

## CHAPTER 14

### Watershed Protection District

#### Article 1 General Provisions

- Sec. 14-1-10 Watershed Protection District established, regulations enacted
- Sec. 14-1-20 Purpose and authority
- Sec. 14-1-30 Jurisdiction and map
- Sec. 14-1-40 Applicability
- Sec. 14-1-50 Watershed Permit required
- Sec. 14-1-60 Exemptions from Watershed Permit requirement
- Sec. 14-1-70 United States Forest Service and County activities
- Sec. 14-1-80 Nonconforming development
- Sec. 14-1-90 Definitions

#### Article 2 Application and Review Process for Certificate of Exemption, FONSI and Watershed Permit

- Sec. 14-2-10 Preapplication conference and materials
- Sec. 14-2-20 Finding of No Significant Impact (FONSI)
- Sec. 14-2-30 Watershed Permit application required
- Sec. 14-2-40 Watershed Permit application completeness determination
- Sec. 14-2-50 Schedule public hearing by Town Council on Watershed Permit application
- Sec. 14-2-60 Notice of public hearing on Watershed Permit application
- Sec. 14-2-70 Staff review of Watershed Permit application
- Sec. 14-2-80 Staff report
- Sec. 14-2-90 Public hearing and Town Council decision on Watershed Permit application
- Sec. 14-2-100 Issuance of Watershed Permit
- Sec. 14-2-110 Financial guaranty of Watershed Permit conditions
- Sec. 14-2-120 Commencement of development and Watershed Permit duration
- Sec. 14-2-130 Watershed Permit not a site-specific development plan
- Sec. 14-2-140 Transfer of Watershed Permit

#### Article 3 Watershed Permit Application Submittal Requirements

- Sec. 14-3-10 Application fees and Watershed Permit application costs and expenses reimbursement agreement
- Sec. 14-3-20 Information describing applicant
- Sec. 14-3-30 Information describing proposed development
- Sec. 14-3-40 Property rights, permits and other approvals
- Sec. 14-3-50 Technical and financial feasibility of project
- Sec. 14-3-60 Land use
- Sec. 14-3-70 Town waterworks and municipal water supply
- Sec. 14-3-80 Surface water quality
- Sec. 14-3-90 Groundwater quality and quantity
- Sec. 14-3-100 Floodplains, wetlands and riparian areas
- Sec. 14-3-110 Terrestrial and aquatic animals and habitat
- Sec. 14-3-120 Terrestrial and aquatic plant life
- Sec. 14-3-130 Soil and geologic conditions and natural hazards
- Sec. 14-3-140 Spill Prevention, Storage, Control, Countermeasure and Contingency Plan
- Sec. 14-3-150 Emergency Response Plan
- Sec. 14-3-160 Water Quality Monitoring Plan
- Sec. 14-3-170 Erosion and Sediment Control Plan
- Sec. 14-3-180 Drainage Plan
- Sec. 14-3-190 Grading Plan
- Sec. 14-3-200 Revegetation Plan

- Sec. 14-3-210 Additional submittal requirements for water and wastewater treatment systems
- Sec. 14-3-220 Additional submittal requirements for municipal and industrial water projects
- Sec. 14-3-230 Documentation of operational conflict waiver
- Sec. 14-3-240 Documentation of technical infeasibility or environmental protection waivers
- Sec. 14-3-250 Additional information

**Article 4 Watershed Protection Standards**

- Sec. 14-4-10 Applicant has necessary expertise and financial capability
- Sec. 14-4-20 All property rights and easements will be obtained
- Sec. 14-4-30 No impairment of property rights
- Sec. 14-4-40 All county, state and federal permits and approvals will be obtained
- Sec. 14-4-50 Technically and financially feasible
- Sec. 14-4-60 Consistent with land use and water quality plans
- Sec. 14-4-70 No significant adverse effect on Town waterworks
- Sec. 14-4-80 No significant degradation of surface water quality
- Sec. 14-4-90 Control of erosion, sedimentation and storm runoff
- Sec. 14-4-100 Minimization of impervious areas
- Sec. 14-4-110 Compliance with tiered water feature buffer setbacks
- Sec. 14-4-120 No significant degradation of groundwater
- Sec. 14-4-130 No significant adverse effect on designated floodplains
- Sec. 14-4-140 No significant degradation of wetlands and riparian areas
- Sec. 14-4-150 No significant adverse effect on aquatic life
- Sec. 14-4-160 No significant degradation of wildlife habitat
- Sec. 14-4-170 No significant adverse effect on terrestrial plant life or habitat
- Sec. 14-4-180 Compliance with wildlife buffer setbacks
- Sec. 14-4-190 No significant risk from soil conditions and geologic hazards
- Sec. 14-4-200 No significant risk from natural hazards
- Sec. 14-4-210 Spill prevention, storage and containment of substances
- Sec. 14-4-220 No significant adverse effect on property designated as a Colorado Natural Area
- Sec. 14-4-230 Impediment of flow in watercourses
- Sec. 14-4-240 Additional standards applicable to domestic water and wastewater treatment systems
- Sec. 14-4-250 Additional standards applicable to municipal and industrial water projects
- Sec. 14-4-260 Operational conflict waiver of Watershed Protection Standards
- Sec. 14-4-270 Waiver of Watershed Protection Standards for technical infeasibility or environmental protection

**Article 5 Designation of Areas and Activities of State Interest in Watershed Protection District**

- Sec. 14-5-10 Designation is necessary
- Sec. 14-5-20 Designated matters of state interest

**Article 6 Security Agreement**

- Sec. 14-6-10 Financial security
- Sec. 14-6-20 Completion and release of financial security

**Article 7 Enforcement and Penalties**

- Sec. 14-7-10 General
- Sec. 14-7-20 Watershed Permit suspension or revocation
- Sec. 14-7-30 Injunctive relief
- Sec. 14-7-40 Inspection

**Appendix**

- Appx 14-A Watershed Protection District BMP Guide and Examples

## ARTICLE 1

### General Provisions

#### **Sec. 14-1-10. Watershed Protection District established, regulations enacted.**

The Town of Crested Butte Watershed Protection District ("Watershed Protection District") is hereby established and regulations for the Watershed Protection District ("Regulations") are hereby enacted. (Ord. 4 §1, 2013)

#### **Sec. 14-1-20. Purpose and authority.**

(a) The purpose of the Watershed Protection District is to protect the Town waterworks from injury and the municipal water supply from pollution, and to designate site selection and construction of major new domestic water and wastewater treatment systems and major extensions of existing domestic water and wastewater treatment systems, efficient utilization of municipal and industrial water projects and wildlife habitat areas as matters of state interest within the Watershed Protection District, pursuant to the findings in Article 5 of this Chapter.

(b) These Regulations are adopted pursuant to the authority granted to municipalities by Section 31-15-707(1)(b), C.R.S., Municipal Utilities; Section 29-20-101, et seq., C.R.S., Local Government Land Use Control Enabling Act; Section 24-65.1-101, et seq., C.R.S., Areas and Activities of State Interest; Colorado Constitution Art. XX, Home Rule Cities and Towns; and other such similar authority that may be granted by the Colorado General Assembly. (Ord. 4 §1, 2013)

#### **Sec. 14-1-30. Jurisdiction and map.**

The boundaries of the Watershed Protection District encompass the Town waterworks and any source of municipal water supply, including all equipment, drainage structures, dams, reservoirs, streams, trenches, ditches, watercourses, pipelines, wells, pumps, buildings, structures, roads and other facilities used in and necessary for the construction, maintenance and operation of the municipal water supply system and for five (5) miles above the points of diversion of water for use of the Town. This jurisdiction also extends to groundwater underneath lands within the five-mile area. The official map that depicts the Watershed Protection District boundaries is located in the office of the Town Clerk. (Ord. 4 §1, 2013)

#### **Sec. 14-1-40. Applicability.**

(a) These Regulations shall apply to any development, as that term is defined in Section 14-1-90 of this Article, on public or private land within or partially within the Watershed Protection District.

(b) Relationship to County land use authority.

(1) Nothing in this Article is intended to supersede or abrogate the authority of the County to regulate land use within the unincorporated areas of the Watershed Protection District.

(2) Wherever there is a conflict between a County permit requirement and a Town Watershed Permit requirement, the requirement most protective of the Watershed Protection District shall apply. (Ord. 4 §1, 2013)

**Sec. 14-1-50. Watershed Permit required.**

No person shall engage in development wholly or partially within the Watershed Protection District without first obtaining a Certificate of Exemption pursuant to Section 14-1-60 below, a Finding of No Significant Impact (FONSI) pursuant to Section 14-2-20 of this Chapter or a Watershed Permit. (Ord. 4 §1, 2013)

**Sec. 14-1-60. Exemptions from Watershed Permit requirement.**

(a) The Town Manager may issue a Certificate of Exemption for the following development:

(1) Residential development that disturbs less than five hundred (500) cubic yards of material for the residence and driveway, provided that the disturbed area complies with the tiered water feature buffer setbacks found in Section 14-4-110 of this Chapter.

(2) Reclamation and restoration of the watershed pursuant to state or federal permits or other reclamation or restoration plan approved in writing by the Town Manager.

(3) Repair, maintenance or replacement of an existing water diversion structure without change in the point of diversion or place of use of the water.

(4) Installation, repair or maintenance of irrigation facilities used for agricultural purposes.

(5) Repair, maintenance, improvements and upgrades to existing water and wastewater facilities where there is no expansion of capacity or change in location of the facility.

(b) Development that is exempt from the requirement for a Watershed Permit pursuant to this Section must be conducted in accordance with Best Management Practices set forth in the BMP Guide attached as Appendix 14-A to this Chapter. (Ord. 4 §1, 2013)

**Sec. 14-1-70. United States Forest Service and County activities.**

(a) These Regulations shall not apply to development or other activities conducted by the United States Forest Service, its employees, agents, contractors or others acting on its behalf on national forest system lands. The Forest Service shall, however, provide the Town with a notice of proposed activities that includes:

(1) A written description of the activities to be conducted within the Watershed Protection District;

(2) A copy of any final agreements, contracts or other arrangements made with any agents, contractors or others acting on behalf of the Forest Service, other than employees of the Forest Service, in performing said activities; and

(3) A description of the impacts that the activity will have on the watershed and any mitigation proposed in connection with the activity.

(b) The County is hereby issued a Watershed Permit for County construction and maintenance activities conducted within the Watershed Protection District in accordance with Best Management Practices set forth in the BMP Guide as Appendix 14-A to this Chapter. (Ord. 4 §1, 2013)

**Sec. 14-1-80. Nonconforming development.**

Development that was legally established before the effective date of these Regulations that does not conform to the regulatory provisions of this Article, and ordinary repairs and maintenance to the development, shall be allowed to continue without a Watershed Permit under the following conditions:

(1) The legal nonconforming development is not modified to increase its intensity or create new impacts in the Watershed Protection District. Increases in intensity include increased density, increased areas of impervious surface, increased use of processes or materials or increased disturbances that could cause or contribute to pollution of the Watershed Protection District.

(2) The legal nonconforming development is not abandoned or discontinued for a period of one (1) year or more. (Ord. 4 §1, 2013)

**Sec. 14-1-90. Definitions.**

The following words and terms used in these Regulations shall have the meanings set forth below unless the context requires otherwise. Defined terms used in the plural shall have the same meaning as the defined terms appearing below in the singular.

*Abandonment (of nonconforming use)* means the intent to not continue the legally established nonconforming development, coupled with a cessation of activities and discontinued use of the land and facilities in connection with the nonconforming development.

*Adverse* means unfavorable, harmful or negative.

*Applicant* means the owner of the lands that are the subject of the proposed development, or an agent acting through written authorization of the owner.

*County* means Gunnison County, State of Colorado.

*Degrade* means lower in grade or desirability.

*Deteriorate* means to make inferior in quality or value.

*Development* means any excavation, filling, grading, surfacing, construction or other activity, other than land preparation for agricultural uses and noncommercial gardening or landscaping, that changes the basic character or increases the intensity of use of land or water.

*Domestic wastewater treatment facility* means any facility or group of units used for the treatment of domestic wastewater or for the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units is discharging into state waters. The term specifically excludes individual sewage disposal systems (ISDS).

*Domestic wastewater treatment works* means a system or facility for treating, neutralizing, stabilizing or disposing of sewage, which system or facility has a designed capacity to receive more than two thousand (2,000) gallons of sewage per day. The term *sewage treatment works* includes appurtenances such as interceptors, collection lines, outfall and outlet sewers, pumping stations and related equipment.

*Domestic water and wastewater treatment system* means a wastewater treatment facility, water distribution system or water treatment facility and any system of pipes, structures and facilities through which wastewater is collected for treatment.

*Efficient use of water* means the employment of methods, procedures, controls and techniques to ensure that the amount of water and the purpose for which water is used will yield the greatest benefit to the greatest number of people. Such benefits will include, but are not limited to, economic, social, aesthetic, environmental and recreational.

*Environment* means all natural physical and biological attributes and systems, including the atmosphere, climate, geology, soils, groundwater, surface water, wetlands, vegetation, animal life, physical features, natural hazards, topography and aesthetics.

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

*Filling* means the deposition of material brought from another location by other than natural means.

*Floodplain* means an area adjacent to a stream, which is subject to flooding as the result of the occurrence of an intermediate regional flood and which is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes, but is not limited to:

- a. Mainstream floodplains;
- b. Debris-fan floodplains; and
- c. Dry wash channels and dry wash floodplains.

*Geologic hazard* means a geologic phenomenon which is so adverse to past, current or foreseeable construction or land use as to constitute a significant hazard to public health and safety or to property. The term includes, but is not limited to:

- a. Avalanches, landslides, rock falls, mudflows and unstable or potentially unstable slopes;
- b. Seismic effects;
- c. Radioactivity; and
- d. Ground subsidence.

*Grading* means any stripping, excavating, filling, stockpiling or any combination thereof of earthen materials.

*Groundwater* means subsurface waters in a zone of saturation.

*High quality wetlands* means a wetland that:

- a. Performs at least one (1) of the seven (7) functions listed in the wetland functional analysis (Chapter 17, Article 16 of this Code) to a high degree (regardless of certainty);
- b. Is a peatland or is immediately adjacent to (abutting) and/or hydrologically connected to a peatland; or
- c. Supports threatened or endangered species.

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

*Impervious surface and materials* means materials that do not readily allow water to infiltrate into the ground. The term *impervious materials* shall include building roof surfaces and overhangs, concrete or asphalt surfaces and compacted gravel.

*Includes or including* means including, without limitation.

*Individual sewage disposal system (ISDS)* means an absorption system of any size or flow or a system or facility for treating, neutralizing, stabilizing or disposing of sewage that is not a part of or connected to a domestic wastewater treatment works.

*Industrial wastewater treatment facility* means any facility or group of units used for the pretreatment, treatment or handling of industrial waters, wastewater, reuse water and wastes that are discharged into state waters. *Industrial wastewater treatment facility* includes facilities that clean up contaminated groundwater or spills; except that such term does not include facilities designed to operate for less than one (1) year or facilities with in-situ discharge.

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

*Mitigation* means an action which will have one (1) or more of the following effects:

- a. Avoiding an impact by not taking a certain action or parts of an action;
- b. Minimizing impacts by limiting the degree or magnitude of the action or its implementation;
- c. Rectifying the impact by repairing, rehabilitating or restoring the impact area, facility or service;
- d. Reducing or eliminating the impact over time by preservation and maintenance operations;  
and

e. Compensating for the impact by replacing or providing suitable biological and physical conditions and by replacing or providing suitable services and facilities.

*Municipal and Industrial Water Project* means a system and all components thereof through which a municipality or industry derives its water supply from either surface or subsurface sources, or which otherwise serves municipal or industrial users.

*Non-Point Source (NPS) pollution* means pollution that is caused by or attributable to diffuse sources. Typically, NPS pollution results from land runoff, precipitation, atmospheric deposition or percolation.

*Peatland* means a wetland that has accumulated at least eight (8) inches of organic soil material (partially decomposed plant material). The organic soil material must have an organic carbon content of a least twelve percent (12%) and can include sapric (muck), hemic (mucky peat) and/or fibric (peat) material. All peatlands and wetlands immediately adjacent to (abutting) and/or hydrologically connected to peatlands are considered high-quality wetlands and require a buffer of at least one hundred (100) feet from any changes in use. The most common type of peatland in the Coal Creek watershed is a fen.

*Permittee* means a person issued a permit.

*Person* means any individual, corporation, business trust, estate, trust, partnership, association, governmental entity or any other legal entity.

*Pollution* means the man-made, man-induced or natural degradation of the physical, chemical, biological and/or radiological integrity of water.

*Regulations* means the Watershed Protection District regulations set forth in this Chapter.

*Significant* means deserving to be considered, important, notable; not meaningless, trivial, trifling, paltry and picayune.

*Significantly degrade* means to lower in grade or desirability to a significant, as opposed to trifling, degree.

*Significantly deteriorate* means to make inferior in quality or value to a significant, as opposed to trivial, degree.

*Staff* means the Town's designated staff members.

*Town Council* means the Town Council of the Town of Crested Butte, Colorado.

*Town Manager* means the Town Manager of the Town of Crested Butte, or his or her designee.

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

*Wastewater treatment facility* means either a domestic wastewater treatment facility or an industrial wastewater treatment facility.

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

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

*Water feature* means ephemeral, intermittent and perennial streams and rivers, lakes, ponds, irrigation ditches and canals, stormwater ditches, wetlands and any riparian or aquatic habitats.

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

*Watershed Permit* means a permit issued pursuant to this Chapter.

*Waterworks* means all components of the Town's water supply system, including all equipment, diversion structures, dams, reservoirs, streams, trenches, ditches, watercourses, pipelines, wells, pumps, buildings, structures, roads and other facilities necessary for the construction, maintenance and operation of the municipal water supply system.

*Wetlands* means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Common wetlands in the Watershed Protection District may include wet meadows, shallow marshes, willow stands, wet forested areas associated with high groundwater or snowmelt, peatlands, fens, irrigated lands and other areas along watercourses or where groundwater is near the ground surface. Wetlands that satisfy this definition are protected by these Watershed Protection District regulations, whether or not they are subject to the jurisdiction of the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. (Ord. 4 §1, 2013)

## ARTICLE 2

### Application and Review Process for Certificate of Exemption, FONSI and Watershed Permit<sup>1</sup>

#### Sec. 14-2-10. Preapplication conference and materials.

(a) Before applying for a Certificate of Exemption, FONSI or Watershed Permit, the applicant shall schedule a preapplication conference with the Town Manager. The Town Manager may include other members of the staff in the conference. Any comments made by staff during the preapplication conference are preliminary in nature and not binding.

---

<sup>1</sup> This Section identifies the steps required to apply for a Certificate of Exemption, FONSI or Watershed Permit. Staff may retain technical experts and consultants deemed appropriate and necessary to review the application for completeness and evaluate the application for compliance with the Watershed Protection Standards.

(b) At or before the preapplication conference, the applicant shall provide staff with information that is sufficient for determining the nature of the proposed development and the degree of impacts associated with the proposed development, including:

(1) The applicant's name, address and phone number.

(2) Detailed written description of the proposed development, including the number of cubic yards of material expected to be disturbed.

(3) Map prepared at an easily readable scale showing the boundaries of the proposed development; relationship of the proposed development to surrounding topographic features, water features and hydrologic features; and existing and proposed roads, structures and infrastructure.

(c) Following the preapplication conference and any site visits required by the Town Manager, the Town Manager shall issue a Certificate of Exemption for any development that is exempt under Section 14-1-60 of this Chapter from the requirement to obtain a Watershed Permit

(d) If the proposed development is not exempt from the requirement to obtain a Watershed Permit, the Town Manager shall notify the applicant whether a FONSI will be issued pursuant to Section 14-2-20 below or whether a Watershed Permit is required. (Ord. 4 §1, 2013)

**Sec. 14-2-20. Finding of No Significant Impact (FONSI).**

Staff may issue a FONSI if it determines that the construction or operation of the proposed development, without mitigation, is unlikely to have any significant adverse impact to the Watershed Protection District, taking into account the Watershed Protection Standards in Article 4 of this Chapter.

(1) Within fourteen (14) calendar days of issuing a FONSI or a decision not to issue a FONSI, the staff shall notify the applicant by mail and shall notify the Town Council, the Town Manager and the Town Attorney by email or memorandum.

(2) Within thirty (30) calendar days of notice of the issuance of a FONSI, the Town Council may, at its discretion, decide to reconsider the finding at its next regular or special meeting following notice of the decision and uphold the finding or reverse the finding, taking into account the Watershed Protection Standards in Article 4 of this Chapter.

(3) Within five (5) calendar days of the date of the staff decision not to issue a FONSI, the applicant may file a written request for Town Council to reconsider the decision. The Town Council shall reconsider the decision at its next regular or special meeting following receipt of the request and uphold the decision or reverse the decision.

(4) Development that receives a FONSI pursuant to this Section must be conducted in accordance with Best Management Practices. Refer to BMP Guide, attached as Appendix 14-A to this Chapter. (Ord. 4 §1, 2013)

**Sec. 14-2-30. Watershed Permit application required.**

(a) If the proposed development is not issued a Certificate of Exemption or a FONSI, the applicant shall submit the application materials, including appropriate fees, to the Town Manager. Watershed Permit application materials are described in Article 3 of this Chapter.

(b) When a Watershed Permit application is received, the Town Manager shall notify the Town Attorney.

(c) Staff may retain technical experts and consultants deemed necessary to review the application for completeness and evaluate the application for compliance with the Watershed Protection Standards. The cost of such experts and consultants are the responsibility of the applicant and shall be paid pursuant to Section 14-3-10 of this Chapter. (Ord. 4 §1, 2013)

**Sec. 14-2-40. Watershed Permit application completeness determination.**

Within forty-five (45) calendar days of submittal of the application materials, the staff shall determine whether the Watershed Permit application is complete or incomplete based on the application submittal requirements in Article 3 of this Chapter. The Town may extend the time to determine completeness up to an additional thirty (30) calendar days if the staff workload justifies the extension, or such greater time as may be agreed to by the applicant.

(1) If the application is not complete, the staff shall inform the applicant of the deficiencies in writing.

(2) If the application is complete, the staff shall certify it as complete and stamp it received upon the date of completeness determination. A determination that an application is complete does not constitute a determination that it complies with the applicable Watershed Protection Standards in Article 4 of this Chapter. (Ord. 4 §1, 2013)

**Sec. 14-2-50. Schedule public hearing by Town Council on Watershed Permit application.**

Upon determination that the application for Watershed Permit is complete, staff shall schedule the application for public hearing by the Town Council at the next regular meeting for which proper notice can be achieved pursuant to Section 14-2-60 below. (Ord. 4 §1, 2013)

**Sec. 14-2-60. Notice of public hearing on Watershed Permit application.**

(a) Not later than thirty (30) days after the application is determined to be complete, the Town shall publish notice of the public hearing on the Watershed Permit application. The notice shall be published in the Town's designated official newspaper not less than thirty (30) calendar days nor more than sixty (60) calendar days before the date of the public hearing.

(b) The notice of public hearing shall be prepared by staff and shall include the following information:

(1) Sufficient information to identify the site where the development is proposed to occur.

(2) A narrative description of the proposed development.

(3) Date, time and location of the scheduled hearing.

(c) At least thirty (30) calendar days prior to the date of the public hearing, the applicant shall mail the notice of public hearing to the following owners of public and private real property and water rights. The applicant is responsible for ensuring the accuracy of lists of property owners and owners of water and mineral rights.

(1) Owners of real property within five hundred (500) feet of the proposed development site. The list of property owners to whom notice is mailed shall be compiled by the applicant and shall be based upon records available through the County Assessor's office.

(2) Owners of water rights and mineral rights underlying the proposed development site where such ownership information is publicly available.

The applicant shall mail the notice of public hearing by certified mail, return receipt requested. The applicant shall submit a list of the property owners and owners of water and mineral rights and proof of mailing to the staff one (1) week prior to the hearing. (Ord. 4 §1, 2013)

**Sec. 14-2-70. Staff review of Watershed Permit application.**

(a) Once the application is determined complete, the Town Manager shall consult and coordinate review of the application with the Town Attorney and other staff members, and outside consultants as necessary, to evaluate the application in light of the Watershed Protection Standards in Article 4 of this Chapter.

(b) Staff may refer the application to any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the proposed development. The cost of referral agency review is the responsibility of the applicant and shall be paid pursuant to Section 14-3-10 of this Chapter. (Ord. 4 §1, 2013)

**Sec. 14-2-80. Staff report.**

Staff and/or consultants shall prepare a staff report which shall be submitted to the applicant, the Town Manager and the Town Council at least five (5) calendar days before the public hearing on the Watershed Permit application. A copy of the staff report shall also be available for public review. The staff report shall include a description of the proposed development and discuss issues including:

(1) Any application submittal requirements that have been waived.

(2) Request for waiver of Watershed Protection Standards for operational conflict pursuant to Section 14-4-260 of this Chapter.

(3) Request for waiver of Watershed Protection Standards for technical infeasibility or environmental protection pursuant to Section 14-4-270 of this Chapter.

(4) Anticipated impacts of the proposed development.

(5) Proposed mitigation and whether the proposed mitigation is adequate.

(6) Whether the proposed development with mitigation is likely to satisfy the Watershed Protection Standards and a recommendation as to whether the Watershed Permit should be approved, denied or approved with conditions.

(7) Recommended conditions of approval if necessary to ensure that Watershed Protection Standards are likely to be satisfied. (Ord. 4 §1, 2013)

**Sec. 14-2-90. Public hearing and Town Council decision on Watershed Permit application.**

The Town Council shall consider the Watershed Permit application at a properly noticed public hearing. Based upon all the evidence on the record, the Town Council shall approve, approve with conditions or deny the application based on whether the proposed development complies with the applicable Watershed Protection Standards in Article 4 of this Chapter.

(1) If the application, together with proposed mitigation, satisfies all of the applicable Watershed Protection Standards, the Town Council shall approve the application.

(2) If the application fails to satisfy all of the applicable Watershed Protection Standards, the Town Council shall deny the application, or it may approve the application with conditions it determines are necessary for the proposed development to satisfy all of the applicable standards. (Ord. 4 §1, 2013)

**Sec. 14-2-100. Issuance of Watershed Permit.**

The date of approval of the Watershed Permit application by the Town Council shall be the date of issuance for the Watershed Permit unless the Town Council establishes a different date at the time of approval. The permittee named on the Watershed Permit may include, at the Town Council's discretion, any parent or affiliated company of the permittee where such entities have the requisite financial capabilities and/or technical experience to conduct the proposed development in accordance with the Watershed Permit approval and/or to the extent one (1) or more of the permittees are foreign entities. (Ord. 4 §1, 2013)

**Sec. 14-2-110. Financial guaranty of Watershed Permit conditions.**

The permittee shall execute and fund the Security Agreement required in Article 6 of this Chapter prior to beginning any site preparation or development. (Ord. 4 §1, 2013)

**Sec. 14-2-120. Commencement of development and Watershed Permit duration.**

(a) Development shall begin within one (1) year of the date of issuance of the Watershed Permit unless the Town Council establishes a different date at the time of approval of the Watershed Permit. The Town Council, at its discretion, may grant a one-time extension of the time for commencement of development if such request for extension is made at least thirty (30) days prior to the deadline to commence development.

(b) If the Town Council issues the Watershed Permit for a specific period of time, at the end of that period of time the permit shall terminate and be of no force and effect and the land shall be restored in accordance with Watershed Permit requirements. (Ord. 4 §1, 2013)

**Sec. 14-2-130. Watershed Permit not a site-specific development plan.**

A Watershed Permit issued under these Regulations is not a site-specific development plan under Section 24-68-101, et seq., C.R.S., and no statutory vested rights shall inure to such permit. (Ord. 4 §1, 2013)

**Sec. 14-2-140. Transfer of Watershed Permit.**

The Town Manager may approve the transfer of a Watershed Permit to another party as follows:

(1) The proposed transferee shall submit to the Town Manager a written request for transfer of Watershed Permit. The request shall include the information required in Section 14-3-20 of this Chapter and certification that the proposed transferee can meet the following requirements:

a. The proposed transferee can and will comply with all of the requirements, terms and conditions contained in the Watershed Permit approval, including financial security.

b. The Watershed Permit requirements, terms and conditions of approval will remain sufficient to protect the quality and quantity of water in the Watershed Protection District and to protect the municipal waterworks from injury.

(2) Within ten (10) calendar days after receipt of the request for transfer of Watershed Permit, the Town Manager shall provide a written decision on the request. The request for transfer of Watershed Permit shall be approved if the proposed transfer complies with the requirements of Subparagraphs (1)a. and (1)b. above. If the request for transfer of Watershed Permit is denied, the transferee may not conduct any activities unless or until the transferee receives a new Watershed Permit.

(3) When transfer of a Watershed Permit is approved by the Town, only the nature and extent of the development described in the Watershed Permit shall be allowed, and the transferee is bound by the terms and conditions of the Watershed Permit. (Ord. 4 §1, 2013)

**ARTICLE 3**

**Watershed Permit Application Submittal Requirements \***

**Sec. 14-3-10. Application fees and Watershed Permit application costs and expenses reimbursement agreement.**

The applicant shall be responsible for all of the actual costs and expenses incurred by the Town in the review and processing of the Watershed Permit application, including the cost of technical experts and consultants and review by referral agencies. Any application shall be accompanied by an initial fee deposit, described in Paragraph (1) below, and an executed Watershed Permit Application Costs and

---

\* The following materials must be submitted for a Watershed Permit application to be complete. Staff may waive one (1) or more of the submittal requirements when the submittal requirement would not be relevant to a determination as to whether the proposed development complies with the applicable Watershed Protection Standards in Article 4 of this Chapter. The Staff shall provide the applicant with written documentation of any waiver and document the waivers in the staff report prepared pursuant to Section 14-2-80 of this Chapter.

Expenses Reimbursement Agreement obligating the applicant to reimburse the Town for all costs and expenses incurred by the Town in connection with review and processing of the application package.

(1) The application shall be accompanied by an initial fee deposit of twenty thousand dollars (\$20,000.00), unless a different amount is approved by the Town Manager.

(2) Throughout the application review process, a minimum fee deposit balance of fifteen thousand dollars (\$15,000.00) shall be retained by the Town. The amount of the minimum fee deposit balance may be adjusted upon a determination by staff that the cost to review and process the application is likely to be less than the minimum amount set by these Regulations. If the balance falls below the minimum amount, the Town may suspend review of the application pending receipt of additional funds bringing the balance to at least the minimum amount. Suspension shall toll all deadlines imposed on the Town by these Regulations.

(3) The Town will deposit that portion of the fee deposit which is not necessary to cover current costs and expenses in an account. The Town shall obligate, encumber or use such funds at its discretion to cover the costs of processing the application. (Ord. 4 §1, 2013)

**Sec. 14-3-20. Information describing applicant.**

The application shall contain the following information:

(1) The name, physical and mailing addresses, email address, fax number and business of the applicant and, if different, the owners of the land that is the subject of the proposed development. All owners of land that is the subject of the proposed development shall be identified as applicants on the application. If the applicant is not the sole owner of the land, the applicant shall submit a letter signed by all other owners, or an association or corporation representing all the owners, by which all owners consent to or join in the application.

(2) If the owner is a partnership, joint venture, corporation or other such entity, the name, physical and mailing address, email and fax number of the agent of the owner to whom all legal or official assessments, liens, levies or other such notices may be properly and lawfully mailed.

(3) Documentation of the applicant's financial qualifications, technical expertise and capability to construct and operate the proposed development, including a description of the applicant's experience constructing and operating similar developments and using proposed technologies.

(4) The names, addresses and qualifications of individuals who are or will be responsible for constructing and operating the proposed development, including areas of expertise and experience with projects directly related or similar to the proposed development.

(5) Written qualifications of those individuals preparing reports and providing certifications required by these Regulations. (Ord. 4 §1, 2013)

**Sec. 14-3-30. Information describing proposed development.**

The applicant shall provide the following:

(1) A written description of the proposed development, including:

a. Description of any wastewater treatment system proposed to serve the proposed development and plans for operation of the system through the life of the impacts of the project, including any reclamation that is required.

b. Description of the source and capacity of the water supply to serve the proposed development, including:

1. Amount and quality of water;
2. The applicant's right to use the water, including adjudicated decrees and applications for decrees;
3. Proposed points of diversion and changes in the points of diversion; and
4. If an augmentation plan for the proposed development has been decreed or an application for such plan has been filed in court, the applicant shall submit a copy of that plan.

For a proposed development involving water storage, the applicant shall be the owner of the applicable water rights and shall provide documentation of ownership.

c. Schedules for designing, permitting, constructing and operating the proposed development, including the estimated life of the proposed development and reclamation plans, if any.

d. Operational details, including the hours of operation, number of employees on site on a daily basis and types of vehicles and equipment.

e. Discussion of the alternatives to the proposed development that were considered and rejected by the applicant, including the general degree of feasibility of each alternative and a statement explaining why there is no alternative outside the Watershed Protection District.

f. Discussion of the need for the proposed development, including existing and proposed facilities that perform the same or related function, and benefits of the proposed development versus the loss of any natural resources, recreational opportunities or agricultural lands rendered unavailable or less productive as a result of the proposed development.

(2) Vicinity map. An eight-and-one-half-inch by eleven-inch vicinity map locating the site where the proposed development will occur. The vicinity map shall clearly show the boundaries of the proposed development site and all property within a three-mile radius of the proposed development site.

(3) Site plan. A detailed site plan of the proposed development including:

a. Legal description of the proposed development site.

b. Boundary lines, corner pins and dimensions of the proposed development site, including land survey data to identify the site with section corners, distance and bearing to corners, quarter corners, township and range.

- c. Watershed Protection District boundary lines in relationship to the proposed development site.
- d. Location of any area designated as a Colorado Natural Area or Potential Conservation Area in relationship to the proposed development site.
- e. Existing and proposed topographic contours at vertical intervals sufficient to show the topography of the proposed development site and a minimum one-hundred-foot radius beyond the proposed development site as necessary to include all on-site and off-site topographical features that may affect the proposed development and storm drainage.
- f. Significant on-site and off-site features that influence the proposed development, including:
  - 1. Natural and artificial drainageways, ditches, water features and hydrologic features on site, including intermittent water features, wetlands and the one-hundred-year floodplain boundaries;
  - 2. Slopes and areas of subsidence;
  - 3. Vegetative cover; and
  - 4. Excavations and mines.
- g. Existing and proposed roads, railroad tracks, fences and utility lines on or adjacent to the proposed development site, shown by location and dimension.
- h. Users and grantees of all existing and proposed easements and rights-of-way on or adjacent to the site, shown by location and dimension.
- i. All existing and proposed structures and appurtenant facilities, shown by location and dimension.
- j. Existing and proposed parking areas, driveways, sidewalks and paths, shown by location and dimension.
- k. Wastewater treatment system proposed to serve the proposed development, including location and size of leach field, wastewater service lines and treatment facilities.
  - l. Location and size of wells and/or water lines to serve the proposed development.
- m. Calculation of the size of existing and proposed impervious surface area.
- n. Snow storage areas.
- o. Areas of disturbance and extent of impervious surfaces.
- p. Additional information that may be reasonably requested by the Town to enable an adequate evaluation of the application. (Ord. 4 §1, 2013)

**Sec. 14-3-40. Property rights, permits and other approvals.**

The applicant shall provide the following:

- (1) Description and documentation of property rights, easements and rights-of-way agreements that are necessary for or that will be affected by the proposed development.
- (2) List of all federal, state and county permits and approvals that have been or will be required for the proposed development.
- (3) Copies of any federal and state correspondence applicable to the proposed development; a description of all mitigation and financial security required by federal, state and local authorities; and copies of any draft or final environmental assessments or impact statements prepared for the proposed development. (Ord. 4 §1, 2013)

**Sec. 14-3-50. Technical and financial feasibility of project.**

The applicant shall provide the following:

- (1) Estimated construction costs and period of construction for each development component and the total mitigation costs for the proposed development.
- (2) Revenues and operating expenses for the proposed development.
- (3) Amount of any proposed debt and the method and estimated cost of debt service.
- (4) Details of any contract or agreement for revenues or services in connection with the proposed development.
- (5) Description of the persons or entities who will pay for or use the proposed development and/or services produced by the proposed development and those who will benefit from any and all revenues generated by it.
- (6) Methods and financial responsibility for continued operation of any treatment or other mitigation facility to prevent pollution from impacts of the proposed development that may go beyond the active life of the proposed development. (Ord. 4 §1, 2013)

**Sec. 14-3-60. Land use (not applicable on federal lands).**

The applicant shall provide the following:

- (1) Description of the existing land uses within and adjacent to the site where the proposed development will occur.
- (2) Description of land use policies set forth in comprehensive plans, master plans and intergovernmental agreements that are applicable to the proposed development and an assessment of whether the proposed development will be consistent with or further the objectives of these policies. (Ord. 4 §1, 2013)

**Sec. 14-3-70. Town waterworks and municipal water supply.**

(a) The applicant shall provide a description of equipment, diversion structures, dams, reservoirs, streams, trenches, ditches, watercourses, pipelines, wells, pumps, buildings, structures, roads and other facilities associated with the Town waterworks that will be affected by the proposed development.

(b) The applicant shall provide a description of the impacts of the proposed development on the Town waterworks and how the impacts will be mitigated. (Ord. 4 §1, 2013)

**Sec. 14-3-80. Surface water quality.**

The applicant shall provide the following:

(1) Map and description of all surface waters that will be affected by the proposed development, including applicable state water quality standards, existing water quality, and any Total Daily Maximum Loads for segments that have been listed on the Colorado Water Quality Control Commission 303(d) list.

(2) Map and/or description of existing minimum in-stream flows held by the Colorado Water Conservation Board.

(3) Map of all springs and seeps.

(4) Description of the impacts of the proposed development on the quality of surface water and how the impacts will be mitigated. If a Water Quality Monitoring Plan has been prepared pursuant to Section 14-3-160 of this Article, the applicant may refer to the plan. (Ord. 4 §1, 2013)

**Sec. 14-3-90. Groundwater quality and quantity.**

The applicant shall provide the following:

(1) Map and description of all groundwater that will be affected by the proposed development, including:

a. Seasonal water levels of the aquifers affected by the proposed development.

b. Artesian pressure in aquifers and a description of how the proposed development may affect adjacent communities and users on wells.

c. Groundwater flow directions and levels and how that information was determined.

d. Existing groundwater quality and classification.

e. Location of all water wells and description of their uses.

(2) Description of the impacts of the proposed development on groundwater quality and quantity and how the impacts will be mitigated. (Ord. 4 §1, 2013)

**Sec. 14-3-100. Floodplains, wetlands and riparian areas.**

The applicant shall provide the following:

(1) Map and description of all floodplains, wetlands and riparian areas that will be affected by the proposed development, including a description of each type of wetlands, species composition and biomass. Wetlands within the boundaries of the proposed development and extending at least one hundred (100) feet from the boundaries of the proposed development are presumed to be affected by the proposed development and comprise the Wetlands Study Area.

(2) Wetlands report. The wetlands in the Wetland Study Area shall be described in a Wetland Delineation Report that includes:

a. Introduction – a brief project description and purpose for the report.

b. Executive summary – a summary of the whole report including significant findings and recommendations.

c. Site description – a summary of the general ecological setting and specific site location.

d. Methods – information on literature review, fieldwork, wetland classification, mapping techniques, etc.

e. Wetland description – detailed accounts of vegetation, hydrology and soil conditions; justification for wetland boundaries; area and classification of all wetlands; and a summary of the wetland functional analysis. Wetlands will be identified in accordance with the procedures set forth in the Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Western Mountains, Valleys, and Coast Region (U.S. Army Corps of Engineers 2008).

f. Literature cited.

g. Wetland delineation data forms.

h. Wetland functional analysis data forms.

i. Photographs of each wetland.

j. Detailed map of the wetlands and other water features at one (1) inch equals two hundred (200) feet scale (or similar).

(3) Description of the impacts of the proposed development on the floodplains, wetlands and riparian areas and how the impacts to the floodplain and riparian areas will be mitigated.

(4) Wetland Mitigation Plan, including both a compensatory plan for those wetlands permanently lost as a result of the project and mitigation measures to avoid and minimize impacts to wetlands.

a. The intent of compensatory wetland mitigation is to replace the wetlands' ecological functions that are unavoidably lost because of the proposed development.

b. The priority is to (in order of preference) restore, create, enhance or protect wetlands in-kind (of the same wetland type that performs the same wetland functions to the same degree or better) within the Watershed District. (Ord. 4 §1, 2013)

**Sec. 14-3-110. Terrestrial and aquatic animals and habitat.**

The applicant shall provide the following:

(1) Description of terrestrial and aquatic animals that will be affected by the proposed development, including the status and relative importance of game and nongame wildlife, livestock and other animals; and a description of threatened or endangered animal species.

(2) Map and description of wildlife habitat and livestock range that will be affected by the proposed development, including migration routes, movement corridors, feeding areas, nesting areas, calving areas, summer and winter range and spawning beds; and a description of streamflows and lake levels needed to protect the aquatic environment. The map shall include:

a. Size and location of each habitat in the proposed development site.

b. Size and location of open space areas in the proposed development site.

c. Critical connections or relationships with adjoining habitats outside the site of the proposed development.

(3) Description of the impacts of the proposed development on terrestrial and aquatic animals, habitat and food chain and how the impacts will be mitigated. (Ord. 4 §1, 2013)

**Sec. 14-3-120. Terrestrial and aquatic plant life.**

The applicant shall provide the following:

(1) Map and description of terrestrial and aquatic plant life that will be affected by the proposed development, including the type and density and threatened or endangered plant species and habitat.

(2) Descriptions of the impacts of the proposed development on terrestrial and aquatic plant life and how the impacts will be mitigated. (Ord. 4 §1, 2013)

**Sec. 14-3-130. Soil and geologic conditions and natural hazards.**

The applicant shall provide the following:

(1) Map and description of soil conditions, geologic conditions and natural hazards, including soil types, drainage areas, slopes, avalanche areas, debris fans, mud flows, rock slide areas, faults and fissures, seismic history and wildfire hazard areas.

(2) Description of the impacts of the proposed development on soil and geologic conditions in the area and how the impacts will be mitigated.

(3) Description of the risks to the proposed development from soil and geologic conditions and from natural hazards and how the risks will be mitigated. (Ord. 4 §1, 2013)

**Sec. 14-3-140. Spill Prevention, Storage, Control, Countermeasure and Contingency Plan.**

The applicant shall provide a Spill Prevention, Storage, Control, Countermeasure and Contingency Plan that describes the measures to prevent hazardous materials, pesticides, petroleum products and other substances from entering into, harming, damaging or injuring the Town's waterworks or polluting the Town's water supply, including:

- (1) Location of storage areas for equipment, fuel, lubricants, chemicals and waste during both construction and operation of the proposed development.
- (2) Measures, procedures and protocols for spill prevention, storage and containment.
- (3) Measures, procedures and protocols for reporting spills and storage to Town, county, state and federal officials.
- (4) Measures, procedures and protocols for clean-up and contingency and description of the financial security for these provisions.
- (5) Provisions establishing that the Town, or its designee, may undertake prevention, control, countermeasure, containment and clean-up measures if the permittee fails to comply with its obligations under the Spill Prevention, Storage, Control, Countermeasure and Contingency Plan, and that the permittee will pay all costs incurred by the Town for any such measures.
- (6) Maintenance of material safety data sheets (MSDS).
- (7) Provisions for implementation of Best Management Practices to prevent and reduce pollutants, using the BMP Guide attached as Appendix 14-A to this Chapter. (Ord. 4 §1, 2013)

**Sec. 14-3-150. Emergency Response Plan.**

The applicant shall provide an Emergency Response Plan that addresses fire protection and other events that could pose a threat to public health, safety and welfare, including the owner's emergency contact information, proposed signage, access and evacuation routes and health care facilities anticipated to be used. The plan shall include a provision for the owner to reimburse the appropriate emergency response service providers for costs incurred in connection with the emergency. (Ord. 4 §1, 2013)

**Sec. 14-3-160. Water Quality Monitoring Plan.**

The applicant shall provide a Water Quality Monitoring Plan that establishes a baseline<sup>2</sup> and a process for monitoring changes to the aquatic environment and effectiveness of mitigation. The plan should be complementary to historic monitoring data, any ongoing monitoring by any entity and any monitoring required or conducted by state and federal agencies and shall include:

- (1) Stream segments, water features and groundwater to monitor.

---

<sup>2</sup> The Town encourages applicants to consult *Assessment of Riparian and Aquatic Habitat with the Coal Creek Watershed, Gunnison County, Colorado*, prepared by Kevin Alexander.

(2) Locations for and frequency of sampling and monitoring to establish baseline of existing conditions prior to construction and operation of the proposed development, including existing fishery, water quality, aquatic macroinvertebrate and groundwater data.

(3) Key indicators of water quality, stream health and threshold levels that reflect decline in water quality and health of the aquatic environment.

(4) Locations for and frequency of sampling and monitoring for key indicators of water quality and stream health, including constituents regulated by the Colorado Water Quality Control Commission and constituents associated with the proposed development.

(5) Locations for and frequency of sampling and monitoring to measure effectiveness of water quality mitigation during the life of the proposed development and five (5) years after final reclamation of all disturbed areas is complete.

(6) If monitoring of key indicators reveals degradation, how mitigation will be implemented.

(7) Estimated costs of monitoring. (Ord. 4 §1, 2013)

#### **Sec. 14-3-170. Erosion and Sediment Control Plan.**

The applicant shall provide an Erosion and Sediment Control Plan that includes:

(1) Methods to minimize on-site erosion and control surface runoff, including:

a. Installing erosion and sediment control measures before site grading.

b. Stabilizing disturbed areas and soil stockpiles; protection of disturbed areas that will remain exposed and inactive for periods longer than fourteen (14) days.

c. Mulching and seeding disturbed areas with native seeds and weed-free mulch within seven (7) calendar days after final grade is reached, weather permitting.

d. Keeping temporary measures for soil stability in place, such as mulch or silt fences, until native vegetation has covered at least seventy percent (70%) of the disturbed area.

e. On-site limitation or detention of sediment-laden runoff using sediment basins, silt traps, erosion logs or other appropriate control options.

f. Controlling the rate and total volume of surface runoff during and after construction so as not exceed the level of runoff that occurred prior to construction; installing energy dissipation measures where overland flows are anticipated in excess of five (5) feet per second.

g. Controlling surface runoff from the proposed development so as to prevent discharge directly into streams or other water features, including: on-site containment and treatment of surface runoff from areas likely to contain pollutants; allowing surface runoff to infiltrate in vegetated areas if such infiltration will not result in significant degradation of groundwater or surface water quality; and groundwater monitoring, as necessary, to monitor potential subsurface transport of pollutants.

h. Diverting off-site run-on around the construction site when practical.

i. Inspection and maintenance of all erosion and sediment control devices in a manner to support their effectiveness.

(2) Construction schedule indicating the anticipated start date and date of completion for site grading, installation and removal of erosion and sediment control measures, and the estimated duration of exposure of each area prior to the completion of temporary erosion and sediment control measures.

(3) Plan view drawings of all erosion and sediment control measures showing approximate locations and site drainage patterns for construction phases and final design elements.

(4) Estimated total cost of the required temporary soil erosion and sediment control measures (installation and maintenance).

(5) Any calculations made for determining rainfall, runoff, sizing any sediment basins, diversions, conveyance or detention/retention facilities.

(6) Signature block for the owner or legal agent acknowledging the review and acceptance of responsibility, and a signature and stamped statement by the qualified individual acknowledging responsibility for the preparation of the Erosion and Sediment Control Plan. (Ord. 4 §1, 2013)

#### **Sec. 14-3-180. Drainage Plan.**

The applicant shall provide a Drainage Plan or stormwater management plan designed by a licensed professional engineer according to generally accepted storm drainage practices, that includes:

(1) Provisions to address flows from the area disturbed by the proposed development site.

(2) Diversion of the expected maximum water flows from any twenty-five-year flood event and any one-hundred-year flood event away from all buildings and other developed areas, adjacent lands and potential sources of water pollution.

(3) Description of measures to prevent pollution of existing lakes and watercourses by stormwater runoff.

(4) Locations of existing and proposed drainage structures, culverts, bridges, drainage ditches, channels and easements and natural drainage features affecting site drainage on site and within one hundred (100) feet adjacent to the proposed development site boundary, including drainage channels and other water conveyance structures, and wetlands or other water features receiving storm runoff from the proposed development site.

(5) Preliminary engineering, design and construction features for drainage structures to be constructed. (Ord. 4 §1, 2013)

#### **Sec. 14-3-190. Grading Plan.**

The applicant shall provide a detailed Grading Plan taking into account the soil and geology of the site that includes:

(1) Topography, elevations, dimensions, location, extent and slope of all proposed clearing, grading, excavating, filling or surfacing, including building site and driveway grades to occur as a result of the proposed development, and the volume of material to be removed or moved.

(2) All natural features on site and potentially affected by the proposed development.

(3) Locations of soil stockpiles and snow storage areas.

(4) Location of temporary roads designed for use during the construction period.

(5) Areas with slope of twenty percent (20%) or greater, identified by location and percentage of slope, for both the existing site conditions and the proposed development. If development is proposed to include slopes of thirty percent (30%) or greater, the plan shall include:

a. Documentation that no alternative development site is available on the property with a slope of less than thirty percent (30%).

b. Measures to prevent erosion, sloughing and other forms of instability.

c. Measures to confine cutting, filling and other grading activities to the minimum area necessary for the proposed development.

(6) Description of staging and scheduling of earth-disturbing activities.

(7) Description of slope stability. (Ord. 4 §1, 2013)

**Sec. 14-3-200. Revegetation Plan.**<sup>3</sup>

The applicant shall provide a Revegetation Plan that includes:

(1) Provisions to protect vegetation on neighboring property from impacts of the proposed development.

(2) Provisions to preserve tall, overly mature trees and standing dead trees (snags) at the rate of two (2) to five (5) per acre, whenever possible, as nesting and perching habitat.

(3) Provisions to reestablish vegetation so that:

a. Density is adequate to prevent soil erosion and invasion of weeds after one (1) growing season.

b. Vegetation cover will be diverse, effective and long-lasting and capable of self-regeneration without continued dependence on irrigation, soil amendments or fertilizer.

c. Vegetation cover will be at least equal in extent of cover to the natural vegetation of the surrounding area.

---

<sup>3</sup> This Section is not applicable to mining conducted pursuant to a current Mined Land Reclamation Board reclamation plan.

d. Vegetation cover will be capable of stabilizing the soil surface to achieve erosion control equal to predevelopment levels.

e. Initial irrigation is adequate to start growth of new vegetation.

(4) Provisions to prevent, eliminate and dispose of invasive weeds and to manage invasive weeds pursuant to Town, county and U.S. Forest Service noxious weed control operations. In the event of any inconsistency among any of these weed control operations, the strictest operation will apply.

(5) Provisions for the applicant to monitor revegetation, including extent, scope and frequency of monitoring. (Ord. 4 §1, 2013)

**Sec. 14-3-210. Additional submittal requirements for water and wastewater treatment systems.**

The applicant shall provide a description of existing domestic water and wastewater treatment facilities in the vicinity of the proposed development, including their capacity and existing service levels, location of intake and discharge points, treatment methods, service fees and rates, service plan boundaries and reasons for and against hooking onto those facilities.

**Sec. 14-3-220. Additional submittal requirements for municipal and industrial water projects.**

The applicant shall provide the following:

(a) Description of water demands that the proposed development expects to meet and basis for projections of that demand.

(b) Map and description of other municipal and industrial water projects in the vicinity of the proposed development, including their capacity and existing service levels, location of intake and discharge points, treatment methods, service fees and rates, service plan boundaries and reasons for and against hooking on to those facilities.

(c) Description of efficient water use, recycling and reuse technology the proposed development intends to use. (Ord. 4 §1, 2013)

**Sec. 14-3-230. Documentation of operational conflict waiver.**

The applicant shall provide documentation of the basis for any waiver of Watershed Protection Standards based on operational conflict that the applicant may request pursuant to Section 14-4-260 of this Chapter. (Ord. 4 §1, 2013)

**Sec. 14-3-240. Documentation of technical infeasibility or environmental protection waivers.**

The applicant shall provide documentation of the basis for any waiver of Watershed Protection Standards based on technical infeasibility or environmental protection that the applicant may request pursuant to Section 14-4-270 of this Chapter. (Ord. 4 §1, 2013)

**Sec. 14-3-250. Additional information.**

The staff may request that the applicant supply additional information related to the proposed development as may be necessary to make a determination on whether the proposed development satisfies approval standards. (Ord. 4 §1, 2013)

## ARTICLE 4

### Watershed Protection Standards <sup>4</sup>

#### **Sec. 14-4-10. Applicant has necessary expertise and financial capability.**

The applicant shall have the necessary expertise and financial capability to complete and operate the proposed development in compliance with the requirements and conditions of these Regulations. (Ord. 4 §1, 2013)

#### **Sec. 14-4-20. All property rights and easements will be obtained.**

The applicant will obtain all property rights and easements necessary for the proposed development prior to site disturbance, including surface mineral and water rights. (Ord. 4 §1, 2013)

#### **Sec. 14-4-30. No impairment of property rights (not applicable on federal lands).**

The proposed development will not impair property rights held by others. (Ord. 4 §1, 2013)

#### **Sec. 14-4-40. All county, state and federal permits and approvals will be obtained.**

The applicant can or will obtain all county, state and federal permits and approvals prior to commencing development. (Ord. 4 §1, 2013)

#### **Sec. 14-4-50. Technically and financially feasible.**

The proposed development is technically and financially feasible. Examples of factors the Town may consider in determining technical and financial feasibility include, without limitation:

- (1) Amount of debt associated with the proposed development.
- (2) Debt retirement schedule and sources of funding to retire the debt.
- (3) Estimated construction costs and construction schedule.
- (4) Estimated annual operation, maintenance and monitoring costs.
- (5) Funding sources to undertake the proposed development and the continued compliance with the Watershed Permit and these Regulations. (Ord. 4 §1, 2013)

#### **Sec. 14-4-60. Consistent with land use and water quality plans (not applicable on federal lands).**

The proposed development is consistent with land use and water quality plans applicable within the Watershed Protection District. Wherever there is a conflict between provisions of plans, the plan most protective to water quality and quantity shall apply. (Ord. 4 §1, 2013)

---

<sup>4</sup> Approval of a Watershed Permit shall be based on whether the proposed development satisfies the applicable Watershed Protection Standards. The Town shall take into account the impacts of construction, operation, reclamation and cumulative impacts of the proposed development in determining whether the Watershed Protection Standards are satisfied. (Ord. 4 §1, 2013)

**Sec. 14-4-70. No significant adverse effect on Town waterworks.**

The proposed development will not have a significant adverse effect on the Town's waterworks. (Ord. 4 §1, 2013)

**Sec. 14-4-80. No significant degradation of surface water quality.**

The proposed development will not significantly degrade surface water quality within the Watershed Protection District. Examples of factors the Town may consider in determining impacts to surface water quality include, without limitation:

- (1) 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.
- (2) Changes in point and nonpoint source pollution loads. All nonpoint sources of pollutants caused by or associated with the proposed development will not result in any measurable increase in nonpoint source pollution loads to any water feature affected by the proposed development.
- (3) Increase in erosion.
- (4) Changes in sediment loading to water features.
- (5) Changes in stream channel or shoreline stability.
- (6) Changes in stormwater runoff flows.
- (7) Changes in trophic status or in eutrophication rates in lakes and reservoirs.
- (8) Changes in the capacity or functioning of streams, lakes or reservoirs.
- (9) Changes in flushing flows necessary to scour streambeds and spawning beds.
- (10) Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.
- (11) Approved Water Quality Monitoring Plan prepared pursuant to Section 14-3-160 of this Chapter. (Ord. 4 §1, 2013)

**Sec. 14-4-90. Control of erosion, sedimentation and storm runoff.**

Construction and operation of the proposed development will be managed to control erosion and sedimentation and storm runoff in compliance with the approved Erosion and Sediment Control Plan prepared pursuant to Section 14-3-170 of this Chapter, the approved Drainage Plan prepared pursuant to Section 14-3-180, the approved Grading Plan prepared pursuant to Section 14-3-190 or an approved state or federal approval requirement that addresses grading, storm runoff, erosion and sediment control. (Ord. 4 §1, 2013)

**Sec. 14-4-100. Minimization of impervious areas.**

The impervious surface of the land disturbed by the proposed development will not exceed twelve percent (12%) of the total acreage affected by the proposed development. (Ord. 4 §1, 2013)

**Sec. 14-4-110. Compliance with tiered water feature buffer setbacks.**

(a) General.

(1) Development, other than stream crossings and stream bank reinforcement or repair and water diversion placement or repair, will be setback in accordance with a tiered water feature buffer described herein.

(2) Maintenance of vehicles or mobile machinery is prohibited within one hundred (100) horizontal feet of any water feature. Emergency maintenance may be conducted until the vehicle or machinery can be relocated.

(3) Storage of pesticides, petroleum products, hazardous substances, hazardous wastes, toxic substances or other substances that have the potential to degrade water quality will not occur within five hundred (500) horizontal feet of any water feature. Use and storage in consumable quantities of everyday consumer products (e.g., laundry detergent, propane, automobile fuels located in an automobile) will be excepted in the ordinary course of consumer conduct.

(4) Storage of sand and salt for road deicing and open storage of fertilizers will not occur within five hundred (500) horizontal feet of any water feature.

(5) Development in high quality wetlands is prohibited.

(b) Restrictive inner buffer zone.

(1) A setback of fifty (50) feet, measured horizontally from the typical and ordinary high water mark in average hydrologic years on each side of a water feature except that a setback of one hundred (100) feet, measured horizontally, is required from High Quality Wetlands.

(2) The only development allowed within the restrictive inner buffer zone is irrigation and water diversion facilities, flood control structures, culverts, bridges, stream restoration and structures determined by the Town to be reasonable and necessary to the viability of the proposed development or watershed protection. Development in High Quality Wetlands is prohibited.

(c) Variable outer buffer zone. Setbacks ranging from zero (0) feet to one hundred (100) horizontal feet beyond the outer edge of the restrictive inner buffer zone (i.e., up to one hundred fifty [150] horizontal feet beyond the high water mark of the water feature during average hydrologic years or the wetland boundary). The width of the variable outer buffer zone may be undulating across the subject property in order to provide protection to site-specific features. Site-specific features that could trigger the need for either a variable outer buffer zone setback, equivalent mitigation or a combination of a variable outer buffer zone setback and mitigation include, without limitation:

(1) The presence of steep slopes that drain into the water feature.

- (2) The presence of highly erodible soils.
  - (3) The presence of unstable stream bank conditions.
  - (4) The need to protect trees, shrubs or other natural features that provide for stream bank stability, habitat enhancement for aquatic environments and riparian area protection.
  - (5) The proposed development is within the one-hundred-year floodplain.
  - (6) The need to prevent or minimize flood damage by preserving stormwater and floodwater storage capacity.
  - (7) The need to protect habitat for plant, animal or other wildlife species listed by state or federal agencies as threatened, endangered, rare, species of special concern or species of undetermined status.
  - (8) The need to protect fish spawning, breeding, nursery and feeding grounds.
- (d) Exceptions to setback requirements in the tiered water feature buffer will be allowed if:
- (1) The proposed development is not prohibited.
  - (2) The proposed development cannot possibly be located outside the tiered water feature buffer and will be designed to minimize encroachment into the tiered water feature buffer.
  - (3) The proposed development is water-dependent and is authorized by the appropriate regulatory authority.
  - (4) Denial of the proposed development in the tiered water feature buffer would result in denying the landowner all economically viable use of the subject property.
  - (5) Because of physical features and other restrictions or conditions on the proposed development site, conducting the proposed development outside the tiered water feature buffer would create or substantially contribute to a hazardous condition or cause greater negative impact to the watershed than conducting the proposed development within the tiered water feature buffer. (Ord. 4 §1, 2013)

**Sec. 14-4-120. No significant degradation of groundwater.**

The proposed development will not significantly degrade groundwater quality and quantity within the Watershed Protection District. Examples of factors the Town may consider in determining impacts to groundwater include, without limitation:

- (1) Changes in aquifer discharge and recharge rates, groundwater levels and aquifer capacity, including seepage losses through aquifer boundaries and at aquifer-stream interfaces.
- (2) Changes in capacity and function of wells within the Watershed Protection District.
- (3) Changes in quality and quantity of well water and other groundwater within the Watershed Protection District.

(4) Changes in flow patterns of groundwater.

(5) Changes to wetland and buffer areas from damage due to wildlife. (Ord. 4 §1, 2013)

**Sec. 14-4-130. No significant adverse effect on designated floodplains.**

The proposed development will not have a significant adverse effect on designated floodplains. Examples of factors the Town may consider in determining impacts to floodplains include, without limitation:

(1) Changes in function and aerial extent of floodplains.

(2) Creation of obstructions from the proposed development during times of flooding and vulnerability of the proposed development to flooding.

(3) Use of flood-protection devices or floodproofing methods.

(4) Nature or intensity of the proposed development.

(5) Increases in impervious surface area caused by the proposed development.

(6) Increases in surface runoff flow rate and amount caused by the proposed development.

(7) Increases in floodwater flow rate and amount caused by the proposed development.

(8) Proximity and nature of adjacent or nearby land use.

(9) Impacts to downstream properties or communities.

(10) Impacts on shallow wells, waste disposal sites, water supply systems and wastewater disposal or septic systems. (Ord. 4 §1, 2013)

**Sec. 14-4-140. No significant degradation of wetlands and riparian areas.**

The proposed development will not significantly degrade wetlands and riparian areas. Examples of factors the Town may consider in determining impacts to wetlands and riparian areas include, without limitation:

(1) Changes in the structure and function of wetlands and riparian areas.

(2) Changes to the filtering and pollutant uptake and storage capacities of wetlands and riparian areas.

(3) Changes to aerial extent of wetlands and riparian areas.

(4) Changes in species characteristics and diversity.

(5) Transition from wetland to upland species.

(6) Changes in function and aerial extent of floodplains.

(7) Introduction of exotic, nuisance or invasive species into wetland and riparian areas. (Ord. 4 §1, 2013)

**Sec. 14-4-150. No significant adverse effect on aquatic life.**

The proposed development will not have an adverse effect on aquatic life. Examples of factors the Town may consider in determining impacts to aquatic life include, without limitation:

(1) Changes that result in loss of oxygen for aquatic life.

(2) Changes in flushing flows.

(3) Changes in species composition or density, including introduction of invasive aquatic species.

(4) Changes in number of threatened or endangered species.

(5) Changes to the aquatic food webs. (Ord. 4 §1, 2013)

**Sec. 14-4-160. No significant degradation of wildlife habitat.**

The proposed development will not significantly degrade wildlife habitat. Examples of factors the Town may consider in determining impacts to wildlife habitat include, without limitation:

(1) Changes to habitat and critical habitat, including calving grounds, mating grounds, nesting grounds, summer or winter range, migration routes or any other habitat features necessary for the protection and propagation of any terrestrial animals, taking into account:

a. Human-related activities that will disrupt necessary life cycle functions of wildlife.

b. Elimination, reduction and/or fragmentation of wildlife habitat.

c. Elimination, reduction and/or fragmentation of wildlife habitat that is identified as unique or important to the Town in that it supports wildlife species that do not commonly occur in or outside of the watershed.

d. Disruption of necessary migration or movement patterns, preventing wildlife from using their entire habitat.

e. Displacement of wildlife species into areas that cannot support or sustain the species over the long term.

f. Fragmentation of large areas of native vegetation and habitat by existing and proposed development.

g. Protection of rare landscape elements, such as locally rare vegetation, unique rock formations, sheltered draws or drainage ways.

h. Maintenance of connections among wildlife habitats and provisions to identify and protect corridors for movement.

i. Provisions for access by the Colorado Division of Parks and Wildlife for trapping, tagging, studying or otherwise managing wildlife.

j. Restrictions in scheduled construction from December first through March thirty-first if the proposed development is within one-quarter (1/4) mile of a severe winter range or winter concentration area. This restriction will also apply to winter range areas if recommended by the Colorado Division of Parks and Wildlife, or other expert acceptable to the Town, due to site-specific circumstances or cumulative habitat loss.

k. Restrictions in scheduled construction between October fifteenth and November thirtieth or between April fifteenth and May thirtieth if proposed development is in or adjacent to wildlife migration corridors.

l. Restrictions in scheduled construction between May fifteenth and June thirtieth if proposed development is in or adjacent to wildlife production areas.

m. Changes in threatened or endangered species.

(2) Changes to habitat and critical habitat, including stream bed and banks, spawning grounds, riffle and side pool areas, flushing flows, nutrient accumulation and cycling, water temperature, depth and circulation, stratification and any other conditions necessary for the protection and propagation of aquatic species. (Ord. 4 §1, 2013)

**Sec. 14-4-170. No significant adverse effect on terrestrial plant life or habitat.**

The proposed development will not have an adverse effect on the terrestrial plant life or habitat. Examples of factors the Town may consider in determining impacts to terrestrial plant life or habitat include, without limitation:

(1) Changes to habitat of threatened or endangered plant species.

(2) Changes to the structure and function of vegetation, including species composition, diversity, biomass and productivity.

(3) Changes in advancement or succession of desirable and less desirable species, including noxious weeds. (Ord. 4 §1, 2013)

**Sec. 14-4-180. Compliance with wildlife buffer setbacks.**

Structures will comply with the following minimum setbacks for wildlife habitat protection unless (i) the Colorado Division of Parks and Wildlife or appropriate federal agency requires that a different buffer is appropriate due to unusual wildlife factors or other unique features of the land, or (ii) the area in question is too small to accommodate the required buffer, in which case the buffer will be provided to the maximum extent practicable:

(1) Wildlife migration corridors. A minimum buffer of one-quarter ( $\frac{1}{4}$ ) mile is required between any building or structure and wildlife migration corridors.

(2) Severe winter range, winter concentration area. A minimum buffer of one-quarter ( $\frac{1}{4}$ ) mile is required between any building or structure and critical habitat, severe winter range and/or winter concentration areas.

(3) Production areas. If development is approved adjacent to bighorn sheep, mule deer and elk production areas, a minimum buffer of one-quarter ( $\frac{1}{4}$ ) mile is required between any building or structure and production areas. (Ord. 4 §1, 2013)

**Sec. 14-4-190. No significant risk from soil conditions and geologic hazards.**

The proposed development is not subject to a significant risk from soil conditions and geologic hazards. Examples of factors the Town may consider in determining risk from soil conditions and geologic hazards include, without limitation:

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

(2) Changes to stream sedimentation, geomorphology and channel stability.

(3) Changes to lake and reservoir bank stability and sedimentation and safety of existing reservoirs.

(4) Changes to avalanche areas, mudflows, debris fans and other unstable and potentially unstable slopes.

(5) Exacerbation of seismic concerns and subsidence. (Ord. 4 §1, 2013)

**Sec. 14-4-200. No significant risk from natural hazards.**

The proposed development is not subject to a significant risk from natural hazards. Examples of factors the Town may consider in determining risk from natural hazards include, without limitation:

(1) Faults and fissures.

(2) Steep slopes.

(3) Potentially unstable slopes, including landslides and rockslides.

(4) Expansive or evaporative soils and risk of subsidence.

(5) Floodplains.

(6) Wildfire hazard areas. (Ord. 4 §1, 2013)

**Sec. 14-4-210. Spill prevention, storage and containment of substances.**

Spill prevention, storage and containment of substances that have potential to degrade water quality shall be in compliance with the approved Spill Prevention, Storage, Control, Countermeasure and Contingency Plan prepared pursuant to Section 14-3-140 of this Chapter. (Ord. 4 §1, 2013)

**Sec. 14-4-220. No significant adverse effect on property designated as a Colorado Natural Area.**

The proposed development will not have an adverse effect on property designated as a Natural Area of the Colorado Natural Areas System and on the attributes for which the property is designated. (Ord. 4 §1, 2013)

**Sec. 14-4-230. Impediment of flow in watercourses.**

The watercourse within the site of the proposed development will be kept reasonably free of trash, debris, excessive vegetation and other obstacles that pollute, contaminate or significantly retard the flow of water through the watercourse. Structures legally located in or adjacent to the watercourse will be maintained so that the structure will not become a hazard to the use, function or physical integrity of the watercourse. (Ord. 4 §1, 2013)

**Sec. 14-4-240. Additional standards applicable to domestic water and wastewater treatment systems.**

In addition to the Watershed Protection Standards set forth in Sections 14-4-10 through 14-4-230 of this Article, the following standards shall apply to site selection and construction of major new domestic water and wastewater treatment systems and major extensions of existing domestic water and wastewater treatment systems:

- (1) New systems will be constructed in areas which will result in the proper utilization of existing treatment plants and will ensure the orderly development of domestic water and wastewater treatment systems.
- (2) System extensions will be constructed in areas in which the anticipated growth and development that may occur as a result of the proposed extension can be accommodated within the financial and environmental capacity of the area to sustain such growth and development.
- (3) Proposed system will not compete with existing water and wastewater treatment services or create duplicate services.
- (4) Existing water and wastewater treatment systems servicing existing and anticipated development are at or near operational capacity.
- (5) The age of existing domestic water and wastewater treatment systems, operational efficiency, state of repair or level of service is such that replacement is warranted.
- (6) Existing facilities cannot be upgraded or expanded to meet waste discharge permit conditions of the Colorado Water Quality Control Division. (Ord. 4 §1, 2013)

**Sec. 14-4-250. Additional standards applicable to municipal and industrial water projects.**

In addition to the Watershed Protection Standards set forth in Sections 14-4-10 through 14-4-230 of this Article, the project will emphasize the most efficient use of water, including, to the extent permissible under existing law, the recycling and reuse of water. (Ord. 4 §1, 2013)

**Sec. 14-4-260. Operational conflict waiver of Watershed Protection Standards.**

(a) The Town Council may waive one (1) or more of the Watershed Protection Standards set forth in Sections 14-4-10 through 14-4-250 of this Article if the application of the standard would result in operational conflict with state or federal requirements as described below:

(1) State operational conflict. A state operational conflict exists if the application of the Watershed Protection Standards to the proposed development would:

a. Conflict with a state statute, regulation or other requirement; and

b. Materially impede or destroy the State's interest in public health, safety and welfare, including protection of the environment and wildlife resources.

(2) Federal operational conflict. A federal operational conflict exists if compliance with both the federal statute, regulation or other requirement and the Watershed Protection Standards is a physical impossibility or when the application of the Watershed Protection Standards to the proposed development would stand as an obstacle to the accomplishment of the full purposes and objectives of Congress expressed in the federal statute, regulation or other requirement.

(b) Request for operational conflict waiver. The applicant may make a written request to staff for an operational conflict waiver in the Watershed Permit application or at any time during the Watershed Permit application review process, but no later than fourteen (14) days following a final decision on the Watershed Permit application by the Town Council.

(1) If the applicant makes a request for an operational conflict waiver prior to a final decision by the Town Council on the Watershed Permit application, Town Council shall consider the request during the public hearing on the Watershed Permit application.

(2) If the applicant makes a request for an operational conflict waiver following a final decision on a Watershed Permit application, within ten (10) days of receipt of a written request for operational conflict waiver the Town Manager shall schedule a public hearing by the Town Council. Notice of the public hearing shall be published at least fourteen (14) calendar days prior to the public hearing. The applicant shall provide written notice by certified mail to property owners within five hundred (500) feet of the proposed development site and to owners of mineral rights underlying the proposed development site at least fourteen (14) calendar days prior to the date of the public hearing.

(c) Decision by Town Council. Based on all the evidence on record, if the Town Council determines that the applicant has demonstrated that application of the Watershed Protection Standards to the proposed development will result in an operational conflict with a state or federal statute, regulation or other requirement, the Town Council may waive the Watershed Protection Standards to the extent necessary to avoid the operational conflict. The Town Council may impose conditions that are necessary

to minimize any negative impacts to the watershed that might occur as a result of the waiver. (Ord. 4 §1, 2013)

**Sec. 14-4-270. Waiver of Watershed Protection Standards for technical infeasibility or environmental protection.**

(a) The Town Council may waive one (1) or more of the Watershed Protection Standards set forth in Sections 14-4-10 through 14-4-250 of this Article on the basis of technical infeasibility or increased environmental protection.

(1) Technical infeasibility. Compliance with a standard is technically infeasible if there is no economical technology commercially available to conduct the proposed development in compliance with the standard; and the conduct of the proposed development, if the standard is waived, will be protective of public health, safety, welfare and the environment.

(2) Environmental protection. Compliance with a standard may be waived if protection of the watershed will be enhanced by an alternate approach not possible through compliance with the standard.

(b) The applicant may make a written request to staff for a waiver of Watershed Protection Standards for technical infeasibility or environmental protection in the Watershed Permit application or at any time up to and including the public hearing on the Watershed Permit application. The Town Council shall consider the request during the hearing on the Watershed Permit application. The Town Council may impose conditions on the waiver that are necessary to minimize any negative impacts to the watershed if the waiver is granted. (Ord. 4 §1, 2013)

**ARTICLE 5**

**Designation of Areas and Activities of State Interest in Watershed Protection District**

**Sec. 14-5-10. Designation is necessary.**

The Town Council hereby finds that:

(1) Designation and regulation of certain matters of state interest within the Watershed Protection District is necessary because of the intensity of current and foreseeable development pressures on the Watershed Protection District.

(2) Construction and operation of domestic water and wastewater treatment projects and municipal and industrial water projects in an uncontrolled manner could result in detrimental effects to water resources and municipal water supplies.

(3) The advantages of conducting such activity in a coordinated manner include:

a. To protect the Town's waterworks and the health of the municipal water supply from impacts caused by a reduction or degradation of wildlife habitat that, if unmitigated, would force wildlife to congregate in remaining habitat areas thereby increasing negative impacts by animals to the watershed. Riparian areas vary locally and regionally with unique animal-to-habitat relationships

and represent an area of maximum potential conflict among users of timber, grazing, recreation, water and wildlife resources.

b. To protect the Town's waterworks and health of the municipal water supply from impacts caused by construction and operation of domestic water and wastewater treatment projects and municipal and industrial water projects and to promote the advantages of conducting such projects in a coordinated manner. (Ord. 4 §1, 2013)

**Sec. 14-5-20. Designated matters of state interest.**

Based on the findings in Section 14-5-10 above, the Town Council hereby designates the following areas and activities of state interest in the Watershed Protection District:

- (1) Site selection and construction of major new domestic water and wastewater treatment systems and major extensions of existing domestic water and wastewater treatment systems.
- (2) Efficient utilization of municipal and industrial water projects
- (3) Wildlife habitat areas. (Ord. 4 §1, 2013)

**ARTICLE 6**

**Security Agreement<sup>5</sup>**

**Sec. 14-6-10. Financial security.**

The Security Agreement will require that the permittee provide the Town with a financial security in the amount and form established by the Town Council at the time of Watershed Permit approval. The amount of financial security shall be based upon the estimated cost of mitigation, restoration and compliance with the Watershed Permit conditions and payable on demand to the Town, except that the financial security shall not be required for reclamation secured by a valid and adequate security instrument held by the Mined Land Reclamation Board. (Ord. 4 §1, 2013)

**Sec. 14-6-20. Completion and release of financial security.**

The Security Agreement may include requirements for certification of completion, partial releases of the security, hold-over of security to ensure repairs or replacement, demonstrated performance of required facilities, substitution of security and other requirements deemed appropriate by the Town Council. (Ord. 4 §1, 2013)

---

<sup>5</sup> The permittee shall enter into a Security Agreement with the Town to guarantee compliance with Watershed Permit requirements. The purpose of the Agreement is to ensure that all mitigation requirements are timely and fully performed, all impacted areas are timely and fully restored and that any conditions connected to the Watershed Permit approval are timely and fully completed. The Agreement shall include provisions for notice by the Town Council of deficiencies if the Town Council determines that the permittee has not complied with any or all terms of the Agreement, and for the Town Council to draw upon the financial security as may be necessary to complete mitigation, restoration and compliance with conditions of the Watershed Permit.

## ARTICLE 7

### Enforcement and Penalties

#### **Sec. 14-7-10. General.**

(a) Any person engaging in development in the Watershed Protection District who does not obtain a Watershed Permit, who does not comply with the Watershed Permit requirements or who acts outside the jurisdiction of the Watershed Permit may be enjoined by the Town from engaging in such development and may be subject to such other criminal or civil liability as may be prescribed by law.

(b) If the Town determines at any time that there are material changes in the construction or operation of the development from that approved by the Town, the Watershed Permit may be immediately suspended and the Town Council will conduct a public hearing to determine whether new conditions are necessary to ensure compliance with the Watershed Protection Standards or if the permit should be revoked. (Ord. 4 §1, 2013)

#### **Sec. 14-7-20. Watershed Permit suspension or revocation.**

(a) The Town Council may temporarily suspend the Watershed Permit for any violation of the Watershed Permit conditions or these Regulations. Prior to suspension, the permittee will be given written notice of the violation and will have a minimum of fifteen (15) calendar days to correct the violation.

(b) The Town Council may revoke the Watershed Permit if the permittee fails to correct a violation or the Town Council determines that the development, as constructed or operated, has impacts not disclosed in the application. Prior to revocation, the permittee shall receive written notice and be given an opportunity for a hearing before the Town Council no sooner than thirty (30) calendar days after the date of the written notice. If the Town Council believes that an emergency situation exists, the Town Council may schedule the hearing sooner than thirty (30) calendar days after the date of written notice. The Town Council may revoke the Watershed Permit or may specify a time by which action shall be taken to correct any violations for the permit to be retained. (Ord. 4 §1, 2013)

#### **Sec. 14-7-30. Injunctive relief.**

The Town Council shall have the authority to seek injunctive or other appropriate relief in a court of competent jurisdiction if the permittee fails to correct a violation or to comply with any Watershed Permit condition. The Town Council shall have the authority to seek attorneys' fees and costs for any judicial proceeding to enforce these Regulations. (Ord. 4 §1, 2013)

#### **Sec. 14-7-40. Inspection.**

The Town may enter and inspect any property subject to these Regulations at reasonable hours for the purpose of determining whether the development is in violation of provisions of these Regulations. (Ord. 4 §1, 2013)

## APPENDIX 14-A

### Watershed Protection District BMP Guide and Examples

#### Purpose: Construction Site Erosion and Sediment Control

1. Minimize erosion from site:

- Phase construction

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/SM-01%20Construction%20Phasing-Scheduling.pdf>

- Install BMPs before site grading

- Stabilize soil

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/EC-06%20Rolled%20Erosion%20Control%20Products.pdf>

and

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/EC-04%20Mulching.pdf>

and

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/EC-03%20Soil%20Binders.pdf>

- Install temporary and permanent revegetation

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/EC-02%20Temporary%20and%20Permanent%20Seeding.pdf>

- Protect swales, ditches and other conveyances

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/EC-13%20Streambank%20Stabilization.pdf>

- Divert offsite runoff away from construction site

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/EC-10%20Earth%20Dikes%20and%20Drainage%20Swales.pdf>

- Protect culvert outlets

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/EC-08%20Temporary%20outlet%20Protection.pdf>

- Check dams

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/EC-12%20Check%20Dam.pdf>

- Implement surface roughening

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/EC-01%20Surface%20Roughening.pdf>

- Provide temporary stream crossings

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/SM-10%20Temporary%20Stream%20Crossing.pdf>

## 2. Minimize sediment leaving site:

- Protect site access locations

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/SM-04%20Vehicle%20Tracking%20Control.pdf>

and

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/SM-05%20Stabilized%20Construction%20Roadway.pdf>

- Protect inlet structures

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/SC-06%20Inlet%20Protection.pdf>

- Install erosion logs, temporary berms, silt fences

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/SC-01%20Silt%20Fence.pdf>

and

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/SC-02%20Sediment%20Control%20Log.pdf>

and

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/SC-03%20Straw%20Bale%20Barrier.pdf>

and

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/SC-05%20Rock%20Sock.pdf>

- Detain and treat flows using detention or retention basins

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/SC-07%20Sediment%20Basin.pdf>

and

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/SC-08%20Sediment%20Trap.pdf>

- Practice good housekeeping

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/MM-3%20Good%20Housekeeping%20Practices.pdf>

3. Implement construction de-watering

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%207%20fact%20sheets/SM-09%20Dewatering%20Operations.pdf>

4. Inspect and maintain BMPs

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/Chapter%206%20BMP%20Maintenance.pdf>

Purpose: Post-Construction Stormwater Management

1. Maintain predevelopment runoff volume

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/Chapter%203%20Calculating%20the%20WQCV%20and%20Volume%20Reduction.pdf>

2. Prevent direct discharges to water features and wetlands
3. Install permanent revegetation
4. Install sand filters

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%204%20fact%20sheets/T-06%20Sand%20Filter.pdf>

5. Construct extended detention basins

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%204%20fact%20sheets/T-05%20Extended%20Detention%20Basin.pdf>

6. Install constructed wetland pond

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%204%20fact%20sheets/T-08%20Constructed%20Wetland%20Pond.pdf>

7. Install grass buffer

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%204%20fact%20sheets/T-01%20Grass%20Buffer.pdf>

8. Install underground stormwater treatment

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%204%20fact%20sheets/T-11%20Underground%20BMPs.pdf>

9. Install outlet structures

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%204%20fact%20sheets/T-12%20Outlet%20Structures.pdf>

10. Landscape maintenance

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%205%20fact%20sheets/S-09%20Landscape%20Maintenance.pdf>

Purpose: Minimize and Disconnect Impervious Areas, see:

Reduce and disconnect impervious areas

[http://water.epa.gov/polwaste/nps/urban/upload/2005\\_12\\_08\\_NPS\\_urbanmm\\_urban-ch04.pdf](http://water.epa.gov/polwaste/nps/urban/upload/2005_12_08_NPS_urbanmm_urban-ch04.pdf)

Purpose: Low Impact Development, see:

<http://www.epa.gov/owow/NPS/lid/> (copy and paste URL)

Purpose: Abandoned Mine Remediation, see:

<http://mining.state.co.us/pdfFiles/bmp.pdf>

Purpose: Application, Storage and Handling of Hazardous Materials

1. Pesticides and herbicides, see:

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%205%20fact%20sheets/S-08%20Use%20of%20Pesticides%20Herbicides%20and%20Fertilizers.pdf>

2. Oil and grease, see:

[http://danewaters.com/pdf/manual/Appendix\\_1/OilandGreaseSeparator.pdf](http://danewaters.com/pdf/manual/Appendix_1/OilandGreaseSeparator.pdf)

3. Fueling and vehicle maintenance, see:

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%205%20fact%20sheets/S-07%20Vehicle%20Maintenance,%20Fueling%20and%20Storage.pdf>

4. Storage and handling, see:

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%205%20fact%20sheets/S-01%20Covering%20Outdoor%20Storage%20and%20Handling%20Areas.pdf>

5. Spill prevention, containment and control, see:

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%205%20fact%20sheets/S-02%20Spill%20Prevention%20Containment%20and%20Control.pdf>

6. Household hazardous waste, see:

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%205%20fact%20sheets/S-03%20Disposal%20of%20Household%20Waste.pdf>

Purpose: Snow Storage and Management, see:

<http://www.udfcd.org/downloads/pdf/critmanual/Volume%203%20PDFs/chapter%205%20fact%20sheets/S-10%20Snow%20and%20Ice%20Management.pdf>