

## CHAPTER 4

### Community Development

#### Article XII Guidelines and Regulations for Matters of State Interest

<i>Division 1</i>	<i>General Provisions</i>
Sec. 4-12-1	Title and citation
Sec. 4-12-2	Purpose and findings
Sec. 4-12-3	Authority
Sec. 4-12-4	Applicability
Sec. 4-12-5	Relationship to other requirements
Sec. 4-12-6	Duties of Town Council
Sec. 4-12-7	Permit Authority established
Sec. 4-12-8	Severability
Sec. 4-12-9	Definitions
<i>Division 2</i>	<i>Designation of Matters of State Interest</i>
Sec. 4-12-11	Designation of municipal and industrial water projects
Sec. 4-12-12	Boundaries of area covered by designation
Sec. 4-12-13	Reasons for designation
Sec. 4-12-14	Designation of site selection and construction of major new domestic water treatment systems and major extensions of such systems
Sec. 4-12-15	Boundaries of area covered by designation
Sec. 4-12-16	Reasons for designation
Sec. 4-12-17	Public hearing required
Sec. 4-12-18	Notice of public hearing
Sec. 4-12-19	Matters to be considered at designation hearing
Sec. 4-12-20	Record of designation hearing
Sec. 4-12-21	Adoption of designation and regulations
Sec. 4-12-22	Recording the notice of designation
Sec. 4-12-23	Effect of designation – moratorium until final determination
Sec. 4-12-24	Exemptions
<i>Division 3</i>	<i>Application and Review Procedures</i>
Sec. 4-12-31	Permits required after designation
Sec. 4-12-32	Preapplication procedure
Sec. 4-12-33	Application fee
Sec. 4-12-34	Permit application procedure
Sec. 4-12-35	Application submittal requirements
Sec. 4-12-36	Additional submittal requirements applicable to municipal and industrial water projects
Sec. 4-12-37	Additional submittal requirements applicable to major new domestic water treatment systems and major extensions of such systems
Sec. 4-12-38	Waiver of submission requirements
Sec. 4-12-39	Conduct of permit hearing
Sec. 4-12-40	Action on permit application
Sec. 4-12-41	Issuance of the permit
Sec. 4-12-42	Permit amendment
Sec. 4-12-43	Combined designation and permit hearing
<i>Division 4</i>	<i>Approval Criteria</i>
Sec. 4-12-51	Permit application approval criteria
Sec. 4-12-52	Additional criteria applicable to municipal and industrial water projects

Sec. 4-12-53	Additional criteria applicable to major new domestic water treatment systems and major extensions of such systems
Sec. 4-12-54	Financial guarantee
Sec. 4-12-55	Estimate and form of guarantee
Sec. 4-12-56	Release of guarantee; forfeiture
Sec. 4-12-57	Substitute guarantee
<i>Division 5</i>	<i>Permit Administration and Enforcement</i>
Sec. 4-12-71	Enforcement and penalties
Sec. 4-12-72	Permit suspension or revocation
Sec. 4-12-73	Annual review
Sec. 4-12-74	Transfer of permit
Sec. 4-12-75	Inspection
Sec. 4-12-76	Judicial review
<i>Division 6</i>	<i>Exhibits</i>
Exhibit A	Designation of Activities of State Interest
Exhibit B	Form of Application for a Permit to Conduct a Designated Activity of State Interest
Exhibit C	Form of Permit Issued to Conduct a Designated Activity of State Interest

## ARTICLE XII

### Guidelines and Regulations for Matters of State Interest

#### *Division 1 General Provisions*

##### **Sec. 4-12-1. Title and citation.**

These Regulations are entitled and may be cited as the *Town of Silverthorne Guidelines and Regulations for Matters of State Interest*, and are referred to herein as "these Regulations." (Ord. 2005-8 §1)

##### **Sec. 4-12-2. Purpose and findings.**

(a) The general purpose of these Regulations is to facilitate the identification, designation and administration of matters of state interest consistent with the statutory requirements and criteria set forth in Section 24-65.1-101 et seq., C.R.S.

(b) The specific purposes of these Regulations are:

(1) To promote the health, safety and general welfare of the citizens and to protect the environment of the Town.

(2) To protect the beauty of the landscape and natural scenic characteristics, to preserve and protect important archeological and historic sites, to protect and enhance wildlife habitat, air and water quality and to conserve natural resources.

(3) To ensure that new development will pay for itself to the maximum extent practicable, and to ensure that present residents of the Town will not have to subsidize new development through increased cost of public services and/or degradation of the quality of life.

(4) To plan for and regulate the site selection, construction, expansion and operation of matters of state interest to facilitate the planned and orderly use of land as recommended by the Town Comprehensive Plan.

(5) To regulate the use of land on the basis of the financial and environmental impact thereof on the community or surrounding areas within the development area and the source development area.

(c) The Town Council finds that:

(1) The notice and public hearing requirements of Section 24-65.1-404, C.R.S., have been followed.

(2) These Regulations are necessary because of the intensity of current and foreseeable development pressures on and within the Town. (Ord. 2005-8 §1)

**Sec. 4-12-3. Authority.**

These Regulations are authorized by, inter alia, Sections 24-65.1-101 et seq.; Sections 30-28-101 et seq.; Sections 30-28-201 et seq.; Sections 29-20-101 et seq. and Sections 24-32-111, C.R.S. (Ord. 2005-8 §1)

**Sec. 4-12-4. Applicability.**

These Regulations shall apply to the designation and regulation of any area or activity of state interest wholly or partially within the municipal boundaries of the Town, whether on public or private land. (Ord. 2005-8 §1)

**Sec. 4-12-5. Relationship to other requirements.**

(a) Whenever the provisions of these Regulations are found to be inconsistent with any other resolution, ordinance, code, regulation, other enactment or plan of the Town, the enactment imposing the more restrictive standards or requirements shall control.

(b) If these Regulations are found to be more stringent than the statutory criteria for administration of matters of state interest set forth in Sections 24-65.1-202 and 24-94.1-204, C.R.S., these Regulations shall control pursuant to the authority of Section 24-65.1-402(3), C.R.S.

(c) No federal, state, or local approval to carry out a development or activity shall preempt or otherwise obviate the need to comply with these Regulations.

(d) These Regulations are intended to be applied in addition to, and not in lieu of, all other regulations of the Town, including, without limitation, the Town zoning and subdivision regulations.

(e) Permit requirements included in these Regulations shall be in addition to all applicable state and federal water quality laws, rules and regulations, including but not limited to the following:

- (1) Section 28-8-702, C.R.S., sewage treatment plant site approval;
- (2) Section 25-8-501, C.R.S., point source pollutant discharge permit;
- (3) Section 208 (33 U.S.C. § 1288), area-wide wastewater treatment management planning;
- (4) Section 303 (33 U.S.C. § 1313), river basin water quality management planning;
- (5) Disposal of sewage sludge (33 U.S.C. § 1345);
- (6) Section 32-1-201, C.R.S., Special District Control Act;
- (7) 16 U.S.C. § 661-666(c) (1970), the Fish and Wildlife Coordination Act;
- (8) Section 102(c) 42 U.S.C. § 4321 et seq., the National Environmental Policy Act; and
- (9) Section 404 of the Federal Clean Water Act. (Ord. 2005-8 §1)

**Sec. 4-12-6. Duties of Town Council.**

Unless otherwise specifically provided, it shall be the duty of the Town Council to perform all functions set forth in these Regulations. (Ord. 2005-8 §1)

**Sec. 4-12-7. Permit Authority established.**

(a) The Town Council shall serve as the Permit Authority.

(b) The Permit Authority shall exercise all powers and duties granted it by these Regulations. (Ord. 2005-8 §1)

**Sec. 4-12-8. 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 are hereby declared to be necessary for the public health, safety and welfare. (Ord. 2005-8 §1)

**Sec. 4-12-9. Definitions.**

The words and terms used in these Regulations shall have the meanings set forth below unless the context requires otherwise:

*Adverse* means unfavorable, harmful, negative.

*Affected party* means any person with an interest in the outcome of the permit decision for the project.

*Aquifer recharge area* means any area where surface waters may infiltrate to a water-bearing structure of permeated rock, sand or gravel. This definition also includes wells used for disposal of wastewater or other toxic pollutants.

*Collector or collection system* means a network of pipes and conduits through which sewage flows to a sewage treatment plant.

*Council* means the Town Council of the Town of Silverthorne, Colorado. (See also *Permit Authority*).

*Department* means the Department of Community Development of the Town or its designee.

*Designation* means that legal procedure specified by Section 24-65.1-101 et seq., C.R.S., and the revocation or amendment of such designation as carried out by the Town Council.

*Development* means any construction, activity or change in activity which changes the basic character or the use of the land on which the construction activity or change occurs.

*Distribution system* means a network of storage facilities, tanks, pipes and conduits through which water is piped and stored or through which water is piped for exchange or trade.

*Domestic water and sewage treatment system* means a wastewater treatment plant, water treatment plant, water supply system and any system of pipes, structures and facilities through which water and wastewater are collected for treatment.

a. *Wastewater treatment plant* means the facility or group of units, including the collection system, used for treatment of wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes.

b. *Water supply system* means the system of pipes, structures, distribution systems and facilities through which a water supply is obtained, collected, stored, treated and sold or distributed, or the system of pipes as well as structures and facilities through which a water supply is obtained.

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

*Efficient utilization of water* means the employment of methods and procedures to encourage use of water that will yield the greatest possible benefits, including environmental, aesthetic, ecological, domestic, agricultural, industrial and recreational benefits.

*Impact* means any alteration or change to the natural or human environment resulting directly or indirectly from development.

*Impact areas* means those geographic areas in which impacts are likely to be caused by the project. *Impact areas* may include areas within the boundaries of another political subdivision if the Town has entered into an intergovernmental agreement providing for cooperative regulation of impacts that may occur within the boundaries of both the Town and the other political subdivision.

*Industrial uses* means manufacturing; mineral processing, exploration or extraction; snowmaking; commercial recreational services and operations; and other uses that are neither municipal, domestic nor nonagricultural.

*Layman's description* means a general, nonlegal description and the popular name, if any, of the tract of land upon which the activity or development is to be conducted. The term *general description* means *layman's description*.

*Legal description* means any description from which it is possible to locate accurately on the ground the boundaries of the land being described.

*Major extension of existing domestic water treatment system* means: (1) the expansion of existing domestic water treatment capacity or storage; or (2) any extension of existing water supply systems to service an additional development density of one hundred (100) or more residential dwelling units (SFE) or the equivalent thereof in other uses.

*Major new domestic water system* means a new water supply system or water treatment plant if such system or plant is designed to serve a total of one hundred (100) or more residential dwelling units (SFE) or the equivalent thereof.

*Material change* means any change in a project as approved by the Permit Authority which significantly changes the nature of impacts considered by the Permit Authority in approval of the original permit as determined by the Permit Authority.

*Matter of state interest* means an area of state interest, an activity of state interest or both.

*Mitigation* means avoiding an impact by limiting the degree or magnitude of the action or its implementation; rectifying the impact by repairing, rehabilitating or restoring the impact area, facility or service; or compensation for the impact by replacing or providing for the replacement of biological or physical conditions, services or facilities.

*Municipal and industrial water project* means a system and all integrated components thereof through which a municipality and/or industry derives its water supply from either surface or subsurface sources (exclusive of such systems capable of serving fewer than one hundred [100] residential dwelling units [SFE], as defined by this Code), on a year-round, continuous basis with municipal water, or the equivalent amount of water for industrial or commercial purposes. This includes a system and all integrated components thereof through which a municipality or industry derives water exchanged or traded for the water it uses for its own needs.

*Permit Authority* means the Town Council.

*Person* means any individual, partnership, corporation, limited liability company, association, company or other public or corporate body, including the federal government, and any political subdivision, agency, instrumentality or corporation of the State or the United States government.

*Project* means the proposed development for which a permit is sought under these Regulations.

*Regulations* means these guidelines and regulations for matters of state interest, as the terms are used in Sections 24-85.1-101 et seq., C.R.S.

*SFE* means one (1) single-family dwelling unit, or the equivalent thereof, which is defined by the in-house use of an average of three hundred (300) gallons of water per day.

*Significant* means deserving to be considered; important; notable and not trifling.

*Town* means the Town of Silverthorne, Colorado. (Ord. 2005-8 §1)

## *Division 2*

### *Designation of Matters of State Interest*

#### **Sec. 4-12-11. Designation of municipal and industrial water projects.**

Having considered the intensity of current and foreseeable development pressures, it is the order of the Town Council that efficient utilization of municipal and industrial water projects be designated a matter of state interest and regulated pursuant to the provisions of these Regulations. The notice and order of designation is set forth in Division 6, Exhibit A of this Article. (Ord. 2005-8 §1)

**Sec. 4-12-12. Boundaries of area covered by designation.**

Development of municipal and industrial water projects wholly or partially within the municipal boundaries of the Town shall be subject to this designation and these Regulations. (Ord. 2005-8 §1)

**Sec. 4-12-13. Reasons for designation.**

Development of municipal and industrial water projects is hereby designated as a matter of state interest for the reasons stated in Section 4-12-2 of this Article. (Ord. 2005-8 §1)

**Sec. 4-12-14. Designation of site selection and construction of major new domestic water treatment systems and major extensions of such systems.**

After having considered the intensity of current and foreseeable development pressures, it is the order of the Town Council that site selection and construction of major new domestic water treatment systems and major extensions of such systems be designated a matter of state interest and regulated pursuant to the provisions of this Article. The notice and order of designation is set forth in Division 6, Exhibit A of this Article. (Ord. 2005-8 §1)

**Sec. 4-12-15. Boundaries of area covered by designation.**

The site selection and construction of any major new domestic water treatment systems and major extensions of such systems wholly or partially within the municipal boundaries of the Town shall be subject to this designation and these Regulations. (Ord. 2005-8 §1)

**Sec. 4-12-16. Reasons for designation.**

Site selection and construction of major new domestic water treatment systems and major extensions of such systems is hereby designated as a matter of state interest for the reasons stated in Section 4-12-2 of this Article. (Ord. 2005-8 §1)

**Sec. 4-12-17. Public hearing required.**

The Town Council shall hold a public hearing before designating and adopting regulations for any matter of state interest or amending or repealing said designation or regulations. (Ord. 2005-8 §1)

**Sec. 4-12-18. Notice of public hearing.**

- (a) The Town Council shall prepare a notice of the designation hearing, which shall include:
  - (1) The time and place of the hearing.
  - (2) The place at which materials relating to the matter to be designated and any guidelines and regulations for the administration thereof may be examined.
  - (3) The telephone number or e-mail address where inquiries may be answered.
  - (4) A description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to the property to be included in the designation or the type of activity to be designated.

(b) The Town Council shall maintain a mailing list of those persons requesting that they be placed on the list and paying to the Town Clerk an annual fee of twenty-five dollars (\$25.00) to cover the costs of production, handling and mailing of notices of all hearings pursuant to Sections 24-65.1-404(2)(b) and Section 24-65.1-501(2)(c), C.R.S. In order to have a name and address retained on the list, the persons shall resubmit their name and address and pay said annual fee before January 31 of each year.

(c) At least thirty (30) days but no more than sixty (60) days before the public hearing, the Town shall publish the notice in a newspaper of general circulation in the Town and shall mail the notice by first class mail to each of the following:

(1) State and federal agencies, as deemed appropriate in the discretion of the Town Council;

(2) Persons on the mailing list (subsequent to the initial adoption of guidelines and regulations);

(3) In the discretion of the Town Council, members of the news media and any other person considered likely to be affected by the proposed designation; and

(4) If any other local governmental jurisdiction would be directly or indirectly affected, the proposed designation similarly may be mailed to such government in the sole discretion of the Town Council. (Ord. 2005-8 §1)

**Sec. 4-12-19. Matters to be considered at designation hearing.**

At the public hearing, the Town Council shall receive into the public record:

(1) All testimony and evidence from all persons or organizations desiring to appear and be heard, including Town staff; and

(2) Any documents that may be offered. (Ord. 2005-8 §1)

**Sec. 4-12-20. Record of designation hearing.**

(a) The Town Council shall collect and preserve the following record of the public hearing, at a minimum:

(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) Evidence of the identification of the matter of state interest proposed to be designated.

(b) Any person may, at his or her own expense, provide for the recording and transcription of the hearing, and a copy of the recording and transcript shall be furnished free of charge to the Town Council and shall become part of the record. (Ord. 2005-8 §1)

**Sec. 4-12-21. Adoption of designation and regulations.**

(a) Within thirty (30) days after completion of the designation hearing, the Town Council may adopt, adopt with modification or reject the proposed designation. Whether or not the designation and/or regulation under Section 24-65.1-101 et seq., C.R.S., is rejected, the Town Council may at its discretion regulate the matter under any other available land use control authority.

(b) In making such designation, the Town Council shall take into consideration:

- (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 matters and considerations set forth in any applicable guidelines or model regulations issued by the Colorado Land Use Commission and other state agencies; and
- (4) Reasons why the particular matter 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) In the event the Town Council finally determines that any matter is a matter of state interest, it shall be the Council's duty, acting by ordinance, to designate such matter and adopt regulations for the administration thereof.

(d) Each designation order adopted by the Town Council shall:

- (1) Specify the boundaries of the designated area or the boundary of the area in which an activity of state interest has been designated;
- (2) State 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;
- (3) Specify the regulations applicable to the designated matter of state interest. (Ord. 2005-8 §1)

**Sec. 4-12-22. Recording the notice of designation.**

A notice of the designation shall be certified by the Town Council to the County Clerk and Recorder for filing in the same manner as documents affecting real property. (Ord. 2005-8 §1)

**Sec. 4-12-23. Effect of designation – 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 regulations for such area or activity are finally determined as required by Section 24-65.1-404(4), C.R.S. (Ord. 2005-8 §1)

**Sec. 4-12-24. Exemptions.**

The portions of these Regulations authorized exclusively under Section 24-65.1-101 et seq., C.R.S., shall not apply to any development in an area of state interest or any activity of state interest which meets any one (1) of the following conditions:

(1) As of May 17, 1974:

a. The development or activity was covered by a current building permit issued by the Town;

b. The development or activity was approved by the electorate of the State or the Town; provided that approval by the electorate of any bond issue by itself shall not be construed as approval of the specific development or activity; or

c. The development or activity is to be on land: (1) that has been conditionally or finally approved by the Town for planned unit development or for use substantially the same as planned unit development; (2) that has been zoned by the appropriate local government for the use contemplated by such development or activity; or (3) for which a development plan has been conditionally or finally approved by the appropriate governmental authority.

(2) Exempt projects: A project is exempt from these Regulations if it falls into one (1) of the following categories:

a. The day-to-day operations of an existing project, or a minor change in the operation of an existing project, including retrofitting or upgrading technology, so long as the change in operation does not constitute a material change and does not cause negative impacts different from those of the existing project or otherwise exacerbate existing impacts.

b. The maintenance, repair or replacement of an existing component of a project, if it does not constitute a material change and does not cause negative impacts different from those of the existing project or otherwise exacerbate existing impacts.

c. Activities of the Town and/or the Dillon/Silverthorne Joint Sewer Authority.

d. Town-approved residential developments. (Ord. 2005-8 §1)

*Division 3  
Application and Review Procedures*

**Sec. 4-12-31. Permits required after designation.**

(a) Any person desiring to conduct a designated activity of state interest must apply for and obtain a permit from the Permit Authority, in the form attached as Division 6, Exhibit B of this Article. In the event a development or activity is proposed as an integral part of another land use proposal, it shall be the responsibility of the service provider and/or developer to comply with the requirements of these Regulations.

(b) When an applicant seeks a permit to conduct more than one (1) activity of state interest, a single application may be completed for all such activities or developments and may be reviewed simultaneously. (Ord. 2005-8 §1)

**Sec. 4-12-32. Preapplication procedure.**

(a) Before submitting an application for a permit under these Regulations, the applicant shall meet with the Department.

(b) At or before the preapplication meeting, the applicant shall provide the Department with a written summary of the project, including:

- (1) The applicant's name, address and phone number.
- (2) A map prepared at an easily readable scale showing:
  - a. Boundary of the proposed activity.
  - b. Relationship of the proposed activity to surrounding topographic and cultural features such as roads, streams and existing structures.
  - c. Proposed buildings, improvements and infrastructure.
- (3) Information that is sufficient for determining the nature of the project and the degree of impacts associated with the project. (Ord. 2005-8 §1)

**Sec. 4-12-33. Application fee.**

The permit application shall be accompanied by an application fee in an amount necessary to cover costs of reviewing and processing the application, including costs of copying, mailings, publications, labor, overhead and retention of consultants, experts and attorneys that the Town deems necessary to advise it on the application package. The applicant shall present to the Permit Authority nonrefundable certified funds in the amount set in Appendix A to this Code. Until the fee is paid, the application for the permit shall not be further processed. The amount of the fee may be increased at any time if it is determined by the Department that the fee is not sufficient to cover all costs associated with the application. (Ord. 2005-8 §1)

**Sec. 4-12-34. Permit application procedure.**

(a) Following the preapplication meeting, the applicant shall submit application materials to the Department. The application submittal requirements are described in Sections 4-12-35, 4-12-36 and 4-12-37 of this Code.

(b) An application will not be considered unless it is complete. If the Department determines that the application is incomplete, the Department shall specify in writing the additional information that is required. An application is not complete unless the fee requirements of Section 4-12-33 above have been met. The Department shall note on the application the date the application is determined to be complete.

(c) The Department shall determine the number of copies of the application required and the applicant shall provide such copies prior to the permit being formally scheduled for hearing.

(d) The Department may send a copy to any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the project.

(e) Not later than thirty (30) days after receipt of a complete application for a permit, the Permit Authority shall set and publish a notice of the date, time and place for the Permit Authority hearing on the application. Such notice shall be published once in the Town legal newspaper, not less than thirty (30) days or more than sixty (60) days before the date set for the hearing. (Ord. 2005-8 §1)

**Sec. 4-12-35. Application submittal requirements.**

(a) Information describing the applicant:

(1) The name and address, including email address and fax number, organizational form and business of the applicant and, if different, the owner of the project.

(2) Authorization of the application package by the project owner, if different than the applicant.

(3) 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.

(b) Information describing the project:

(1) Plans and specifications of the project in sufficient detail to evaluate the application against the approval criteria in Sections 4-12-51, 4-12-52 and 4-12-53 of this Article.

(2) Descriptions of alternatives to the project considered by the applicant.

(3) Schedules for designing, permitting, constructing and operating the project, including the estimated life of the project.

(4) The need for the project, including a discussion of alternatives to the project that were considered and rejected; existing/ proposed facilities that perform the same or related function; and population projections or growth trends that form the basis of demand projections justifying the project.

(5) Description of all conservation techniques to be used in the construction and operation of the project.

(6) List of adjacent property owners and their mailing addresses.

(c) Property rights, other permits and approvals:

(1) A list of all other federal, state and local permits and approvals that will be required for the project, together with any proposal for coordinating these approvals with the Town permitting process, including copies of any permits or approvals that have been granted for the project.

(2) Copies of all official federal and state consultation correspondence prepared for the project; a description of all mitigation required by federal, state and local authorities; and copies of any draft or final environmental assessments or impact statements required for the project.

(3) Description of the water to be used by the project and its alternatives, including: the source, amount and quality of such 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; and the existing uses of the water. If an augmentation plan for the project has been decreed or an application for such plan has been filed in court, the applicant must submit a copy of that plan.

(4) Description of property rights that are necessary for or that will be affected by the project.

(d) Description of the technical and financial feasibility of the project: the estimated construction costs and period of construction for each development component and the total mitigation costs for the project.

(e) Socioeconomic impacts: a comprehensive socioeconomic impact analysis that addresses the manner in which the applicant will comply with the relevant permit application approval criteria in Sections 4-12-51, 4-12-52 and 4-12-53 of this Code. The impact analysis shall be limited to the impact area and shall include the following information:

(1) Land use.

a. Description of existing land uses within and adjacent to the impact area.

b. Description of provisions from local land use plans that are applicable to the project and an assessment of whether the project will comply with those provisions.

c. Description of impacts and net effect that the project would have on land use patterns.

(2) Local government services.

a. Description of existing capacity of and demand for local government services, including but not limited to roads, schools, water and wastewater treatment, water supply, emergency services, transportation, infrastructure and other services necessary to accommodate development within the Town.

b. Description of the impacts and net effect of the project to the capability of local governments that are affected by the project to provide services.

(3) Housing.

a. Description of existing seasonal and permanent housing, including number, condition and cost of dwelling units.

b. Description of the impact and net effect of the project on housing during construction and operation stages of the project.

(4) Financial burden on Town residents.

a. Description of the existing tax burden and fee structure for government services, including but not limited to assessed valuation, mill levy, rates for water and wastewater treatment and costs of water supply.

b. Description of the impacts and net effect of the project on the local economy and opportunities for economic diversification.

(5) Recreational opportunities.

a. Description of present and potential recreational uses affected by the project, including but not limited to the number of recreational visitor days for different recreational uses and the revenue generated by types of recreational uses.

b. Map depicting the location of recreational uses, such as fishery stream segments, access points to recreational resources, hiking and biking trails and wilderness areas.

c. Description of the impacts and net effect of the project on present and potential recreational opportunities and revenues to the local economy derived from those uses.

(6) Areas of paleontological, historic or archaeological importance.

a. Map and/or description of all sites of paleontological, historic or archaeological interest.

b. Description of the impacts and net effect of the project on sites of paleontological, historic or archaeological interest.

(7) Nuisance: descriptions of noise, glare, dust, fumes, vibration and odor levels caused by the project.

(f) Environmental impacts: description of the existing natural environment and an analysis of the impacts of the project to the natural environment. Descriptions in this Section shall be limited to the impact area and shall include an analysis of existing conditions, supported with data, and a projection of the impacts of the project in comparison to existing conditions. The analysis shall include a description of how the applicant will comply with the applicable approval criteria in Sections 4-12-51, 4-12-52 and 4-12-53 of this Code.

(1) Air quality.

a. Description of the airsheds to be affected by the project, including the seasonal pattern of air circulation and microclimates.

b. Map and/or 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.

c. Descriptions of the impacts and net effect that the project would have on air quality during both construction and operation, and under both average and worst-case conditions.

(2) Visual quality.

- a. Map and/or description of groundcover and vegetation, forest canopies, waterfalls and streams or other natural features.
- b. Description of viewsheds, scenic vistas, unique landscapes or land formations.
- c. Map and/or description of buildings and structure design and materials to be used for the project.
- d. Descriptions of the impacts and net effect that the project would have on visual quality.

(3) Surface water quality.

- a. Map and/or description of all surface waters to be affected by the project, including: description of provisions of the applicable regional water quality management plan that applies to the project and assessment of whether the project would comply with those provisions.
- b. Existing data monitoring sources.
- c. Descriptions of the immediate and long-term impact and net effects that the project would have on the quantity and quality of surface water under both average and worst-case conditions.

(4) Groundwater quality.

- a. Map and/or description of all groundwater, including any aquifers. At a minimum, the description should include:
  - 1. Seasonal water levels in each subdivision of the aquifer affected by the project.
  - 2. Artesian pressure in aquifers.
  - 3. Groundwater flow directions and levels.
  - 4. Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.
  - 5. For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of aquifer to impound groundwater and aquifer storage capacity.
  - 6. Seepage losses expected at any subsurface dam and at stream-aquifer interfaces and methodology used to calculate seepage losses in the affected streams, including description and location of measuring devices.
  - 7. Existing groundwater quality and classification.
  - 8. Location of all water wells and their uses.
- b. Description of the impacts and net effect of the project on groundwater.

(5) Water quantity.

- a. Map and/or description of existing stream flows and reservoir levels.
- b. Map and/or description of existing Colorado Water Conservation Board held minimum stream flows.
- c. Descriptions of the impacts and net effect that the project would have on water quantity.
- d. Statement of methods for efficient utilization of water.

(6) Floodplains, wetlands and riparian areas.

- a. Map and/or description of all floodplains, wetlands and riparian areas to be affected by the project, including a description of the types of wetlands, species composition and biomass.
- b. Description of the source of water interacting with the surface systems to create each wetland (i.e., side-slope runoff, over-bank flooding, groundwater seepage, etc.).
- c. Description of the impacts and net effect that the project would have on the floodplains, wetlands and riparian areas.

(7) Terrestrial and aquatic animals and habitat

- a. Map and/or description of terrestrial and aquatic animals, including the status and relative importance of game and nongame wildlife, livestock and other animals; a description of stream flows and lake levels needed to protect the aquatic environment; and a description of threatened or endangered animal species and their habitat.
- b. Map and description of critical wildlife habitat and livestock range to be affected by the project, including migration routes, calving areas, summer and winter ranges and spawning beds.
- c. Description of the impacts and net effect that the project would have on terrestrial and aquatic animals, habitat and food chain.

(8) Terrestrial and aquatic plant life.

- a. Map and/or description of terrestrial and aquatic plant life, including the type and density, and threatened or endangered plant species and habitat.
- b. Descriptions of the impacts and net effect that the project would have on terrestrial and aquatic plant life.

(9) Soils, geologic conditions and natural hazards.

- a. Map and/or description of soils, geologic conditions and natural hazards, including but not limited to soil types, drainage areas, slopes, avalanche areas, debris fans, mud flows, rock slide areas, faults and fissures, seismic history and wildfire hazard areas.
- b. Descriptions of the risks to the project from natural hazards.

c. Descriptions of the impact and net effect of the project on soil and geologic conditions in the area.

(g) Hazardous materials.

(1) Description of all hazardous, toxic and explosive substances to be used, stored, transported, disturbed or produced in connection with 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) Location of storage areas designated for equipment, fuel, lubricants and chemical and waste storage with an explanation of spill containment structures.

(h) Monitoring and mitigation plan.

(1) Description of all mitigation that is proposed to avoid, minimize or compensate for adverse impacts of the project and to maximize positive impacts of the project.

a. Describe how and when mitigation will be implemented and financed.

b. Describe impacts that are unavoidable that cannot be mitigated.

(2) Description of methodology used to measure impacts of the project and effectiveness of proposed mitigation measures.

(3) Description, location and intervals of proposed monitoring to ensure that mitigation will be effective.

(i) Additional information may be necessary. Prior to the public hearing on the application, the Department may request that the applicant supply additional information related to the project if the Permit Authority will not be able to make a determination on one (1) of the approval criteria in Sections 4-12-51, 4-12-52 and 4-12-53 of this Code without the additional information. (Ord. 2005-8 §1)

**Sec. 4-12-36. Additional submittal requirements applicable to municipal and industrial water projects.**

(a) Description of efficient water use, recycling and reuse technology the project intends to use.

(b) Map and description of other municipal and industrial water projects in the vicinity of 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.

(c) Description of demands that this project expects to meet and basis for projections of that demand. (Ord. 2005-8 §1)

**Sec. 4-12-37. Additional submittal requirements applicable to major new domestic water treatment systems and major extensions of such systems.**

(a) Description of existing domestic water and wastewater treatment facilities in the vicinity of 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.

(b) Description of how the project will affect urban development, urban densities and site layout and design of stormwater and sanitation systems.

(c) Description of other water and wastewater management agencies in the project area and reasons for and against consolidation with those agencies.

(d) Description of how the project may affect adjacent communities and users on wells. (Ord. 2005-8 §1)

**Sec. 4-12-38. Waiver of submission requirements.**

(a) The Permit Authority may waive any part but not all of the submission requirements imposed by these Regulations upon petition of the applicant that full compliance with the submission requirements would be unreasonably burdensome and that the submission requirements so waived would not address or disclose a substantial impact on the Town or its residents. Where an applicant is applying for permits for two (2) different activities of state interest for a single project, submission requirements, where identical, may be combined. A waiver of submission requirements may be granted by the Permit Authority upon a written determination that the information to be submitted is sufficient for the Permit Authority to arrive at a permit decision in full compliance with the law and these Regulations.

(b) In the event the waiver request is denied, the applicant shall provide the required additional information on or before ten (10) days prior to the date set for hearing of the application itself. If the applicant fails to provide such information, the Permit Authority may, in its discretion, vacate the public hearing on the application and require complete reapplication, or may continue the hearing.

**Sec. 4-12-39. Conduct of permit hearing.**

(a) The Permit Authority shall conduct the hearing in a manner to afford procedural due process to the applicant and any person who opposes the issuance of the permit.

(b) The Permit Authority shall hear relevant testimony and receive relevant evidence and may impose reasonable time limits on presenters and witnesses.

(c) Although the Colorado Rules of Civil Procedure do not apply to the hearing, all persons appearing at the hearing shall be afforded the right of cross-examination and a reasonable opportunity to offer evidence in rebuttal.

(d) Any person may, at his or her own expense, provide for the recording of the hearing and transcription thereof; provided, however, that a copy of the transcript shall be furnished free of charge to the Permit Authority and become part of the record. (Ord. 2005-8 §1)

**Sec. 4-12-40. Action on permit application.**

(a) If information presented at the hearing leads the Permit Authority to find that additional information is necessary for it to determine whether the approval criteria in Sections 4-12-51, 4-12-52 and 4-12-53 of this Code have been met, the Permit Authority may continue the hearing for not more than sixty (60) days to accommodate the receipt of the additional information, unless a longer period is agreed to by the applicant, or it may deny the application.

(b) The burden of proof shall be upon the applicant to show compliance with provisions of these Regulations governing areas or activities of state interest involved.

(c) The Permit Authority shall approve the application if it determines that the applicant has proven that the project complies with all applicable provisions of these Regulations. If the Permit Authority determines that the applicant has failed to prove that the project complies with any applicable provision of these Regulations, the Permit Authority, at its sole discretion, may either approve the permit application with reasonable conditions necessary to ensure compliance with these Regulations, or deny the application.

(d) If the Permit Authority approves the application with conditions, the Permit Authority shall make written findings that each condition is necessary to ensure that the project will comply with the approval criteria in Sections 4-12-51, 4-12-52 and 4-12-53 of this Code, and that each condition is necessitated by impacts caused by the project.

(e) The hearing record shall include the following:

- (1) The application package.
- (2) Written statements or documents in support of or in opposition to the permit application.
- (3) Any recording and transcript of the hearing.
- (4) Written minutes of the Permit Authority hearing.
- (5) The resolution of the Permit Authority granting or denying the permit application.
- (6) A copy of the permit, if issued. (Ord. 2005-8 §1)

**Sec. 4-12-41. Issuance of the permit.**

(a) The permit shall be issued in writing. An example permit is attached as Division 6, Exhibit C of this Article.

(b) The permit may be issued for an indefinite period or for a term of years, in the discretion of the Permit Authority and depending upon the nature of the project.

(c) 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 Permit Authority.

(d) A copy of the permit shall be certified by the Permit Authority and presented to the County Clerk and Recorder for recording in the same manner as any document relating to real property. (Ord. 2005-8 §1)

**Sec. 4-12-42. Permit amendment.**

(a) Any change in the construction or operation of a project from that approved by the Permit Authority shall require a permit amendment, unless otherwise exempt.

(b) A permit amendment will be subject to the following requirements and procedures:

(1) Permit application submittal requirements.

a. A copy of the current permit and reasons for amendment.

b. As-built drawings of the project, if available.

c. Drawings and plans of proposed changes to the project.

d. Additional or changed mitigation plans.

e. Statement of need for amendment.

f. Site plan.

g. Vicinity map.

h. Written report of how amendment satisfies the criteria in Sections 4-12-51, 4-12-52, and 4-12-53 of this Code.

(2) Permit amendment procedure.

a. The applicant shall meet with the Department to discuss the proposed permit amendment.

b. Application submittal requirements shall be reviewed by the Department.

c. Subsequent to the meeting, the Department shall determine whether the modified project would satisfy the criteria contained in Sections 4-12-51, 4-12-52, and 4-12-53, or whether additional conditions would be necessary to ensure compliance.

d. If the Department deems that the modified project would not satisfy applicable criteria without additional conditions, the proposed modification shall require a new permit.

e. If the Department deems that the modified project would satisfy applicable criteria without additional conditions, the Department shall make a finding of no significant impact, and a resolution for an amended permit shall be presented to the Permit Authority for its consideration. (Ord. 2005-8 §1)

**Sec. 4-12-43. Combined designation and permit hearing.**

(a) 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 Permit Authority may hold a combined hearing to determine the designation, adopt the regulations and approve or deny the permit.

(b) No permit that is granted at the conclusion of the combined hearing shall be authority to engage in development or to conduct an activity until the identification, designation and regulations are finally determined and adopted. (Ord. 2005-8 §1)

*Division 4  
Approval Criteria*

**Sec. 4-12-51. Permit application approval criteria.**

A permit to conduct a designated activity of state interest or to engage in development in a designated area of state interest shall be approved if the project complies with the following general criteria and any additional applicable criteria in Sections 4-12-52 and 4-12-53 of this Code. If the project does not comply with any one (1) or more of these criteria, the permit shall be denied or approved with conditions.

(1) Documentation that, prior to site disturbance for the project, the applicant will have obtained all necessary property rights, permits and approvals. The Permit Authority may, at its discretion, defer making a final decision on the application until outstanding property rights, permits and approvals are obtained.

(2) The project will not impair property rights held by others.

(3) The project is consistent with relevant provisions of applicable land use and water quality plans.

(4) The applicant has the necessary expertise and financial capability to develop and operate the project consistent with all requirements and conditions.

(5) The project is technically and financially feasible.

(6) The project is not subject to significant risk from natural hazards. The determination of risk from natural hazards to the project may include but is not limited to the following considerations:

a. Faults and fissures.

b. Unstable slopes, including landslides, rock slides and avalanche areas.

c. Expansive or evaporative soils and risk of subsidence.

d. Wildfire hazard areas.

e. Floodplains.

(7) The project will not have a significant adverse effect on land use patterns within the Town. The determination of effects of the project on land use patterns may include but is not limited to the following considerations:

a. Whether the project complies with and is consistent with applicable plans.

b. Likelihood that the project will or will not cause or contribute to urban sprawl or "leapfrog" development within the Town.

c. Significant changes in the amount of impervious surfaces.

d. Contiguity of development associated with the project to existing growth centers.

e. Changes to unique land forms.

f. Changes in the amount or character of open space.

g. Changes to traffic patterns, road capacity and congestion.

(8) The project will not have a significant adverse effect on the capability of local governments affected by the project to provide services or exceed the capacity of service delivery systems. The determination of the effects of the project on local government services may include but is not limited to the following considerations:

a. Existing and potential financial capability of local governments to accommodate development related to the project.

b. Current and projected capacity of roads, schools, infrastructure, housing and other services necessary to accommodate development, and the impact of the project upon the current and projected capacity.

c. Changes caused by the project in the cost of providing transportation networks, water treatment and wastewater emergency services, or other governmental services or facilities.

d. Changes in short-term or long-term housing availability, location, cost or condition.

e. Need for temporary roads to access the construction of the project.

f. Change in demand for public transportation.

g. Reduction in the amount of water available for future water supply in the Town.

(9) The project will not create an undue financial burden on existing or future residents of the Town. The determination of the financial effects of the project may include but is not limited to the following considerations:

a. Changes in assessed valuation.

b. Tax revenues and fees to local governments that will be generated by the project.

- c. Changes in tax revenues caused by agricultural lands being removed from production.
- d. Changes in costs to water users to exercise their water rights.
- e. Changes in costs of water treatment or wastewater treatment.
- f. Effects on wastewater discharge permits.
- g. Changes in total property tax burden.

(10) The project will not significantly degrade any current or foreseeable future sector of the local economy. The determination of the effects of the project on the economy may include but is not limited to the following considerations:

- 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 growth and diversification.

(11) The project will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience. The determination of effects of the project on recreational opportunities and experience may include but is not limited to the following considerations:

- a. Changes to existing and projected visitor days.
- b. Changes to duration of kayaking and rafting seasons.
- c. Changes in quality and quantity of fisheries.
- d. Changes in instream flows or reservoir levels.
- e. Changes in access to recreational resources.
- f. Changes to quality and quantity of hiking trails.
- g. Changes to the wilderness experience or other opportunity for solitude in the natural environment.

(12) The planning, design and operation of the project shall reflect principles of resource conservation, energy efficiency and recycling or reuse.

(13) The project will not significantly degrade air quality. The determination of effects of the project on air quality may include but is not limited to the following considerations:

- a. Changes to seasonal ambient air quality.
- b. Changes in visibility and microclimates.
- c. Applicable air quality standards.

(14) The project will not significantly degrade existing visual quality. The determination of visual effects of the project may include but is not limited to the following considerations:

- a. Visual changes to groundcover and vegetation, waterfalls and streams or other natural features.
- b. Interference with viewsheds and scenic vistas.
- c. Changes in appearances of forest canopies.
- d. Changes in landscape character and types of unique land formations.
- e. Compatibility of building and structure design and materials with surrounding land uses.

(15) The project will not significantly degrade surface water quality. The determination of effects of the project on surface water quality may include but is not limited to the following considerations:

- a. Changes to existing water quality, including patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color or taste of water.
- b. Applicable narrative and numeric water quality standards.
- c. Changes in point and nonpoint source pollution loads.
- d. Increase in erosion.
- e. Changes in sediment loading to water bodies.
- f. Changes in stream, channel or shoreline stability.
- g. Changes in stormwater runoff flows.
- h. Changes in trophic status or in eutrophication rates in lakes and reservoirs.
- i. Changes in the capacity or functioning of streams, lakes or reservoirs.
- j. Changes in flushing flows.
- k. Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.

(16) The project will not significantly degrade groundwater quality. The determination of effects of the project on groundwater quality may include but is not limited to the following considerations:

- a. Changes in aquifer recharge rates, groundwater levels and aquifer capacity, including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
- b. Changes in capacity and function of wells within the impact area.

- c. Changes in quality of well water within the impact area.

(17) The project will not significantly degrade wetlands and riparian areas. The determination of effects of the project on wetlands and riparian areas may include but is not limited to the following considerations:

- a. Changes in the structure and function of wetlands and riparian areas.
- b. Changes to the filtering and pollutant uptake capacities of wetlands and riparian areas.
- c. Changes to aerial extent of wetlands and riparian areas.
- d. Changes in species' characteristics and diversity.
- e. Transition from wetland to upland species.
- f. Changes in function and aerial extent of floodplains.

(18) The project will not significantly degrade terrestrial or aquatic animal life or its habitats. The determination of effects of the project on terrestrial or aquatic life may include but is not limited to the following considerations:

- a. Changes that result in loss of oxygen for aquatic life.
- b. Changes in flushing flows.
- c. Changes in species composition or density.
- d. Changes in number of threatened or endangered species.
- e. Changes to habitat and critical habitat, including calving grounds, mating grounds, nesting grounds, summer or winter ranges, migration routes or any other habitat features necessary for the protection and propagation of any terrestrial animals.
- f. Changes to habitat and critical habitat, including stream bed and banks, spawning grounds, riffle and side pool areas, 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.
- g. Changes to the aquatic and terrestrial food webs.

(19) The project will not significantly deteriorate terrestrial plant life or plant habitat. The determination of effects of the project on terrestrial plant life or habitat may include but is not limited to the following considerations:

- a. Changes to habitat of threatened or endangered plant species.
- b. Changes to the structure and function of vegetation, including species composition, diversity, biomass and productivity.

c. Changes in advancement or succession of desirable and less desirable species, including noxious weeds.

d. Changes in threatened or endangered species.

(20) The project will not significantly deteriorate soils and geologic conditions. The determination of effects of the project on soils and geologic conditions may include but is not limited to the following considerations:

a. Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential and floodplains.

b. Changes to stream sedimentation, geomorphology and channel stability.

c. Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs.

d. Changes to avalanche areas, mudflows, debris fans and other unstable and potentially unstable slopes.

e. Exacerbation of seismic concerns and subsidence.

(21) The project will not cause a nuisance. The determination of nuisance effects of the project may include but is not limited to the following considerations:

a. Increase in odors.

b. Increase in dust.

c. Increase in fumes.

d. Increase in glare.

e. Increase in heat.

f. Increase in noise.

g. Increase in vibration.

h. Increase in artificial light.

i. Increase in traffic impacts.

(22) The project will not significantly degrade areas of paleontological, historic or archaeological importance.

(23) The project will not result in unreasonable risk of releases of hazardous materials. The determination of the risk of release of hazardous materials caused by the project may include but is not limited to the following considerations:

- a. Plans for compliance with federal and state handling, storage, disposal and transportation requirements.
- b. Use of waste minimization techniques.
- c. Adequacy of spill prevention and response plans.

(24) The benefits accruing to the Town and its citizens from the project outweigh the losses of any natural, agricultural, recreational, grazing, commercial or industrial resources within the Town, or the losses of opportunities to develop such resources. (Ord. 2005-8 §1)

**Sec. 4-12-52. Additional criteria applicable to municipal and industrial water projects.**

In addition to the general criteria set forth in Section 4-12-51 above, the following additional criteria apply to municipal and industrial water projects:

(1) The project shall emphasize the most efficient use of water, including the recycling, reuse and conservation of water. The determination of whether the project emphasizes the most efficient use of water may include but is not limited to the following considerations:

- a. Whether the project uses readily available conservation techniques.
- b. Whether the project recycles water to the greatest extent allowed by law.

(2) The project will not result in excess capacity in existing water or wastewater treatment services or create duplicate services. The determination of whether the project will result in excess capacity or create duplicate services may include but is not limited to the following considerations:

- a. Whether the project creates overlapping or competing service areas.
- b. Whether the project differs significantly from the provider's facility plan.
- c. Whether the project impacts other water and wastewater permits.

(3) The project shall be necessary to meet community development and population demands in the areas to be served by the project. The determination of whether the project meets community development and population demands may include but is not limited to the following considerations:

- a. Relationship to reasonable growth projections and local land use plans.
- b. Relationship to other water and wastewater providers' service areas.

(4) Urban development, population densities and site layout and design of stormwater and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas. The determination of potential for pollution of the aquifer recharge areas by the project may include but is not limited to the following considerations:

- a. Proximity of urban development and population densities to aquifer recharge areas.
- b. Proximity of stormwater and sanitation systems to aquifer recharge areas.

- c. Changes in water quality in aquifer recharge areas. (Ord. 2005-8 §1)

**Sec. 4-12-53. Additional criteria applicable to major new domestic water treatment systems and major extensions of such systems.**

In addition to the general criteria set forth in Section 4-12-51 above, the following additional criteria apply to any development of major new domestic water treatment systems or major extensions of such systems:

(1) The project shall be reasonably necessary to meet projected community development and population demands in the areas to be served by the project, or to comply with regulatory or technological requirements. The determination of whether the project is reasonably necessary may include but is not limited to the following considerations:

- a. Relationship to reasonable growth projections and local land use plans.
- b. Relationship to other water providers' service areas.
- c. Whether the project is not in compliance with regulatory or technological requirements or will not be in compliance in the near future.

(2) To the extent feasible, water treatment facilities shall be consolidated with existing facilities within the area. The determination of whether consolidation is feasible shall include but is not limited to the following considerations:

- a. Whether there is an opportunity for consolidation.
- b. The environmental, financial and social feasibility of consolidation.

(3) New domestic water treatment systems shall 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. The determination shall include but is not limited to the following considerations:

- a. Relationship to reasonable growth projections and local land use plans.
- b. Proximity to other water and wastewater providers' service areas.

(4) The project shall be permitted in those areas in which the anticipated growth and development that may occur as a result of such extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development. The determination shall include but is not limited to the following considerations:

- a. Relationship of the project to approved land use plans for the area.
- b. The environmental, financial and social impacts related to such development. (Ord. 2005-8 §1)

**Sec. 4-12-54. Financial guarantee.**

Before any permit is issued, the Permit Authority may, at its discretion, require the applicant to file a guarantee of financial security deemed adequate by the Permit Authority and payable to the Town. The purpose of the financial guarantee is to assure the following:

- (1) Faithful performance of the requirements of the permit and applicable regulations.
- (2) That the project or activity is completed and, if applicable, that the development area is properly reclaimed.
- (3) That the applicant performs all mitigation requirements and permit conditions in connection with the construction, operation and termination of the project.
- (4) That increases in public facilities and services costs necessitated by the construction, operation and termination of the project are borne by the permittee. (Ord. 2005-8 §1)

**Sec. 4-12-55. Estimate and form of guarantee.**

(a) Estimated cost shall be based on the applicant's submitted cost estimate plus the Permit Authority's estimate of the additional cost to the Town of bringing in personnel and equipment to accomplish any unperformed purpose of the financial guarantee. The Permit Authority shall consider the duration of the development or activity and compute a reasonable projection of increases due to inflation. The Permit Authority may require as a condition of the permit that the financial security be adjusted upon receipt of bids to perform the requirements of the permit and these Regulations.

(b) The guarantee may be in the form of cash or irrevocable letter of credit issued by a bank acceptable to the Permit Authority. (Ord. 2005-8 §1)

**Sec. 4-12-56. Release of guarantee; forfeiture.**

(a) The financial guarantee may be released only when:

- (1) The permit has been surrendered to the Permit Authority before commencement of any physical activity on the site of the permitted development or activity;
- (2) The development or activity has been abandoned and the site has been returned to its original condition or to a condition acceptable to the Permit Authority in accordance with criteria adopted by the Permit Authority for the matter of state interest for which the permit is being granted;
- (3) The project has been satisfactorily completed;
- (4) 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 Permit Authority;
- (5) The applicable guaranteed conditions have been satisfied; or

(6) Upon receipt of the Department's written consent, which may be granted only when such cancellation will not detract from the purposes of the security.

(b) If the Permit Authority determines that a financial guarantee should be forfeited because of any violation of the permit, mitigation requirements, conditions or any applicable regulations, it shall provide written notice to the surety and the permittee that the financial guarantee will be forfeited unless the permittee makes written demand to the Permit Authority within thirty (30) days after permittee's receipt of notice, requesting a hearing before the Permit Authority. If no demand is made by the permittee within said period, then the Permit Authority shall order the financial guarantee forfeited.

(c) The Permit Authority shall hold a hearing within thirty (30) days after the receipt of the demand by the permittee. At the hearing, the permittee may present, for the consideration of the Permit Authority, statements, documents and other information with respect to the alleged violation. At the conclusion of the hearing, the Permit Authority shall either withdraw the notice of violation or enter an order forfeiting the financial guarantee.

(d) The deposit described above may be used by the Town in the event of the default or alleged default of the permittee, only for the purposes of recovering on the surety or fulfilling the permit obligation of the permittee. In the event that the ultimate reviewing court determines that there has been a default by the permittee, that portion of any moneys expended by the Town from the escrow funds relating to such default shall be replaced in the escrow account by the permittee immediately following such determination. The Town may arrange with a lending institution, which provides money for the permittee, that said institution may hold in escrow any funds required for said deposit. Funds shall be disbursed out of escrow by the institution to the Town upon the Town's demand for the purpose specified in this Section.

(e) 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. (Ord. 2005-8 §1)

**Sec. 4-12-57. Substitute guarantee.**

If the license to do business in Colorado of any surety upon a security filed pursuant to these Regulations is suspended or revoked by any state authority, then the applicant shall, within sixty (60) days after receiving notice thereof, substitute a good and sufficient surety licensed to do business in Colorado. Upon failure of the permittee to make substitution within the time allowed, the Permit Authority shall suspend the permit until proper substitution has been made. (Ord. 2005-8 §1)

*Division 5*  
*Permit Administration and Enforcement*

**Sec. 4-12-71. Enforcement and penalties.**

(a) Any person engaging in a development in the 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, may be enjoined by the Town from engaging in such development or conducting such activities and may be subject to such other criminal or civil liability as may be prescribed by law.

(b) If the Permit Authority determines at any time that there are material changes in the construction or operation of the project from that approved by the Permit Authority, the permit shall be immediately suspended and a hearing shall be held to determine whether new conditions are necessary to ensure compliance with the applicable approval criteria or if the permit should be revoked. (Ord. 2005-8 §1)

**Sec. 4-12-72. Permit suspension or revocation.**

(a) The Permit Authority may temporarily suspend the permit for a period of thirty (30) days for any violation of the permit or these Regulations. Prior to any permit suspension, the Permit Authority shall provide the permit holder with written notice of the violation, and the permit holder will have a minimum of fifteen (15) days to correct the violation. If the violation is not corrected, the permit shall be temporarily suspended for thirty (30) days.

(b) The Permit Authority may, following notice and hearing, revoke a permit granted pursuant to these Regulations if any of the activities conducted by the permittee violates the conditions of the permit or these Regulations. No less than thirty (30) days prior to the revocation hearing, the Permit Authority shall provide written notice to the permittee, setting forth the violation and the time and date for the revocation hearing. Public notice of the revocation hearing shall be published in a newspaper of general circulation not less than thirty (30) days or more than sixty (60) days prior to the hearing. Following the hearing, the Permit Authority may revoke the permit or may specify a time by which action shall be taken to correct any violations for the permit to be retained. (Ord. 2005-8 §1)

**Sec. 4-12-73. Annual review.**

(a) Within thirty (30) days prior to each annual anniversary date of the granting of a permit, the permittee shall submit a report detailing all past activities conducted by the permittee pursuant to the permit, including a satisfactory showing that the permittee has complied with all conditions of the permit and applicable regulations. The permittee need not inform the Permit Authority of activities, such as operational changes, which are not the subject of a permit condition.

(b) The Permit Authority shall review the report within thirty (30) days from the date of submittal thereof. If the Permit Authority determines that the permittee is likely to have violated the provisions of the permit and/or applicable regulations, it shall consider the matter at a scheduled public hearing. If the Permit Authority determines at the public hearing that the permittee has violated the provisions of the permit and/or applicable regulations, the Permit Authority may suspend and/or revoke the permit in accordance with Section 4-12-72 of this Code.

(c) Upon notice to the Permit Authority of the fulfillment of all permit conditions, and the Permit Authority's concurrence therein, the Permit Authority may terminate any annual review requirements.

(d) The Permit Authority may waive or modify the annual review requirements upon petition of the permittee and a showing of good cause therefore. (Ord. 2005-8 §1)

**Sec. 4-12-74. Transfer of permit.**

A permit may be transferred only with the written consent of the Permit Authority. The Permit Authority shall ensure, in approving any transfer, that the proposed transferee 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. (Ord. 2005-8 §1)

**Sec. 4-12-75. Inspection.**

The Permit Authority may enter and inspect any property subject to these Regulations at reasonable hours for the purpose of determining whether a project is in violation of the provisions of these Regulations. (Ord. 2005-8 §1)

**Sec. 4-12-76. Judicial review.**

Any action seeking judicial review of a final decision of the Permit Authority shall be initiated within thirty (30) days after the decision is made, in the District Court in and for the County, pursuant to Rule 106 of the Colorado Rules of Civil Procedure. (Ord. 2005-8 §1)

*Division 6*  
*Exhibits*

- Exhibit A: Designation of Activities of State Interest
- Exhibit B: Form of Application for a Permit to Conduct a Designated Activity of State Interest
- Exhibit C: Form of Permit Issued to Conduct a Designated Activity of State Interest



**EXHIBIT A-2**

**NOTICE AND ORDER OF DESIGNATION OF ACTIVITY OF STATE INTEREST**

Pursuant to Section 24-65.1-101, et seq., C.R.S., on October 12, 2005, the Town Council of the Town of Silverthorne designated as an activity of state interest: **site selection and construction of major new water treatment systems and major extensions of such systems**, for the reasons set forth in Section 4-12-12 of the Silverthorne Town Code. Such activities may not be conducted within the municipal boundaries of the Town of Silverthorne without a permit. Regulations applicable to this matter of state interest are found at Chapter 4, Article XII of the Silverthorne Town Code. Procedures for obtaining such a permit are available at the Community Development Department, Town of Silverthorne, 601 Center Circle, Silverthorne, Colorado 80498.

Date: October 12, 2005.

ATTEST:

/s/  
Michele Karlin, Town Clerk

/s/  
Lou Del Piccolo, Mayor

[SEAL]

**EXHIBIT B**

**FORM OF APPLICATION FOR A PERMIT TO CONDUCT A  
DESIGNATED ACTIVITY OF STATE INTEREST**

To: Permit Authority, Town of Silverthorne

Re: \_\_\_\_\_  
\_\_\_\_\_, as a matter of state interest.

From: (Applicant's Name): \_\_\_\_\_

(Address): \_\_\_\_\_

(Telephone): \_\_\_\_\_

(E-mail): \_\_\_\_\_ Fax: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Date Received and Accepted as Complete: \_\_\_\_\_

1. Matter of State Interest.

The applicant requests that a permit be issued for each of the items checked below:

A permit to conduct one (1) or more of the following matters of state interest:

- Efficient Utilization of Municipal and Industrial Water Project
- Major New Domestic Water Treatment System or Major Extension of Such System

2. Proposed Activity or Development.

General description of the specific activity or development proposed:

3. General Description.

A general, nonlegal description and the popular name, if any, of the tract of land upon which the activity or development is to be conducted:

4. Legal Description.

The legal description, including the acreage, of the tract of land upon which the development or the activity is to be conducted, by metes and bounds or by government survey description: (attach additional sheets if necessary):

5. Owners and Interests.

Set out below the names of those persons holding recorded legal, equitable, contractual and option interests and any other person known to the applicant having an interest in the property described in Paragraph 4, above, as well as the nature and extent of those interests for each person, provided that such recorded interests shall be limited to those which are recorded in the Summit County Clerk and Recorder's Office, the land office of the Bureau of Land Management for this State, the

Office of the State Board of Land Commissioners of the Department of Natural Resources, or the Secretary of State's Office of this State (attach additional sheets if necessary):

6. Submission Requirements.

Submission requirements described in the Guidelines and Regulations for Areas and Activities of State Interest for each of the activities checked in Paragraph 1 above are attached to this application.

7. Additional Information Required.

Attach any additional information required by the Regulations or by the Permit Authority.

8. Duration of Permit.

The Applicant requests a permit for a period of \_\_\_\_\_ years.

9. Application Fee.

The required application fee is submitted herewith.

APPLICANT:

By: \_\_\_\_\_

(Name): \_\_\_\_\_

(Title): \_\_\_\_\_

**EXHIBIT C**

**FORM OF PERMIT ISSUED TO CONDUCT A  
DESIGNATED ACTIVITY OF STATE INTEREST**

Pursuant to Guidelines and Regulations for Areas and Activities of State Interest of the Town of Silverthorne heretofore adopted by the Town Council, the Town of Silverthorne has received an application from \_\_\_\_\_ (hereinafter "Applicant") for a permit to conduct the following matter(s) of state interest:

and has approved that application.

This permit authorizes the Applicant:

1. To: \_\_\_\_\_
2. On the following-described tract of land: \_\_\_\_\_
3. For the following period: \_\_\_\_\_
4. In accordance with the plans and/or specifications approved by the Permit Authority on \_\_\_\_\_, 20\_\_\_\_, as well as the regulations for administration adopted by the Town of Silverthorne for:

[insert matter of state interest]

5. On the condition that the Applicant proceeds in conformity with all applicable federal and state statutes and regulations as well as all applicable local land use controls, including but not limited to applicable comprehensive or master plans, subdivision regulations, zoning and building codes.

6. Additional Permit Conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This permit shall not be effective until the Applicant has filed the proper security with the Permit Authority, pursuant to provisions of the Regulations, in the amount of (\$\_\_\_\_\_).

This permit is valid for use only by the Applicant and may not be transferred. In the event that the Applicant fails to take substantial steps to initiate the above development or activity within twelve (12) months from the date of this permit or, if such steps are taken, in the event the Applicant fails to complete the development or activity with reasonable diligence, this permit may be revoked by the Permit Authority.

Date: \_\_\_\_\_, 20\_\_\_\_

TOWN OF SILVERTHORNE

By: \_\_\_\_\_  
Mayor

ATTEST

By: \_\_\_\_\_  
Town Clerk