



MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443

TO: MAYOR AND TOWN COUNCIL
FROM: THAD RENAUD, TOWN ATTORNEY
**RE: ORDINANCE ADOPTING GUIDELINES AND REGULATIONS FOR
ACTIVITIES OF STATE INTEREST ("1041 REGULATIONS")**
DATE: NOVEMBER 14, 2023

Summary and Background: This is discussion of, and potential action on, the attached Ordinance adopting 1041 regulations. At its meeting on September 26, the Town Council considered the attached regulations, and gave direction to proceed to a public hearing to consider adoption of the regulations by ordinance. As discussed in recent Town Council work session meetings, 1041 regulations are a state statutory means by which counties and municipalities may designate and adopt regulations for the administration (permitting) of any of a list of "activities of state interest." The statute provides that once an activity is designated as one of state interest, the Town may administer that activity subject to certain criteria found at C.R.S. 24-65.1-202 and 204. Importantly, the Town may adopt more stringent regulations than those that are contained in those statutory criteria. The attached regulations are more stringent than those that are contained in state statutes.

Analysis: Pursuant to Town Council direction, the attached regulations designate four (4) distinct activities of state interest as follows:

1. Site Selection & Construction of Major New Domestic Sewage Treatment Systems and Major Extensions of Existing Domestic Sewage Treatment Systems;
2. Site Selection and Construction of Major Facilities of a Public Utility;
3. Site Selection of Arterial Highways & Interchanges and Collector Highways; and
4. Site Selection of Rapid or Mass Transit Facilities

In addition to regulations that address the particular designated activities of state interest (and that provide distinct submission requirements and approval criteria for each type of activity), the regulations contain comprehensive rules concerning the administration of the regulations and related permit processes. These administrative rules are required by state statute, and primarily serve to provide the procedures by which applications for a Town permit may be made, and the procedures by which those applications will be decided upon.

The administrative provisions contain permit application submission requirements and decisional criteria that are applicable to every application for a permit under the regulations. As noted above, those application requirements and decisional criteria are then supplemented by the sections that address particular types of activities of state interest. Finally, the

administrative provisions also provide for security and enforcement mechanisms with respect to permits that may be granted from time to time.

Notably as to process, while the Town Council is designated as the Permit Authority and makes the final decisions concerning permit applications (other than administratively approved minor permits), the Town's Planning Commission is tasked with the duty of holding the initial hearing concerning an application for a permit. After that hearing, The Planning Commission makes a recommendation to the Permit Authority for approval, approval with conditions, or denial of the application.

Financial Impact: Adoption of the 1041 regulations will have no direct financial impact to the Town's budget.

Alignment with Strategic Plan: This ordinance aligns with Town Council's Quality Core Services.

Environmental Sustainability: Adoption of the 1041 regulations may promote environmental sustainability through the application of decisional criteria in the permit review process that relate to environmental sustainability.

Staff Recommendation: Staff recommends the Town Council consider the comments, if any, at the scheduled public hearing, and consider approving the attached Ordinance 23-20 on first reading. Staff also recommends that the Council provide staff with direction as to any changes to the attached regulations that may be desired for consideration on second reading.

Approved By:
Thad Renaud, Town Attorney

Attachments: Ordinance 23-20 adopting Guidelines and Regulations for Activities of State Interest as an appendix to Chapter 180 of the Code of Ordinances of the Town of Frisco.