regulations:

- a. Amendment to the Amendment 8 Conditional Use Permit (CUP), approved by Resolution 08-25-04(63) of the Board of County Commissioners and recorded at Reception No. 570459 in the public records of Teller County.
- b. East Cresson Mine Extension Planned Unit Development (PUD) zone change and Development Agreement, approved by Resolutions 08-25-04(61) and 08-25-04(62) of the Board of County Commissioners and recorded at Reception Nos. 570457 and 570458 in the public records of Teller County.
- c. Amendment 8 of the existing CUP, approved July 13, 2000 by the Board of County Commissioners by motion of the Board.
- d. Variance to External Effects Standards of the Teller County Land Use Regulations (noise dba levels), approved by the Teller County Planning Commission on June 27, 2000.
- e. Variance to A-1 Zone District Height Requirements for specific structures in specific locations, approved by the Teller County Planning Commission on June 27, 2000.

2. **Effect of Establishment of the Cripple Creek & Victor Gold**

Mining Company Mining Development Plan. As of the effective date of these CCMOD Regulations and the establishment and creation of the single approved Cripple Creek & Victor Gold Mining Company Mining Development Plan pursuant to *Section F.1* above, except as otherwise stated below the individual foregoing Existing Approvals shall become null and void and all activities, requirements, terms, and conditions of approval thereunder are transferred without modification to, and comprehensively incorporated within, said Mining Development Plan. Notwithstanding the foregoing, if and in the event the adoption of these CCMOD Regulations is challenged and overturned or voided, all of the foregoing individual Existing Approvals are individually reinstated and shall and thereafter remain in full force and effect.

- a. **Rezoning of PUD.** Adoption of these CCMOD Regulations shall render the above approved East Cresson Mine Extension PUD overlay zone district (but not its related Development Agreement, Drawing F-1a: Post-Mining Topography dated 04-24-04, Drawing C-4d: Proposed Facilities, Overburden and Mines dated 04-14-04, and Development Plan – Cresson Project – East Cresson Mine Extension Planned Unit Development dated 05-03-04, all of which are included in the 2004 application for rezoning to PUD / CCMOD / A-1 and each of which shall continue and be binding as part of said MDP), null and void, and shall return the land area of the PUD to its original zoning which was, and shall henceforth remain until rezoned to another appropriate zone district, CCMOD / A-1 Agricultural. Confirmation of such rezoning will be undertaken pursuant to an application for rezoning under the Teller County Land Use Regulations.
- b. The terms and conditions of *Section 6.1 Duration of this Agreement* of the above Resolution Approving A Development Agreement for the East Cresson Mine Extension PUD remains in force and effect until such time as an application for formal Amendment of the approved MDP to remove them may be approved pursuant to these CCMOD Regulations.
- c. The intent of the specific alpha-numeric or numeric sections or subsections of the Teller County Land Use Regulations or to the CCMOD referenced within, and in effect at the time of the recording of any of the foregoing Existing Approvals, shall carry forward and be henceforth equally binding to the extent that they are still applicable and congruent with these CCMOD Regulations.
- d. Any future change to an approved MDP affecting any former Conditional Use Permit, Conditional Use Permit Amendment, or PUD shall be pursuant to *Section 8 Amendment of A Mining Development Plan* of these CCMOD Regulations.

3. **Relationship of CCMOD to Other County Regulations.** Except as set forth within these CCMOD Regulations, these regulations supersede all other requirements of the Teller County Land Use Regulations. No additional criteria, standards, submittal, or other

requirements in the Teller County Land Use Regulations are intended to be incorporated by this paragraph; however, in the event that these CCMOD regulations do not address circumstances or matters that may arise in conjunction with a proposed MDP or change in an approved MDP pursuant to *Section 8 Amendment of a Mining Development Plan* within the CCMOD, the Teller County Land Use Regulations will govern.

G. Definitions, Abbreviations, Acronyms. As used within these CCMOD Regulations:

1. **Affected area or lands.** The surface of an area to be disturbed where mining is or will be conducted, excluding lands that would be otherwise included as land affected but which have been previously reclaimed in accordance with an approved plan, or as otherwise defined by the DRMS.
2. **Aggregate.** As related to mining, crushed or pulverized materials including sand, gravel, quarry rock, stone, boulders, cobbles, or large-size gravel, slag, or recycled concrete used in construction. Aggregate processing consists of crushing, screening, and washing the aggregate to obtain proper cleanliness and gradation.
3. **Autoclaving.** (1) The process of heating substances above their boiling point in a device specific to that purpose; (2) subject to the actions of an autoclave.
4. **Beneficiation.** The processing or concentrating of ores for further processing sufficient for economic precious metals recovery.
5. **CCMOD.** The *Cripple Creek Mining Overlay District*, an overlay zone district under the Teller County Land Use Regulations and these CCMOD regulations.
6. **CDPS.** *Colorado Discharge Permit System.* A permitting system for the control of water quality intended to cover industrial and commercial facilities discharging certain wastewaters. Such Permits are issued by and through the State of Colorado Department of Public Health and Environment, Water Quality Control Division.
7. **Communitation.** The crushing and grinding of ore by various processes into smaller particles for further processing.
8. **CUP.** A *Conditional Use Permit* issued pursuant to the Teller County Land Use Regulations.
9. **CWA.** The Federal Water Pollution Control Act ("*Clean Water Act*") administered by the United States Environmental Protection Agency, 33 U.S.C. 1251 *et seq.*
10. **Development permit.** The term "development permit" includes any preliminary or final written approval or decision by an agency of Teller County government regarding an application for rezoning, Planned Unit Development, Administrative Review, Conditional or Special-Use Permit, Subdivision, MDP, change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, site plan, or Building Permit application pursuant to these CCMOD Regulations and/or the Teller County Land Use Regulations, and/or any other applicable Federal, State and local statutes, laws, codes, resolutions, ordinances, and regulations.
11. **Dispersion stacks.** Chimneys, flues, vents or similar structures

- designed to pass gas ("stack gas") through them for dispersion into the atmosphere.
12. **DRMS.** State of Colorado *Division of Reclamation, Mining and Safety*, a Division of the State of Colorado Department of Natural Resources.
 13. **Height.** The elevation of a structure as defined and calculated pursuant to the Teller County Land Use Regulations.
 14. **Impervious Coverage.** That portion of the property covered by a building or buildings, including roof overhangs, covered porches, covered walkways, and similar covered areas **and** any surface that does not readily allow water to infiltrate into the ground (impervious surface) such as concrete or asphalt pavement surfaces and compacted gravel and similar surfaces, or as otherwise defined by the Teller County Land Use Regulations.
 15. **Laydown area.** Staging area. The facilitating area for equipment and materials from which they are dispersed for operations.
 16. **MDP.** A *Mining Development Plan* as defined in these CCMOD Regulations, including any change thereto pursuant to *Section 8 Amendment of a Mining Development Plan*.
 17. **Minor Modification.** A change in an approved MDP that is not substantial enough to require a formal Amendment of the MDP under these CCMOD Regulations. See *Section 8 Amendment of a Mining Development Plan*.
 18. **MSHA.** *Mine Safety and Health Administration* under the United States Department of Labor.
 19. **Overburden.** All of the earth and other materials which lie above or surrounding natural minerals, ore deposits, or other useful materials, and also such earth and other materials disturbed from their natural state in the process of mining.
 20. **Permit (permitted) area.** Unless context clearly indicates otherwise, that area of precious metal mining subject to a valid Mined Land Reclamation Permit issued by and through the State of Colorado.
 21. **Precious metal mining.** The surface mining, and the underground mining insofar as it does not extend beyond the CCMOD boundaries extended downward to the center of the earth, of gold and silver only, which are relatively scarce, highly corrosion resistant, valuable metals found in periods 5 and 6 (groups VIII and Ib) of the periodic table.
 22. **PUD.** A *Planned Unit Development* zone overlay or zone district pursuant to the Teller County Land Use Regulations in effect at the time a PUD (re)zoning is approved.
 23. **Qualified Professional.** An individual possessing above minimum competency, preferably and usually advanced expertise, in a specialized field of knowledge. Such competency may be demonstrated by possession of the appropriate educational credential or professional certification or by practical experience and advanced training, together with recognized skill and practice in the field.
 24. **Reclamation.** The employment during and after a mining operation of procedures reasonably designed to minimize as much as practicable the disruption from the mining operation and to provide

for the establishment of plant cover, stabilization of soil, the protection of water resources, or other measures appropriate to the subsequent beneficial use of such affected lands; or as otherwise defined by Colorado Revised Statutes.

25. **Referral Agencies.** Any agency or person who may, in the opinion of the Director of Community Development Services, be affected by the proposal or be otherwise competent to provide relevant information, comment, or analysis concerning the potential impacts of the proposal on the Standards of *Section 7* of these CCMOD regulations.
26. **Road Frontage.** That portion of a lot, parcel, or tract of land abutting a public or private way.
27. **Section 404 Permit.** A permit required under *Section 404 of the Clean Water Act*, a regulatory program of the United States Army Corps of Engineers, for the discharge of dredged or fill material into navigable waters of the United States including applicable wetlands.
28. **Setback.** The area prescribed by an imaginary line extending across a lot, parcel, or tract of land, parallel with its property line, and measured at right angles to the property line within which no building or structure is allowed to be constructed. Setbacks are not considered as parking areas or as providing yard or open space for any building or structure except as may be specifically allowed by these CCMOD Regulations. Setbacks may contain, however, such public improvements as required street or road landscaping, pedestrian walkways, sidewalks, and/or bikeways. No lot, parcel, or tract of land shall be so used or diminished that the setbacks smaller than prescribed by these CCMOD Regulations.
29. **Slurrying.** The mixing of finely ground materials with a liquid such as water for use in testing, processing, and/or pipeline transportation.
30. **Spent ore.** The uneconomical waste rock materials, often in piles, produced during the mining of, and after the processing of, ores and minerals.
31. **Technical Revision.** A change in the Mined Land Reclamation Permit issued by DRMS, or application which does not have more than a minor effect upon the approved or proposed Reclamation or Environmental Protection Plan. For the purposes of these CCMOD Regulations the Technical Revision further: (1) does not increase the acreage of the affected DRMS Permit boundary; (2) remains within the affected DRMS Permit boundary; (3) is consistent with the previous level of disturbance; and (4) has no impact on adjoining land uses. See *Section 8 Amendment of a Mining Development Plan*.
32. **Teller County Land Use Regulations.** Those regulations governing the use of land in Teller County, including zoning, in effect at the time of adoption of these CCMOD Regulations, and as they may be amended from time to time thereafter.
33. **VTD. Vehicle Trips per Day.** A vehicular trip in one direction only. "In and out" constitute two vehicle trips.

**Section 2
CCMOD ZONING STANDARDS**

- A. Permitted Uses.** Permitted Use(s) are uses or activities allowed without further permit or approval under these CCMOD regulations, which are the following:
1. Uses allowed as permitted uses (“uses by right”) for the land’s underlying zone district designation pursuant to the Teller County Land Use Regulations in effect at the time such permitted use (“use by right”) is established, subject to the specific prerequisites for implement of the use, if any, as, for example, acquisition of a Building Permit prior to construction of a building in excess of 120 square feet.
 2. Precious metal mining-related operations consisting of the following:
 - a. **Prospecting.** Prospecting includes the act of searching for or investigating a mineral deposit, including sinking shafts, tunneling, drilling core and bore holes and digging pits or cuts and other works for the purpose of extracting samples prior to commencement of development or extraction operations and the building of roads, access ways, and other facilities related to such work; or as otherwise defined by Colorado Revised Statutes.
 - b. **Exploration.** Exploration includes airborne surveys and photographs, use of instruments or devices which are hand carried or otherwise transported over the surface to make magnetic, radioactive, or other tests and measurements, boundary or claim surveying, location work, or other work which causes no greater land disturbance than is caused by ordinary lawful use of the land by persons not prospecting.
 - c. **Small-scale Surface Excavation.** Such excavation constitutes any single activity which results in the disturbance of a single block of land totaling one thousand six hundred square feet or less of the land’s surface, not to exceed two such disturbances per acre; except that the cumulative total of such disturbances will not exceed five acres.
 - d. **Vegetation and Soil Management.** Vegetation and soil management includes shrub and tree removal or transplanting, plant growth material salvage or use, soil material storage, vegetation nursery, management of vegetation debris, re-vegetation, vegetation management, habitat management, vegetation experiments, application of fertilizer or other soil or overburden amendments, measurements or monitoring. Sludge drying (for fertilizer) operations.
 - e. **Monitoring.** Monitoring includes not only the monitoring of air and water, but of the land, revegetation efforts, and general environmental monitoring and sampling. Monitoring also includes any other monitoring required by State, federal

or local permits.

- f. **Reclamation**. Reclamation operations and activities.
- g. **Management**. Storm water management, analytical facilities, treatment facilities, watershed management and erosion control operations and other substantially similar operations.

B. Administrative Review Uses

- 1. Uses allowed by an approved Administrative Review Use Permit for the land's underlying zone district designation pursuant to the Teller County Land Use Regulations in effect at the time application is made for such Administrative Review Use Permit. The application and its review and determination procedure shall be the same as found in the Teller County Land Use Regulations.
- 2. No-Impact Technical Revision or Minor Modification of or to a Mining Development Plan as set forth in *Section 8 Amendment of a Mining Development Plan*.

C. Conditional Uses

- 1. Uses allowed by an approved Conditional Use Permit for the land's underlying zone district designation pursuant to the Teller County Land Use Regulations in effect at the time application is made for such Conditional Use Permit. The application and its review and determination procedure shall be the same as found in the Teller County Land Use Regulations.
 - a. Previously issued and still valid Conditional Use Permits, if any, issued by Teller County for uses within the CCMOD for other than precious metal mining are not affected by these CCMOD Regulations.

D. Special Uses

- 1. Uses allowed by an approved Special Use Permit for the land's underlying zone district designation pursuant to the Teller County Land Use Regulations in effect at the time application is made for such Special Use Permit. The application and its review and determination procedure shall be the same as found in the Teller County Land Use Regulations.
- 2. **New or Amended Mining Development Plans**, Application for, and approval of, a new or amended Mining Development Plan shall be pursuant to the procedures set forth in *Section 3 Mining Development Plan (MDP)* and/or *Section 8 Amendment of a Mining Development Plan* and elsewhere in these CCMOD Regulations.

- E. Non-Conforming Uses and/or Structures**. Uses and/or structures legally pre-existing and non-conforming as of the date of these Regulations are subject to the provisions of the Teller County Land Use Regulations for such uses and/or structures.

F. Density and Minimum Lot Size. Density and minimum lot size for uses not related to precious metal mining under these CCMOD regulations are those specified by the Teller County Land Use Regulations for the underlying zone district of the land.

G. Dimensional Limitations

1. Minimum Setbacks. Setbacks for all uses shall be those specified by the Teller County Land Use Regulations for the underlying zone district, except that for precious metal mining activities within the CCMOD under an approved MDP or change in a MDP pursuant to *Section 8 Amendment of A Mining Development Plan*, the setback shall be from the boundary of the area of that MDP or approved area of MDP change.
2. Minimum Road Frontage. The minimum road frontage for all non-precious metal mining uses shall be that specified by the Teller County Land Use Regulations for the underlying zone district.
3. Maximum Height. Maximum height for all non- precious metal mining uses shall be that specified by the Teller County Land Use Regulations for the underlying zone district. The maximum height for precious metal mining-related structures within the CCMOD shall be 50 feet unless:
 - a. The structure is not visible beyond the boundaries of the CCMOD; or
 - b. If visible beyond the boundaries of the CCMOD:
 - (1) Such structure is directly associated with primary precious metal mining operations under an approved MDP or change in a MDP pursuant to *Section 8 Amendment of A Mining Development Plan*, such as crushers, truck stops, equipment storage, hoists, head frames, mill buildings, oxygen plants, silos and other storage tanks, dispersion stacks on mill or other structures, power line poles, precious metal mining-related communication towers and other similar structures. Ancillary administrative and personnel-serving buildings, laboratories, and similar structures are not considered associated with primary precious metal mining operations;
 - (2) To the extent to which such structure exceeds 50-feet, the height is the minimum necessary to accommodate such precious metal mining operations in a manner consistent with generally accepted industry practice; and
 - (3) The applicant demonstrates that alternatives have been considered and no other suitable locations exist within the CCMOD that would not be visible outside the CCMOD boundaries.
4. Maximum Impervious Coverage. Maximum impervious coverage

Section 2.G.4

for all uses, except as set forth in an approved Mining Development Plan, shall be those specified by the Teller County Land Use Regulations for the underlying zone district.

Section 3

Section 3
MINING DEVELOPMENT PLAN (MDP)

A. Intent. The intent of a Mining Development Plan (MDP) is to provide a comprehensive description of, and operating plan for, the mining of precious metals pursuant to these CCMOD Regulations. An MDP includes all approved and incorporated application submittal documents, including applications, State, federal, and local permits, agreements, drawings, and any and all other documents relative to that comprehensive operating plan.

B. Additional Zoning Permitted Uses. In addition to the permitted uses (“uses by right”) set forth in *Section 2.A. Permitted Uses*, the following, when described and included in, and associated with and a part of an approved MDP or change in a MDP pursuant to *Section 8 Amendment of A Mining Development Plan*, and which are either (1) necessary for or accessory to the precious metal mining operation or (2) those that are compatible with the long-term precious metal mining of the area, shall also be considered permitted uses (“uses by right”):

1. Drilling, blasting, storage of drilling supplies, storage of blasting supplies, monitoring of blasting and testing of blasting patterns and agents.
2. Precious metal mining activities such as excavation, grading, loading, hauling, overburden placement, and other earth-moving operations. Aggregate extraction, screening, blending, storage, loading, hauling, dumping, and placement.
3. Comminution (crushing, grinding), screening, storing, blending, loading, conveying, slurring, hauling, dumping, or otherwise moving earth materials and associated materials such as lime, cement, process bacteria, beneficiation and process chemicals, used in the course of preparing precious metal mined materials for subsequent operations.
4. Maintenance of equipment associated with precious metal mining and accessory operations (such as motor vehicle, excavation, drilling, comminution, pumping, material conveyance equipment maintenance) and maintenance of structures.
5. Mineral beneficiation or processing, leaching, milling, chemical extraction, heating, roasting, autoclaving, bacterial treatment, associated material management (e.g., spent ore management, ore stockpiles, byproduct management), and associated structures. Structures to house such facilities. Precious metal mining-related laboratory facilities for testing, pilot studies, and analyses.
6. Support operations of offices, laydown areas, warehousing, recycling storage facilities, supply storage, byproduct and product storage, loading facilities, and transportation facilities in each case

serving the precious metal mining operation.

7. Reclamation and reclamation related activities including demolition of precious metal mining related structures.

C. Who May Apply. Any person, individual, firm, corporation, partnership, or other entity, whether public or private, owning a property within the CCMOD or having a legal interest in that property allowing the Applicant to precious metal mine the same, including an interest as tenant in common under CRS 34-44-103 or as lessee under 34-44-110, may apply for an MDP or change in a MDP pursuant to *Section 8 Amendment of A Mining Development Plan* for that property. Applicant also includes the following “Applicant’s representative” or “agent.”

1. **Applicant’s Representative or Agent.** If the property owner has designated a representative or agent, a signed and notarized statement authorizing said representative or agent to act on the owner’s behalf shall be submitted with the Application Form.

D. Submittal Requirements. For any new MDP or *Section 8.C Amendment of A MDP* Amendment the following are required:

1. **Application Form.** The Application Form, a form specified by Teller County, includes the following:

- a. Name, address and telephone number of the Applicant .
- b. General legal description of the total property, including the County Assessor’s tax parcel identification number (PIN), all or part of which may be the specific subject of the MDP or MDP Amendment application.
- c. Specific legal description of that portion of the property which is the subject of the MDP or MDP Amendment application, if different than the total property.
- d. Total acreage of the entire property and also that portion subject to the MDP or MDP Amendment application if not the same as the entire property.
- e. Existing zone district(s) and uses of the entire property, and also that portion subject to the MDP or MDP Amendment application if not the same as the entire property.
- f. Existing zone district(s) and uses of the adjacent properties.
- g. Signatures of the Applicant or Applicant’s Representative or Agent.

2. **Specific Submittal Materials.** In addition to the Application Form and any authorizing statement(s) required to be submitted, the following shall also accompany the application:

- a. **Disclosure of Ownership.** A listing of all surface and mineral owners as listed in *Section 3.D.2.c Documentation of Mailed Notice* below.

- b. **Proof of Legal Right to Enter and Mine.** A copy of the complete signed and notarized statement, including any attachments thereto, of Applicant's legal right to enter and mine as required by the State Division of Reclamation Mining and Safety.
- c. **Documentation of Mailed Notice.** Documentation of mailed notice of the filing of an Application for a Mined Land Reclamation Permit to all owners of mineral and surface estates in the MDP or MDP Amendment application area as required by the State of Colorado.
- d. **Adjacent Property Owners List.** The names and addresses of all surface property owners adjacent to the boundaries of the land area proposed for the MDP or MDP Amendment, compiled using the most recent Teller County *ad valorem* tax rolls. For the purposes of this requirement, an adjacent property means the property touching **any part** of the boundary of the property, in whole or in part, which is the subject of the MDP or MDP Amendment application. If an MDP or MDP Amendment application, whether in whole or in part, is for a use on only a portion of any single legally described separate property that may, together with others, constitute the whole property, all property touching any part of that property perimeter is considered an adjacent property. If an adjacent property is a public road, trail, or right-of-way, railroad right-of-way, stream, or river, the adjacent property is the property on its opposite side.
- e. **Mailing Labels.** Applicant shall submit pre-addressed adhesive labels in addition to the written list of Adjacent Property Owners.
- f. **Written Description.** A written statement or narrative describing in detail the request and reason for the request, and stating how Applicant has met the Standards of *Section 7 Mining Development Plan Standards* for approval of the MDP or MDP Amendment, providing therewith such additional information as may be necessary to document that a particular Standard of *Section 7* not otherwise documented by other submittal requirements has been met.
- g. **DRMS Application.** A copy of the complete DRMS application for a new DRMS Permit or an Amendment to an existing DRMS Permit, together with all exhibits, materials, documents, and information attached thereto or otherwise submitted to DRMS.
- h. **Permits or Licenses.** Copies of all permits or licenses issued by all State and/or federal regulatory agencies, or when such permits or licenses are not yet issued applications for such permits or licenses, that are required to conduct, or related to conducting, the precious metal mining operation

contemplated by the MDP or MDP Amendment. Such permits or licenses include the following:

- Colorado Division of Reclamation, Mining and Safety: Hard rock and precious metal mining and reclamation permit(s), including Ground Water Protection Permit
 - Colorado Air Pollution Control Division: Air pollution control permit(s)
 - Colorado Water Quality Control Division: CDPS discharge permit(s)
 - Colorado Department of Public Health and Environment: Hazardous waste registration(s)
 - Colorado Department of Transportation: Transportation permit(s) and approval(s)
 - Colorado Division of Water Resources: Water supply plan(s)
 - Colorado Division of Water Resources: Dam safety permit(s)
 - Colorado Division of Water Resources: Well permit(s)
 - Colorado Public Utilities Commission: Hazardous materials transportation permit(s)

 - US Environmental Protection Agency: Resource Conservation and Recovery Act (RCRA) hazardous waste generator number(s)
 - US Department of Transportation: Hazardous materials registration(s)
 - US Federal Communications Commission: License(s)
 - US Bureau of Alcohol Tobacco and Firearms: Explosives permit(s)
 - US Army Corps of Engineers: CWA section 404 permit(s) and approval(s)
- i. **Traffic Study.** For any MDP or *Section 8* Technical Revision, Minor Modification, or Amendment of an MDP, a traffic study prepared by a qualified traffic engineer is required when traffic is projected to increase by 25 or more vehicle trips per day (VTD) above existing conditions.
- j. **Mining Development Plan Map(s) or Drawing(s).** One or more dated maps or drawings to scale identifying the area affected by the MDP or MDP Amendment, prepared by a qualified professional in sufficient detail to adequately identify its location relative to surrounding properties, the CCMOD boundary (which may be the same as surrounding properties), and the general area. Said map(s) or drawing(s) shall be recorded with any resolution of the Board of County Commissioners approving the MDP or MDP Amendment.
- k. **Fees,** calculated as follow:
- New Mining Development Plan: \$5,000.00

- No-Impact Technical Revision (*Section 8.A*): No fee
- Minor Modification of MDP (*Section 8.B*): \$1,000.00
- Amendment of MDP (*Section 8.C*):

0 – 2 acres:	\$1,000.00
> 2 acres – 10 acres:	\$2,500.00
> 10 acres – 50 acres:	\$3,500.00
> 50 acres:	\$5,000.00

All fees prescribed in this section may be adjusted at the request of the Planning Official with the concurrence of the Board of County Commissioners, not more than once per year, based on the maximum local district annual percentage change in spending provided for under Article X, Section 20 of the State Constitution. Fees may also be adjusted Legislatively by the Board of County Commissioners at other times as deemed necessary. Applicant shall also pay any other fees incurred, or to be incurred, as set forth below.

- (1) **County Contract Employees.** From time to time Teller County may retain qualified contract professionals to perform MDP or change in a MDP pursuant to *Section 8 Amendment of A Mining Development Plan* application review tasks which might otherwise be performed by elected, appointed, or regularly employed County Staff. Such contract professionals may include, among others, those acting as the County Engineer, County Construction Inspector, or County Surveyor. Applicant shall reimburse the County for the actual cost of such professional review or inspection in the following manner: An initial payment based on the County's non-binding estimate of the cost of service to be provided will be made at the time of MDP or MDP change application. Any overpayment of actual costs shall be refunded to Applicant, and any underpayment of actual costs shall promptly be paid by Applicant.

- (2) **Third Party Review.** When these CCMOD Regulations require a specialized study or report to be submitted by Applicant, the Planning Director has the discretion to hire an independent contractor to conduct a Third Party Review of such submittal. The Planning Director, with input from the Applicant, shall determine the contractor, cost, scope of work (to include the duties to be performed and estimated hours necessary to perform them), and schedule. Scope of work is limited to checking for (1) compliance with applicable laws and regulations and applicable State, Federal, national or professional codes or standards of practice for the accuracy of any calculations; and (2) the adequacy and completeness of the study or report, and any conclusions that may be contained therein. Completion of the review and recommendation to the Planning Director shall be performed in a timely manner.

- I. **Historic Resources Information.** A list of all existing buildings and structures, if any, to be demolished under the proposed MDP or MDP Amendment. The list shall include a general description of the building or structure, its approximate date of construction (if known), and its approximate location. It is not the intent of this provision to prevent these buildings or structures, which are privately owned and which may or may not be of historic significance, from being impacted. Consistent with County policies intended to preserve historic resources, the intent is simply to provide notice to private individuals or organizations that might be interested in negotiating with Applicant to acquire any structures they consider to be of value. To the extent feasible, Applicant agrees to, in good faith, consult with and consider proposals, if any, from groups, agencies, other entities or individuals, if any, for the safe relocation of any historic buildings or structures that may be otherwise impacted by the proposed MDP or MDP Amendment.

E. **Required State and Federal Permits or Licenses**

1. **Notification to the County.** The Applicant shall timely notify the County in writing of any formal comment period or public meetings held in regards to state and/or federal regulatory permit and/or license applications or approvals associated with the precious metal mining proposal. Upon written or verbal request, copies of all correspondence from or to State and federal regulatory agencies will be made available to the County for inspection at the Applicant's Teller County offices during normal business hours.
2. **Issued Permits or Licenses.** Applicant shall inform the County as to whether any required State or federal permit or license, or any Amendment, or any Technical Revision thereto for a particular MDP or change in a MDP pursuant to *Section 8 Amendment of A Mining Development Plan*, has been granted, denied, revoked or suspended, within 30 days of any such action.
 - a. **Denial, Suspension, or Revocation of A Permit or License.** If any required permit or license is denied, or subsequently suspended or revoked, those operations expressly authorized by that permit or license for a particular MDP or any change in a particular MDP are likewise suspended or revoked for that MDP or MDP change. When and if all affected permit(s) and/or license(s) are reinstated, and upon receipt by the County of official notice from the reinstating agency of such reinstatement, the affected operation(s) under the MDP or changed MDP shall likewise be reinstated provided that the Standards of *Section 7* of these CCMOD regulations have not been affected thereby. See also *Section 11 Extinguishment of Approvals*.
 - b. **Issuance, Revision, Amendment of A Permit or License.** Issuance, revision, or Amendment of a State or federal permit or license does not by itself automatically trigger County re-review of an approved MDP under these CCMOD regulations unless compliance with the Mining Development Plan

Section 3.E.3

Standards of *Section 7* are impacted.

3. Change in State or Federal Regulations. Where State and/or federal regulatory oversight currently exists on a particular matter and such oversight is subsequently removed or materially reduced (by statutory rule, regulation change, funding cuts or in actual practice), or as to which authority is delegated to the local level, the review criteria, standards, submittal and other requirements of these CCMOD Regulations may be appropriately modified to allow local review and approval on that issue to the extent the County has legal regulatory and/or authority to do so and has satisfied any legal requirements to do so by the adoption of regulations or otherwise.

F. Inspections by the County. At its discretion, the County may perform an inspection of the site and associated precious metal mining operations annually or as frequently as necessary to assess compliance with the standards and requirements of the CCMOD and any approved MDP or MDP change or Teller County permit of any kind, contract, or agreement

Section 4

**Section 4
COUNTY NOTICE TO THE PUBLIC**

Legal notices required of Teller County by existing practice, operation of law, or the Teller County Land Use Regulations to be given to the public shall be prepared by the Planning Director or his/her designee. Publication and normal mailing costs will be paid from the MDP or MDP *Section 8* Amendment application fees collected by the County.

A. Published Notice. Notice of public hearings for any MDP or MDP Amendment requiring public hearing shall be given by publication in an official County newspaper in accordance with the Teller County Land Use Regulations.

B. Mailed Notice. The Planning Director or his/her designee shall mail by first class mail, a notice of public hearing to each property owner whose property is adjacent to the site described in any MDP or MDP Amendment application requiring public hearing, in accordance with the Teller County Land Use Regulations. However, if all adjacent property owners are the Applicant, mailed notice shall not be given.

C. Posted Notice. The property which is the subject of any MDP or MDP Amendment application requiring public hearing shall be posted with a notice of public hearing at least 30 days in advance of the first hearing in accordance with the Teller County Land Use Regulations.

Section 5

**Section 5
PROCEDURE FOR REVIEW OF MDP AND SECTION 8 MDP CHANGE APPLICATIONS**

A. Pre-Submittal Meeting. Notwithstanding any prior inquiry or informal meetings with Teller County Planning Staff, Applicant for approval of a new MDP or change to an MDP pursuant to *Section 8 Amendment of A Mining Development Plan*, shall formally meet with the Planning Director

in a Pre-Submittal Meeting at least 60 days prior to the submittal of the MDP or MDP change application. At said meeting Applicant shall outline the proposed activities and sufficiently describe any proposed precious metal extraction and recovery technology in order that any substantial differences in technology that are planned to be included and for which additional information is necessary to understand the proposal may be identified and discussed, together with compliance with the Standards of *Section 7 Mining Development Plan Standards*. Within 10 days of the Pre-Submittal Meeting the Planning Director shall advise the Applicant in writing of the need for any specific additional information brought forth in the meeting that is pertinent to completion of the MDP or MDP change application.

1. Purposes

- a. **Submittal Requirements.** To review Applicant's existing materials against the submittal requirements for the MDP or MDP change application and the standards of *Section 7 Mining Development Plan Standards* of these CCMOD Regulations.
- b. **Additional Information.** To determine whether new, more extensive, or more current documentation, reports, or analyses may be required.

2. Meeting Materials. At or prior to the Pre-Submittal Meeting, unless waived by the Planning Director, Applicant shall provide to the Planning Director copies of the following:

- a. Any currently existing studies, reports, analyses and other documents related to the site, if any.
- b. Roadway approaches showing the proposed location of any new or amended precious metal mining activity and precious metal mining activity access.
- c. Any other general or specific information relative to the proposed MDP application and its submittal requirements Applicant has obtained or prepared.
- d. A preliminary MDP or MDP Amendment drawing indicating the location and extent of the proposal.

B. MDP or MDP Amendment Application Submittal. See *Section 8 Amendment of a Mining Development Plan* for separate submittal requirements and procedures for a No-Impact Technical Revision or Minor Modification of a Mining Development Plan.

- 1. Determination of Submittal Completeness and Preliminary Sufficiency.** Upon receipt of a formal MDP or MDP Amendment application the Planning Director shall, within 10 days, determine and advise the Applicant in writing whether the application has been accepted as complete and sufficient enough to accept for formal review, or rejected as incomplete or insufficient for formal review. The Planning Director will not formally review, distribute for review to referral agencies, or schedule any public hearing for an incomplete

or insufficient MDP or MDP Amendment application.

- a. **Incomplete or Preliminarily Insufficient.** An MDP or MDP Amendment application, although it may contain all submittal materials required, such materials may not be sufficient enough for formal review. If the Planning Director determines the application is incomplete or insufficient for formal review, the written notification shall specify in detail what is needed to complete the application or remedy the insufficiency. No further action will be taken by the County on the application until its deficiencies or insufficiencies are remedied. **If the Applicant fails to correct the deficiencies or insufficiencies within 90 days of the date of the Planning Director's notice, the application will be deemed withdrawn by the Applicant, and withdrawn by the Planning Director and returned to the Applicant.** The Applicant may appeal the Planning Director's determination to the Board of Adjustment in accordance with the Teller County Land Use Regulations procedure for appeal of an Administrative determination.
- b. **Complete and Preliminarily Sufficient.** An MDP or MDP Amendment application is deemed complete and preliminarily sufficient if it appears that (1) all required submittal materials are provided; and (2) such materials are adequate enough to determine whether the proposal **may** be able to conform with the standards of *Section 7 Mining Development Plan Standards*. **A determination that an application is complete and preliminarily sufficient does not preclude the possibility that upon its formal review by Staff, referral agencies, Third Party reviewers, or decision-making bodies more specific information may be necessary to adequately assess** whether the impacts of the proposed MDP or MDP Amendment meets the Standards of *Section 7 Mining Development Plan Standards*.

C. Formal Review. Formal review is a comprehensive analysis of the MDP application by Staff and referral entities. During such review, the Planning Director shall make good faith efforts to advise the Applicant of any deficiency or nonconformity prior to any required public hearing. Any technical dispute between a licensed or registered professional of the Applicant and the County may be referred, at the Applicant's request, to a qualified employee in an appropriate State agency to help facilitate a resolution of the dispute.

1. **Multiple Copies.** When the MDP application is determined to be complete and preliminarily sufficient, the Applicant shall be notified in writing regarding the number of copies required for submittal to referral agencies, County Contract Employees, and Third Party Reviewers, if any, for formal review.
2. **Referral Agencies.** After determination of completeness and preliminary sufficiency, the Planning Director shall also determine (1) the appropriate referral agencies, County Contract Employees,

and Third Party Reviewers, if any, to formally receive a request to review and comment upon the MDP application in whole or in part; and/or (2) the appropriate referral agencies to receive only mailed notice of the first public hearing on the application.

- a. **Referral Agency Review and Comment.** Entities receiving a referral or notice will be requested to submit comments or make recommendations based upon the Standards of *Section 7 Mining Development Plan Standards* within 21 days of the date of mailing by the County. Such time period may be extended by the County pending receipt of comment or recommendation, but such extension shall not exceed 30 days unless the division, department, or agency has notified the County that it will require additional time to complete its review and make comment or recommendations; or unless Applicant has agreed, in writing, to waive or extend the 30-day extension provision. Unless otherwise extended or waived, the failure of any referral division, department or agency to respond within the 21 days or period of extension shall, for the purpose of the hearing, be considered its approval of the MDP application. However, the board conducting the hearing **may** consider late referral comments.
3. **Staff Report and Recommendation.** A written Staff Report shall be sent to the Planning Commission and to the Applicant, at least 10 days prior to the first hearing, and to the Board of County Commissioners as set by Board procedures. The Staff Report shall include, at a minimum: (1) a summary of agency comments received by the Planning Department, with copies of the original comment transmittals attached to the Staff Report; (2) Staff analysis of, and comment on, the MDP application and whether it complies with the standards of *Section 7 Mining Development Plan Standards*; and (3) recommendation(s) for approval, conditional approval, or disapproval of the MDP application, stating the findings upon which such recommendation is made.
4. **Actions by Decision-Making and Advisory Bodies.** All decision-making, and advisory and referral, bodies and persons shall act in accordance with the time limits established in these CCMOD Regulations, or where the CCMOD Regulations may be silent, the Teller County Land Use Regulations.
 - a. **Planning Commission Public Hearing.** Applicant, or Applicant's agent, should be present at the Planning Commission public hearing on the MDP application, which shall be conducted in accordance with the current rules of procedure established by that body for such type of hearings. In the event that the Applicant or its agent is not present at the public hearing, and provided Applicant or its agent has not requested a postponement in advance of the hearing, the hearing shall proceed as if Applicant or its agent is present.

During the course of the public hearing, the Planning Commission may request that Applicant provide such additional information as is reasonable and necessary to show compliance with the Standards of *Section 7 Mining*

Development Plan Standards in order that it may make a proper recommendation to the Board of County Commissioners on the MDP application.

After the close of the public hearing, and after consideration of the MDP application, the relevant support materials, the Staff Report, referral responses, and the testimony of the public, or others, given at the public hearing, the Planning Commission shall recommend in writing to the Board of County Commissioners approval, approval with conditions, or disapproval of the MDP application, considering whether the MDP application meets the Standards of *Section 7 Mining Development Plan Standards*. If a MDP application is conditionally recommended for approval, or disapproved, the reasons shall be set forth in writing, and recommendations shall be made, if possible, whereby approval might have been recommended.

The Planning Director shall notify the Applicant in writing of the Planning Commission's recommendation on the MDP application within 10 days of the Planning Commission's decision.

- b. **Board of County Commissioners Hearing.** Applicant, or Applicant's agent, should be present at the Board of County Commissioners public hearing on the MDP application, which shall be conducted in accordance with the current rules of procedure established by that body for such type of hearings. In the event that the Applicant or its agent is not present at the public hearing, and provided Applicant or its agent has not requested a postponement in advance of the hearing, the hearing shall proceed as if Applicant or its agent is present.

During the course of the public hearing, the Board of County Commissioners may request that Applicant provide such additional information as is reasonable and necessary to show compliance with the Standards of *Section 7 Mining Development Plan Standards*.

After the close of the public hearing, and after consideration of any Planning Commission recommendation, the MDP application, the relevant support materials, the Staff Report, referral responses, and the testimony of the public, or others, given at the public hearing, the Board shall approve, approve with conditions, or disapprove the MDP application, considering whether the MDP application meets the Standards of *Section 7 Mining Development Plan Standards*.

Written findings shall be made to support such approval, approval with conditions, or disapproval. Any final decision of the Board of County Commissioners on an MDP application shall be by Resolution of the Board.

The Planning Director shall notify the Applicant in writing of the Board of County Commissioners' decision on the MDP application within 10 days of the Board's final action.

- 5. **Hearing Postponement or Continuance.** Any required public hearing on any MDP application shall be conducted expeditiously, and concluded when all those present and wishing to testify have done so. In the event it is necessary to postpone or continue the public hearing, the procedures of the Teller County Land Use Regulations shall be followed, and such fees for any Applicant postponement or continuance as established therein or in a separate fee schedule approved by Resolution of the Board of County Commissioners shall apply.

- 6. **Recording of Documents.** Prior to approval by the Board of County Commissioners, all agreements, if any, shall be corrected as may be necessary, and executed by the Applicant, or the Applicant's representative, as witnessed by a Notary Public. The Board of County Commissioners shall not execute a document not previously executed by Applicant and all required signatories, nor shall any such document be recorded until executed by the Board of County Commissioners. All required recording fees shall be submitted by Applicant upon final submittal of the document(s).
 - a. **Effect of Approval by Conditioned Resolution.** Failure of the Applicant to submit any required document for execution by the Board of County Commissioners, or to fulfill any condition of approval of the MDP application within 90 days of its conditional approval (other than operational conditions which, by their nature, can only be satisfied after the approval is granted or which relate to the conduct of the activities authorized by the MDP), shall render any Resolution of the Board conditionally approving such document void, invalid, and of no effect. **The foregoing sentence, as may be amended in its particulars in such Resolution, shall appear in all Board of County Commissioners Resolutions of Conditional Approval.**

- 7. **Subsequent Approvals or Actions Prior to Start of Work.** Once an MDP application approval is obtained, work shall not commence until the Applicant has obtained any and all other approvals and permits or licenses required by local, State, or federal agencies.

- 8. **Appeal.** Appeal of the determination of the Board of County Commissioners shall be to the District Court.

Section 6
RELATED DOCUMENTS

In conjunction with the MDP or MDP Amendment application, or as otherwise may be required by the Board of County Commissioners, certain documents may be called for. These documents may include the following:

- A. **Improvement Agreement (IA) / Other Agreement / Contract.** In order to ensure the proper and timely installation of all public improvements, that may be necessary to accommodate the MDP or MDP Amendment, one of the following, in the sole discretion of, and in a form acceptable to, the Board of County Commissioners is required: (1) Improvements

Agreement (IA); or (2) other Agreement or contract. Said IA, or other Agreement or contract, executed by Applicant, shall set forth the plan, method, and parties responsible for the construction of any such required public improvements which, in the judgment of the Board of County Commissioners, will make reasonable provision for, and guarantee, completion of said improvements in accordance with applicable design and time specifications.

1. **Inclusions.** In its specifics, the IA, or other such Agreement or contract, shall include: (1) a detailed description of the public improvements to be completed by Applicant; (2) completion time specifications; (3) a fully itemized estimate of the current labor and materials costs to construct or install such public improvements; (4) collateral in a form acceptable to the Board of County Commissioners sufficient, in the judgment of the Board, to make reasonable provision for the completion of said improvements in accordance with applicable design and time specifications, but in no case less than 100% of the estimated costs plus an amount sufficient to cover projected increased costs due to time delays and cost-overruns; and (5) any other provision or condition deemed necessary by the Board of County Commissioners. At Applicant's option, in the case of a phased project, the guarantee may be provided for the entire project at one time, or with each phase.
 - a. **Warranty Period.** Cost estimates shall provide for the continued maintenance and replacement as necessary of such improvements, including any infrastructure, for a period of two years after installation, or, where applicable, as otherwise specified in the Teller County Roadway Design and Construction Standards.
 - b. **Release of Collateral.** Any IA, or other Agreement or contract shall include a provision that as the public improvements are completed, Applicant may apply to the Planning Director for the Board of County Commissioners' release of collateral in whole or in part. Upon receipt of such request for release, the County Engineer shall inspect them or have them inspected, and, upon approval, request that the Board of County Commissioners wholly or partially release the collateral for the costs agreed for that portion of the improvements that have been completed. In no case, however, shall any partial release be for more than an amount equal to any remaining balance, nor leave a balance of less than 15% of the original collateral to cover the warranty period, which amount shall either be (1) retained by the County; or (2) replaced by a guarantee bond in an amount and form acceptable to the Board of County Commissioners as substitution for release of the entire amount of the retained collateral. Applicant shall be responsible for the condition of the public improvements after their completion and through the Warranty Period, guaranteed as set forth above.
 - (1) **Inspection Failure.** If it is determined that any improvements are not constructed in substantial compliance with plans and specifications, a list of specific deficiencies shall be provided to Applicant, and

Section 6.A.1.b(1)

Teller County shall be entitled to withhold collateral sufficient to ensure such substantial compliance. If the Board of County Commissioners determines that Applicant will not construct any or all of the improvements in accordance with all of the specifications, the Board may withdraw and employ from the collateral such funds as may be necessary to construct the improvements in accordance with the specifications.

2. **Submittal.** No fewer than 60 days prior to review of any IA, or other Agreement or contract by the Board of County Commissioners, Applicant shall provide to the Teller County Planning Director such technical drawings and fully itemized cost estimates necessary to complete the public improvements according to Teller County standards. All such improvements drawings and estimates shall be prepared, stamped, and signed by a Registered Professional Engineer licensed in the State of Colorado, subject to review and approval by the County Engineer, prior to finalization of the IA, or other Agreement or contract, in advance of its review by the Board of County Commissioners. An IA, or other Agreement or contract shall run with, and be a burden upon, the land described in that document, and shall provide for execution and recording of a sufficient release of the same upon completion and acceptance by the County of the public improvements.

Section 7

Section 7 MINING DEVELOPMENT PLAN STANDARDS

A. Standards

1. **Submittal Requirements.** The requirements of *Section 3.D Submittal Requirements* or, as appropriate, *Section 8.A.1 Submittal* or *Section 8.B.1 Submittal*, are fulfilled.
2. **Noise.** The MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, confirms that the proposed activities will meet applicable State noise standards at the appropriate locations on adjoining properties and at DRMS Permit boundaries. Noise levels other than those caused by equipment required for safety shall not exceed at the DRMS Permit boundaries the maximum levels allowed by State law. Maximum levels are based on the use or zoning on the adjoining property, whichever provides the greater level of protection to the adjoining property. Residential noise standards will, at all times, be met at all occupied residential structures. For the purpose of determining maximum allowable level, occupied adjoining agricultural land shall meet the standard for residential use or zoning, whichever provides the greater level of protection to the adjoining property, unless the property owner(s) of any such property located outside the precious metal mining area agree to a less stringent limit, in which case the modified limit applies on that landowner's property. Compliance with the recommendations of a mutually agreed Third Party qualified noise expert are deemed compliance with the Noise

Standard. This noise standard shall be modified to the extent, and during the time period, of any previously granted Teller County Variance applicable to that specific area within the MDP or MDP Amendment.

3. **Lighting and Glare.** The MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, demonstrates that stationary temporary and permanent lighting is designed and managed to shield adjoining properties from glare to the maximum extent possible, after taking into consideration applicable safety and health requirements for such lighting.
4. **Public Roads.** The MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*:
 - a. Demonstrates that existing County roads serving the site are adequate for the anticipated load increase as a result of the precious metal mining-related activities;
 - b. Addresses increased traffic, if any;
 - c. Identifies steps/procedures pursuant to the Teller County Roadway Design and Construction Standards to mitigate unsafe or inadequate road design or construction;
 - d. Will not transport excessive mud onto paved County roads;
 - e. Has secured all access and/or other permits required by the Teller County Roadway Design and Construction Standards; and
 - f. Any traffic study is accompanied by a plan prepared by a qualified traffic engineer to mitigate capacity and safety concerns, and documentation exists that the plan will be implemented and is sufficient to determine that this Public Roads Standard 4 has been met.
5. **Sewage Management.** The MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, documents that, as necessary, a sewer and/or septic system plan prepared by a qualified engineer exists that demonstrates compliance with all applicable local, State, and federal standards.
6. **Visual Resources.** In areas of new proposed precious metal mining activities, the MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, demonstrates that the project minimizes material adverse impacts to visual resources to the extent feasible, as determined by renderings of before-during-after views of representative viewpoints accessible by the general public, except of areas within the CCMOD open to the public by express agreement, or private property, around the proposed project area.
7. **State and Federal Approvals.** The MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, documents that all required State and federal permit or license

approvals are or will be obtained prior to initiating activities regulated by such approvals, including such permits or licenses controlling dust, impacts to off-site wells, fumes and odors, vibration and blasting, hazardous materials, and erosion. (See *Section 3.D.2.h Permits or Licenses.*) Unless and until, and only to the extent, revoked or suspended by the appropriate State or federal agency, issuance and continuance of a valid permit or license is deemed compliance with the standards of the issuing State or federal regulatory agency for that permit or license.

8. **Structures.** The MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, demonstrates that all proposed structures meet or will meet the requirements of the then-current Teller Building Code and related federal, state or local codes and regulations including plumbing and electrical codes, sewage disposal regulations, fire codes, the provisions of these CCMOD Regulations, and applicable provisions of the Teller County Land Use Regulations. No structure may interfere with easements for public utilities recorded in the public records of Teller County.
9. **Emergency response.** The MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, documents that the operation will adopt and administer a fire protection plan and an emergency response plan that demonstrates that adequate resources are available to provide timely response to potential emergency situations, including hazardous materials transportation accidents.
10. **Signs, Berms, and Fencing.** The MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, demonstrates adequate placement of signs, berms, fencing or other warning and exclusion practices to protect and warn the public and to preclude access where necessary for public safety to the extent reasonably possible.
11. **Drainage.** The MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, demonstrates that drainage does not adversely impact downstream properties. Documentation that the drainage report, and the drainage, sediment, and erosion control plan, and the storm water management plan, each prepared by a qualified professional engineer and submitted and approved in conjunction with State permitting or licensing requirements, will be implemented satisfies this standard.
12. **Reclamation.** Reclamation proposed is consistent with the goals and objectives of the Teller County Growth Management Plan (Teller County master plan) and with the CCMOD underlying zone district classification.
13. **New Technologies or Mining Practices.** Implementation within the CCMOD of technologies or mining practices not being used within the CCMOD at the time of the adoption of these CCMOD Regulations, or implemented subsequent to the approval of a new MDP, do not negatively impact any of the foregoing *Section 7.*

Section 7.B

Mining Development Plan Standards.

- B. Annual Reports.** The Applicant shall submit to the County an annual report (those portions required by DRMS) which demonstrates that the MDP standards of *Section 7* of these CCMOD Regulations continue to be met. The County may send a notice to the Applicant if the annual report has not been filed, and Applicant shall have 30 days to provide the report to the County. Failure of the County to provide such notice does not relieve Applicant of the obligation to timely provide the required annual report as stated in this paragraph. Failure of the Applicant to provide the required annual report within six months of its submittal to DRMS is grounds for consideration of and Extinguishment of Approvals pursuant to *Section 11* of these CCMOD Regulations.

Section 8

Section 8

AMENDMENT OF A MINING DEVELOPMENT PLAN

- A. No-Impact Technical Revision.** A No-Impact Technical Revision is a minor Technical Revision of a Mined Land Reclamation Permit issued by the State of Colorado for which the Planning Director determines there is little or no impact to Teller County or any existing MDP approval, is a matter of local jurisdiction, and that no further revisions, mitigations, or conditions are necessary.
1. **Submittal.** Applicant shall submit a full and complete copy of the Technical Revision application and materials, documents, and information submitted to the State of Colorado.
 2. **Planning Director Determination.** Within 30 days of receipt of the Technical Revision submittal, the Planning Director shall determine, in writing and using the Criteria of *Section 8.B.3 Criteria* below, whether or not the Technical Revision has little or no impact to Teller County or any existing MDP approval and whether the County has jurisdiction, and notify the Applicant in writing of his or her determination. If the Planning Director determines the Technical Revision is a No-Impact Technical Revision the submittal shall be retained with the approved MDP. If the Planning Director determines the Technical Revision is *not* a No-Impact Technical Revision, and that the County has jurisdiction, Applicant shall make application for either a Minor Modification of an MDP (*Section 8.B* below) or an Amendment of an MDP (*Section 8.C* below), or appeal the Planning Director's determination to the Board of Adjustment in accordance with the Teller County Land Use Regulations procedures for appeal of an Administrative determination.
- B. Minor Modification of an MDP.** A Minor Modification of an MDP may be either (1) a Technical Revision which the Planning Director determines may have greater than no impact to Teller County or any existing MDP approval and is a matter of local jurisdiction; or (2) some other matter affecting the approved MDP for which a Technical Revision application to the State of Colorado is not required and is a matter of local jurisdiction, by way of example **only**: potential increase in traffic loads on County roads from the addition or relocation of employees.

1. **Submittal.** If a matter of Technical Revision, a full and complete copy of the Technical Revision application and materials, documents, and information submitted to the State of Colorado and any additional documentation to demonstrate that the Criteria of *Section 8.B.3 Criteria* below are met. If not a matter of Technical Revision, submittal of such documentation as is necessary to demonstrate that the Criteria of *Section 8.B.3 Criteria* below are met.
2. **Planning Director Determination.** Within 30 days of receipt of the Minor Modification submittal, the Planning Director shall determine, in writing and using the Criteria of *Section 8.B.3 Criteria* below, whether or not the application meets the Criteria of *Section 8.B.3 Criteria*, and notify the Applicant in writing of his or her determination. If the Planning Director determines the Minor Modification meets or may, with revisions, mitigations, or conditions, meet these Criteria, the Planning Director shall approve, or conditionally approve, the application in writing, setting forth therein any such revisions, mitigations, or conditions of approval necessary in order that the Criteria be met. The submittal shall then be retained with the approved MDP. If the Planning Director determines the Criteria of *Section 8.B.3 Criteria* can not be met, Applicant shall make application for an Amendment of the MDP (*Section 8.C* below), or appeal the Planning Director's determination to the Board of Adjustment in accordance with the Teller County Land Use Regulations procedure for appeal of Administrative determinations.
3. **Criteria.** The following apply to both a No-Impact Technical Revision and to a Minor Modification of an MDP, as it may be conditioned:
 - a. There is no increase in the affected acreage of a Mined Land Reclamation Permit issued by the State of Colorado and, as applicable is consistent with the previous level of disturbance.
 - b. The change remains within the affected Mined Land Reclamation Permit boundary.
 - c. There is no material change in the approved Mined Land Reclamation Permit, nor any change in the approved post-precious metal mining use.
 - d. There are no material additional demands on Teller County services or infrastructure.
 - e. The change has no impact on adjoining land uses.
 - f. The activity does not impact the Standards of *Section 7 Mining Development Plan Standards*.
 - g. The terms and conditions attached to any approved MDP, if any, are not affected.
 - h. The activity itself, if not its particulars, is part of the

Section 8.C

approved MDP.

Section 9

- C. **Amendment of an MDP.** If any change to an approved MDP is neither a No-Impact Technical Revision or a Minor Modification, or is an activity that meets the requirements for a Mined Land Reclamation Permit Amendment, Applicant shall apply for Amendment of the MDP in the same manner as a new MDP application under these CCMOD Regulations.

**Section 9
TAKINGS STUDY**

Section 10

Any Applicant who objects to any land dedication or fee-in-lieu payment required under these CCMOD Regulations on the basis that the requirement is illegal in that it bears no substantial relationship (essential nexus) to a legitimate stated public purpose, or is not roughly proportional to the impact caused by the proposed MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, shall, no fewer than ten days prior to the hearing on the MDP or MDP change application, notify the Planning Director in writing. An independent study justifying what the Applicant believes would be the maximum legally supportable requirement must accompany the notification. The study shall be prepared by a qualified Registered Professional Engineer licensed in the State of Colorado, and any and all fees, costs, or other charges associated with preparing and presenting the study shall be solely born by Applicant and not Teller County.

**Section 10
EXTENSION OF TIME-LIMITED APPROVALS**

Section 11

Upon written request, an extension of an approved MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan* time-limited by the Board of County Commissioners, or any condition or requirement thereof, not to exceed two additional years in length may be granted by the Board of County Commissioners upon written application of the holder of the MDP or MDP change to the Planning Director. Applicant must demonstrate that failure to fulfill the time-limited obligation thereunder was (1) beyond the Applicant's control; (2) the approval still complies with the then-existing CCMOD Regulations; and (3) there is a reasonable likelihood that the time-limited approval will be commenced or fulfilled, as appropriate, in the extension period. No request for an extension will be considered unless a written application requesting the extension is submitted to the Planning Director no later than thirty (30) days prior to the date of expiration of any time-limited approval or condition of approval.

**SECTION 11
EXTINGUISHMENT OF APPROVALS**

- A. **When Applicable.** In the event that one or more of the following occurs, the Board of County Commissioners **may** initiate a hearing to determine whether to extinguish the applicable approval, or any portion thereof:
1. Failure to timely complete or extend an MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*,

approval time-limited by the Board of County Commissioners, or any time-limited condition or requirement of an approved MDP or MDP change whether or not the MDP or MDP change was itself time-limited.

2. Failure to abide by any term, condition, or requirement of any MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan* approved under these, or any prior, CCMOD or Teller County Land Use Regulations procedures, or failure to abide by the terms and conditions of any separate but related agreement or contract.
3. Failure to abide by the requirements of these CCMOD Regulations.
4. The revocation or suspension of any required State or federal permit or license that has not been reinstated.

B. Establishment of Hearing Date. The Board of County Commissioners or County Administrator shall direct the Planning Director to notify the holder of the MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, by certified mail at least 30 days in advance that a hearing has been scheduled before the Board to ascertain whether the applicable approval should be extinguished.

C. Hearing. At the hearing the County shall have the right to be represented by the Planning Director or his or her designee, and the holder of the MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, shall be entitled to be represented in person or by representative. All evidence shall be presented at the hearing and shall be considered sworn testimony, and the parties involved are allowed to cross-examine witnesses. The sworn testimony and evidence shall **solely** pertain to the Standards of *Section 11.E* below.

D. Findings. The findings and decision of the Board of County Commissioners shall be based on the evidence submitted and the standards in *Section 11.E Standards*. The Board's findings of fact and decision shall be in writing and adopted by Resolution of the Board, and shall detail the basis of the conclusions from the record of the hearing.

E. Standards. Approval of all or a portion of an MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, may be voided and extinguished unless the Applicant demonstrates by competent substantial evidence all of the following:

1. **Beyond Holder's Control.** Failure of the following conditions, as applicable to the specific situation, were beyond the control of the holder of the MDP or the change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*: (1) Failure to timely extend a time-limited MDP or MDP change approval; (2) failure to fulfill any condition or requirement of an approved MDP or MDP change whether or not limited in time; (3) failure to abide by any term, condition, or requirement of any MDP or MDP change approved under these, or any prior, CCMOD or Teller County Land Use Regulations procedures; or (4) failure to abide by the terms and conditions of any separate but related Agreement or contract.

2. **Reasonable Likelihood.** There is reasonable likelihood that any failure to abide under *Section 11.E.1 Beyond Holder's Control* above will be remedied within a period of time established by the Board of County Commissioners.
 3. **In Compliance With Regulations.** The MDP or change in a MDP pursuant to *Section 8 Amendment of a Mining Development Plan*, remains in compliance with these CCMOD Regulations.
 4. **In Compliance with State and/or Federal Permit or License.** When a State or federal permit or license has been denied, suspended or revoked, that said permit or license has been approved or reinstated or reissued.
- F. **Reinstatement.** If any approval has been extinguished solely as a result of *Section 11.A.4* above, and thereafter when and if all affected permit(s) and/or license(s) are reinstated by the issuing agency, upon receipt by the County of official notice from the reinstating agency of such reinstatement, the extinguished approval shall likewise be reinstated provided the Standards of *Section 7 Mining Development Plan Standards* of these CCMOD Regulations have not been affected thereby.

EXHIBIT "A" : CRIPPLE CREEK MINING OVERLAY DISTRICT

