

**DRAFT  
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**TITLE 21**

**TOWN OF CASTLE ROCK  
GUIDELINES AND REGULATIONS  
FOR  
MATTERS OF  
STATE INTEREST**

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## **Chapter 21.01 - General Provisions**

### **21.01.010 – Authority.**

These Regulations are adopted pursuant to the authority granted to municipalities by C.R.S. § 31-15-707(1)(b), Municipal Utilities; C.R.S. § 29-20-101, et seq., Local Government Land Use Control Enabling Act; C.R.S. § 24-65.1-101, et seq., Areas and Activities of State Interest; Colorado Constitution Art. XX, Home Rule Cities and Towns; and other such similar authority that may be granted by the Colorado General Assembly.

### **21.01.020 – Permit Authority.**

The Town Council shall serve as the Permit Authority pursuant to C.R.S. § 24-65.1-102 and perform all functions set forth in these Regulations.

### **21.01.030 - Interpretation with other enactments and plans.**

- A. Whenever the provisions of these Regulations are found to be inconsistent with any applicable ordinance, code, regulation, or other enactment, the provision of the more restrictive standards or requirements shall control.
- B. Whenever the provisions of these Regulations conflict with the statutory criteria for the administration of matters of state interest in C.R.S. §§ 24-65.1-202 and 204, the more restrictive standards or requirements shall control.
- C. Nothing herein exempts an applicant from compliance with any other applicable Town, county, state, or federal requirements; except that compliance with these Regulations shall exempt an applicant for a Permit to conduct *site selection and construction or extension of domestic water and sewage treatment systems* from the Watershed Protection District Permit requirements under CRMC Chapter 4.02.

### **21.01-040 - Jurisdiction.**

These Regulations extend to designated matters of state interest set forth in this Chapter.

- A. The Town's jurisdiction applies to the following matters of state interest that are located wholly or partially within the municipal boundaries:
  - 1. Construction of arterial highways and interchanges and collectors.
  - 2. Areas around interchanges involving arterial highways in which development may have a material effect upon the arterial highway or the surrounding community.

- B. The Town's jurisdiction extends to site selection, construction or expansion of domestic water and sewage treatment systems located wholly or partially within the Town's Watershed Protection District as depicted on the Town Watershed Protection District map.

**21.01.050 – Severability.**

If any section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of these Regulations shall not be affected thereby and is hereby declared to be necessary for the public health, safety and welfare.

**21.01.060 – Definitions. [TO BE COMPLETED]**

**Applicant** means any person or entity applying for a permit under these regulations.

**Area around a key facility** means an area immediately and directly affected by a key facility.

**Arterial highway** means any limited-access highway which is part of the federal-aid interstate system or any limited-access highway constructed under the supervision of the Colorado Department of Transportation.

**Collector highway** means a major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers or recreation areas, or industrial centers, and constructed under guidelines and standards established by, or under the supervision of, the Colorado Department of Transportation, "collector highway" does not include a Town street or local service road, or a county road constructed under the supervision of local government.

**CRMC** means the Town of Castle Rock Municipal Code

**Designation** means that legal procedure for designating areas or activities of state interest specified by C.R.S. § 24-65.1-101, et seq. It is carried out by the Town Council.

**Development Procedures Manual** means the document referenced in CRMC Chapter 15.46.

**Development Services Department** means the Town's department of Development Services that has the responsibilities for the Town planning and zoning function.

**Director** means the Town's Director of Development Services or duly authorized representative.

**Domestic wastewater treatment facility** means the facility or group of units used for the treatment of domestic wastewater or for the reduction and handling of solids and

gases removed from such wastes, whether or not the facility or group of units is discharging into state waters. "Domestic wastewater facility " specifically excludes on-site wastewater treatment systems with a design capacity of two thousand gallons per less per day, unless the system discharges directly into surface water.

**Domestic water and sewage treatment system** means the wastewater treatment facility, water distribution system, or water treatment facility as defined below and any system of pipes, structures and facilities through which wastewater is collected for treatment.

**Extension** means a major extension and is an increase in hydraulic capacity, an upgrade in treatment or transmission capability, an increase in facility size, or a replacement of an existing facility in a new or altered location.

**Industrial wastewater treatment facility.** Any facility or group of units used for the pretreatment, treatment, or handling of industrial waters, wastewater, reuse water, and wastes that are discharged into state waters. "Industrial wastewater treatment facility" includes facilities that clean up contaminated groundwater or spills and excludes construction dewatering activities that utilize only passive treatment and occur for less than one year.

**Interchange** means the intersection of two or more highways, roads, or streets at least one of which is an arterial highway. At such intersection there must be direct access to and from the arterial highway.

**Matter of state interest** means an area of state interest or an activity of state interest or both as defined under C.R.S. § 24-65.1-101, et seq.

**Regulations** means these regulations as finally enacted and approved.

**Town Council** means the Town of Castle Rock Town Council.

**Water distribution system** means any combination of pipes, tanks, pumps, or other facilities that delivers water from a source or treatment facility to the consumer.

**Water treatment facility** means the facility or facilities within the water distribution system that can alter the physical, chemical, or bacteriological quality of the water.

**Water and wastewater facility** means the water treatment facility, wastewater treatment facility, water distribution system, or wastewater collection system.

**Watershed Protection District** means the watershed areas that encompass the Town waterworks and any source of municipal water supply, including: all equipment, drainage structures, dams, reservoirs, streams, trenches, ditches, watercourses, pipelines, wells, pumps, buildings, structures, roads and other facilities used in and necessary for the construction, maintenance and operation of the municipal water

supply system and for five (5) miles above the points of diversion of water for use of the Town. This jurisdiction also extends to groundwater underneath lands within the five-mile area

**Wastewater collection system** means a system of pipes, conduits, and associated appurtenances that transports domestic wastewater from the point of entry to a domestic wastewater treatment facility. The term does not include collection systems that are within the property of the owner of the facility.

## **Chapter 21.02 – Process for Designation of Matters of State Interest**

### **21.02.010 - Designation proposals.**

Designations and amendments or revocations of designations of areas or activities of state interest may be initiated by the Town Council.

### **21.02.020 - Moratorium until final determination.**

After a matter of state interest is designated, no person shall engage in development in such area and no such activity shall be conducted until the designation and the guidelines and regulations for such area or activity are finally determined as required by C.R.S. § 24-65.1-404(4).

### **21.02.030 - Designation public hearing required.**

- A. Notice of the designation public hearing shall be as follows:
  - 1. The Director shall publish notice of the public hearing at least 30 days and not more than 60 days before the hearing, in a newspaper of general circulation in the Town. *[NOTE: the requirement to publish notice of the public hearing is statutory, and the statute only requires public notice by publication]*
  - 2. Not less than fifteen (15) days before the hearing date the Director shall post notice of the public hearing on the Town's website.
  - 3. The notice shall include the time and place of the hearing, a general description of the designation requested, and the place at which relevant materials may be examined.
- B. At the designation hearing, the Town Council shall take into account:
  - 1. All testimony, evidence and documents taken and admitted at the public hearing.

2. The intensity of current and foreseeable development pressures in the Town.
  3. The boundaries of the proposed area of state interest.
  4. Reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.
- C. Record of designation proceeding shall include the following documents. A copy of the hearing record may be acquired through the Development Services Department upon reasonable notice and payment of a fee to cover the costs of duplication of the record.
1. Notice of the hearing.
  2. Certificate of publication of the notice.
  3. Names and addresses of persons who presented written or oral statements.
  4. Written or taped record of oral proceedings and the minutes of the Clerk.
  5. Exhibits and documents presented at the hearing.
  6. Written findings concerning each proposed matter of state interest.

**21.02.040 - Adoption of designation and regulations.**

- A. Within thirty (30) days after completion of the designation hearing the Town Council by Ordinance may adopt, adopt with modification, or reject the proposed designation.
- B. Each designation adopted by the Town Council shall include the following findings:
  1. The boundaries of the designated area of state interest.
  2. Reasons why the particular area or activity is of state interest, dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and advantages of development of such area or conduct of such activity in a coordinated manner.



- C. A notice of the designation and map shall be certified by the Town Council to the County Clerk and Recorder for filing in the same manner as any document affecting real property.

**21.02.050 - Combined designation and permit hearing.**

If a person proposes to engage in development in an area of state interest or to conduct an activity of state interest not previously designated and for which regulations have not yet been adopted, the Town Council may hold a combined hearing to determine the designation, adopt the guidelines and regulations and approve or deny the Permit.

**Chapter 21.03 - Designation of Specific Matters of State Interest**

The Town Council, having considered the intensity of current and foreseeable development pressures, the reasons why the area or activity is of state interest, the dangers that would result from uncontrolled development of the area or uncontrolled conduct of such activity, and the advantages of development of the area or conduct of the activity in a coordinated manner, at a duly noticed public hearing held in accordance with C.R.S. §§ 24-65.1-101 et seq., does hereby find and declare the following area and activities to be a matters of state interest and does hereby adopt the following regulations requiring permits for these matters.

**21.03.010 - Areas of state interest.**

- A. Areas around interchanges involving arterial highways as designated on the *Areas Around Interchanges* map.
- B. [RESERVED]

**21.03.020 - Activities of state interest.**

- A. Site selection of arterial highways and interchanges and collector highways located wholly or partially within the municipal boundaries.
- B. Site selection and construction of major new domestic water and sewage treatment systems and major extensions of existing domestic water and sewage treatment systems located wholly or partially within the Watershed Protection District as designated on the *Watershed Protection District* map.

**21.03.030 - Permit required.**

A Permit is required for the following:

- A. Development located wholly or partially within an area around interchanges involving arterial highways as designated on the *Areas Around Interchanges* map.
- B. Site selection of arterial highways and interchanges and collector highways located wholly or partially within the municipal boundaries.
- C. Site selection and construction or extension of domestic water and sewage treatment systems located wholly or partially within the Watershed Protection District as designated on the *Watershed Protection District* map. No Watershed Protection District Permit is required for this activity subject to these Regulations.
- D. No permit under these Regulations is required for development that is subject to regulation under Title 16, Subdivision Regulations or Title 17, Zoning Regulations of the CRMC.

**21.03.040 - Exemptions pursuant to C.R.S. § 24-65.1-107.**

This Title 21 shall not apply to any development in an area of state interest or any activity of state interest which meets any one of the following conditions as of May 17, 1974:

- A. The development or activity is covered by a current building permit issued by the Town.
- B. The development or activity has been approved by the electorate of the Town.
- C. The development or activity is to be on land:
  - 1. Which has been conditionally or finally approved by the Town for planned unit development or for a use substantially the same as a planned unit development; or
  - 2. Which has been zoned by the Town for the use contemplated by such development or activity; or
  - 3. With respect to which a development plan has been conditionally or finally approved by the Town.

**Chapter 21.04 - Permit Process for Designated Matters of State Interest**

**21.04.010 - Pre-application conference.**

- A. Before submitting an application for a Permit under these Regulations, the applicant shall meet with the Director. The purposes of the pre-application meeting include:
  - 1. To discuss the location, nature, impacts, and proposed mitigation of the Project.
  - 2. To explain the content and scope of materials that will be responsive to the application submittal requirements and waivers of any materials that would not be necessary in determining whether the application complies with these Regulations.
  - 3. To discuss any terms and conditions for the Project that may be imposed by state or federal agencies.
  - 4. To identify site-specific concerns and issues.
  - 5. To discuss any additional requirements that must be satisfied before development of the Project can begin.
- B. Materials Required for Pre-Application Meeting. At or before the pre-application meeting, the applicant shall provide the Director with information that is sufficient for determining the location and nature of the proposed Project, the degree of impacts associated with the proposed Project, and mitigation proposed to offset such impacts.

**21.04.020 - Application submitted to Director.**

The applicant shall submit application materials described in Chapter 21.05 to the Director together with the Permit application fee.

**21.04.030 - Permit application fee.**

The applicant is responsible for all cost of reviewing and processing the Permit application.

- A. The Permit application shall be accompanied by the land use fees set forth in the Development Services Fee Schedule in CRMC 15.01.020.
- B. Additional costs for review and processing the Permit application include the costs of legal consultant and referral agency review of the Permit application, pre-application conference, completeness determination, and all hearings and meetings on the Permit application. Such costs are in addition to the land use fees and shall be billed to the applicant. All additional costs must be paid in full prior to final action by the Town Council on the Permit application.

#### **21.04.040 - Application completeness determination.**

Within thirty (30) business days of receipt of the application materials, the Director will determine whether the application is complete based on whether the materials submitted are responsive to the requirements of Chapter 21.05.

- A. If the application is not complete, the Director will inform the applicant of the deficiencies in writing and will take no further action on the application until the deficiencies are remedied. If the applicant fails to correct the deficiencies within sixty (60) calendar days, the Director will consider the application to be withdrawn.
- B. If the application is complete, the Director will notify the applicant in writing that it is complete and stamp the application with the date of completeness determination.
- C. The Director may notify the applicant that additional time will be required to make the completeness determination in the following conditions:
  - 1. The size and complexity of application requires an extension of time to complete the evaluation.
  - 2. The Town's workload requires an extension of time.
- D. The Director will not process an application until the Director determines that the application is complete. A determination that the application is complete begins the review and approval process; it does not constitute approval of the Project.

#### **21.04.050 - Referral of application.**

Following the completeness determination, the Director may refer the application to any county, state, or federal agencies that have expertise pertaining to or jurisdiction over the Project. The Director also may, at the cost of the applicant, engage technical or legal consultants to assist in the review of the application.

#### **21.04.060 - Town Council hearing scheduled and public notice.**

- A. Following the completeness determination, the Director shall set the date, location, and time for the Town Council hearing on the application. The date shall be the earliest date for which time is available on the agenda, and that can meet the notice requirements in this Section 21.04.060 B.
- B. Notice of the public hearing shall be as follows:

1. Not later than thirty (30) days after the completeness determination, the Director shall publish notice of the hearing. *[NOTE: this 30-day requirement is statutory]*
2. The notice shall be published not less than thirty (30) days or more than sixty (60) days before the date set for the hearing.
3. The Town shall publish notice of the public hearing once in a newspaper of general circulation in the Town. *[NOTE: the requirement to publish notice of the public hearing is statutory, and the statute only requires public notice by publication]*
4. Not less than fifteen (15) days before the hearing date the Town shall provide written notice of the public hearing, by 1<sup>st</sup> class mail, to the owner of the subject property and to property owners located within 500' of the subject property.
5. Not less than fifteen (15) days before the hearing date the Director shall post notice of the public hearing on the Town's website.
6. Not less than fifteen (15) days before the hearing date the applicant shall post notice of the public hearing at the site of the proposed.
  - a. Signage shall conform to the requirements in the Development Services Procedure Manual.
  - b. Prior to the hearing the applicant shall submit to the Director a notarized affidavit, on a form provided by the Town, stating that the posting requirements for the hearing notice have been met.
7. The notice shall include:
  - a. Date, time, and place of the hearing
  - b. Description of the property involved in the application by street address or by legal description and nearest cross street.
  - c. Description of the purpose of the hearing and that interested parties can come to the meeting and speak on the matter.
  - d. Information on how to obtain additional information and to comment on the proposed Project.

**21.04.070 - Staff report.**

Not less than seven (7) days prior to the hearing, the Director shall prepare a report in consultation with other appropriate staff members and consultants. The Director shall take into account the application, written comments from the public, issues raised by referral agencies and consultants, terms and conditions imposed by state or federal agencies, and any other available information on the record.

- A. The report shall evaluate whether the application satisfies each of the approval standards in Chapter 21.06 of these Regulations.
- B. Where in the Director's opinion a standard will not be satisfied, the Director may recommend any conditions necessary to ensure that the Project will satisfy the standard.

**21.04.080 - Hearing and decision by Town Council.**

Following a public hearing conducted pursuant to CRMC 17.04.090, the Town Council shall approve, approve with conditions, or deny the application. The burden of proof is on the applicant to demonstrate that the Project complies with these Regulations, and the Town Council's decision shall be based on all of the information on the hearing record.

- A. If the Town Council determines that the standards in Chapter 21.06 are satisfied, it will approve the application.
- B. If the Town Council determines that the application fails to satisfy any one of the standards it shall deny the application, or it may approve the application with conditions determined necessary to comply with applicable standards in Chapter 21.06
- C. The hearing record shall include the following:
  - 1. The application package.
  - 2. Written statements or documents commenting on the application, received after the application was deemed complete, and any such materials submitted during the hearing.
  - 3. Any recording and transcript of the hearing.
  - 4. Written minutes of the hearing.
  - 5. The Town Council's Resolution granting or denying the application.
- D. The Permit shall be issued in writing by resolution of the Town and shall be deemed a site-specific development plan subject to the vesting and

notice requirements of CRMC Chapter 17.08.

- E. The Permit is valid only for the construction and operation of the Project described in the application package together with the conditions of approval, if any, imposed by the Town Council.
- F. A copy of the Permit shall be certified by the Town Council and presented to the County Clerk and Recorder for recording in the same manner as any document relating to real property.

## **Chapter 21.05 - Application Materials for Matters of State Interest**

### **21.05.010 - Application materials for all matters of state interest.**

The following materials are required for *all* permit applications for designated matters of state interest. The Director may waive one or more of the application materials when the information would not be relevant to a determination as to whether the Project complies with the approval standards in Chapter 21.06 of these Regulations. For *site selection and construction or extension of domestic water and sewage treatment systems*, the materials shall address all impacts of the Project throughout the Watershed Protection District.

- A. The names, addresses, including email address and fax number, organizational form, and business of the applicant and, if different, the owner of the Project.
- B. The names, addresses, and qualifications, including areas of expertise and experience with projects directly related or similar to the Project, of individuals responsible for constructing and operating the Project.
- C. Authorization of the application package by the Project owner, if different than the applicant.
- D. Documentation of the applicant's financial and technical capability to develop and operate the Project, including a description of the applicant's experience developing and operating similar projects.
- E. Written qualifications of persons preparing the required reports.
- F. A narrative description of the Project, including but not limited to: description of the service area; estimated population to be served over what period of time; types of uses to be served, e.g. residential, commercial, agricultural, and industrial.
- G. Plans and specifications of the Project in sufficient detail to evaluate the application against the Permit approval standards in Chapter 21.06 of

these Regulations.

- H. Vicinity map showing location of the Project on USGS quadrangle map.
- I. List of property owners within 500' of the Project and their mailing addresses.
- J. A description of the technical and financial feasibility of the Project that includes:
  - 1. The estimated construction costs and period of construction for each phase of the Project.
  - 2. Estimated cost of proposed mitigation measures and permit conditions.
  - 3. Revenues and operating expenses for the Project.
  - 4. The amount of any proposed debt and the method and estimated cost of debt service.
  - 5. Details of any contract or agreement for revenues or services in connection with the Project.
  - 6. Description of the number and location of persons or entity(ies) who will pay for or use the Project and/or services produced by the development and those who will benefit from any and all revenues generated by it.
- K. A description of the property rights, permits and approvals that includes:
  - 1. Federal, state, and local permits or approvals that have been or will be required for the Project, together with any proposal for coordinating these permits or approvals with the Town's permitting process, and copies of any permits and approvals upon issuance.
  - 2. Copies of any draft or final environmental assessments or impact statements prepared for the Project.
  - 3. Description and documentation of property rights, easements, and rights-of-way agreements that are necessary for or that will be affected by the Project.
- L. Description of the water to be used by the Project, including: the source, amount and quality of water; the applicant's right to use the water, including adjudicated decrees and applications for decrees; proposed



points of diversion and changes in the points of diversion; the existing uses of the water; and alternative water sources available to the applicant. If an augmentation plan for the Project has been decreed or an application for such plan has been filed in court, the applicant shall submit a copy of that plan.

M. Air quality impact assessment and mitigation plan that includes:

1. Description of the airsheds to be affected by the Project, including the seasonal pattern of air circulation and microclimates.
2. Description of the ambient air quality and state air quality standards of the airsheds to be affected by the Project, including particulate matter and aerosols, oxides, hydrocarbons, oxidants, and other chemicals, temperature effects, and atmospheric interactions.
3. Assessment of adverse impacts of the Project to air quality during both construction and operation of the Project, and under both average and worst-case conditions.
4. A plan for mitigating adverse impacts to air quality.

N. Floodplain, wetlands, and riparian areas impact assessment and mitigation plan that includes:

1. Existing conditions for floodplain, wetlands, and riparian areas affected by the Project, including:
  - a. Structure and function of floodplain, wetlands, and riparian areas.
  - b. Filtering and pollutant uptake capacities of wetlands and riparian areas.
  - c. Aerial extent of floodplain, wetlands, and riparian areas.
  - d. Wetlands species' composition and diversity.
  - e. Transition from wetland to upland species.
  - f. Aerial extent, function, and channel connectivity of floodplains.
  - g. Alteration in hydrology that would allow succession to upland species.

2. Assessment of adverse impacts of the Project to floodplain, wetlands, and riparian areas.
  3. A plan for mitigating adverse impacts to the floodplain, wetlands, and riparian areas.
  4. A floodplain permit may be required under CRMC Title 18.
- O. Aquatic life and habitat impact assessment and mitigation plan that includes:
1. Existing conditions for aquatic life and habitat in streams affected by the Project, including a description of:
    - a. Species composition and density.
    - b. Threatened or endangered species.
    - c. Aquatic food web.
    - d. Habitat including riparian vegetation, stream bed and banks, spawning grounds, riffle and pool areas, off-channel habitat, flushing flows, nutrient accumulation and cycling, water temperature, depth and circulation, stratification, and any other conditions necessary for the protection and propagation of aquatic species.
  2. Assessment of adverse impacts of the Project to aquatic life and habitat. The impact assessment should address:
    - a. Species composition and density.
    - b. Threatened or endangered species.
    - c. Aquatic food web.
    - d. Habitat including riparian vegetation, stream bed and banks, spawning grounds, riffle and pool areas, off-channel habitat, flushing flows, nutrient accumulation and cycling, water temperature, depth and circulation, stratification, and any other conditions necessary for the protection and propagation of aquatic species.
  3. A plan for mitigating adverse impacts to aquatic life and habitat.
- P. Soils, geologic and natural hazards impact assessment and mitigation

plan that includes:

1. Description of existing soils, geological characteristics, and hazardous conditions in the area affected by the Project, prepared by a registered engineer or geologist, including:
  - a. Geotechnical assessment of all geologic hazards that have the potential to affect the Project and which may be destabilized or exacerbated by construction and operation of the Project.
  - b. Description of soil types, drainage areas, floodplains, slopes, avalanche areas, debris fans, mud flows, rock slide areas, faults and fissures, seismic history, and wildfire hazard areas.
2. Assessment of adverse impacts of the Project to geologic and natural hazards and risks to the Project from geologic and natural hazards.
3. A plan for mitigating risks to the Project from geologic and natural hazards and mitigating adverse impacts of the Project on geologic and natural hazards.

Q. Grading, erosion, and sediment control plan that includes:

1. Existing (dashed lines) and proposed (solid lines) contours at two-foot intervals or other contour intervals approved by staff.
2. Narrative description and scaled drawings of specific erosion and sediment control measures, including approximate locations of drainage facilities and drainage patterns in the areas affected by the Project; and wetlands or other water bodies receiving storm runoff from the site. Typical erosion control measures should be depicted using standard map symbols.
3. Construction schedule, indicating the anticipated starting and completion time periods of the site grading and/or construction phases including the installation and removal of erosion and sediment control measures, and the estimated duration of exposure of each area prior to the completion of temporary erosion and sediment control measures.
4. Estimated total cost of the required temporary soil erosion and sediment control measures, to determine performance guarantees for the proposed plan.

5. Calculations made for determining rainfall runoff and sizing of any sediment basins, diversions, conveyance, or detention/ retention facilities.
  6. The applicant shall refer to Section 17.10.080, Stormwater to develop the grading plan.
- R. Hazardous materials management plan that includes:
1. Description of all hazardous, toxic, and explosive substances to be used, stored, transported, disturbed, or produced in connection with construction and operation of the Project, including the type and amount of such substances, their location, and the practices and procedures to be implemented to avoid accidental release and exposure.
  2. Measures, procedures and protocols for spill prevention, storage, and containment.
  3. Measures, procedures and protocols for reporting spills and storage to the Town, county, state, and federal officials.
  4. Measures, procedures, and protocols for clean-up and contingency and description of the financial security for these provisions. Impacts resulting from spills and releases shall be investigated and cleaned up as soon as practicable.
    - a. Town, or its designee, may undertake prevention, control, countermeasure, containment, and clean-up measures if the Applicant fails to comply with its obligations under the *Hazardous Materials Management Plan*.
    - b. Applicant will pay all costs incurred by the Town for any such measures.
- S. Emergency preparedness and response plan that addresses events such as: explosions, fires, toxic emissions, transportation of hazardous material, and vehicle accidents or spills. The plan shall include proof of adequate personnel, supplies, and funding to immediately implement the emergency response during both construction and operation of the Project.
- T. Assessment of whether the Project is necessary to meet projected community development and population demands in the area to be served by the Project, including:
1. Description of the demands the Project expects to meet and the

basis for projections of that demand.

2. Map(s) of the regional impact area and the area within the Town showing planned, proposed, or expected land use at each year of population projection, with and without the impacts of the Project.

U. Town services impact assessment and mitigation plan that includes:

1. Assessment of existing capacity of and demand for Town services, including: roads, schools, water and wastewater treatment, water supply, emergency services, transportation, infrastructure, and other services necessary to accommodate the Project.
2. Assessment of adverse impacts of the Project to the capability of the Town to provide services or on the capacity of Town service delivery systems.
3. A plan for mitigating adverse impacts to Town services.

V. Economic impact assessment and mitigation plan that includes:

1. Description of the Town economy, including revenues generated by the different economic sectors and the value or productivity of different lands.
2. Assessment of adverse impacts of the Project on the Town economy and opportunities for economic diversification. The impact assessment shall include:
  - a. Changes to projected revenues generated from each economic sector.
  - b. Changes in the value or productivity of any lands.
  - c. Changes in opportunities for economic diversification.
3. A plan for mitigating adverse impacts to the Town economy.

W. Tax burden impact assessment and mitigation plan that includes:

1. Description of the existing tax burden and fee structure for Town services, including assessed valuation, mill levy, rates for water and wastewater treatment, and costs of water supply.
2. Assessment of adverse impacts of the Project on the tax burden of residents. The impact assessment shall include:

3. A plan for mitigating adverse impacts to the tax burden on Town residents.
- X. Areas of paleontological, historic, or archaeological importance impact assessment and mitigation plan that includes:
1. A map and/or description of all sites of paleontological, historic, or archaeological importance affected by the Project.
  2. Assessment of adverse impacts of the Project on sites of paleontological, historic, or archaeological importance.
  3. A plan for mitigating adverse impacts to sites of paleontological, historic, or archaeological importance.
- Y. Traffic impact assessment and mitigation plan that includes:
1. A map(s) and description of existing land use in the area affected by the Project in relationship to the existing circulation system.
  2. Existing and proposed traffic volume impacts to the adjacent road system, including local roads.
  3. Existing and future Level of Service (LOS) and capacity of the transportation facilities before and after the Project is completed.
  4. All transportation access information as required by the CDOT State Highway Access Code.
  5. Assessment of adverse impacts to traffic conditions associated with the Project.
  6. A plan for mitigating adverse impacts to traffic conditions associated with the Project.
- Z. Construction traffic route plan that includes:
1. Map indicating proposed trip routes for all traffic serving the Project.
  2. Routes designed to avoid to the greatest extent possible residential areas, commercial areas, environmentally and visually sensitive areas, schools and other civic buildings, and already congested locations.
  3. Limitation of traffic on public roads during seasons when heavy

vehicle use, weather conditions, or water saturation may result in significant damage.

4. Restriction on weight of trucks so that they do not exceed road or bridge weight capacity established by the Town.
  5. Operational measures to minimize impacts to the public such as limitations on time of day and week; vehicle fuel and emissions reduction technology; noise minimization; and traffic control safety measures.
  6. Construction of the Project shall be phased to minimize interference with traffic movement.
  7. For each segment of a proposed route in the Town, a description of vehicular traffic associated with the Project including vehicle types, sizes, weight, and numbers of axles; and the traffic volume, frequency (daily, weekly, total), and timing (times of day).
  8. Maintenance practices on the proposed travel routes for construction traffic, including dust suppression, snow and ice management, sweeping of paved roads/shoulders, pothole patching, repaving, crack sealing, and chip sealing necessary to maintain an adequate surface of paved roads.
  9. If the projected use of public roads by construction traffic will result in a need for an increase in roadway maintenance, the applicant shall enter into an agreement with the Town whereby the applicant provides for private maintenance or reimburses the Town for such increased costs and/or provides a bond or other financial assurance in an amount acceptable to the Town to cover the costs of mitigating impacts to public roads.
- AA. Land use impact assessment and mitigation plan that includes:
1. Description of land uses in the area affected by the Project, and a description of applicable provisions of the Town's Comprehensive Master Plan, Transportation Master Plan, and 3-Mile Plan.
  2. Assessment of adverse impacts of the Project on existing and proposed land use patterns that includes:
    - a. Compliance or consistency with the Town's Comprehensive Master Plan, potential annexation area (3-Mile Plan), and Transportation Master Pan, and other applicable land use plans and policies.

- b. Potential for the Project to cause or contribute to urban sprawl or “leapfrog” development.
  - c. Increases in the amount of impervious surfaces.
  - d. Contiguity of development associated with the Project to existing growth centers.
  - e. Changes to unique landforms.
  - f. Loss of open space and/or detrimental changes to the character of open space.
3. A plan for mitigating adverse impacts on land use patterns within the Town and the 3-Mile Plan area.
- BB. Nuisance impact assessment and mitigation plan that includes:
- 1. An assessment of noise, glare, dust, fumes, vibration, and odor caused by the Project.
  - 2. A plan for mitigating adverse impacts caused by the Project to the use and enjoyment of property.
- CC. Revegetation and weed management plan that includes:
- 1. Description of the species, character, and density of existing vegetation in the area affected by the Project and summary of potential impacts to vegetation as a result of the Project.
  - 2. Plan for re-vegetation that provides for:
    - a. Removal of existing vegetation no more than thirty (30) days prior to commencement of initial site grading.
    - b. Revegetation of areas that have been filled, covered, or graded as soon as practicable.
    - c. Use of site-specific native seed mix and mulching to support vegetation growth.
    - d. Topsoil from disturbed areas stripped and stockpiled on-site for redistribution over the completed final grade; stockpiling that conforms to best management practices and ensures that soil organisms in stockpiled soil remain viable until



completion of the redistribution process.

3. A weed management plan that includes ongoing weed control at all locations disturbed by the Project.

**21.05.020 - Additional materials for site selection and construction or extension of domestic water and sewage treatment systems.**

In addition to the submittal requirements in Section 21.05.010, the following requirements shall apply to site selection and construction or extension of domestic water and sewage treatment systems.

- A. A Watershed Protection District permit under Section 18.08.040 is not required for selection and construction or extension of domestic water and sewage treatment systems.
- B. Watershed Protection District impact assessment, mitigation, and monitoring plan that includes:
  1. A map or series of maps of the Project site that includes:
    - a. Boundary of the watershed.
    - b. Existing and proposed topographic contours at vertical intervals sufficient to show the topography affecting the Project and storm drainage.
    - c. Natural and artificial drainageways, ditches, waterbodies, and hydrologic features on-site including intermittent and ephemeral water features, wetlands, riparian areas, and the 100-year floodplain boundaries.
    - d. All tributary water courses, wells, springs, stock water ponds, reservoirs, and ditches within watershed(s) affected by the Project.
    - e. Slopes and areas of subsidence.
    - f. Excavations and mines.
    - g. Vegetative cover.
    - h. Existing and proposed roads, railroad tracks, fences, and utility lines on or adjacent to the site, shown by location and dimension.

- i. All existing and proposed structures and appurtenant facilities, shown by location and dimension.
2. Streamflows and hydromorphology impact assessment and mitigation plan that includes:
    - a. Existing streamflows and hydromorphology in the affected watershed, including written description of:
      - (1) Perfected and conditional water rights and existing and proposed water diversions from the watershed that affect stream conditions.
      - (2) Existing instream flow water rights.
      - (3) Flow data from streamflow gage(s) in affected stream segments.
      - (4) Recommended target flows for ecological, recreational, agricultural, and domestic uses and ability of the affected stream segments to meet target flows.
      - (5) Stream segments that are impaired or have been identified as having inadequate flows for ecological, recreational, agricultural, and domestic needs.
      - (6) Impaired stream segments and water bodies that are recommended for restoration or improvements, including any 303(d) or M&E listed segments.
      - (7) Upstream segments that are impaired or not meeting target flows for ecological, recreational, agricultural, and domestic needs.
      - (8) Conditions of aquatic habitat; existing and recommended conditions for habitat improvements identified in a stream management plan or watershed protection plan that covers the segments affected by the Project.
      - (9) Recreational values.
      - (10) Existing conditions of lakes, reservoirs, and waterbodies.

- (11) Hydrograph during representative wet, dry, and average years and the rationale for establishing year types.
  - (12) Impacts to agricultural uses on affected stream segments.
  - (13) Stream hydromorphology, including:
    - (a) Sediment transport dynamics and areas where in-channel sediment deposition or erosion occur. Identify sediment sources as natural or man-made.
    - (b) Pool and riffle habitat.
    - (c) Flushing flow rates and the frequency at which those flows are attained.
    - (d) Bank erosion and causes.
- b. Assessment of adverse impacts of the Project to streamflows and hydromorphology.
  - c. A plan for mitigating adverse impacts to streamflows and hydromorphology.
3. Surface water quality impact assessment and mitigation plan that includes:
    - a. Existing condition of surface water quality for surface water affected by the Project.
    - b. Assessment of adverse impacts of the Project to surface water quality. The description of impacts should address:
      - (1) Patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color or taste of water.
      - (2) Applicable narrative and numeric water quality standards.
      - (3) Point and nonpoint source pollutant loads.
      - (4) Sediment loading to waterbodies.

- (5) Stream channel or shoreline stability.
  - (6) Stormwater runoff flows.
  - (7) Trophic status and eutrophication rates in lakes and reservoirs.
  - (8) Flushing flows.
  - (9) Dilution rates of mine waste, agricultural runoff, and other unregulated sources of pollutants.
- c. A plan for mitigating adverse impacts to surface water quality.
4. Groundwater quantity and quality impact assessment and mitigation plan that includes:
- a. Existing conditions of groundwater quantity and quality for groundwater affected by the Project, including data collected during three (3) recent, representative, and successive years, or as specified by the Director as may be necessary to adequately characterize baseline conditions. This baseline data shall be sufficient to serve as a basis for the evaluation of the Project impacts, and to ensure the adequacy of proposed maintenance and mitigation. Assessment shall include:
    - (1) Aquifer recharge rates, groundwater levels, and aquifer capacity, including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
    - (2) An inventory of all affected water wells in the area affected by the Project. Current and historic uses, production rates, and water quality shall be measured and logged prior to Permit approval to establish a baseline from which the impacts of the Project can be measured. Well tests to characterize current conditions must have been performed within the previous twelve (12) months from application submittal date.
  - b. Assessment of adverse impacts of the Project to groundwater quantity and quality.

- c. A plan for mitigating adverse impacts to groundwater quantity and quality.
- 5. Watershed monitoring plan that includes:
  - a. Key stream segments, waterbodies, groundwater, floodplains, wetlands, riparian area, or aquatic life to be monitored.
  - b. Key indicators of water quantity and quality and watershed health and threshold levels that will be monitored to detect changes in water quantity and quality and overall watershed health.
  - c. Locations for and frequency of sampling and monitoring to establish baseline conditions including water quantity and quality, aquatic life, and groundwater data; the Project's impacts to these resources; and effectiveness of, or proposed changes to, mitigation.
- C. Assessment of impacts to municipal waterworks that includes:
  - 1. Description of equipment, diversion structures, dams, reservoirs, streams, trenches, ditches, watercourses, pipelines, wells, pumps, buildings, structures, roads, and other facilities associated with the Town waterworks that will be affected by the Project.
  - 2. Assessment of adverse impacts of the Project on the Town waterworks.
  - 3. A plan for mitigating adverse impacts to the Town waterworks.
- D. Assessment of capacity of existing water and/or sewage treatment systems that includes:
  - 1. Map and description of existing domestic water and/or sewage treatment facilities in the vicinity of the Project that perform the same function as the Project, including their capacity and existing service levels, location of intake and discharge points, service fees and rates, debt structure, and service plan boundaries and reasons for and against hooking on to those facilities.
  - 2. An assessment of the necessity of replacement if the Project is a replacement of an existing system, including:
    - a. Age of existing systems, operational efficiency, state of

repair, or level of treatment is such that replacement is warranted.

- b. Whether existing facilities can be upgraded or expanded.
  3. Map and description of other water and/or wastewater management agencies in the Project area and reasons for and against consolidation with those agencies.
  4. Description of how the Project will affect urban development, urban densities, and site layout and design of stormwater and sanitation systems.
  5. An assessment of the Town's existing financial and environmental capability to sustain growth and development from the Project.
- E. Description of water conservation techniques that includes:
1. Description of all conservation techniques to be used in the construction and operation of the Project.
  2. Description of efficient water use, recycling, and reuse technology that will be deployed.

**21.05.030 Additional materials for site selection of arterial highways and interchanges and collector highways.**

In addition to the submittal requirements in Section 21.05.010, the following requirements shall apply to site selection of arterial highways, interchanges, and collector highways.

- A. Assessment of the operation of the proposed highways and interchanges and effect of the Project on existing transportation facilities and the surrounding development that includes:
1. Traffic Demand Modeling Study that describes the increased demand that the Project will place on other highways and interchanges within a three-mile radius.
  2. Traffic model data verifying consistency with the DRCOG regional plan, the Colorado Department of Transportation (CDOT) Statewide Transportation Improvement Program (STIP), and the DRCOG Transportation Improvement Program (TIP).
  3. Description of the major traffic generators in the area affected by the Project.

4. Planned level of service in relationship to projected user demand both regionally and within the Town in five (5) year increments for a twenty (20) year period.
  5. Approximate number of users of the proposed highways or interchanges in terms of existing residents, projected residents, and non-residents.
  6. Traffic operations and safety study, including detailed analysis of weaving sections.
  7. Plans for promoting the use of alternative modes of transportation.
  8. Description of relocation plans and compensation of homes and businesses to be relocated.
  9. Impacts of the Project on accessibility to and from existing public facilities, commercial and industrial facilities, and residential areas, both regionally and within the Town.
  10. Impact to future development in the area affected by the Project, measured in terms of land values, land availability, land use controls, vacancy rates, indices of accessibility to school/education, utility services, other public and quasi-public services, local and regional amenities, employment opportunities, and the demographic indices identified above that would result from the implementation of the Project.
  11. A list of alternative corridor locations for the proposed highways or interchanges and a written explanation of the reasons why each alternative location was rejected by the applicant.
  12. A description of all state and federal highway standards that apply to the Project.
- B. Assessment of the adverse impacts of the Project on existing transportation facilities and the surrounding development.
- C. A plan for mitigating the adverse impacts of the Project that includes:
1. Alternative locations, configurations, and access including, but not limited to, grade separated interchanges and complete or partial construction below grade with cover and landscaping suitable for recreational use or for construction of streets, bike paths or pedestrian walkways.

2. Alternative pavement types.
3. Alternative highway maintenance and snow removal methods.
4. Sound walls and other sound mitigating structures, such as transparent noise barriers.
5. Berms and/or landscaping.
6. Speed limits.
7. Speed control devices.
8. Limits on the use of compression brakes.
9. Wildlife crossings and pedestrian bridges.

**21.05.040 Additional materials for development in areas around interchanges involving arterial highways.**

In addition to the submittal requirements in Section 21.05.010, the following requirements shall apply to development in areas around interchanges involving arterial highways.

- A. Assessment of traffic operations and safety that includes:
  1. Traffic-handling characteristics of the interchange, access road, and existing public roadways affected by the Project.
  2. Detailed analysis of weaving sections.
  3. Compatibility with nonmotorized traffic and the smooth flow of motorized and nonmotorized traffic.
- B. Assessment of the adverse impacts of the Project on the affected interchange and associated arterial highways.
- C. A plan for mitigation of adverse impacts associated with the Project to the affected interchange and associated arterial highways.

**Chapter 21.06 - Permit Application Approval Standards**

The following standards will be applied by the Town to determine whether a Permit can be issued for the Project.



**21.06.010 - Standards for all matters of state interest.**

- A. The applicant has the necessary expertise and financial capability to develop and operate the Project consistent with all requirements and conditions.
- B. The Project is technically and financially feasible. The following criteria will be applied to determining whether this standard is satisfied:
  - 1. Amount of debt associated with the Project.
  - 2. Debt retirement schedule and sources of funding to retire the debt.
  - 3. Estimated construction costs and construction schedule.
  - 4. Estimated annual operation, maintenance, mitigation, and monitoring costs.
  - 5. Market conditions.
- C. The applicant will obtain all necessary property rights, permits, and approvals for the Project prior to any site disturbance. The Town Council may, at its discretion, defer making a final decision on the application until outstanding property rights, permits, and approvals are obtained.
- D. The Project will not impair property rights held by others.
- E. Water supplies are adequate for the current and future operational needs of the Project in terms of quantity, quality, and dependability.
- F. The Project will not degrade air quality.
- G. The Project will not degrade soil and geologic conditions.
- H. The Project is not subject to risk from natural hazards and will not exacerbate natural hazards.
- I. The Project will not result in unreasonable risk of releases of hazardous materials.
- J. Construction and operation of the Project will ensure that, in the event of an emergency, adequate practices, procedures, and infrastructure are in place to protect public health and safety and repair damage caused by emergencies.
- K. The growth and development anticipated as a result of the Project can be accommodated within the financial and environmental capacity of the

Town.

- L. The Project will not have an adverse effect on the current or future capability of the Town to provide services or on the capacity of the Town's service delivery systems.
- M. The Project will not create an undue tax burden on existing or future residents of the Town.
- N. The Project will not have an adverse effect on short- or long-term housing availability, location, condition, or cost.
- O. The Project will not degrade any sector of the Town economy.
- P. The Project will not degrade areas of paleontological, historic, or archaeological importance.
- Q. Traffic.
  - 1. Construction traffic will not cause an adverse impact on local traffic in the areas affected by the Project. During construction of the Project, the level of service for each affected road segment will not be reduced over pre-project conditions.
  - 2. The Project will be designed to minimize or mitigate impacts to physical infrastructure of the Town's transportation system; ensure public safety; and maintain quality of life for other users of the Town's transportation system, adjacent residents, and affected property owners.
- R. The owner will bear the cost of all road repairs and maintenance necessitated by construction of the Project.
  - 1. If the projected use of public roads by construction traffic will result in a need for increased roadway maintenance, the owner will enter into an agreement with the Town whereby the owner assumes responsibility for the repairs and additional road and bridge maintenance or reimburses the Town for repairs and maintenance.
  - 2. The owner will maintain financial assurance to secure the maintenance and repair obligations. The amount of such financial assurance will be determined by the Town.
- S. The Project will not have an adverse effect on land use patterns.
- T. The Project will not interfere with the use and enjoyment of property within

the area affected by the Project.

- U. Areas disturbed by construction of the Project will be revegetated and maintained in conformance with the approved *Vegetation and Weed Management Plan* and will not result in intrusion of noxious weeds or other invasive species.
- V. The Project will comply with all plans and reports required by the Town under these Regulations.

**21.06.020 - Additional standards for site selection and construction or extension of domestic water and sewage treatment systems.**

In addition to the standards in Section 21.06.010, the following standards apply to site selection and construction or extension of domestic water and sewage treatment systems:

- A. The Project will not degrade the health of the watershed(s) affected by the Project. The following criteria will be applied to determine whether this standard is satisfied:
  - 1. Surface water quality will be protected by ensuring that:
    - a. Affected streams will maintain streamflows necessary to support current domestic, agricultural, recreational, and ecological uses at levels identified in watershed and stream management plans.
    - b. Concentrations of pollutants will not increase over baseline conditions.
    - c. Changes in total suspended solid concentrations will not cause adverse impacts to aquatic life or water clarity.
    - d. Banks will not be eroded from changes in flows.
    - e. Changes to channelization will be minimized, unless implemented to improve aquatic habitat and water quality conditions.
    - f. Flows in affected streams will mimic the natural hydrograph to the extent possible in average, dry, and wet years.
  - 2. Groundwater quantity and quality will be protected by ensuring that:
    - a. Aquifer recharge rates, groundwater levels, and aquifer

- capacity will not be degraded.
- b. Capacity, function, and quality of wells affected by the Project will not be reduced.
3. Floodplains, wetlands, and riparian areas will be protected by ensuring that:
    - a. Naturally-mediated energy transfer in the channel and floodplain will not be adversely affected.
    - b. Structure, function, and aerial extent of wetlands and the floodplain will be protected.
    - c. Filtering and pollutant uptake capacities of wetlands and riparian areas will be not be adversely affected.
    - d. Species' composition and diversity will be maintained.
    - e. Replacement of wetland species with upland species will be avoided.
    - f. Wetlands mitigation required by the Corps of Engineers for the Project will be in the same watershed where the Project is located.
    - g. Construction of the Project will not disturb wetlands or fens.
    - h. Fens will not be disturbed.
  4. Aquatic life and aquatic habitat will be protected.
  5. Urban development and increases in population densities associated with the Project will not contribute to pollution of the aquifer recharge areas.
  6. The watercourse within the site of the Project will be kept reasonably free of trash, debris, excessive vegetation, and other obstacles that pollute, contaminate, or significantly retard the flow of water through the watercourse. Structures legally located in or adjacent to the watercourse will be maintained so that the structure will not become a hazard to the use, function, or physical integrity of the watercourse.
  7. The Project will be managed to control erosion and sedimentation and storm runoff in compliance with the approved *Grading, Erosion*

*and Sediment Control Plan* or an approved state or federal requirement that addresses grading, storm runoff, erosion and sediment control.

8. The Project will be constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems of adjacent communities.
9. The Project will not result in unnecessary duplication of water or sewage treatment services. The following criteria will be applied to determining whether this standard is satisfied:
  - a. No existing water or sewage treatment system has the legal ability or capacity to serve the area to be served by the Project.
  - b. Age of existing water systems, operational efficiency, state of repair, or level of treatment is such that replacement is warranted.
  - c. Existing facilities cannot be upgraded or expanded to meet the requirements of the Colorado Department of Public Health and the Environment.
- B. The Project will not have an adverse effect on the components that comprise the Town's waterworks.
- C. The Project will reflect principles of resource conservation and energy efficiency. The Project will emphasize the most efficient use of waste, including the recycling and reuse of water.
- D. The Project will comply with all the plans required in Section 21.05.020.

**21.06.030 - Additional standards for site selection of arterial highways and interchanges and collector highways.**

In addition to the standards in Section 21.06.010, the following standards apply to arterial highways, interchanges, and collector highways:

- A. Highways and interchanges will be located so that:
  1. The Project will meet community and through-travel traffic needs.
  2. The Project will not create unreasonable safety hazards by causing or contributing to overuse, improper use, or congestion on other

roadways. The Project will facilitate the smooth flow of traffic on other highways.

3. The Project will not divide or isolate neighborhoods from public facilities including schools, hospitals, mass transit, pedestrian and bikeways, recreational areas, and open spaces and from commercial services such as employment centers.
  4. The Project will avoid relocation of households. Where relocation of households cannot be avoided because of technical constraints, adequate housing inventory must exist to accommodate displaced households.
  5. The Project will avoid relocation of businesses. Where relocation of businesses cannot be avoided because of technical constraints, adequate sites must exist within the same market area to relocate businesses.
- B. Bicycle, mass transit, and pedestrian modes of transportation will be incorporated into the Project.
  - C. Park and Ride facilities will be located in areas designated by the Town.
  - D. The Project will incorporate materials and design that complement features of the surrounding human and natural environment. Screening and landscaping will provide buffers from adjacent uses.
  - E. The Project will minimize traffic noise. Noise levels caused by the Project will not exceed 55 decibels as measured by a 24-hour Equivalent Sound Level metric at any residence, school, church, or other noise-sensitive location, unless the Town determines that meeting such sound level is infeasible, that all feasible avoidance or mitigation measures have been incorporated, and the public benefit of the proposed highways or interchange necessitates the proposal.
  - F. Access to and from the highway will comply with applicable highway access laws and regulations, intergovernmental agreements, and access control plans.

**21.06.040 - Additional standards for development in areas around interchanges involving arterial highways.**

In addition to the standards in Section 21.06.010, the following standards apply to development in areas around interchanges involving arterial highways:

- A. The Project will be developed in a manner that will discourage traffic

congestion and incompatible uses.

- B. The volume of traffic to be generated by the Project will be compatible with the traffic-handling characteristics of the interchange, the access road, and the existing public roadways affected by the Project.
- C. The Project will encourage the smooth flow of motorized and nonmotorized traffic and will foster development of the area in a manner calculated to preserve the smooth flow of traffic.

## **Chapter 21.07 - Technical Revisions and Permit Amendments, and Transfer of Permit**

### **21.07.010 - Technical revisions and permit amendments.**

Any change in the construction or operation of the Project from that approved by the Town will require either a Technical Revision or a Permit Amendment.

- A. To request a Technical Revision, the applicant shall submit the following information and materials to the Director:
  - 1. A copy of the current Permit;
  - 2. As-built drawings of the Project;
  - 3. A written description of the proposed changes to the Project together with construction drawings and plans where construction is contemplated; and
  - 4. Proposed mitigation and best management practices.
- B. The Director will make the determination whether a change is a Technical Revision or a Permit Amendment within thirty (30) days following receipt of the request and required submittals. Within five (5) days of the Director's determination, the Director will notify the applicant and the Town Council, in writing, of the determination.
  - 1. A proposed change to a Project will be considered a Technical Revision if the Director determines that there will be no increase in the size of the area affected by the Project or the intensity of impacts of the Project. The Director may determine that even though the proposed changes will increase the size of the area affected or the intensity of the impacts, the impact is insignificant so as to warrant a Technical Revision. A change to a condition of approval will not be treated as a Technical Revision.

2. Changes other than Technical Revisions require a Permit Amendment which is processed like an application for a Permit under these Regulations.

#### **21.07.020 - Transfer of permit.**

A Permit may be transferred only with the written consent of the Town Council. The Council will approve the transfer if the proposed transferee can ensure to the Council's satisfaction that it can and will comply with all the requirements, terms, and conditions contained in the Permit and these Regulations; that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public; and that an adequate guarantee of financial security can be made.

### **Chapter 21.08 - Financial Guarantee**

#### **21.08.010 - Guarantee of financial security required.**

Before a Permit is issued, the Director will require the applicant to file a guarantee of financial security, payable to the Town in an amount determined by the Director to be adequate to ensure the following:

- A. Faithful performance of the requirements of the Permit and these Regulations.
- B. Project is completed and the affected area is properly reclaimed.
- C. Permittee performs all mitigation requirements and Permit conditions.
- D. Increases in public facilities and services necessitated by the Project are borne by the permittee.

#### **21.08.020 - Amount of guarantee.**

- A. In determining the amount of the financial guarantee, the Director shall consider:
  1. Estimated cost of completing the Project and of returning the area affected by the Project to its original condition or to a condition acceptable to the Town.
  2. Estimated cost of performing all mitigation requirements and Permit conditions.
- B. The Director may review the financial guarantee for adequacy at any time. If the Director determines that the financial guarantee is insufficient to



perform the purpose of the guarantee, the Director shall provide the permittee with written notice to increase the financial guarantee.

1. The permittee shall post the additional guarantee within sixty (60) days from the date of the written notice. If the amount of increased financial guarantee has not been provided within sixty (60) days from the date of the written notice, the Director may schedule a hearing before the Town Council for possible revocation of the Permit pursuant to Section 21.09.040 of these Regulations.
2. If the permittee disagrees with the notice to increase the financial guarantee, the Director shall schedule a hearing on the matter by the Town Council.

#### **21.08.030 - Form of guarantee.**

The guarantee shall be in a form or combination of forms acceptable to the Town.

#### **21.08.040 - Release of guarantee.**

The financial guarantee shall be released within seven (7) business days after the request is received, based on one of the following conditions:

- A. The Project has been satisfactorily completed.
- B. The Permit has been surrendered to the Town before commencement of any physical activity in the area affected by the Project.
- C. The Project has been abandoned and the area affected by the Project has been returned to its original condition or to a condition acceptable to the Town.
- D. A phase or phases of the Project have been satisfactorily completed allowing for partial release of the financial guarantee consistent with Project phasing and as determined appropriate by the Town Council.
- E. The applicable guaranteed conditions have been satisfied.

#### **21.08.050 - Forfeiture of guarantee.**

- A. If the Town Council determines that a financial guarantee should be forfeited because of any violation of the Permit or these Regulations, the Council shall provide written notice to the surety and the permittee that the financial guarantee will be forfeited unless the permittee requests a hearing by the Council within thirty (30) days after permittee's receipt of notice. If a request for hearing is not made by the permittee the Council

shall order the financial guarantee forfeited.

- B. The Council shall hold a hearing within thirty (30) days after the receipt of the request for hearing by the permittee. At the hearing, the permittee may present statements, documents, and other information for the Council's consideration with respect to the alleged violation. At the conclusion of the hearing the Council shall either withdraw the notice of violation or enter an order forfeiting the financial guarantee.
- C. If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, the Town Attorney shall take such steps as deemed proper to recover such costs where recovery is deemed possible, including costs and attorney fees.

#### **21.08.060 - Substitute guarantee.**

If the business license of the surety upon a security filed pursuant to this section is suspended or revoked, within sixty (60) days after receiving notice thereof the permittee shall substitute a good and sufficient surety licensed to do business in Colorado. If the permittee fails to make substitution in accordance with this section, the Town Council shall suspend the Permit until proper substitution has been made.

### **Chapter 21.09 - Enforcement**

#### **21.09.010 - General.**

- A. The provisions of these Regulations shall be enforced by the Town Council or its authorized representatives through its authority to abate any violations and enjoin, restrain, and prosecute any person violating these Regulations pursuant to Colorado law.
- B. Any person conducting development in a designated area of state interest or conducting a designated activity of state interest who does not obtain a Permit pursuant to these Regulations, who does not comply with Permit requirements, or who acts outside the jurisdiction of the Permit shall be in violation of these Regulations.
- C. Any person violating these Regulations may be enjoined by the Town from conducting such activities and may be subject to such other criminal or civil liability as may be prescribed by law, including.

#### **21.09.020 - Inspection.**

A representative of the Town may enter and inspect any property subject to these Regulations at reasonable hours for the purpose of determining compliance with these Regulations.

### **21.09.030 - Correction of violations.**

- A. Procedure for notification and correction of violations.
  - 1. If the Director identifies development or an activity in violation of these Regulations, the Director shall provide written notice of violation to the violating party by certified mail, return receipt requested. The notice shall state the nature of the violation and set a reasonable period of time to abate the violation.
  - 2. If the violation is not abated, or a hearing is requested by the violating party, the Director shall schedule a public hearing by the Town Council.
  - 3. Following the public hearing, the Town Council shall order abatement of the violation if the evidence in the record substantiates that a violation of these Regulations does exist and there is sufficient cause to issue the abatement order.
    - a. The decision by the Town Council shall include a description of the violation, the Council's findings and basis for decision, and the deadline for abatement of the violation.
    - b. The taped record of oral proceedings, the minutes of the hearing, exhibits, and the decision of the Town Council shall constitute the record.
- B. If the violation is not abated pursuant to the Town Council's order within the prescribed period, the Town Attorney shall cause the violation to be abated by Town employees or by private contract, or by any other means provided by Colorado law. The costs of abating the violation shall be the responsibility of the violating party. If the violating party fails to pay, the costs shall become a lien against the land.
- C. The Town's right to abate a violation of these Regulations shall be cumulative to any other remedy provided by law.

### **21.09.040 - Revocation or suspension of permit.**

- A. A Permit shall be revoked or suspended if the Town Council finds that:
  - 1. The Permit was issued on the basis of erroneous or misleading information or misrepresentation; or
  - 2. The development or conduct of the activity violates terms or

conditions of the Permit.

- B. If the Director determines there are reasonable grounds for the revocation or suspension of a Permit based on the findings set forth in Section 21.09.040.A, the Director shall set a hearing before the Town Council.
1. Not less than fifteen (15) calendar days prior to the hearing, the Director shall give the permittee written notice of the hearing by certified mail, return receipt requested. The notice shall state the grounds for revocation or suspension of the Permit and include the date, time, and location of the hearing.
  2. The Town Council shall consider revocation or suspension of a Permit at a public hearing. The decision of the Council to revoke or suspend a Permit shall be based on the findings set forth in Section 21.09.040.A, above.
    - a. The Director shall provide the permittee with written notice of the Town Council's decision by certified mail, return receipt requested, not later than thirty (30) days following the Council's decision.
    - b. The hearing record shall include
      - (1) Transcript, audiotape, or videotape record of the hearing.
      - (2) The minutes of the Clerk, all applications, exhibits, and papers submitted in the Permit application and approval process and the decision of the Town Council.
      - (3) A copy of the hearing record may be acquired through the Planning Director upon reasonable notice and payment of a fee to cover the costs of duplication of the record.
- C. The Town Council's right to revoke or suspend a Permit shall be cumulative to any other remedy provided by law.