

**GUIDELINES AND REGULATIONS FOR ACTIVITIES OF STATE INTEREST**

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**CODE OF ORDINANCES OF THE TOWN OF FRISCO**

**CHAPTER 180**

**APPENDIX A**

**GUIDELINES AND REGULATIONS FOR ACTIVITIES OF STATE INTEREST**

\_\_\_\_\_, 2023

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CHAPTER 1

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### **1.101 Title and Citation**

These various sections, constituting Chapters 1 through 6, of Appendix A to Chapter 180 of Code of Ordinances of the Town of Frisco, are entitled and may be cited as the "Guidelines and Regulations for Activities of State Interest of the Town of Frisco," or "these Regulations." Chapter I of these Regulations may be cited as the "Administrative Regulations." References herein to various Chapters, Articles and Sections are to those within these Regulations and not to the Town of Frisco Unified Development Code ("UDC"), unless specifically so cited.

### **1.102 Purpose and Findings**

- (1) The purpose and intent of these Regulations is to identify, designate, and provide for the 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.
- (2) The Town Council of the Town of Frisco finds that:
  - (a) The notice and public hearing requirements of Section 24-65.1-404, C.R.S. have been in the adoption of these Regulations;
  - (b) These Regulations are necessary because of the intensity of current and foreseeable development pressures on and within the Town;
  - (c) These Regulations are necessary for the preservation of the public health, safety and welfare;
  - (d) These Regulations apply to the entire incorporated territory of the Town of Frisco, Colorado; and
  - (e) These Regulations interpret and apply to any regulations adopted for specific areas of state interest and specific activities of state interest which have been or may be designated by the Town Council of the Town of Frisco.

### **1.103 Authority**

The Regulations are authorized by, inter alia, the Town of Frisco Charter, Section 24-65.1-101, et seq., C.R.S.; and Section 31-23-301, et seq., C.R.S.

### **1.104 Applicability**

These Administrative Regulations shall apply to all proceedings concerning the regulation of any development of an activity of state interest which has been or may hereafter be designated by the Town Council in accordance with law.

1.105 Exemptions

These Regulations shall not apply to any development of an activity of state interest if, on the effective date of these Regulations: \_\_\_\_\_, 2023:

- (1) The specific development or activity is authorized by a valid building permit issued by the Town of Frisco;
- (2) The specific development or activity was directly approved by the electorate of the State or of the Town; provided that approval by the electorate of any bond issue or tax measure shall not, in and of itself be construed to be an approval of the specific development or activity;
- (3) The specific development or activity is to be on land which has been finally approved, with or without conditions, for planned unit development or for which a Site Development Plan has been approved by the Town prior to the effective date of these Regulations for the development or activity which would otherwise be subject to these Regulations;
- (4) The specific development or activity is to be on land which has been zoned by the Town expressly and specifically for a use by right for the use contemplated by the development or activity and a Site Development Plan has been approved for the specific development or activity which would otherwise be subject to these Regulations;

These Regulations shall not apply to day-to-day operations of an existing project or facility, or a minor change in the operation of an existing project or facility, including retrofitting or updating technology, so long as the change in operation does not constitute a material change and does not cause negative impacts different from that of the existing facility or project or otherwise exacerbate existing impacts. The determination of minor change, material change, and negative or exacerbating impacts shall be made by the Community Development Department Director.

These Regulations shall not apply to any use or structure otherwise lawfully existing on the date the activity is designated or subjected to these Regulations which use becomes nonconforming as a result of the adoption of these Regulations, provided, when such a nonconforming use shall be discontinued for one year or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the County Assessor's assessed value, any reuse, reconstruction, or replacement of such structure shall be deemed a new use and shall be subject to these Regulations. Additionally, expansion of a legal nonconforming use or structure shall require a Permit.

1.106 Relationship of These Regulations to Other Requirements

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

- (2) These Regulations are intended to be applied in addition to, and not in lieu of, all other regulations of the Town of Frisco, including without limitation, the Unified Development Code (Land Development Code) and the several building codes adopted by the Town, as amended from time to time.
- (3) In the event these Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in Sections 24-65.1-202 and 24-65.1-204, C.R.S., the statutory criteria shall control.
- (4) In the event 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 24-65.1-204, C.R.S., these Regulations shall control pursuant to the authority of Section 24-65.1-402(3), C.R.S.
- (5) Permit requirements included in these Regulations shall be in addition to and in conformance with all applicable state and federal water quality and environmental laws, rules and regulations, including but not limited to the following, as amended from time to time.
  - (a) Section 25-8-701, et seq., C.R.S., sewage treatment plant site approval;
  - (b) 5 C.C.R. § 10002-22 Regulation No. 22, Site Location and Design Approval Regulations for Domestic Wastewater Treatment Works;
  - (c) Section 25-8-501, et seq., C.R.S., point source pollutant discharge Permits;
  - (d) Section 208 (33 U.S.C. Section 1288) area-wide wastewater treatment management planning;
  - (e) Section 303 (33 U.S.C. Section 1313) river basin water quality management planning;
  - (f) Disposal of sewage sludge (33 U.S.C. Section 1345);
  - (g) Section 32-1-201, C.R.S., Special District Control Act;
  - (h) 16 U.S.C. Section 661-666(c) (1970), the Fish and Wildlife Coordination Act;
  - (i) Section 102(c) (42 U.S.C. Section 4321, et seq.) the National Environmental Policy Act; and
  - (j) Section 404 of the Federal Clean Water Act.
- (6) Review or approval of a project by a federal or state or local agency does not obviate and shall not substitute for, the need to obtain a Permit for that Project under these Regulations. Any applicant for a Permit under these Regulations that

is also subject to the regulations of other agencies may request in writing that the Town application and review process be coordinated with that of the other agency or agencies. If practicable, and in its discretion, the Town may attempt to eliminate redundant application submittal requests and may coordinate its review of the application with that of other agencies as appropriate. The Town shall provide the applicant, in writing, a copy of its decision upon such coordination request.

- (7) The applicant shall comply with all applicable federal and state laws, regulations, ordinances, review and Permit requirements, and other agency requirements, if any, of applicable agencies including, but not limited to, the Colorado Division of Wildlife, Colorado Department of Transportation, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service regarding the Endangered Species Act.
- (8) Land use regulations by their very nature generally, and these Regulations specifically, impose limitations on private property rights. The intent of these Regulations is not to limit property rights inconsistently with guarantees set forth in the Colorado and United States Constitutions as so interpreted by the courts.

### 1.107 Maps

- (1) Each map referred to in designations and regulations for any particular matter of state interest adopted by the Town Council is deemed adopted therein as is set out in full.
- (2) Maps referred to in any such designation and regulation shall be filed with and be available for inspection at the office of the Town of Frisco Community Development Department.

### 1.108 Duties of the Planning Commission and Town Council

Unless otherwise specifically provided herein, it shall be the duty of the Planning Commission to conduct an initial hearing on an application for a Permit, and to make a recommendation to the Permit Authority for approval, approval with conditions, or denial of the application. Except as otherwise specifically provided herein, the Permit Authority shall take the final action with regard to all functions pertaining to matters of state interest and the issuance of a Permit.

### 1.109 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 shall not be affected thereby.

### 1.110 Definitions

The words and terms used in these Regulations shall have the meanings set forth below unless the context requires otherwise or unless the term is more specifically defined elsewhere herein:

- (1) *Administratively Approved Permit*: a permit under these Regulations which is administratively approved with or without conditions, by the Director in consultation with the Town Engineer under Section 2.202 of these Regulations.
- (2) *Town Council*: the Town Council of the Town of Frisco, State of Colorado.
- (3) *County*: Summit County, Colorado.
- (4) *Designation*: that legal procedure specified by Section 24-65.1- 401, et seq., C.R.S., carried out by the Town Council.
- (5) *Development*: 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.
- (6) *Community Development Department, or Department or CDD*: the administrative department within Town of Frisco government responsible for certain permitting and administrative functions as set forth in these Regulations.
- (7) *Director*: the person designated by Town to be the Director of the Community Development Department and manage the CDD, or that person's equivalent position or delegated representative.
- (8) *Development Code, Unified Development Code, or UDC*: the Town of Frisco Unified Development Code codified as Chapter 180 of the Code of Ordinances of the Town of Frisco, as amended from time to time by the Town Council.
- (9) *Layman's 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. The term "general description" means "layman's description."
- (10) *Legal description*: any description from which it is possible to locate accurately on the ground the boundaries of the land being described.
- (11) *Material change*: any change in a Project as approved under these Regulations which significantly changes the nature of impacts considered in approval of the original Permit or in the case of a development not previously issued a permit, a structural modification, change of use, change of operation, change of user, which significantly changes the nature of the development and its associated impacts.
- (12) *Matter of state interest*: development of or conduct of an activity of state interest.
- (13) *Mitigation*: avoiding an impact; minimizing impacts 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.



- (14) *Permit*: a Permit issued under these Regulations to develop or conduct an activity of state interest. Permit shall also include an Administratively Approved Permit issued by the Director under Section 2.202, as the context requires.
- (15) *Permit Authority*: the Town Council of the Town of Frisco.
- (16) *Person*: any private individual, partnership, corporation, association, company, or any public or corporate body, including the state and federal governments, and including any political subdivision, agency, instrumentality, or corporation thereof.
- (17) *Project*: the facility and/or development which is the subject of an application or an approved Permit under these Regulations.
- (18) *Receipt of Application*: the time at which the completed application is accepted by the Director and a receipt for the same is issued to the applicant.
- (19) *Site Development Plan*: the development plan for one or more lots showing the existing and proposed conditions of the lot and any improvements existing or to be constructed on the lot. This includes topography, vegetation, drainage, floodplains, wetlands and waterways, landscaping and open spaces, walkways, means of ingress and egress, circulation, utility services, structures and buildings, signs and lighting, berms, buffers and screening devices, surrounding development, and other information that may be reasonably required for the Director to determine compliance with the requirements of these Regulations, and subsequently authorize issuance of a building or development Permit.

CHAPTER 2

PERMIT REGULATIONS

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### **Article 1      Permit Authority**

#### **2.101    Title and Citation**

These various sections constituting Chapter 2 of the "Guidelines and Regulations for Activities of State Interest" may be cited as the "Permit Regulations."

#### **2.102    Purpose and Intent**

The purpose and intent of the Permit Regulations is to facilitate the process for application, review, issuance and administration of Permits for matters of state interest consistent with statutory requirements and criteria set forth in Section 24-65.1-101, et seq., C.R.S.

#### **2.103    Permit Authority Established**

- (1)    The Town of Frisco Permit Authority is hereby established, the members of which shall be the Town Council of the Town of Frisco.
- (2)    Except as otherwise specifically set forth in these Regulations, the Permit Authority shall exercise all powers and duties described in this Chapter 2.

#### **2.104    Permit or Administratively Approved Permit Required**

- (1)    No person may conduct a designated activity of state interest without first obtaining an Administratively Approved Permit, a Permit, or a Permit amendment under these Regulations.
- (2)    No Permit for a permanent use in a Town right-of-way or on Town owned properties and no grading Permit, excavation Permit or building Permit shall be issued by the Town for the purposes of development or conduct of a designated activity of state interest without first obtaining an Administratively Approved Permit pursuant to these Regulations.
- (3)    When approval is sought to develop or conduct more than one activity of state interest, the application may be completed for all such activities or developments and may be reviewed simultaneously and a single Permit issued.

#### **2.105    Judicial Review**

Any action seeking judicial review of a final decision of the Permit Authority shall be initiated within twenty eight (28) days after the decision is made, in the District Court in and for Summit County, pursuant to Rule 106 of the Colorado Rules of Civil Procedure. These Regulations are not intended to create third-party rights of enforcement beyond those provided by law.

**Article 2      Pre-Application**

2.201 Pre-Application Procedure

- (1) Prior to making any submittal, it is recommended that the applicant meet with the Director to review the project application process in order to determine the applicable Chapter or Chapters of these Regulations.
- (2) Before submitting an application for a Permit under these Regulations, the applicant shall meet with the Director.
- (3) At or before the pre-application meeting, the applicant shall provide the Director with:
  - (a) Names and addresses of all persons or interests proposing the activity or development;
  - (b) Name and qualifications of the person(s) responding to the requirements detailed in these Regulations;
  - (c) A written summary of the Project including:
    - (i) Map prepared at an easily readable scale showing:
      - Boundary of the proposed Project
      - Relationship of the proposed Project to surrounding topographic and cultural features such as roads, streams and existing structures
      - Proposed buildings, improvements and infrastructure.
  - (d) Information that is sufficient for determining the nature of the Project and the type, extent and location of impacts associated with the Project;
  - (e) Any additional information requested by the Director as may be reasonably necessary to make the determinations contemplated by this Article.
- (4) The purpose of the pre-application meeting is to permit the applicant and the CDD staff to review the proposal informally and to coordinate with or request review and comment from other relevant agencies before substantial commitment of time and money is made. Topics of discussion may include, as relevant to the specific application, but are not limited to:
  - (a) Characteristics of the activity, including its location or potential locations, significant natural and man-made features, with particular attention to natural hazard, resource or other special areas; the size and accessibility of the site; surrounding development and land uses; and its potential impact

- on surrounding areas, including potential environmental effects and planned mitigation strategies.
- (b) The nature of the development proposed, including land use types and their densities; placement of proposed buildings and maintenance of common open space or treatment of public use areas; the preservation of natural features; proposed parking areas and internal circulation system, including trails, the total ground coverage of paved areas and structures; and types of water and sewage treatment systems proposed.
  - (c) Community policy considerations, including the review process and likely conformity of the proposed development with the policies and requirements of these Regulations.
  - (d) Applicable regulations, review procedures and submission requirements.
  - (e) Other regulatory reviews or procedures to which the applicant is subject, the applicant's time frame for the Project, and other concerns of the applicant.
- (5) Any comments or commitments made by the Department during this pre-application conference are only preliminary in nature and should not be relied upon by the applicant. All prospective applicants should be informed that formal comments cannot be made by staff until after the application is submitted.
- (6) **Pre-Application Costs.** Within seven (7) days after the pre-application meeting, the Department shall establish an estimated fee in an amount reasonable and necessary to cover costs of determining whether an Administratively Approved Permit or a Permit is required. The estimate will include the costs of copying, mailing, publications, labor, overhead and retention of consultants, experts and attorneys that the Town deems necessary to advise it in making the determination. Once the estimate is established, the Department shall notify the applicant in writing of said fee and its amount. Following receipt of such notice, the applicant shall present to the Department cash, cashier's check, or a certified check in the amount set. Until the fee is paid, no further action shall be taken in the pre-application process. The Department shall provide to the applicant, upon completion of the aforementioned review, an itemized accounting of expenses incurred by the Town and shall, in accordance with Town disbursement procedures, refund to the applicant any unexpended portion of the fee payment.

#### 2.202 Administratively Approved Permit

Based upon review of the pre-application submittals and the information obtained at the pre-application conference, and after receipt of the pre-application fee, the Director may determine that an Administratively Approved Permit is warranted or that a Permit is required. Such determination shall be made by the Director within thirty (30) days after receipt of the fee and any additional information requested at the pre-application meeting.

- (1) **Administratively Approved Permit.** The Director may determine that an Administratively Approved Permit should be issued if the construction or operation of the Project, as proposed, is unlikely to have any significant adverse impact to the Town in consideration of the relevant Permit Application Review Criteria, and any conditions, requirements or mitigation measures imposed under Section 2.202(4)(a). If the Director issues an Administratively Approved Permit, the applicant does not need to submit a full Permit application, unless the Permit Authority deems that a Permit is necessary, following reconsideration as set forth below.
- (2) **Permit Authority Review Required.** If the Director determines that an Administratively Approved Permit is not appropriate based upon review of the pre-application submittals and the information obtained at the pre-application meeting, then the applicant must submit a full Permit application.
- (3) **Notice of Director's Determination on an Administratively Approved Permit.** Upon the Director's determination on an Administratively Approved Permit, the Department shall notify the applicant by mail, and shall notify the Permit Authority and the Town Manager of the determination by e-mail or memorandum.
- (4) **Legal effect of an Administratively Approved Permit.**
  - (a) The Administratively Approved Permit may include conditions, requirements and mitigation measures imposed by the Director. Such conditions may include the need to submit a copy of any other regulatory approval once obtained and prior to the Town's approval of a site development plan and the issuance of a construction permit for the project.
  - (b) The Administratively Approved Permit is limited to the Project as described at the pre-application meeting and in any supplementary information provided prior to the Director's decision.
  - (c) If the Project is revised to exceed or vary from the terms of the Administratively Approved Permit as issued by the Director, the Administratively Approved Permit shall be invalid and application to and review by the Permit Authority for a Permit under these Regulations is required.
- (5) **Reconsideration and Appeal of an Administratively Approved Permit.**
  - (a) Within fourteen (14) days after the date of notice of the Director's determination on an Administratively Approved Permit under Section 2.202(3), the applicant may file a written request for reconsideration with the Director. Such request must be accompanied with such modifications to the application and/or additional information as the applicant wishes the Director to consider, along with the factual or legal basis for the request.

- (b) In processing the request, the Director may request such additional details from the applicant as he or she may believe necessary, and may hold an in-person meeting with the applicant to assist in deciding upon the merits of the request.
  - (c) The Director shall act on the request for reconsideration within fourteen (14) days of its receipt and shall notify the applicant of his or her decision in the manner set forth in Section 2.202(3). Only one (1) such request is permitted.
  - (d) If no request for reconsideration is filed within the required period, the Director's decision on the Administratively Approved Permit is final and non-appealable.
  - (e) The Director's decision may be appealed only by the applicant to the Permit Authority by the filing of a written appeal with the Department within fourteen (14) days of the date of notice of the Director's decision on the reconsideration request. The Permit Authority shall consider the appeal at a hearing conducted in substantially the same manner as set forth in Section 2.401 and 2.402(1).
- (6) Suspension of an Administratively Approved Permit: In the event the Director has reason to believe that a condition imposed in an Administratively Approved Permit has been violated by the Permittee, the Director may temporarily suspend the Administratively Approved Permit for a period of thirty (30) days. Before imposing such a temporary suspension, the Director shall give the permittee written notice of the specific violation and shall allow the Permit holder a period of at least ten (10) days to correct the violation. If the permittee does not concur that there is a violation, the permittee shall, within ten (10) days of the date of such notice, demonstrate to the Director why temporary suspension should not be ordered. Within ten (10) days thereafter, the Director shall make a decision, as follows:
- (a) If the Director determines there is no violation, the matter is closed and the Administratively Approved Permit remains in effect.
  - (b) If the Director finds a violation exists, the Administratively Approved Permit shall be suspended for thirty (30) days. During such period, the applicant shall either:
    - (i) Correct the violation;
    - (ii) Request an extension of time to correct the violation, or
    - (iii) Request a show cause hearing before the Permit Authority, which shall be conducted in substantially the manner set forth in Section 2.401 and 2.402(1).



- (7) The Director may, in lieu of or subsequent to temporary suspension, permanently revoke or suspend an Administratively Approved Permit in the manner provided for Permits in Section 2.508(2). This decision may be appealed to the Permit Authority in the manner set forth in Section 2.202(5)(e).
- (8) Annual review of an Administratively Approved Permit shall be conducted by the Director, following the procedure for Permits in Section 2.509.

**Article 3      Permit Applications**

**2.301   Permit Application**

- (1) If an Administratively Approved Permit is not granted, then any person desiring to engage in the development or conduct of an activity of state interest shall first apply for and obtain a Permit from the Permit Authority, in the form attached hereto as **Exhibit A** or such form(s) as shall be approved by the Director, and maintained in the office of the Department. Applications for Permits shall be submitted to the Department. In the event a development or activity is proposed as an integral part of a subdivision or planned unit development, it shall be the responsibility of the service provider and/or developer to comply with these Regulations.
- (2) A Permit application shall not be accepted unless it is complete. A request for waiver of submission requirements shall not render the application complete. If the application is determined to be incomplete by the Director, the Director shall specify what additional information is required. An application need not meet the submission requirements for other than the particular development alternative for which a Permit is being sought in order to be considered complete. When a submitted application is determined to be complete by the Director, the Director shall note upon the application the date and hour of its receipt.
- (3) The Permit Authority shall approve an application for a Permit to develop or conduct an activity of state interest if the proposed development or activity complies with the applicable criteria in these Regulations. If the proposed development or activity does not comply with these criteria, the Permit shall be denied or it may be approved with conditions.
- (4) When an applicant seeks a Permit to engage in development or the conduct of more than one activity of state interest, a single application may be completed for all such developments or activities and may be reviewed by the Permit Authority in one consolidated hearing, and, if approved, a single Permit for all requested development/activities may be granted.

**2.302   Permit Application Fee and Costs**

- (1) Within ten (10) days following receipt of a completed application for a Permit, the Department shall determine and set an estimated fee in an amount necessary to cover the costs incurred in the review and action upon the Permit application, including costs of copying, mailings, publications, labor, overhead and retention of consultants, experts and attorneys that the Department deems necessary to advise it on the application package, all hearings conducted therefor, and shall notify the applicant in writing of the fee. Not later than ten (10) days following receipt of such notice, the applicant shall present to the Department cash, or a cashier's or certified check in the amount set. Until the fee is paid to the Department, the application shall not be further processed. The Department will determine the final fee at the conclusion of the Permit hearing, which must be paid by the applicant before the Permit is issued.

- (2) The actual costs incurred by the Town to process the application shall be deducted from the application fee. The Department shall keep an accurate record of the actual time and other costs required for processing the application. If the balance of fees falls below a minimum balance established by the Department, additional billings shall be made to the applicant commensurate with the additional costs incurred by the Town. The Town may cease processing the application pending receipt of additional installments. Any portion of the application fee which is not necessary to cover the cost of processing the application will be reimbursed to the applicant at the conclusion of all actions necessary to process the application. No interest earned, if any, shall be refunded to the applicant.

#### 2.303 Submission Requirements for All Permit Applications; Waivers

In addition to specific submission requirements listed in connection with the specific activities of state interest set for below, all applications for a Permit under these Regulations shall be accompanied by copies of the following materials in the number required by the Director. Additional materials may be required by the Director for a particular type of Project. To the extent an applicant has prepared or submitted materials for a federal, state or local permit, which are substantially the same as required herein, a copy of those materials may be submitted to satisfy the corresponding submission required below. The Director 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 irrelevant or insignificant and that the submission requirements so waived would not address or disclose a substantial impact on the Town or its residents. A waiver of submission requirements may be granted by the Director 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. In the event the waiver request is denied, the applicant may file a written appeal of the same within five (5) days with the Town Manager, whose decision on the same shall be final and non-appealable. Thereafter, the applicant shall provide the required additional information before a hearing date will be scheduled.

- (1) Completed application form in the format attached as **Exhibit A** and approved by the Director.
- (2) The Director may require submission of any plan, study, survey or other information, in addition to the information required by this Section, at the applicant's expense, as in the Director's judgment is necessary to enable it to review and act upon the application.
- (3) Any application which requires compliance with § 24-65.5-101, et seq., C.R.S., (Notification to Mineral Owners of Surface Development) shall not be considered to have been submitted as complete until the applicant has provided a certification signed by the applicant confirming that the applicant or its agent has examined the records of the Summit County Clerk and Recorder for the existence of any mineral estate owners or lessees that own less than full fee title in the property which is the subject of the application, and stating whether or not any such mineral estate owners or lessees exist. In addition, for purposes of the Town convening its initial

public hearing on any application involving property which mineral estate owners or lessees owning less than full fee title in the property have been certified by the applicant to exist, the application shall not be considered to have been submitted as complete until the applicant has provided an additional signed certification confirming that the applicant has, at least 30 days prior to the initial public hearing, transmitted to the Town and to the affected mineral estate owners and lessees the notices required by C.R.S. §24-65.5-101, et seq.

(4) Information describing the applicant.

- (a) The names, addresses, including email address, organizational form, and business of the applicant and, if different, the owner of the Project.
- (b) The names, addresses and qualifications, including those areas of expertise and experience with projects directly related or similar to that proposed in the application package, of individuals who are or will be responsible for constructing and operating the Project.
- (c) Written 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 report preparers.

(5) Information describing the Project.

- (a) Vicinity map showing the proposed site and the surrounding area.
- (b) Executive summary of the proposal indicating the scope and need for the Project.
- (c) Plans and specifications of the Project in sufficient detail to evaluate the application against the applicable review criteria.
- (d) Descriptions of alternatives to the Project considered by the applicant. If the Director determines that the nature or extent of the proposal involves the potential for significant damage and warrants examination of other specific, less damaging alternatives, the Director may require the applicant to evaluate and present information on such additional alternatives as part of the application.
- (e) Schedules for designing, permitting, constructing and operating the Project, including the estimated life of the Project.
- (f) 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.

- (g) Description of relevant conservation techniques to be used in the construction and operation of the Project.
- (h) Description of demands that this Project expects to meet and basis for projections of that demand.
- (i) List of adjacent property owners and their mailing addresses.

(6) Property rights, other permits and approvals.

- (a) Description of property rights that are necessary for or that will be affected by the Project, including easements and property rights proposed to be acquired through negotiation or condemnation.
- (b) 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. Copies of any permits or approvals related to the Project that have been granted.
- (c) Copies of relevant 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.

(7) Land Use.

- (a) Provide a map at a scale relevant to the Project and acceptable to the Department describing existing land uses and existing zoning of the proposed Project area and the Project service area, including peripheral lands which may be impacted. The land use map shall include but need not necessarily be limited to the following categories: residential, commercial, industrial, extractive, transportation, communication and utility, institutional, open space, outdoor recreation, agricultural, forest land and water bodies. Show all special districts (school, fire, water, sanitation, etc.) within the Project area.
- (b) All immediately affected public land boundaries should be indicated on the map. Potential impacts of the proposed development upon public lands will be visually illustrated on the map as well as described in the text.
- (c) Specify whether and how the proposed Project conforms to the Town of Frisco Comprehensive Plan.
- (d) Specify whether and how the proposed Project conforms to applicable regional and state planning policies.

- (e) Specify whether and how the proposed Project conforms to applicable federal land management policies.
  - (f) Describe the probability that the Project may be significantly affected by earthquakes, floods, fires, snow, slides, avalanches, rockslides or landslides and any measures that will be taken to reduce the impact of such events upon the Project.
  - (g) Specify if excess service capabilities created by the proposed Project will prove likely to generate sprawl or strip development.
  - (h) Specify whether the demand for the Project is associated with development within or contiguous to existing service areas.
- (8) The applicant shall supply a surface and subsurface drainage analysis.
- (9) Financial feasibility of the Project.
  - (a) Relevant bond issue, loan and other financing approvals or certifications (ex: approved bond issues; bond counsel opinion).
  - (b) Business plan that generally describes the financial feasibility of the Project.
- (10) Local infrastructure and services impacts. An impact analysis that addresses the manner in which the applicant will comply with the relevant Permit Application Review Criteria. The impact analysis shall include the following information: 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 the Project within the Town.
- (11) Recreational Opportunities. Description of the impacts and net effect of the Project on present and potential recreational opportunities.
- (12) Areas of Paleontological, Historic or Archaeological Importance. Description of the impacts and net effect of the Project on sites of paleontological, historic or archaeological interest.
- (13) Nuisance. Descriptions of noise, glare, dust, fumes, vibration, and odor levels anticipated to be caused by the Project.
- (14) Air Quality. Description 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, considering particulate matter and aerosols, oxides, hydrocarbons, oxidants, and other chemicals, temperature effects and atmospheric interactions.

- (15) Visual Quality. Description of the impacts and net effect that the Project would have on visual quality, considering viewsheds, scenic vistas, unique landscapes or land formations within view of the Project area.
- (16) Surface Water Quality.
- (a) Map and/or description of all surface waters relevant to the Project, including description of provisions of the applicable regional water quality management plan, and NPDES Phase II Permit and any necessary erosion and stormwater quality control permit ("ESQCP"), or Section 404 Federal Clean Water Act Permit 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.
- (17) Groundwater Quality.
- (a) Map and/or description of all groundwater, including any and all aquifers relevant to the Project. At a minimum, the description should include:
    - (i) Seasonal water levels in each portion of the aquifer affected by the Project.
    - (ii) Artesian pressure in said aquifers.
    - (iii) Groundwater flow directions and levels.
    - (iv) Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.
    - (v) For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of the aquifer to impound groundwater and aquifer storage capacity.
    - (vi) 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.
    - (vii) Existing groundwater quality and classification.
    - (viii) Location of all water wells potentially affected by the Project and their uses.
  - (b) Description of the impacts and net effect of the Project on groundwater.

(18) Water Quantity.

- (a) Map and/or description of existing stream flows and reservoir levels relevant to the Project.
- (b) Map and/or description of existing minimum stream flows held by the Colorado Water Conservation Board.
- (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, including recycling and reuse.

(19) Floodplains, Wetlands and Riparian Areas; Terrestrial and Aquatic Animals, Plant Life and Habitat. Applicant shall only provide description of foregoing natural conditions, animal and plant life at, but not to exceed, the level of detail required by other federal or state Permits or reviews which are applicable to the Project.

(20) 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, all as relevant to the Project area.
- (b) Descriptions of the risks to the Project from natural hazards.
- (c) Descriptions of the impacts and net effect of the Project on soil and geologic conditions in the area.

(21) Hazardous Materials.

- (a) Description of all solid waste, hazardous waste, petroleum products, 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.
- (b) Location of storage areas designated for equipment, fuel, lubricants, and chemical and waste storage with an explanation of spill containment plans and structures.

(22) Monitoring and Mitigation Plan.

- (a) 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.



- (i) Describe how and when mitigation will be implemented and financed.
    - (ii) Describe impacts that are unavoidable that cannot be mitigated.
  - (b) Description of methodology used to measure impacts of the Project and effectiveness of proposed mitigation measures.
  - (c) Description, location and intervals of proposed monitoring to ensure that mitigation will be effective.
- (23) Additional Information. The Director may request that the applicant supply additional information related to the Project if the Director and/or the Permit Authority will not be able to make a determination on any one of the applicable Review Criteria without the additional information. Such additional information may include applicant's written responses to comments by a referral agency.

2.304 Simultaneous Processing of Other Town Permits.

In the event a special use permit, rezoning, or other land use permit is required under the UDC for a proposed activity which is also governed by these Regulations, review of the required Permit under these Regulations may be combined with review of the other permit application pursuant to the following procedure:

- (1) The submission requirements for a special use permit, rezoning, or other land use permit as established by the Director may be combined with those for the relevant Permit under these Regulations and duplication eliminated.
- (2) The Planning Commission hearing if required by the UDC for a special use permit, rezoning, or other land use permit must precede the Town Council's hearing on the relevant Permit under these Regulations.
- (3) The Town Council's hearing, if any, on the special use permit, rezoning, or other land use permit may be combined with the Permit Authority's hearing on the relevant Permit under these Regulations.
- (4) At the close of the combined hearing, the Town Council shall act first on the special use permit, rezoning, or other land use permit application, and either approve, approve with conditions or deny the same, as contemplated by the UDC.
- (5) In the event the special use permit, rezoning, or other land use permit is denied, the Permit Authority shall not act upon the application for the relevant Permit under these Regulations, in recognition of the fact that no Permit under these Regulations may be issued if another required Town permit is not obtained or is denied.
- (6) In the event the Town Council approves the special use permit, rezoning, or other land use permit application, with or without conditions, the Permit Authority then

shall proceed to take action on the application for the relevant Permit under these Regulations.

**2.305 Referral Agencies**

The Director may, in his or her discretion, refer any pre-application and/or Permit application submittal to any outside review agency. Copies of any such referral agency comments received shall be promptly forwarded to the applicant for its response.

**2.306 Review by the Town Engineer**

The Town Engineer, in consultation with the Director, shall provide review and approval of submitted engineering documents accompanying applications for Permits under these Regulations. The Town Engineer will be signatory to review of all engineering design-related review documents and final Permit documents issued.

**Article 4 Permit Hearing**

**2.401 Notice of Permit Hearing**

After receipt of a completed application for a Permit, the Director shall set and publish notice(s) of the date, time and place for hearing(s) on said application and any required separate hearing on any requested waiver of submission requirements, first before the Planning Commission, and then before the Permit Authority. The notice of the public hearing(s) shall be published once in a newspaper of general circulation in the Town of Frisco, not less than thirty (30) nor more than sixty (60) days before the date set for hearing. On or before fifteen (15) days prior to the hearing, the applicant shall send a copy of the notice by U.S. Mail, first class postage prepaid, to all property owners adjacent to the real property to be occupied by the Project. The applicant shall also provide to the Director a list of such addressees accompanied by a certification that the notice was mailed to them. The Town Planning Commission shall conduct the initial hearing(s) on said application and any requested waiver of submission requirements, and thereafter shall make a recommendation to the Permit Authority to approve, approve with conditions, or deny the application or request for waiver of submission requirements. The hearing of the Planning Commission shall be conducted pursuant to the requirements of Section 2.402 below, and the recommendation of the Planning Commission shall be based upon its consideration of the criteria set forth in Section 2.404 below, and the decisional criteria that may be set forth with respect to the particular activity of state interest that is the subject of the application. .

**2.402 Conduct of Permit Hearing**

- (1) The Permit Authority shall conduct the public hearing in a manner affording procedural due process to the applicant, the general public, supporters of the project and any person who opposes issuance of the Permit.
- (2) The Permit Authority shall hear testimony and receive evidence, including:

- (a) The recommendations of the Town Planning Commission, if any;
  - (b) Relevant testimony and evidence from any and all persons or organizations desiring to appear and be heard, including Town staff; and
  - (c) Any relevant documents that may be offered into evidence.
- (3) The Department shall collect and arrange for preservation the following record of the public hearing:
  - (a) The Permit application;
  - (b) A copy of the notice of the hearing, the certificate of publication of the notice of hearing, and a listing of all persons to whom the notice was mailed;
  - (c) Any written statements or documents presented in support of or in opposition to the Permit application;
  - (d) The names and addresses of all persons who presented oral or written statements, appeared as witnesses, or offered documentary evidence;
  - (e) Written minutes of the Permit Authority relating to the public hearing;
  - (f) The resolution of the Permit Authority granting or denying the permit application; and
  - (g) A copy of the Permit, if issued.
- (4) In cases in which the development or activity must also obtain approvals under other Town regulations, the Permit hearing required by these Regulations may be held at the same time as the final hearing required for such applications.

2.403 Action by the Permit Authority

- (1) If the Permit Authority finds that there is not sufficient information concerning any material feature of a proposed development or activity, it may deny the application or it may continue the hearing until the additional information has been received; however, no such continuance may exceed forty-five (45) days after such receipt unless agreed to by the applicant.
- (2) The Permit Authority shall approve an application for a Permit to engage in development or the conduct of an activity of state interest if the proposed Project or activity complies with all of the provisions of these Regulations governing such activity. The Permit Authority may attach reasonable conditions to its approval to ensure compliance with these Regulations. If the proposed Project does not comply with these Regulations governing the activity, the Permit shall be denied or may be approved with conditions.

- (3) The burden of proof shall be upon the applicant to show compliance with the provisions of these Regulations governing the activity of state interest involved.
- (4) The Permit Authority shall state, in writing, reasons for its decision on a Permit application, and its findings and conclusions.
- (5) The Permit Authority shall reach a decision on a Permit application within sixty (60) days after the completion of the Permit hearing, or the Permit shall be deemed approved.

#### 2.404 Review Criteria for All Applications

In addition to the review criteria listed in connection with specific activities of state interest below, all applications under these Regulations shall be evaluated against the following general criteria. Following some, but not all, of the criteria listed below are lists of considerations. These considerations are not criteria that the Project must satisfy; they serve solely as guidance. Where such terms as "reasonable," "feasible" and "adequate" are used in the foregoing criteria, the Director or the Permit Authority shall determine in each case what is or is not reasonable, feasible or adequate.

- (1) The health, welfare and safety of the citizens of this Town will be protected and served.
- (2) The proposed activity is in general conformance with the Town of Frisco Comprehensive Plan, or other duly adopted plans of the Town of Frisco. The determination of conformance of the Project with these plans may include but is not limited to the following considerations:
  - (a) Likelihood that the Project will/will not cause or contribute to urban sprawl or "leapfrog" development.
  - (b) Significant changes in the amount of impervious surfaces.
  - (c) Contiguity of development associated with the Project to existing growth centers.
  - (d) Changes to unique land forms.
  - (e) Changes in the amount or character of open space.
  - (f) Changes to traffic patterns, road capacity and congestion.
- (3) The Project is financially feasible. The determination of financial feasibility of the Project may include but is not limited to the following considerations:
  - (a) The business plan submitted by the applicant.
  - (b) Relevant bond issue, loan and other financing approval or certifications (ex: approved bond issue; bond counsel opinion).

- (4) 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.
- (5) The Project will not have a significant adverse effect on the capability of local governments affected by the Project to provide local infrastructure and 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) Current and projected capacity of roads, schools, infrastructure, drainage and/or stormwater infrastructure, housing, and other services necessary to accommodate development, and the impact of the Project upon the current and projected capacity.
  - (b) Changes caused by the Project in the cost of providing education, transportation networks, water treatment and wastewater treatment, stormwater drainage, channel stabilization, bridges, emergency services, or other governmental services or facilities.
  - (c) Need for temporary roads to access the Project for construction and maintenance.
  - (d) Change in demand for public transportation.
- (6) 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 in quality and quantity of fisheries.
  - (c) Changes in instream flows or reservoir levels.
  - (d) Changes in access to recreational resources.
  - (e) Changes to quality and quantity of hiking, biking, or horseback riding trails.

- (f) Changes to open space.
  - (g) Changes to existing conservation easements.
  - (h) Changes to regional or neighborhood parks.
- (7) 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 in visibility and microclimates.
  - (b) Applicable air quality standards.
- (8) 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 ground cover and vegetation, waterfalls and streams, or other natural features.
  - (b) Interference with viewsheds and scenic vistas.
  - (c) Changes in landscape character types of unique land formations.
  - (d) Compatibility of structure size and color with scenic vistas and view sheds.
  - (e) Changes to open space.
  - (f) Changes to existing conservation easements.
  - (g) Changes to impacts to regional or neighborhood parks.
- (9) 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 waterbodies.

- (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 to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and floodplains.
  - (k) Changes to stream sedimentation, geomorphology, and channel stability.
  - (l) Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs.
- (10) 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.
- (11) The Project will not significantly degrade wetlands and riparian areas, terrestrial or aquatic plant or animal life. The determination of effects of the Project on these areas shall include the considerations raised in the applicable federal and/or state Permits.
- (12) 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) Loss of topsoil due to wind or water forces
  - (b) Changes in soil erodibility
  - (c) Physical or chemical soil deterioration
  - (d) Terrain deformation/mass wasting/subsidence
  - (e) Compacting, sealing and crusting
  - (f) Waterlogging

- (g) Soil morphology and productivity
- (13) 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: increase in odors, dust, fumes, glare, heat, noise, vibration or artificial light.
- (14) 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 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.
- (15) Urban development, population densities, and site layout and design of storm water 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 the aquifer recharge areas.
- (16) 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 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.

## **Article 5     Permits**

### **2.501     Issuance of Permit; Conditions**

The Permit shall be issued on the form adopted by the Permit Authority. An example Permit is attached hereto as **Exhibit B**. The Permit Authority may attach any conditions



to the Permit to ensure that the requirements of these Regulations are continuously met. The Permit Authority may impose additional mitigation requirements and conditions on an applicant under the following procedure:

- (1) The Permit Authority shall make written findings that each such requirement and condition is necessary to ensure that the proposed project will not result in significant adverse net effect on the resources, values and conditions in the applicable chapter of these Regulations.
- (2) The Permit Authority shall also find in writing that each such requirement and condition is necessitated by the proposed Project.
- (3) All such findings shall be based on material in the administrative record.
- (4) The Permit Authority shall base the additional requirements and conditions on applicable design standards as adopted by the Town to the extent that such standards then exist.

#### 2.502 Term of Permit; Progress Reports

The Permit may be issued for an indefinite term or for a specific period of time, depending upon the size and complexity of the Project. Periodic progress reports may be required to be submitted to demonstrate that the applicant is completing the development with reasonable diligence. If the applicant fails to take substantial steps to initiate the permitted Project within twelve (12) months from the date of the Permit or such other time period specified in the Permit, if such steps have been taken but the applicant has failed to complete the development with reasonable diligence, then the Permit may be revoked or suspended in accordance with Section 2.508.

#### 2.503 Renewal

Permits and Administratively Approved Permits issued under these Regulations may be renewed following the same procedure for approval of the initial Permit. The Permit Authority or the Director, as appropriate, may impose additional conditions at the time of renewal if necessary to ensure that the Project will comply with these Regulations.

#### 2.504 Permit Amendment

- (1) Any material change, as determined by the Director, in the construction, use, or operation of a Project from that initially approved shall require a Permit amendment. The amendment shall be processed in accordance with and subject to the same procedures and requirements set forth herein for a new Permit or an Administratively Approved Permit, as applicable.
- (2) A government-sponsored project providing a public utility service, e.g. water, wastewater, gas or electric, shall not be subject to this provision with respect to future operations to the extent such operations utilize existing infrastructure for which a Permit or an Administratively Approved Permit under these Regulations

has been obtained, and which are consistent with the originally intended scope and use of that infrastructure for which a Permit or an Administratively Approved Permit has been obtained, subject to any limitations or conditions to the contrary contained in the original Permit.

2.505 Permit Administration, Enforcement and Inspection

The provisions of these Regulations and any Permits or an Administratively Approved Permit issued hereunder shall be administered, enforced, and inspected in accordance with the provisions of this Chapter and Chapter 1.

2.506 Transfer of Permits

A Permit may be transferred unless a Permit condition requires consent of the Permit Authority. The Permit Authority, or in the case of an Administratively Approved Permit, the Director, must 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.

2.507 Financial Security

- (1) Before any permit is issued, the Permit Authority may in its discretion require the applicant to file a guarantee of financial security deemed adequate by the Permit Authority and payable to the Town of Frisco.
- (2) The security shall be signed by the applicant or permittee as principal and by a good and sufficient corporate surety licensed to do business in the State of Colorado, and it shall be made payable to the Town of Frisco. At the discretion of the Permit Authority, those persons holding any interest in the land on which the development or activity is to be conducted may also be required to join as principals.
- (3) The purpose of the financial security shall be to assure that all requirements of the Permit for mitigation and site remediation are adequately guaranteed.
- (4) The amount of the financial security shall be established by the Permit Authority upon consideration of the following criteria:
  - (a) The estimated cost of returning the site of the permitted development or activity to its original condition or to a condition acceptable to the Permit Authority in accordance with standards adopted by the Permit Authority for the matter of state interest for which the Permit is being granted; and
  - (b) The estimated cost of complying with the mitigation requirements of the Permit.

- (c) Other financial security provided by the applicant in connection with the same Project.
- (5) Estimated cost shall be based on the applicant's submitted cost estimate plus the Permit Authority's estimate of the additional cost to bring in personnel and equipment to accomplish any unperformed purposes of the financial guarantee. The Permit Authority shall consider the duration of the development or activity and compute a reasonable projection of cost increases due to inflation.
- (6) The Permit Authority may require that all or a portion of the amount of the financial guarantee shall be in cash deposited with the Town's Finance Director and placed in an interest-bearing account. Any interest earned shall be deemed additional security and returned to the applicant in the same manner as the original deposit.
- (7) The financial guarantee may be released only when:
  - (a) The Permit has been surrendered to the Permit Authority before commencement of any physical activity on the site of the permitted development or activity;
  - (b) The development or activity has been abandoned and the site thereof has been returned to its original condition or to a condition acceptable to the Permit Authority in accordance with standards adopted by the Permit Authority for the matter of state interest for which the Permit was granted; or
  - (c) The mitigation requirements have been satisfactorily completed.
- (8) Any security may be cancelled or reduced by a surety only upon receipt of the Permit Authority's written consent which may be granted only when such cancellation or reduction will not detract from the purposes of the security.
- (9) 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 or federal authority, then the applicant or permittee, within ten (10) days after receiving notice thereof, shall substitute a good and sufficient surety licensed to do business in the State. Upon failure of the permittee to make substitution of surety within the time allowed, the Permit Authority shall suspend the Permit until proper substitution has been made.
- (10) If the Permit Authority determines that a financial guarantee should be forfeited because of any violation of the permit, it shall provide written notice to the surety and to 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.

- (11) 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 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.
- (12) The cash deposit described in subsection (6) above may be used by the Town in the event of the default or alleged default of the Permit holder only for the purposes of recovering on the surety or fulfilling the Permit obligations of the Permit holder. The Town may arrange with a lending institution which provides money for the Permit holder that said institution may hold in escrow any funds required for said cash deposit. Funds shall be disbursed out of escrow by the institution to the Town upon it's demand for the purposes specified in this Section.
- (13) If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, the Town Attorney is hereby authorized to take such steps as deemed proper to recover such costs, including, without limitation, perfecting a lien upon any real property in the Town owned by the permittee, by certifying such costs to the County Treasurer for collection in the same manner as real property taxes or by civil action.
- (14) Upon request, the Permit Authority may, in its sole and exclusive discretion, waive all or any portion of the financial security requirements.
- (15) With respect to security required for an Administratively Approved Permit under Section 2.202, the Director shall exercise all of the powers and functions as described herein for the Permit Authority.
- (16) The Town Attorney shall have authority to approve the form of security presented.

2.508 Revocation or Suspension of Permits

- (1) In the event the Director has reason to believe that the condition imposed on the Permit has been violated by the holder of the Permit, the Director may temporarily suspend the Permit for a period of thirty (30) days. Before imposing such a temporary suspension, the Director shall give the permittee written notice of the specific violation and shall allow the Permit holder a period of at least ten (10) days to correct the violation. If the permittee does not concur that there is a violation, the permittee shall, within ten (10) days of the date of such notice, demonstrate to the Director why temporary suspension should not be ordered. Within ten (10) days thereafter, the Director shall make a decision, as follows:
  - (a) If the Director determines there is no Permit violation, the matter is closed and the Permit remains in effect.
  - (b) If the Director finds a violation exists, the Permit shall be suspended for thirty (30) days. During such period, the applicant shall either:

- (i) Correct the violation;
    - (ii) Request an extension of time to correct the violation, or
    - (iii) Request a show cause hearing before the Permit Authority, which shall be conducted in substantially the manner set forth in Section 2.401 and 2.402(1).
  - (c) The Director may extend the time period for the correction of a violation upon the request of the Permittee.
- (2) In lieu of, or subsequent to a temporary suspension, the Permit Authority may permanently revoke or suspend the Permit after conducting a public hearing in substantially the same manner and after substantially the same notice as for Permit hearings (Sections 2.401 through 2.403), and if it finds:
- (a) A violation of any provision or condition of approval of the Permit or applicable regulation for administration of the matter of state interest concerned; or
  - (b) The permittee has failed to take substantial steps to initiate the permitted development or activity within twelve (12) months from the date of the Permit, or, if such steps have been taken, the permittee has failed to complete the development or activity or any condition of permit approval with reasonable diligence. "Substantial steps" do not require construction activity and may include, among other things, legal or administrative proceedings and activities directly associated with the permittee's project. An extension of the time within which substantial steps to initiate the permitted development or activity need be taken may be granted by the Permit Authority upon the request of the applicant and a showing of good cause therefore.
  - (c) Upon good cause shown, any revoked or suspended permit may be reinstated by the Permit Authority, within twelve (12) months after revocation or suspension.

#### 2.509 Annual Review

- (1) Within thirty (30) days prior to each annual anniversary date of the granting of a Permit the permittee shall submit a report to the Community Development Department containing a summary of 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 of activities, such as operational changes, which are not the subject of a Permit condition.
- (2) The Director shall review the report set forth in Section 2.509(1) within thirty (30) days from the date of submittal thereof. If the Director determines that the

permittee has or is likely to have violated the provisions of the Permit and/or applicable regulations, he/she shall schedule the matter for public hearing by the Permit Authority. 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 2.508.

- (3) Upon notice to the Permit Authority or the Director, of the fulfillment of all Permit conditions, and the Permit Authority's concurrence therein, the Permit Authority shall terminate any annual review requirements.
- (4) The Permit Authority may waive or modify the annual review requirements upon petition of the permittee and a showing of good cause therefor.
- (5) In the case of an Administratively Approved Permit, the Director shall consider suspension or revocation in the manner set forth in Sections 2.202(6) and (7).

## **Article 6     Administration, Enforcement and Penalties**

### **2.601   Enforcement and Penalties**

- (1) Any person conducting a designated activity of state interest who does not obtain a Permit pursuant to these Regulations, who does not comply with Permit requirements, who acts outside the authority of an issued Permit, or who exceeds the permission granted in an issued permit has thereby acted unlawfully.
- (2) All unlawful acts pursuant to these Regulations may be referred to the Office of the Town Attorney, who may institute action for an injunction, mandamus, abatement, or other appropriate action to prevent, enjoin, abate, or remove a violation of these Regulations, to prevent a person from engaging in unlawful development or conducting an unlawful activity or to otherwise restore the premises to the condition that existed before the violation.

### **2.602   Mapping Disputes**

Where interpretation is needed as to the exact location of the boundary of any designated area and where there appears to be a conflict between a mapped boundary and actual field conditions, the Director shall make the necessary determination of the boundary. Any person contesting the location of the boundary shall be given an opportunity to appeal the decision to the Permit Authority. Any such appeal must be filed in writing with the Director within thirty (30) days of the date of the determination of boundary; otherwise, the determination of the Permit Authority will be final.

### **2.603   Inspection**

- (1) The Director is hereby empowered and directed to inspect and examine the use, occupation or development in each and every activity subject to these Regulations for the purpose of determining from time to time whether or not any use occupation,

development or activity is in violation of any of the provisions of these Regulations or of any Permit issued or required pursuant to these or other applicable regulations.

- (2) If a violation shall be found to exist, the Director shall by written order direct that such remedial action be taken forthwith as will result in full compliance with the applicable regulations, provided, however, that the issuance of such order shall in no way or manner be deemed a prerequisite to the institution of such enforcement proceedings as are set forth in these Regulations; and provided further, that compliance with such order shall not necessarily be deemed to be a defense to any alleged violation of these Regulations or other applicable regulations of the Town of Frisco.

CHAPTER 3

SITE SELECTION AND CONSTRUCTION OF MAJOR NEW DOMESTIC SEWAGE  
TREATMENT SYSTEMS AND MAJOR EXTENSIONS OF EXISTING DOMESTIC SEWAGE  
TREATMENT SYSTEMS

**Article 1      General Provisions**

- 4.101 Designation of Activities of State Interest
- 4.102 Purpose and Intent
- 4.103 Definitions
- 4.104 Applicability

**Article 2      Permit Applications and Procedures**

- 4.201 Application Submission Requirements
- 4.202 Review Criteria



## **Article 1      General Provisions**

### **3.101   Designation of Activities of State Interest**

Any activity wholly or partially within the Town of Frisco which falls within one or more of the following categories shall be considered to be site selection and construction of major new domestic sewage treatment system and/or major extension of an existing domestic sewage treatment system, which activities are hereby designated as activities of state interest requiring a permit under these Regulations. No person may engage in construction, expansion, reoperation or other significant change in use of the following activities wholly or partially within the Town of Frisco without first obtaining a Permit pursuant to these Regulations.

- (1)    Domestic Sewage Systems. A project which is planned for or requires the creation of a major new sewage treatment system(s) or a major extension(s) of an existing sewage treatment system(s), which means any new collector sewer lines, return flow lines, pumping structure or treatment facilities proposed for:
  - (a)    New wastewater treatment plants, extensions or expansions to existing plants, or individual sewage disposal systems (on-site wastewater treatment systems) that have an average flow of more than 2,000 gallons per day;
  - (b)    Wastewater lift stations that pump wastewater from areas too low to drain into available sewers receiving an average flow of more than 2,000 gallons per day;
  - (c)    Wastewater interceptors, as defined at Section 3.103;
  - (d)    Service for commercial and/or industrial use that serves an equivalent of more than 250 single-family equivalents, and that is not served at the time of permit application.
- (2)    This designation does not include extensions of sewer lines for which construction plans have been or are subject to approval as part of a subdivision development under the UDC.

### **3.102   Purpose and Intent**

The purpose and intent of this Chapter shall be:

- (1)    To ensure that new domestic sewage treatment systems and/or major extensions of the same are constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic sewage systems of adjacent communities.
- (2)    To ensure that site selection and construction of major new domestic sewage treatment systems and/or major extensions of the same are conducted in such a manner as to minimize environmental impacts associated with such development.
- (3)    To ensure that site selection and construction of major new domestic sewage treatment systems and/or major extensions of the same are planned and developed in a manner so as not to impose an undue economic burden on existing or proposed communities.

- (4) To ensure that the impacts to Town roads of site selection and construction of major new domestic sewage treatment systems and/or major extensions of the same are adequately mitigated.

### 3.103 Definitions

For the purpose of this Chapter, the following definitions will apply:

- (1) *Collector sewer line* means a sewage treatment system's pipe, conduit, ditch, natural water course, or combination thereof which is designed to accept and transport wastewater from privately owned service lines from individual structures and properties to the system's treatment plant. A collector sewer line for the purpose of this regulation includes common lateral sewers and interceptor sewers. Not included in this definition are privately owned individual on-site sewage disposal system lines and privately owned service lines.
- (2) *Domestic sewage treatment system* means a wastewater treatment plant, including systems whose service area is, or will be, partly outside the incorporated area of the Town of Frisco.
- (3) *Interceptor* means a waste water interceptor sewer with an internal pipe diameter of equal to or greater than 24 inches intercepting wastewater from a final point in a collection system and conveying the waste directly to a treatment plant, or meeting other requirements of the CDPHE to be classified as an interceptor.
- (4) *Return flow* means a sewage treatment system's pipe, conduit, ditch, natural water course, or combination thereof, which is designed to transport wastewater, commonly known as effluent, from the system's treatment plant to a point of discharge. A point of discharge includes a natural water course, ditch, groundwater recharge area, injection well, evaporation basin, or water supply system's transmission line.
- (5) *Wastewater treatment plant* means the facility or group of units used for treatment of wastewater from sewer systems and for the reduction and handling of solids and gases removed from such wastes.

### 3.104 Applicability

These Regulations shall apply to the site selection for all major new domestic sewage treatment systems and the construction thereof as described at Section 3.101 and defined at Section 3.103. They shall also apply to the expansion or major extension of existing domestic sewage treatment systems.

## **Article 2      Permit Applications and Procedures**

### 3.201 Application Submission Requirements

In addition to the materials listed at Section 2.303, applications for a permit to locate or construct a major new domestic sewage treatment system and/or major extension thereof shall be accompanied by the following information, in the number required by the Director:

- (1) Preliminary review and comment on the proposal by the appropriate agency of the Colorado Department of Natural Resources and the Colorado Department of Public Health and Environment within sixty (60) days of the date of submittal of the proposal for review.
- (2) Scope of Proposal
  - (a) Provide detailed plans of the proposal, including proposed system capacity and service area plans mapped at a scale acceptable to the Department.
  - (b) Provide a description of all existing or approved proposed domestic sewage treatment systems within the Project area.
  - (c) Describe the design capacity of each domestic sewage treatment system facility proposed and the distribution or collection network proposed in the Project area.
  - (d) Describe the excess capacity of each treatment system and distribution or collection network in the affected community or Project area.
  - (e) Provide an inventory of total commitments already made for current sewage services.
  - (f) Describe the operational efficiency of each existing system in the Project area, including the age, state of repair and level of treatment.
- (3) Demonstration of Need
  - (a) Provide population trends for the Project area, including present population, population growth and growth rates, documenting the sources used.
  - (b) Specify the predominant types of developments to be served by the proposed new sewage system or extensions thereof.
    - (i) Specify at what percentage of the design capacity the current wastewater treatment system is now operating.
  - (c) Specify whether present facilities can be upgraded to accommodate adequately the ten-year projected increase needed in treatment and/or hydraulic capacity.
- (4) The financial impact analysis of site selection and construction of major new sewage treatment facilities and/or major extension of existing domestic sewage treatment systems shall include but need not be limited to the following items:
  - (a) A review and summary of any existing engineering and/or financial feasibility studies, assessed taxable property valuations and all other matters of financial aid and resources in determining the feasibility of the proposed new facility, including:
    - (i) Service area and/or boundaries.
    - (ii) Applicable methods of transmitting, storing, treating and delivering water and collecting, transmitting, treating and discharging sewage, including effluent and/or sludge disposal.

- (iii) Estimated construction costs and period of construction of each new or extension facility component.
- (iv) Assessed valuation of the property to be included within the service area boundaries.
- (v) Revenues and operating expenses of the proposed new or extension facility, including but not limited to historical and estimated property taxation, service charges and rates, assessments, connection and tap fees, standby charges and all other anticipated revenues of the proposed new facility.
- (vi) Amount and security of the proposed debt and method and estimated cost of debt service.
- (vii) Provide the details of any substantial contract or agreement for revenues or for services to be paid, furnished or used by or with any person, association, corporation or governmental body.

### 3.202 Review Criteria

A permit for the conduct of site selection and construction of major new domestic sewage treatment systems and/or major extension of existing domestic sewage treatment systems shall be approved if the Permit Authority, or in the case of an Administratively Approved Permit, the Director finds the application complies with the following criteria and the relevant criteria at Section 2.405. If the Permit Authority or the Director, as appropriate, finds that the application does not comply, the application shall be denied or may be approved with conditions:

- (1) There is sufficient existing and projected need to warrant and support the proposed Project.
- (2) New domestic sewage treatment systems or extensions 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.
- (3) Site selection and construction of major new sewage treatment facilities and/or major extensions of domestic sewage treatment systems will not create growth and development which is incompatible with and cannot be accommodated by the local financial capacity of the area or residents to be served.
- (4) Site selection and construction of major new sewage treatment facilities and/or major extensions of domestic sewage treatment systems will not overburden the existing systems and current and projected future demand for the service can be met within existing and proposed capacity.
- (5) The activity will not create proliferation of special districts, or overlapping of the boundaries of special districts.
- (6) The proposed activity is the best alternative available for the provision of sewer service to the geographical area affected by the proposal.

- (7) Economic impacts including, but not limited to, taxable property, NPDES permitted facilities, and recreation related to the proposed activity have been identified and will be compensated for or mitigated.
- (8) To the extent feasible, wastewater 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.
- (9) 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.
- (10) The Project will not result in excess capacity in existing 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 wastewater permits.
  - (d) Whether the activity will create proliferation of special districts, or overlapping of the boundaries of special districts.

CHAPTER 4

SITE SELECTION AND CONSTRUCTION OF MAJOR FACILITIES OF A PUBLIC UTILITY

**Article 1      General Provisions**

- 4.101 Designation of Activity of State Interest
- 4.102 Purpose and Intent
- 4.103 Definitions
- 4.104 Applicability; Prohibitions
- 4.105 Review, Notification and Final Action

**Article 2      Permit Application and Procedures**

- 4.201 Application Submission Requirements
- 4.202 Review Criteria

**Article 1      General Provisions**

4.101    Designation of Activity of State Interest

- (1)      The following activity of state interest is hereby designated: site selection and construction of major facilities of a public utility. No person may engage in development, including construction, expansion, reoperation, relocation or other significant change in use of such activity wholly or partially within the Town of Frisco without first obtaining a permit pursuant to these Regulations.
- (2)      The issuance of a permit for this activity is contingent upon the subsequent approval of the major facility by the Public Utilities Commission, Colorado Department of Public Health and Environment, U.S. Environmental Protection Agency, or other regulatory agencies, where required by appropriate statute or regulation.

4.102    Purpose and Intent

The purpose and intent of these Regulations contained in this Chapter 4 are:

- (1)      To regulate the site selection and construction of major facilities of a public utility to prevent significant deterioration or degradation of existing air and water quality in the Town of Frisco;
- (2)      To avoid or reduce conflicts with the Town of Frisco Comprehensive Plan;
- (3)      To regulate the site selection and construction of major facilities of a public utility to preserve the health and welfare of the citizens of the Town of Frisco; and
- (4)      To avoid or reduce incompatible uses adjacent to Town roads and Town trails and to avoid unreasonable or burdensome expenditure of public resources by minimizing impacts by public utilities to said Town roads and trails.

4.103    Definitions

For the purpose of this Chapter, the following definitions shall apply:

- (1)      *Appurtenant facilities* means any building, structure or other property which is incidental to, and customarily found in connection with, major facilities of public utilities and are operated and maintained for the benefit or convenience of the occupants, employees, customers or visitors of such major facilities.
- (2)      *Major facilities of a public utility* means transmission lines, power plants, substations, pipelines, and storage areas of utilities as herein separately defined.
- (3)      *Pipeline* means any pipeline and appurtenant facilities thereto, designed for, or capable of, transporting natural gas, manufactured gas, or other petroleum derivatives.

- (4) *Power plant* means any of the following:
- (a) Any fossil fuel, biofuel, or similar electrical energy generating facility or addition thereto with a generating capacity of fifty (50) megawatts or more, and any appurtenant facilities.
  - (b) Any solar or wind electrical energy generating facility or addition thereto with a generating capacity in excess of five hundred (500) kilowatts, and any appurtenant facilities.
  - (c) Any nuclear or hydropower electrical generating facility of five hundred (500) kilowatts or more.
- (5) *Public utilities* mean those utilities as defined by Section 39-4-101 and Section 40-1-103, C.R.S.
- (6) *Storage area* means any facility, including appurtenant facilities, designed to store eighty million (80,000,000) cubic feet or more of natural or manufactured gas, or thirty-five thousand (35,000) barrels or more of petroleum derivatives, or any expansion or series of expansions of an existing storage facility to accommodate eighty million (80,000,000) cubic feet or more of natural or manufactured gas, or thirty-five thousand (35,000) barrels or more of petroleum derivatives.
- (7) *Site selection and construction* means and includes the initial site selection and construction of a facility as well as any subsequent relocation, reconstruction or upgrade of such facility.
- (8) *Substation* means any facility designed to provide switching, voltage transmission, or voltage control required for the transmission of electricity at one hundred fifteen (115) kilovolts or more, but does not have as a primary purpose the transformation of voltage to fifty (50) kilovolts or less for distribution purposes.
- (9) *Transmission line* means any electric transmission line and appurtenant facilities used to transmit electricity.

#### 4.104 Applicability; Prohibitions

- (1) This Chapter 4 shall apply to the site selection and construction of all major facilities of a public utility wholly or partially within the Town of Frisco.
- (2) A Permit is not required under this Chapter for the following activities: repair of storm damage, reframing, pole replacement, re-conductor and maintenance in the normal course of business without increasing the voltage rating of the transmission line, or reconstructing, upgrading or replacing substation equipment inside an existing substation or within an existing substation fence.
- (3) A permit under this Chapter 4 is required to construct, locate, relocate, reconstruct, enlarge or upgrade any electric transmission line and appurtenant facilities used



to transmit electricity at 115 kilovolts or more at any location within the Town of Frisco.

- (4) A permit under this Chapter 4 is required to construct, locate, relocate, reconstruct, enlarge or upgrade any pipeline and appurtenant facilities of twelve (12) inches or more in diameter which creates a hoop stress of twenty (20) percent or more at their specified minimum yield strength.
- (5) This Chapter shall not apply to interstate natural gas pipeline facilities regulated preemptorily by the Federal Energy Regulatory Commission (FERC), or its successor.
- (6) The requirements of these Regulations shall not be deemed to waive the requirements of Section 40-5-101, et seq., C.R.S., if applicable, that a public utility obtain a certificate of public convenience and necessity.

#### 4.105 Review, Notification and Final Action.

Notwithstanding Section 2.02 and Article 4 of Chapter 2 of these Regulations, the Director shall notify the applicant of any additional information required to render an application complete within 28 days of initial submittal of the application, and the Director and the Permit Authority, as appropriate, shall take final action on the application within 90 days of the date a complete application is received.

## **Article 2 Permit Application and Procedure**

### 4.201 Application Submission Requirements

In addition to the materials listed at Section 2.303, all applications to locate or construct a major facility of a public utility shall be accompanied by the following information, in the number required by the Director:

- (1) Vicinity map showing the proposed site and the surrounding area. The Project area to be shown shall be defined as follows:
  - (a) If a power plant is proposed, the area within fifty (50) miles radius from the site;
  - (b) If new transmission lines or pipelines are proposed, provide a map showing all existing transmission lines and pipelines for a distance of two (2) miles radius beyond any reasonable alternative studied.
  - (c) For upgrades of existing transmission lines or gas pipelines, a map showing all existing transmission lines and pipelines within one (1) mile on either side of the proposed alignment.
  - (d) For all other major facilities of a public utility, the area within ten (10) miles radius of the site if another major facility is proposed.

- (2) Type of facility - specify where applicable:
  - (a) The voltages and lengths of transmission lines.
  - (b) Type of poles used, with graphic depictions.
  - (c) Power source and generating capacity.
  - (d) The functions and sizes of substations.
  - (e) The diameters and lengths of pipelines.
  - (f) The capacities of the storage tanks and types of petroleum derivative to be stored.
  - (g) Corridor locations and dimensions.
  - (h) Service area.
- (3) Resource area (e.g., source of power being generated or transmitted, source of petroleum derivative being transported).
- (4) Projected development schedule.
  - (a) Specify timetable for planning (e.g., federal permits, other State permits, local zoning, etc.).
  - (b) Estimate beginning and completion of construction and beginning of operation of facility.
- (5) Hazards and emergency procedures:
  - (a) Describe hazards, if any, of fire, explosion and other dangers to the health, safety and welfare of employees and the general public.
  - (b) Describe hazards, if any, of environmental damage and contamination due to solid waste, hazardous waste, petroleum products, hazardous, toxic, and explosive substances or materials used at, or activities taking place at, the proposed facility.
  - (c) Describe emergency procedures to be used in the event of fire, explosion or other event which may endanger the public health, safety and welfare.
- (6) The applicant shall supply an analysis of non-structural alternatives to the Project, such as conservation of energy use, no development or management (different scheduling, conservation programs, facility design, land trades etc.), if applicable.
- (7) The applicant shall supply an analysis of structural alternatives to the Project, such as alternate locations and routes, alternative types of facilities, use of existing

rights-of-way, and joint use of rights-of-way with other utilities and upgrading of existing facilities.

- (8) Detailed description of the need for the proposed development or activity, including but not limited to:
  - (a) The present population of the area to be served and the total population to be served when the project is operating at full capacity.
  - (b) The predominant type of users or communities to be served by the proposal.
  - (c) The percentage of the design capacity at which the current system is now operating.
  - (d) If the proposal is for construction of a new facility and the capacity of that facility exceeds a ten-year projected increase in demand, a detailed explanation of the excess service capacity and the cost of the excess capacity.
  - (e) The relationship of the proposal to the applicant's long-range planning and capital improvement programs.
  - (f) A description of the user needs and user patterns to be fulfilled by the proposed Project.
  - (g) A description of the relationship of the Project to other existing and planned utility facilities of a similar nature, other communication or energy generation and transmission facilities, local government capital improvement programs and special district expansion programs.
- (9) Environmental impact analysis.
  - (a) Land use:
    - (i) Specify how the proposed development will utilize existing easements or rights-of-way for any associated distribution or collector networks.
  - (b) Information regarding other utility facilities:
    - (i) A map showing each existing major facility of a public utility within the Town of the type proposed for development.
    - (ii) The design capacity of each such facility, the excess capacity of each such facility and the percentage of capacity at which each such facility operates.

- (iii) Whether present facilities can be upgraded to adequately accommodate a ten-year projected increase in demand for services to be offered by the proposed project.
- (10) Applicants seeking a permit for the site selection and construction of a power plant shall submit, in addition to those requirements set forth above, a map locating and describing resource areas to be utilized as sources of energy.
- (11) Applicants seeking a permit for the site selection and construction of transmission lines or substations shall submit the following additional documents and information:
  - (a) Computer modeled electromagnetic field measurement within the proposed transmission line easement for that portion of the transmission line between substations or transition sites; and
  - (b) Measures taken to comply with the concept of prudent avoidance with respect to planning, siting, construction and operation of transmission lines, which may be those steps taken to comply with CCR 723-3 Section 3206(9)(b) or similar authority, for projects where other similar authority is applicable.

#### 4.202 Review Criteria

A Permit to conduct site selection and construction of a major facility of a public utility shall be approved if the Permit Authority, or in the case of an Administratively Approved Permit, the Director finds the application complies with the following criteria and the relevant criteria at Section 2.405. If the Permit Authority finds the application does not comply, the application shall be denied or may be approved with conditions.

- (1) All reasonable alternatives to the proposed action, including use of existing rights-of-way and joint use of rights-of-way wherever uses are compatible, have been adequately assessed and the proposed action represents the best interests of the people of the Town and presents the best utilization of resources in the impact area.
- (2) A satisfactory program to mitigate and minimize adverse impacts has been presented.
- (3) Electric transmission lines and pipelines shall be located so as to discourage traffic congestion, incompatible uses, and expansion of the demand for government services beyond the reasonable capacity of the community or region, and to avoid unreasonable or burdensome expenditure of public resources.
- (4) Major facilities of a public utility shall be administered so as to minimize disruption of the service provided by the utility and preserve desirable existing community patterns.

CHAPTER 5

SITE SELECTION OF ARTERIAL HIGHWAYS AND INTERCHANGES  
AND COLLECTOR HIGHWAYS

**Article 1      General Provisions**

- 5.101 Designation of Activity of State Interest
- 5.102 Purpose and Intent
- 5.103 Definitions
- 5.104 Applicability; Exemptions

**Article 2      Permit Application and Procedure**

- 5.201 Application Submission Requirements
- 5.202 Review Criteria

## **Article 1     General Provisions**

### **5.101     Designation of Activity of State Interest**

- (1)     The following activity of state interest is hereby designated: site selection of arterial highways and interchanges and collector highways. No person may engage in development, including site selection, construction, expansion, reoperation, relocation or other significant change in use of such activity wholly or partially within the Town of Frisco without first obtaining a permit pursuant to these Regulations.
- (2)     The issuance of a permit for this activity is contingent upon the subsequent approval of the Colorado Department of Transportation or other regulatory agencies, where required by appropriate statute or regulation.

### **5.102     Purpose and Intent**

The purpose and intent of these regulations contained in this Chapter 5 are:

- (1)     To facilitate the local administration of site selection of arterial highways and interchanges and collector highways by establishing requirements which must be met before a site may be selected;
- (2)     To ensure that community traffic needs are met;
- (3)     To provide for the continuation of desirable community patterns;
- (4)     To discourage expansion of demand for government services beyond the reasonable capacity of the community to provide such services as determined by the Town;
- (5)     To prevent direct conflicts with local, regional and state master plans;
- (6)     To ensure that highway and interchange development is compatible with surrounding land uses;
- (7)     To encourage the coordination of highway planning with community and development plans;
- (8)     To discourage traffic hazards and congestion;
- (9)     To minimize sources of traffic noise, air and water pollution; and
- (10)    To protect scenic, natural, historical and archeological resources from destruction.

### **5.103     Definitions**

For the purpose of this Chapter, the following definitions shall apply:

- (1)     *Applicant* means any person, including a municipality, special district or authority, state, or federal entity, proposing to locate an arterial highway or interchange or collector highway.

- (2) *Arterial highway* means and includes:
- (a) 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; and
  - (b) Any other publicly or privately financed highway which provides a connection between major developments or growth areas, whether or not designed to Town standards, owned or maintained by the Town, or tolled.
- (3) *Collector highway* means and includes:
- (a) 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 country road designed for local service and constructed under the supervision of local government; and
  - (b) Any other publicly or privately financed highway which collects or serves traffic from local streets or roads, whether or not designed to Town standards, owned or maintained by the Town, or tolled.
- (4) *Constructed under guidelines and standards established by or constructed under the supervision of the Colorado Department of Transportation* shall each include, without limitation, any of the below-listed forms of participation by the Colorado Department of Transportation:
- (a) The Colorado Department of Transportation, or any entity formed directly or indirectly by it or the Colorado Transportation Commission, or formed by contract or agreement with it or the Colorado Transportation Commission (including, without limitation, any enterprise formed under Article 4 of Title 43, C.R.S., as amended, or nonprofit entity formed by such enterprise),:
    - (i) Is an applicant;
    - (ii) Sells, leases, loans, donates, grants, conveys, assigns, transfers or otherwise provides any real or personal property or interests therein used or to be used in the proposed construction, modification or expansion of the arterial highway, interchange or collector highway, including transfer or assignment of any contract to the applicant that may have been awarded for the proposed construction, modification or expansion of the arterial highway, interchange or collector highway;
    - (iii) Delegates authority to the applicant or is a signatory to any intergovernmental agreement or other form of contract, agreement, conveyance, delegation or authorization required for the applicant to construct, modify or expand the arterial highway, interchange or collector highway; or

- (iv) Performs or funds any planning, design, study, construction, supervision or maintenance functions associated with all or any portion of the construction, modification or expansion of the arterial highway, interchange or collector highway.
- (b) A state highway access permit from the Colorado Department of Transportation is necessary for access from the proposed construction, modification or expansion of the arterial highway, interchange or collector highway to a state highway.
- (5) *Corridor* means a strip of land within which an arterial or collector highway may be located.
- (6) *Historic site* is as defined in National Historic Preservation Act (16 U.S.C. § 470).
- (7) *Historic resource impact area* means an area within which development activities may have significant impacts upon historic resources of statewide or Town importance.
- (8) *Historic resources* means properties, buildings and sites which have been officially included in the National Register of Historic Places, designated by statute or included in the State Register of Historic Places or a locally designated historic resource.
- (9) *Impact area* means that area within the Town which is served or potentially served by a highway or which would be impacted, directly, indirectly or cumulatively, by the location of an arterial highway, interchange or collector highway.
- (10) *Interchange* means the intersection of arterial and/or collector highways, roads, or streets
- (11) *Limited access highway* means providing access connection with selected public roads and limited or no direct private access connections.
- (12) *Site selection* means the determination of a specific corridor or facility location which is made at the conclusion of the corridor location studies in which:
  - (a) Construction of an arterial highway, interchange or collector highway is proposed; or
  - (b) Expansion or modification of an existing arterial highway, interchange or collector highway is proposed that would result in:
    - (i) An increase in highway capacity by at least one (1) lane through widening or alternative lane configurations, or an equivalent increase in capacity produced by access controls, technological or other types of highway improvements; or
    - (ii) The elimination of direct, at-grade, access from a public road or street to such existing arterial or collector highway; or



- (c) Expansion or modification of an existing highway is proposed which would result in a change in classification to collector highway or arterial highway as defined in this Chapter.

#### 5.104 Applicability; Exemptions

- (1) This Chapter shall apply to the site selection of all arterial highways and interchanges and collector highways wholly or partially within the Town of Frisco, not associated with an application under the Unified Development Code.
- (2) A Permit is not required under this Chapter for the following activities:
  - (a) Arterial highways and interchanges and collector highways planned or constructed within the scope of an application under the Unified Development Code.
  - (b) Arterial highways and interchanges and collector highways owned, maintained, or constructed by the Town of Frisco.

### **Article 2. Permit Application and Procedure**

#### 5.201 Application Submission Requirements

In addition to the materials listed at Section 2.303, applications for a permit to locate or engage in the site selection of an arterial highway, interchange or collector highway shall be accompanied by the following documents and information, in the number required by the Director:

- (2) A list of all reasonable alternative corridor locations for the proposed arterial highway, interchange or collector highway, including a no-action alternative.
- (3) For the proposed and each alternative corridor location considered, including the no-action alternative, the information specified below:
  - (a) A general description of the proposal, with a discussion of the advantages and disadvantages of the alternative.
  - (b) A discussion of social, economic and environmental impacts. The level of analysis should be sufficient to adequately identify the impacts and appropriate mitigation measures, and address known and foreseeable public concerns.
  - (c) A location map showing the corridor and general area.
  - (d) Any corridor location proposal, study or other documentation which includes:
    - (i) Type, scale and appearance of the improvement;
    - (ii) Cost estimate, including mitigation costs;
    - (iii) Approximate timetable for construction and right-of-way acquisition;

- (iv) Financing plan and tolling feasibility study, where appropriate;
  - (v) Plan and profile for the Project; and
  - (vi) Elevation drawings for any proposed structures.
- (e) If a proposed alternative utilizes or affects a historic resource, or if the proposed alternative is located within a historic resource impact area, Applicant shall provide the following: a copy of the Section 4(f) evaluation required by 23 U.S.C. § 138; a copy of the Federal Highway Administration Section 4(f) approval; and a description of possible mitigation measures, including possible replacement measures, for the historic resource or the value of the historic resource.
- (f) A description of noise abatement measures that are proposed for each alternative, including for each alternative the costs for construction, acquisitions, operations, and maintenance, decibel reduction effectiveness, and height, length, and material type for barriers or specification for other types of noise mitigation.
- (4) The local stormwater drainage and water quality impacts of the proposed arterial highway, interchange or collector highway, including attainment of state water quality standards and a description of permanent best management practices to be used to mitigate water quality impacts.
- (5) Demographic information in the impact area, including:
  - (i) Current population and density;
  - (ii) Total employment, occupation types and major employer locations;
  - (iii) Average household income; and
  - (iv) Population projections in five-year increments over the next twenty (20) years.
- (6) Major traffic generators in the impact area.
- (7) The planned level of service of the proposed arterial highway, interchange or collector highway in relationship to projected user demand within the Town or impact area, whichever is larger.
- (8) The approximate number of users of the proposed corridor or interchange location in terms of existing Town residents, new Town residents and non-Town residents.
- (9) Plans for promoting or accommodating the use of multi-modal transportation.
- (10) Anticipated noise levels resulting from the arterial highway, interchange or collector highway using Federal Highway noise study criteria, Title 23 (Highways); Part 772 - Procedures for Abatement of Highway Traffic Noise and Construction Noise.
- (11) A description of resulting net shade and shadow impacts of the project.

- (12) A description of lighting impacts from headlights and streetlights.
- (13) The local air quality impacts of the proposed arterial highway, interchange or collector highway, including attainment of federal and state ambient air quality standards and risks to human health and the environment posed by air pollutants.
- (14) The impacts of the proposed arterial highway, interchange or collector highway on accessibility to and from existing public facilities, commercial and industrial facilities and residential areas within the Town.
- (15) How the proposed arterial highway, interchange or collector highway and its impacts will be consistent with appropriate corridor studies, access management or control plans;
- (16) How the proposed arterial highway, interchange or collector highway and its impacts will conform to any applicable state plans, goals, objectives and policies including but not limited to the Colorado Department of Transportation (CDOT) Statewide Transportation Plan and the Statewide Transportation Improvement Program (STIP).
- (17) The development potential that would result in the impact area and within the Town with and without the completion of the proposed arterial highway, interchange or collector highway, measured in terms of land values, land availability, land use controls, vacancy rates, tax revenues and public expenditures, along with indices of accessibility to school/education, utility service, other public and quasi-public services, local and regional amenities and employment opportunities and the demographic indices identified in Paragraph (2) above.
- (18) The increased demand that the potential development in the impact area described in Subparagraph (17) above will place on the following public services within the Town: other roadways, mass transit, trails, bike paths and other transportation, housing, employment, schools, commercial services, health services, police and fire protection, solid waste disposal, water supply systems, wastewater collection and disposal systems, stormwater collection and release systems, power, military installations, communications, parks, open space and recreation, other public and quasi-public utilities and other planned public services.
- (19) Traffic Demand Modeling Study that describes the increased demand that the proposal will place on other arterial highways, interchanges, collector highways, and frontage roads.
- (20) The impact, including but not limited to the impact on property values and other economic indicators, of the proposed arterial highway, interchange or collector highway on sensitive areas and key commercial tourist or visitor areas or districts within the Town.
- (21) Impacts of the proposed arterial highway, interchange or collector highway on the character of adjacent and impacted neighborhoods or developments, as well as the impacts of increased division or separation of neighborhoods caused by the proposed arterial highway, interchange or collector highway.

- (22) A description of impacts resulting from highway surface applications, such as chemicals, sand, etc.
- (23) A traffic operations and safety study that at minimum meets the criteria for the appropriate level of Traffic Impact Study as referenced in the Engineering Criteria Manual, or as otherwise required by CDOT.
- (24) All feasible alternatives for avoiding, minimizing, and/or mitigating adverse effects of the proposed arterial highway, interchange or collector highway identified in Paragraphs 16-20 above, including but not limited to effects on the level of public services, access to public services, division of existing communities, water quality, air quality, noise levels and scenic, historic, recreational, archeological or natural resources. Minimization and mitigation alternatives to be considered include, but are not limited to:
  - (a) Alternative locations, configurations and access for the arterial highway, interchange or collector highway, 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 Town streets, bike paths or pedestrian walkways;
  - (b) Alternative pavement types;
  - (c) Alternative highway maintenance and snow removal methods;
  - (d) Sound walls and other sound-mitigating techniques;
  - (e) Berms;
  - (f) Landscaping;
  - (g) Speed control devices;
  - (h) Limits on the use of compression brakes; and
  - (i) Wildlife crossings and pedestrian bridges.

#### 5.202 Review Criteria

A permit for the site selection of an arterial highway, interchange or collector highway shall be approved if the Permit Authority or, in the case of an Administratively Approved Permit, the Director, finds the application complies with the following criteria and the relevant criteria in Section 2.405. If the Permit Authority or the Director, as appropriate, finds the application does not comply, the application shall be denied or may be approved with conditions.

- (1) The proposed arterial highway, interchange or collector highway will be located so that community traffic needs are met.

- (2) The proposed arterial highway or interchange or collector highway will be located only in a corridor for which a clear and reasonable local and regional need has been demonstrated.
- (3) The location and access limitations for the arterial highway, interchange or collector highway will not isolate community neighborhoods from and, where practicable, will enhance access from community neighborhoods to public facilities including schools, military installations, hospitals, mass transit, pedestrian walkways and bikeways, recreational areas and open spaces.
- (4) The construction of the arterial highway and interchange or collector highway shall be phased to minimize interference with traffic movement.
- (5) The location and access limitations for the arterial highway, interchange or collector highway will not restrict access via other roadways, mass transit facilities, pedestrian walkways and bikeways, local commercial services, residential developments, business and employment centers, and public facilities including schools, hospitals, recreational areas and open spaces.
- (6) Reasonable alternative modes of transportation will be incorporated into the proposal.
- (7) If park-and-ride facilities are utilized, they shall be located in areas designated by the Town.
- (8) The location of the proposed arterial highway, interchange or collector highway will not impede the delivery of essential community services and goods.
- (9) Desirable local and regional community land use patterns will not be disrupted by the location of the proposed arterial highway, interchange or collector highway.
- (10) The location and access limitations for the arterial highway, interchange or collector highway will not create safety hazards to motorists, pedestrians or bicyclists by causing or contributing to overuse, improper use or congestion, or cause unnecessary diversion of regional traffic onto other Town roadways or inappropriate or inadequate connections to pedestrian and bicycle routes.
- (11) The proposed arterial highway, interchange or collector highway will be located so as to complement the efficient extension of planned public services, utilities and development in general, both regionally and within the Town.
- (12) The site selection for the arterial highway, interchange or collector highway will adhere to the plan, process, procedure and requirements of the State and the Federal Highway Administration, and such construction, expansion or modification will be included in the then-current Colorado Department of Transportation (CDOT) Statewide Transportation Plan and the Statewide Transportation Improvement Program (STIP).
- (13) The proposed location of the arterial highway, interchange or collector highway will not result in the destruction, impairment or significant alteration of sensitive, key commercial, tourist or visitor areas or districts within the Town.

- (14) The proposed location of the arterial highway, interchange or collector highway will not contribute to a negative economic impact to residential, commercial, tourist or visitor areas or districts within the Town.
- (15) To the extent tolling is proposed, the use or level of tolling is appropriate in light of existing toll levels, if any, and any prior or projected public infrastructure investment.
- (16) The proposed highways shall be integrated into the regional transportation network.
- (17) Land acquisitions and/or the relocation of uses and improvements will follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act.
- (18) The benefits of the Project, including expected development in the regional and local surroundings of the Project area, will outweigh the social, fiscal, and environmental impact and the loss of any scenic, historical, archeological, or natural resources rendered unavailable as a result of the location of the Project.
- (19) The proposed location of the arterial highway, interchange or collector highway will not result in the destruction, impairment or significant alteration of historic properties or districts within the Town and will not impair the function or historic integrity of a historic resource of statewide importance.
- (20) The proposed location and design of the arterial highway, interchange or collector highway does not cause lighting impacts from headlights or streetlights to nearby residential neighborhoods or other developments.
- (21) Noise levels caused by the arterial highway, interchange or collector highway will follow federal noise abatement criteria.

CHAPTER 6

SITE SELECTION OF RAPID OR MASS TRANSIT FACILITIES

**Article 1      General Provisions**

- 6.101      Designation of Activity of State Interest
- 6.102      Purpose and Intent
- 6.103      Definitions
- 6.104      Applicability; Exemptions

**Article 2      Permit Application and Procedure**

- 6.201      Application Submission Requirements
- 6.202      Review Criteria

## **Article 1.     General Provisions**

### **6.101 Designation of Activity of State Interest**

The following activity of state interest is hereby designated: site selection of rapid or mass transit terminals, stations and fixed guideways (also collectively referred to herein as “rapid or mass transit facilities”). No person may engage in development, including site selection construction, expansion, reoperation, relocation or other significant change in use of such activity wholly or partially within unincorporated without first obtaining a permit pursuant to these Regulations.

### **6.102 Purpose and Intent**

The purpose and intent of the regulations contained in this Chapter 6 are to:

- (1) Regulate the site selection of rapid or mass transit facilities to prevent significant deterioration or degradation of existing air and water quality in the Town of Frisco;
- (2) Regulate the site selection of rapid or mass transit facilities to preserve the health and welfare of the citizens of the Town of Frisco;
- (3) Avoid or reduce conflicts of rapid or mass transit facilities with the appropriate corridor studies and access management or control plans;
- (4) Encourage planned and orderly land use and development;
- (5) Ensure that rapid or mass transit facilities are located and developed in a manner designed to minimize congestion in the streets; to secure safety from fire, flood waters, and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
- (6) Ensure that activities involving rapid or mass transit facilities are conducted with reasonable consideration as to the character of the area and its peculiar suitability for particular uses;
- (7) Conserve property values in the vicinity of rapid or mass transit facilities; and
- (8) Encourage that the burdens imposed by rapid or mass transit facilities are equally shared by the persons proposing or benefiting from them as well as the local governments included.



#### 6.103 Definitions

For the purpose of this Chapter, the following definitions shall apply:

- (1) *Applicant* means any person, including a municipality, special district or authority, state, or federal entity, proposing to locate a rapid or mass transit facility.
- (2) *Corridor means* a specified area or route within which a transit alignment would be located.
- (3) *Fixed guideway facility* means any conventional or new technology which operates its own dedicated right of way and associated terminals, stations and maintenance facilities.
- (4) *Impact area* means that area within the Town which is served or potentially served by a rapid or mass transit facility or which would be impacted, directly, indirectly or cumulatively, by the location of a rapid or mass transit facility.
- (5) *Major travel corridor* means a street or combination of streets which carry a large volume of traffic.
- (6) *Mass transit* means a coordinated system of transit modes providing transportation for use by the general public, including, but not limited to all types of vehicles and systems (such as rail, light rail and buses) and associated facilities and operational characteristics such as routing, shelters, stations, parking lots, park and ride facilities, maintenance facilities and associated land uses.
- (7) *Rapid transit means* the element of a mass transit system involving a mechanical conveyance on an exclusive lane or guideway constructed solely for that purpose.
- (8) *Shelters* means a facility designed primarily to provide a waiting area for transit passengers.
- (9) *Site selection* means the process for determining the location of rapid or mass transit facilities or the expansion or relocation of an existing facility.
- (10) *Station and/or terminal* means a facility constructed to serve both passenger access and egress to a transit system as well as necessary vehicle operations.

#### 6.104 Applicability; Exemptions

- (1) This Chapter 6 shall apply to the site selection of all rapid or mass transit facilities located wholly or partially within the Town of Frisco.
- (2) A Permit is not required under this Chapter for the following activities: site selection of rapid or mass transit facilities which are to be constructed, owned or maintained by the Town of Frisco.

## **Article 2. Permit Application and Procedure**

### **6.201 Application Submission Requirements**

In addition to the materials listed at Section 2.303, applications for a permit for site selection of rapid or mass transit terminals, stations and/or fixed guideways shall be accompanied by the following documents and information, in the number required by the Director:

- (1) A list of alternative site locations considered for each of the facilities, including a no-action alternative.
- (2) For each alternative rapid or mass transit terminal, station and/or fixed guideway location being considered by the applicant, including the preferred alternative and the no-action alternative, provide the information specified below:
  - (a) A general description of the proposal, with a discussion of the advantages and disadvantages of each alternative.
  - (b) A discussion of social, economic and environmental impacts. The level of analysis should be sufficient to adequately identify the impacts and appropriate mitigation measures, and address known and foreseeable public concerns.
  - (c) A location map showing the corridor and general area.
  - (d) Any corridor location proposal, study or other documentation which includes:
    - (i) Type, scale and appearance of the improvement;
    - (ii) Cost estimate, including mitigation costs;
    - (iii) Approximate timetable for construction and right-of-way acquisition;
    - (iv) Financing plan and tolling feasibility study, where appropriate;
    - (v) Plan and profile for the Project; and
    - (vi) Elevation drawings for any proposed structures.
  - (e) If a proposed alternative utilizes or affects a historic resource, or if the proposed alternative is located within a historic resource impact area, Applicant shall provide the following: a copy of the Section 4(f) evaluation required by 23 U.S.C. § 138; a copy of the Federal Highway Administration Section 4(f) approval; and a description of possible mitigation measures, including possible replacement measures, for the historic resource or the value of the historic resource.

- (f) A description of noise abatement measures that are proposed for each alternative, including for each alternative the costs for construction, acquisitions, operations, and maintenance, decibel reduction effectiveness, and height, length, and material type for barriers or specification for other types of noise mitigation.
- (3) Location map showing the corridor, project area, and surrounding area. One or more maps at sufficient scale showing the location of the proposed development and its relationship to the rapid or mass transit terminal, station or fixed guideway, and the interchanges, streets, highways, parking lots, and public facilities which are adjacent to or form an integral part of the operation of the rapid or mass transit facility.
- (4) Demographic information in the impact area, including:
  - (i) Current population and density;
  - (ii) Total employment, occupation types and major employer locations;
  - (iii) Average household income; and
  - (iv) Population projections in five-year increments over the next twenty (20) years.
- (5) If the proposed facility is a fixed guideway, the application shall also include:
  - (a) Description of the type of motor power that shall be used to propel transit vehicles along the guideway and maximum anticipated speed of the transit vehicles along different segments of the system.
  - (b) Maps showing the proposed right-of-way and the plan to acquire the same.
  - (c) The minimum and maximum passenger capacity of the transit vehicles that will travel on the guideway and the anticipated frequency or scheduling of guideway use.
  - (d) The maximum proposed grade of the guideway and the maximum curvature. Proposed curves in excess of ten (10) degrees shall be indicated on the map.
  - (e) Identification of all buildings or other structures that must be removed in order for the proposed guideway to be built.
  - (f) A plan for preventing collisions at points where the proposed guideway crosses other multimodal transportation corridors.
  - (g) A study that describes and analyzes the effects of noise and vibration on neighboring property owners, with particular emphasis on residential land uses.

- (6) If the proposed facility is a station or terminal associated with a rapid or mass transit facility, the application shall also include:
  - (a) A passenger impact analysis including:
    - (i) The number of vehicle trips associated with the station or terminal at or just before any scheduled departure;
    - (ii) The number of passengers that will likely ride only one way on any given day; and
    - (iii) The number of passengers that can be expected to bring baggage, recreational equipment, tools, or other material.
  - (b) The anticipated schedule of departures and arrivals at the station or terminal and the expected capacity of each transit unit.
  - (c) The maximum length of any train that will serve the station or terminal, excluding propulsion units.
  - (d) Basic floor plans and architectural sketches of each proposed building or structure, together with a site map showing the relative location of each building or structure.
  - (e) A map of all roadways, parking areas with parking requirements, and other facilities showing details such as width, layout, traffic flow, pavement markings and traffic control devices.
  - (f) Identification of all buildings or other structures that must be removed in order for the proposed station or terminal to be built.
- (7) Description and copies of applicable Colorado Department of Transportation permits and approvals.

#### 6.202 Review Criteria

A permit to locate a rapid or mass transit terminal, station, and/or fixed guideway shall be approved if the Permit Authority, or in the case of an Administratively Approved Permit, the Director, finds the application complies with the following criteria and the relevant criteria at Section 2.405. If the Permit Authority or the Director, as appropriate, finds the application does not comply, the application shall be denied or may be approved with conditions.

- (1) Areas around rapid or mass transit facilities will be administered to:
  - (a) Promote the efficient utilization of the rapid or mass transit facility.
  - (b) Facilitate traffic circulation patterns of roadways serving the rapid or mass transit facility.

- (c) Promote development that will include bike and pedestrian paths providing access to the rapid or mass transit facility.
- (2) Rapid or mass transit facilities will be located so as to preserve the value of buildings at the site and avoid demolition of businesses or residences to the extent possible. Proposed locations of rapid or mass transit terminals, stations, and/or fixed guideways which will not require the demolition of residences or businesses shall be given preferred consideration over competing alternatives.
- (3) Rapid or mass transit facilities will be located and such activities conducted with reasonable consideration, among other things, as to the character of the surrounding area as it relates to the Project area, its peculiar suitability for particular uses with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town.
- (4) Stations, shelters and terminals will be appropriately located to attract maximum ridership to the extent feasible and to meet transit needs.
- (5) Rapid or mass transit facilities will have adequate and safe ingress and egress for all transit modes and to maintenance and transit vehicle operations.
- (6) The location of fixed guideways will maximize joint use of rights-of-way for trails and bikeways and other transportation alternatives.
- (7) Rapid or mass transit facilities will be designed and located in a manner that will reduce traffic congestion.
- (8) Guideway design and location will not permit snow plumes from snow removal equipment on the guideway to reach the travel surface of a plowed public road except at intersections, nor shall guideways be placed or designed so that snow plumes from snow removal equipment on public roads will reach the guideway.
- (9) The parking areas associated with a terminal or station will be capable of holding a number of automobiles that equals the number of passengers expected to park at the terminal or station during peak periods.
- (10) Access roads to a station or terminal will be designed and located to accommodate, during a fifteen (15) minute period, the maximum number of automobiles anticipated to arrive before the scheduled departure of the mass transit conveyance without causing cars to back up onto the public road serving the facility.
- (11) Rapid or mass transit facilities will minimize the effects of noise and vibration on neighboring property owners, with particular emphasis on residential land uses.
- (12) Rapid or mass transit terminals, stations and fixed guideways will be located in a coordinated manner with other transportation systems existing or planned.

- (13) A positive impact on bus operations will be established before locating an exclusive bus lane in a major travel corridor. The location of an exclusive bus lane will be justified by a sufficient ridership level, an effective enforcement plan, and no significant increase in traffic congestion.
- (14) The proposed rapid or mass transit terminal, station and/or fixed guideway will be located so as to complement the efficient extension of planned public services, utilities and development in general, both regionally and within the Town.
- (15) Noise levels caused by the proposed rapid or mass transit terminal, station and/or fixed guideway will follow federal noise abatement criteria.
- (16) The location and access limitations for the proposed rapid or mass transit terminal, station and/or fixed guideway will not isolate community neighborhoods from and, where practicable, will enhance access from community neighborhoods to public facilities including schools, military installations, hospitals, pedestrian walkways and bikeways, recreational areas and open spaces.

**Exhibit A**

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

To: Permit Authority, Town of Frisco

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

From: (Applicant's Name)  
(Address)  
(Telephone)

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 or more of the following matters of state interest:

- a. Site selection and construction of major new domestic water and sewage treatment systems and/or major extension of existing domestic water and sewage treatment systems
- b. Site selection and construction of major facilities of a public utility
- c. Site selection of arterial highways and interchanges and collector highways
- d. Site selection of rapid or mass transit facilities

2. Proposed Activity or Development.

General description of the specific activity or development proposed:

3. Location of Development:

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 any 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 Activities of State Interest of the Town of Frisco for each of the activities checked in paragraph 1 above, are attached to this application. Those attachments are identified, by letter or number, and described by title below:

7. Additional Information Required:

Attach any additional information required by the Guidelines and Regulations, and as may be required by the Development Services Department Director.

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 B**

**PERMIT  
ISSUED TO CONDUCT A  
DESIGNATED ACTIVITY OF STATE INTEREST  
IN THE  
TOWN OF FRISCO, COLORADO**

Pursuant to Guidelines and Regulations for Activities of State Interest of the Town of Frisco heretofore adopted by the Town Council, the Town 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 conduct the following activity / development: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. On the following-described tract of land:
3. For the following period: \_\_\_\_\_; expiring \_\_\_\_\_, 20\_\_\_\_
4. In accordance with the plans and/or specifications approved by the Permit Authority on \_\_\_\_\_, 20\_\_\_\_, as well as the guidelines for administration adopted by the Town for:

[insert matter of state interest]

5. On the condition that the Applicant proceeds in conformity with all applicable federal and state statutes, regulations and permits 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. And on the following additional conditions:

This permit shall not be effective until the Applicant has filed the proper security with the Permit Authority, pursuant to provisions of the Administrative and Permit 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 FRISCO PERMIT AUTHORITY

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

Mayor

Town Council of the  
Town of Frisco, Colorado

ATTEST:

\_\_\_\_\_  
Town Clerk