TOWN OF CRESTED BUTTE
WATERSHED PROTECTION ORDINANCE

ARTICLE 14-5
WATERSHED PROTECTION DISTRICT

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ARTICLE 14-5 WATERSHED PROTECTION DISTRICT

Section 14-5-1. Watershed District Established. The Crested Butte Watershed Protection District is hereby established.

Section 14-5-2. Purpose and Authority. The purpose of the Watershed Protection District is to protect the municipal waterworks from injury and the municipal water supply from pollution, pursuant to the authority granted to municipalities by Section 31-15-707(1)(b), C.R.S. or other similar authority to protect municipal watersheds that may be granted by the General Assembly.

Section 14-5-3. Jurisdiction and Map. The boundaries of the Watershed Protection District encompass the Town of Crested Butte waterworks and any source of municipal water supply, including all reservoirs, streams, trenches, ditches, diversion structures, pipes and drains used in and necessary for the construction, maintenance, and operation of the municipal waterworks, and for five (5) miles above any points of diversion of water for use by the Town. This jurisdiction also extends to groundwater underneath lands within the five (5)-mile area. The official Watershed Protection District map depicts the Watershed Protection District boundaries and is located in the office of the Town Clerk.

Section 14-5-4. Applicability. These regulations shall apply to any Activity on public and private land within or partially within the Watershed Protection District.

Section 14-5-5. Repeal of Existing Watershed Ordinance. Ordinance No. 5, Series 80, Watershed Protection District, revised by Ordinance No. 1, Series 1996 is repealed as of the effective date of these Regulations.

Section 14-5-6. Effective Date. These Regulations, including any future amendments, shall take effect immediately upon adoption by the Town Council, unless otherwise set forth in Council's motion of approval.

Section 14-5-7. Permit Required. No person shall engage in, cause, allow or conduct any Activity within or partially within the Watershed Protection District prior to obtaining a Watershed Permit issued by the Town of Crested Butte.

A. Permit Not a Site Specific Development Plan. Watershed Permits issued under these Regulations shall not be considered to be a site specific development plan and no statutory vested rights shall inure to such permit.

B. Transfer of Permit. The Town Council may approve the transfer of a Watershed Permit. Approval of a transfer shall be in writing, and in approving

any transfer the Town Council shall ensure that the proposed transferee can and will comply with all of the requirements, terms, and conditions contained in the Watershed Permit; that such requirements, terms, and conditions remain sufficient to protect the quality and quantity of water in the Watershed and to protect the municipal waterworks from injury; and, if applicable, that an adequate guarantee of financial security will be made.

C. Permit Duration.

1. The Activity shall begin within one (1) year of the effective date of the Watershed Permit issued under these Regulations or the Permit shall expire and be of no force and effect; provided that the Town Council may grant a one (1)-time extension where the applicant so requests such an extension at least thirty (30) days prior to the expiration thereof and the applicant shows good cause.

2. The Watershed Permit shall include a term as determined by the Town Council.

3. Where the Permit is issued for a specific term, at the end of the term of the Permit, the Permit shall terminate and be of no force and effect, and any land disturbance shall be reclaimed in accordance with an approved reclamation plan.

Section 14-5-8. Relationship to County Land Use Authority.

A. County Land Use Authority Preserved. Nothing in this Article is intended to supersede or abrogate Gunnison County's authority to regulate land use within the unincorporated areas of the Watershed Protection District.

B. County Land Use Permit Required. No Watershed Permit shall be effective until all necessary County approvals and permits have been issued.

C. More Stringent Requirement Applies. Wherever there is a conflict between a County permit requirement and a Town Watershed Permit requirement, the most protective to water quality and quantity shall apply.

D. Concurrent Review of County and Town Permit Applications. Applications for Watershed Permits may be reviewed concurrently with applications for County approvals and permits.

1. **Minor Impact Activity.** A Watershed Permit application for a Minor Impact Activity may be approved by the Town before County approvals and permits have been granted, however the Watershed

Permit is not effective unless or until *all* necessary County permits and approvals have been obtained.

2. **Major Impact Activity.** A Watershed Permit application for a Major Impact Activity will not be scheduled for a public hearing with the Town Council until all necessary County, state, federal and any other permits and approvals have been obtained.

Section 14-5-9. Intent to Not Duplicate Other Permit Requirements or Processes. To the extent practicable, the Town intends to avoid duplicative Watershed Permit submittal requirements and processes. The applicant may submit any County, state and federal permit application materials to the Town that will satisfy a Watershed Permit application submittal requirement under these Regulations.

Section 14-5-10. Preemption by State or Federal Law. Preemption of one or more provisions of these Regulations by state or federal law shall not be presumed. The burden of proof shall be on the applicant to demonstrate to the satisfaction of the Town that a provision is preempted.

Section 14-5-11. Reserved.

Section 14-5-12. Nonconforming Activity. An Activity that was legally established before the effective date of these Regulations that does not conform hereto, and ordinary repairs and maintenance, shall be allowed to continue under the following conditions:

A. Modification of Nonconforming Activity. A legal nonconforming Activity shall only be modified in a manner that decreases or does not expand the nonconforming Activity.

1. **Expansion or Relocation Onto New Land.** Expansion or relocation of a legal nonconforming Activity onto new land shall be prohibited unless a Watershed Permit is granted under these Regulations.

2. **Change in Intensity of Activity.** An increase in the intensity of a legally nonconforming Activity shall be prohibited unless a Watershed Permit is granted under these Regulations. Increases in intensity include but are not limited to 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.

B. Abandonment of Nonconforming Land Use. Any legal nonconforming Activity that is abandoned or discontinued for a period of one (1) year or more may not recommence unless a Watershed Permit is granted under these Regulations.

C. Damage or Destruction. A legal nonconforming Activity that is damaged or destroyed by an "act of God" or through any manner not intentionally accomplished by or for the owner may be restored, regardless of the extent of damage or destruction, if the following conditions are met:

1. The owner shall acquire all County, state or federal permits and approvals required for construction and operation of the restored Activity.

2. The Activity shall not be restored in a manner that expands or increases the intensity the nonconforming nature of the Activity.

3. The Activity shall be restored within eighteen (18) months of the date of damage or destruction. A one-time, extension of time may be granted by the Town Council if it finds that:

   a. There would be a substantial hardship to the owner without the extension; and

   b. Within the first twelve (12) months after damage or destruction of the Activity, the owner has substantially cleaned up the site, removed debris and initiated efforts to begin restoration of the Activity.

Section 14-5-13. Classification of Activity As Major or Minor Impact. For purposes of Watershed Permit review, Activities shall be classified as a Minor Impact Activity or Major Impact Activity by the Town.

A. Minor Impact Activity. An application for a Watershed Permit for a Minor Impact Activity shall be reviewed administratively by the Town under the process set forth in Section 14-5-18. An Activity shall be classified as a Minor Impact Activity if it consists of the following elements:

1. The Activity, without mitigation, in its proposed location is unlikely to have any significant adverse impact to the Watershed, the municipal waterworks or municipal water supply, taking into consideration the Watershed protection standards set forth in Section 14-5-16; and

2. The Activity has been or will be properly permitted by the County and/or applicable state and federal authorities.

B. Major Impact Activity. An Activity that is not classified as a Minor Impact Activity shall be classified as a Major Impact Activity subject to the review process set forth in Section 14-5-20. The application for a Major Impact Activity requires a public hearing and decision by the Town Council.

C. Determination of Level of Permit Review. The Town Staff shall determine the level of permit review following the Pre-Application Conference.

1. **Written Notice.** Within *five (5)* calendar days of the determination of level of permit review, the Town Staff shall notify in writing the applicant, the Town Council, the Town Manager and Town Attorney of the determination of level of permit review.

2. **Change in Level of Permit Review.** At any time prior to the final decision on an application for a Watershed Permit, the Town Staff may decide that information received subsequent to the determination of level of permit review indicates that the nature and scope of the impacts of the proposed Activity require the application to be re-classified to a different level of permit review.

   a. The Town shall immediately notify the applicant in writing that a change is required.

Section 14-5-14. *Ex Parte* Communications. Once an application for Watershed Permit has been received by the Town Manager, members of the Town Council shall not engage in communications with any party regarding the application. It is each member of the Town Council's responsibility to immediately disclose *ex parte* contact to the Town Manager and to the Town Attorney. No *ex parte* communication shall be considered by the Town Council, or any of its members, in making a decision on an application for Watershed Permit.

Section 14-5-15. Consultant and Referral Agency Review.

A. Consultant Review. The Town may retain legal and technical consultants to assist with the review of the application for a Watershed Permit.

B. Referral Agency Review. The Town may send a copy of the application to and seek review comments from any local, state or federal agency that may have expertise or an interest in impacts that may be associated with the proposed Activity to be considered by the Town. Referral agency comments

must be received within thirty (30) calendar days from the date the application was referred by the Town.

C. Applicant Responsible for Consultant and Referral Agency Review Costs. The costs of legal counsel, consultant and referral agency review are the responsibility of the applicant.

1. The Town may require a deposit for payment of legal counsel, consultant and referral agency review fees, based upon estimated review costs, at the time of application and in addition to the application fees.

2. The Town may suspend the application review process pending payment of review fees.

Section 14-5-16. Watershed Protection Standards. Approval of a Watershed Permit shall be based on whether the proposed Activity satisfies the following Watershed protection standards. In determining whether the proposed Activity satisfies the applicable standards, the Town shall take into consideration, without limitation, the construction, operation and cumulative impacts of the Activity. Application submittal requirements are described in Section 14-5-17. The application review process for Minor Impact Activity or Major Impact Activity review is set forth in Section 14-5-18 and Section 14-5-20, respectively.

A. Prohibited Activities.

1. No pesticides, petroleum products, hazardous substances, hazardous wastes, toxic substances or other substances that have the potential to degrade water quality, shall be stored within five hundred (500) horizontal feet of any Waterbody. The preceding prohibition shall not apply to the use and storage in consumable quantities of everyday consumer products (e.g., laundry detergent, propane, automobile fuels located in an automobile) in the ordinary course of consumer conduct; provided that such products are consumed, stored and disposed of in accordance with all manufacturers' use, storage and disposal guidelines, and in accordance with all applicable County, state and federal laws. No sand and salt for road de-icing shall be stored within five hundred (500) horizontal feet of any Waterbody. Open storage of fertilizers within five hundred (500) horizontal feet of the Waterbody is also prohibited.

2. Construction activities within any waters in the Watershed

Protection District are prohibited, except Town authorized streambank reinforcement or repair, water diversion placement or repair, or stream crossings. Authorized construction will utilize measures to protect water quality and channel stability, including, without limitation: Waterbody isolation through the use of coffer dams; complete containment of the Waterbody in the area of the disturbance; acceptable Waterbody crossing structures; or limitations on the dates when in-Waterbody work can be performed. Construction will conform to applicable Section 404 permitting requirements.

B. **Storage, Use and Containment of Substances.** In addition to the prohibitions in Section 14-5-16 A.1 and 2, *Prohibited Activities*, all pesticides, petroleum products, hazardous substances, hazardous wastes, toxic substances and other substances shall be stored, contained and used in compliance with applicable County, state and federal regulations.

1. **Spill Prevention.** Measures shall be implemented to prevent spilled fuels, pesticides, petroleum products, lubricants, hazardous substances, hazardous wastes, toxic substances and other substances from entering a Waterbody during the conduct of the Activity. If a spill occurs it shall be handled in accordance with a Town approved Spill Prevention, Storage, Control, Countermeasure and Contingency Plan.

2. **Machine Maintenance.** Maintenance of vehicles or mobile machinery is prohibited within one hundred (100) feet of any Waterbody. Emergency maintenance may be conducted, however, until the vehicle or machinery can be relocated.

3. **Containment and Storage Measures.** Containment and storage measures shall be undertaken to prevent the release of all pesticides, petroleum products, hazardous substances, hazardous wastes, toxic substances and other substances into any Waterbody and shall be undertaken in accordance with a Town approved Spill Prevention, Storage, Control, Countermeasure and Contingency Plan.

4. **Waste Storage.** Areas used for the collection and temporary storage of solid or liquid waste shall be

designed to prevent discharge of these materials in runoff from the site. Collection sites shall be located away from the storm drainage system. Other best management practices such as, for example, covering the waste storage area, fencing the site, and constructing a perimeter dike to exclude runoff may also be required. All waste collection and storage shall be undertaken in accordance with a Town approved Spill Prevention, Storage, Control, Countermeasure and Contingency Plan.

C. **County, State and Federal Permits.** The applicant can or will obtain all County, state and federal permits and approvals necessary for the Activity.

1. A Watershed Permit application for a Minor Impact Activity may be approved by the Town before other permits and approvals and permits have been granted, however the Watershed Permit is not effective unless or until *all* necessary County, state and federal permits and approvals are obtained.

2. A Watershed Permit application for a Major Impact Activity will not be scheduled for a public hearing with the Town Council until all necessary County, state and federal permits and approvals have been obtained.

D. **Property Rights and Easements.** The applicant will obtain all property rights and easements prior to site disturbance, including but not limited to surface mineral and water rights necessary for the Activity. The Town may, at its discretion, defer making a final determination of completeness on the application until all outstanding property rights and easements are obtained.

E. **Expertise and Financial Capability.** The applicant has the necessary expertise and financial capability to develop and operate the Activity in compliance with the requirements and conditions of these Regulations.

F. **Technical and Financial Feasibility.** The Activity is technically and financially feasible. The Town may, without limitation, include the following considerations to determine technical and financial feasibility.

1. Amount of debt associated with the Activity.

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 Activity and the continued compliance with the Watershed Permit and these Regulations.

6. Proof that the applicant possesses the technology and sufficient skill and expertise to utilize the technology to undertake the Activity as proposed.

G. **Consistent with Land Use and Water Quality Plans.** The Activity is consistent with land use and water quality plans applicable within the Watershed. Wherever there is a conflict between provisions of plans, the plan most protective to water quality and quantity shall apply.

H. **No Impairment of Property Rights.** The Activity will not impair property rights held by others.

I. **Not Subject to Risk from Natural Hazards.** The Activity is not subject to a significant risk from natural hazards. The Town may include, without limitation, the following considerations to determine risk from natural hazards.

1. Faults and fissures.

2. Potentially unstable slopes including landslides and rockslides.

3. Expansive or evaporative soils and risk of subsidence.

4. Wildfire hazard areas.

5. Floodplains.

6. Steep slopes.

7. Mudflows.

8. Debris fans.

9. Avalanche areas.

J. **No Increase in Non-Point Source Pollution.** All non-point sources of pollutants caused by or associated with the Activity shall not result in any measurable increase in non-point source pollution loads to any Waterbody affected by the Activity.

K. **No Significant Degradation of Surface Water Quality.** The Activity will not significantly degrade surface water quality within the Watershed Protection District. The Town may include, without limitation, the following considerations to determine the impacts of the Activity.

1. Changes to existing surface water quality and composition, including, without limitation, chemical, physical and biological conditions thereof such as patterns of water circulation, temperature, conditions of the substrate, extent and persistence of suspended particulates and clarity, odor, color or taste of water, changes in concentrations of heavy metals, changes in the concentrations of nutrients, including phosphorus and nitrates.

2. Increase in erosion or sedimentation.

3. Changes in sediment or other pollutant loading to Waterbodies.

4. Changes in stream channel or shoreline stability.

5. Changes in surface runoff flows.

6. Changes in trophic status or in eutrophication rates in lakes and reservoirs.

7. Changes in the capacity or functioning of streams, lakes, reservoirs, springs or other Waterbodies.

8. Changes in flushing flows or amount of water available to dilute mine waste, agricultural runoff and other non-point sources of pollutants.

9. Changes to groundwater recharge or discharge patterns in the Watershed.

10. Changes in streamflows which may alter the concentration of contaminants and erosion and create other sedimentation issues that result in the degradation of water quality.

L. **No Significant Degradation of Wetlands and Riparian Areas.** The Activity will not significantly degrade wetlands and riparian areas. The Town may include, without limitation, the following considerations to determine the impacts of the Activity.

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. Changes to wetlands that are hydrologically connected to wetlands in the area to be affected by the Activity and proposed modifications of the surface or ground water on those hydrologically connected wetlands.

8. Introduction of exotic, nuisance, or invasive species.

M. **No Significant Degradation of Groundwater.** The Activity will not significantly degrade groundwater quantity and quality within the Watershed Protection District. The Town may include, without limitation, the following considerations to determine the impacts of the Activity.

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 and other groundwater within the Watershed Protection District.

4. Changes in flow patterns of groundwater.

N. Intentionally Deleted.

O. Tiered Buffer Zone Setbacks.

1. The Activity, other than stream crossings and Town authorized streambank reinforcement or repair and water diversion placement or repair, shall be set back in accordance with a tiered Waterbody buffer, which is more effective than a single setback requirement. This approach provides more flexibility on the location and nature of the Activity in riparian zones. The following tiered approach to Waterbody setbacks applies to all Activities.

   a. A setback of twenty five (25) feet measured horizontally from the typical and ordinary high water mark in average hydrologic years on each side of a Waterbody or field delineated wetland is required. This setback shall be identified as the "restrictive inner buffer zone". All Activities are restricted within this restrictive inner buffer zone, except that some irrigation and water diversion facilities, flood control structures, culverts, bridges and other reasonable and necessary structures requiring some disturbance within this setback may be permitted by the Town.

   b. There shall also exist a variable buffer beyond the restrictive inner buffer zone identified as the "variable outer buffer zone". Activities within this variable outer buffer zone may be limited where necessary to protect the integrity of the Waterbody or special site specific features. The variable outer buffer zone shall range anywhere from zero (0') feet to one hundred (100') feet beyond the outer edge of the restrictive inner buffer zone described above (i.e., up to one hundred twenty five (125) feet beyond the high water

mark of the Waterbody during average hydrologic years or wetland boundary). The width of this 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, and a setback therein, equivalent mitigation, or a combination of a variable outer buffer zone setback and mitigation include, without limitation:

(i) steep slopes draining into a Waterbody;

(ii) the presence of highly erodible soils;

(iii) the presence of unstable streambank conditions;

(iv) the Activity presents a special hazard to water quality (e.g., storage or handling of hazardous or toxic materials);

(v) the area is needed to protect trees, shrubs, or other natural features that provide for streambank stability, habitat enhancement for aquatic environments, riparian area protection, or to maintain pre-development riparian plant or animal communities;

(vi) the area is within the one hundred (100)-year flood plain; and

(vii) the area is needed to prevent or minimize flood damage by preserving storm and flood water storage capacity.

2. The following exceptions to the tiered Waterbody buffer setbacks shall be permitted upon a demonstration by the applicant thereof by clear and convincing evidence that the Activity is unavoidable in such location, that the Activity shall be designed to minimize encroachment into the tiered Waterbody setback and that, after mitigation, the adverse impact to the Waterbody, either directly or indirectly, shall be minimized to the maximum extent feasible:

a. the Activity in the tiered Waterbody buffer is water dependant (e.g., docks, piers, watercraft launches) and is authorized by appropriate regulatory authority;

b. the denial of the Activity in the tiered Waterbody buffer would result in denying the land owner all economically viable use of the subject property; or

c. because of physical features, other restrictions and conditions on the subject property, conducting the Activity outside the tiered Waterbody buffer would substantially create or contribute to a hazardous condition.

3. Larger setbacks may be imposed as necessary to protect the quality and quantity of water in the Watershed and to protect the municipal waterworks from injury as contemplated in these Regulations.

P. **Minimization of Impervious Areas.** The impervious surface of the land disturbed by the Activity shall not exceed twelve percent (12%) of the total acreage affected by the Activity.

Q. **No Significant Adverse Effect on Flood Hazard Areas.** The Activity will not have a significant adverse effect on designated flood hazard areas. The Town may include without limitation the following considerations to determine the impacts of the Activity.

1. Creation of obstructions from the proposed development during times of flooding, and vulnerability of the proposed development to flooding.

2. Use of flood protection devices or flood-proofing methods.

3. Nature or intensity of the proposed development.

4. Increases in impervious surface area caused by the proposed development.

5. Increases in surface runoff flow rate and amount caused by the proposed development.

6. Increases in flood water flow rate and amount caused by the proposed development.

7. Proximity and nature of adjacent or nearby land uses.

8. Impacts to downstream properties or communities.

9. Impacts on shallow wells, waste disposal sites, water supply systems, and sewage disposal or septic systems.

R. **Intentionally Deleted.**

S. **No Increase in Rate and Total Volume of Surface Runoff.** The rate and total volume of surface runoff during and after construction will not exceed the level of runoff that occurred prior to construction. Energy dissipation measures will be installed where flows are anticipated in excess of five (5) feet/second; provided that the foregoing requirement may be varied if warranted by non-pervious surfaces.

T. **No Discharge Directly into Streams and Waterbodies.** Surface runoff resulting from the Activity will not discharge directly into streams or other Waterbodies. Surface runoff from areas likely to contain pollutants will be contained on-site and treated as necessary to prevent direct discharge into streams and Waterbodies. Surface runoff may be allowed to infiltrate in vegetated areas if such infiltration will not result in significant degradation of groundwater or surface water quality. Groundwater monitoring may be required to monitor potential subsurface transport of pollutants.

U. **No Impediment of Flow in Watercourses.** The Activity does not impede flow in natural watercourses, or create ponding in low points.

V. **Erosion and Sedimentation Control.** The Activity will be managed to control erosion and sedimentation.

1. On-site erosion will be minimized.

   a. The timing of earth disturbing activities will be staged and scheduled to minimize soil exposure.

   b. Erosion and sediment control measures will be installed before site grading.

c. Disturbed areas and soil stockpiles will be stabilized. Disturbed areas that will remain exposed and inactive for periods longer than fourteen (14) days will be protected from erosive forces and to minimize erosion.

d. Disturbed areas will be mulched and seeded with native seeds and weed-free hay within seven (7) calendar days after final grade is reached, weather permitting.

e. Temporary measures for soil stability, like mulch or silt fences, will be kept in place until the vegetative cover has reached seventy percent (70%) of the disturbed area. The foregoing requirement may be varied for good cause shown.

2. Adjacent properties will be protected from sediment laden runoff by use of sediment fences, and sediment or silt traps or other appropriate control options.

3. Off-site runon will be diverted around the construction site when practical.

4. All erosion and sediment control devices will be inspected and repaired as necessary after any precipitation that creates significant runoff.

5. All erosion and sediment control devices will be maintained in a manner to support their effectiveness.

6. All vegetated areas disturbed by the Activity will be restored in accordance with an approved revegetation plan. Noxious weeds will be managed pursuant to County, Town, or USFS noxious weed control operations within the Watershed Protection District. In the event of any inconsistency between of the foregoings' noxious weed control operations, the strictest operation shall apply.

7. In those areas where revegetation is required, the site shall be revegetated in such a way as to establish a diverse, effective and long-lasting vegetative cover that is capable of self-regeneration without continued dependence on irrigation, soil amendments or fertilizer, is at least equal in

extent of cover to the natural vegetation of the surrounding area and the vegetation cover shall be capable of stabilizing the soil surface to achieve erosion control equal to pre-Activity levels. At a minimum, the mean total ground cover (non-noxious herbaceous and woody vegetation, plus rock, plus litter) in a reclaimed area will not be less than fifty percent (50%) of the mean total ground cover in a reference area at the ninety percent (90%) level of statistical confidence five (5) years after reclamation activities have concluded. In this instance the following terms have the following meanings: (i) rock means any particles greater than two (2) millimeters in size capable of dispersing rain drops rather than allowing rain to carry sediment down slope; (ii) litter means any dead vegetation; and (iii) reference area means a nearby area similar in slope and vegetative cover to the area to be disturbed.

8. All revegetation measures shall provide for the greatest probability of success in plant establishment and vegetation development by considering environmental factors such as seasonal patterns of precipitation, temperature and wind; soil texture and fertility; slope stability; and direction of slope faces. Attention shall be given to biological factors such as proper inoculation of legume seed, appropriate seeding and transplanting practices, and care of forest planting stock.

9. Revegetation measures shall insure the establishment of a diverse and long-lasting vegetative cover, including appropriate techniques of site preparation and protection such as mechanical soil conditioning by discing and ripping; mulching; soil amendments and fertilizers; and irrigation.

W. **Slope Control Measures.** Disturbance and construction on steep slopes creates an increased possibility for slope failure, erosion, accelerated runoff and subsequent associated water impacts. Activities on slopes with a gradient of greater than thirty percent (30%) shall be in accordance with, and conform to, the following requirements:

1. No alternative site for the Activity with a slope gradient of less than thirty percent (30%) is available on the subject property.

2. The Activity shall not create a significant disturbance of soil,

including, without limitation, erosion, sloughing and other forms of instability.

3. Cutting, filling and other grading activities shall be confined to the minimum area of the subject property necessary for the Activity.

4. A slope stability analysis in connection with the Activity shall be performed by a Colorado licensed professional engineer, and such analysis shall demonstrate that the impacts of the Activity on the subject property will not have a significant adverse effect on water quality and quantity and the impact on the slope can be adequately mitigated.

5. Where steeper slopes are disturbed by the Activity, the Activity shall be performed in a manner that minimizes the impact loss of existing vegetation.

6. On slopes steeper than a thirty percent (30%) gradient, exposed soils shall be stabilized using appropriate techniques such as hydromulching, erosion control blankets, bonded fiber matrices or other equally protective measures. Grass or straw mulch will be crimped, tracked or tacked in place to promote surface anchoring.

X. **No Impact on Wells.** The Activity will not negatively impact the rate of pumping, water quantity or water quality of drinking water wells.

Y. **Adequate Wastewater Treatment.** If applicable, the Activity will be served by wastewater treatment facilities that will comply with NPDES permit requirements and the applicable standards of the Gunnison County Land Use Resolution and the Gunnison County Individual Sewage Disposal System (ISDS) Regulations. Financial guarantees will be provided for ongoing operation of the facilities.

Z. **Preservation of Natural Features.** The Activity shall be located to preserve the natural features of the effected lands and to minimize the negative impacts to all natural features.

AA. **Bridge and Pipeline Design and Construction.** Bridges and pipelines shall be designed by a licensed engineer, and shall be constructed to prevent obstruction to the one hundred (100)-year flood plain. Bridges shall be designed so that the river bottom

under the bridge does not step down at the bridge, thereby creating unnecessary erosion as the river bottom is eaten by the river trying to even out the step. Bridges shall not unnecessarily constrict flows and thereby create dams or change stream or flood characteristics.

Section 14-5-17. Application Submittal Requirements for Watershed Permit. The following submittal requirements apply to any Watershed Permit application for any Activity. The Town may waive one or more of the submittal requirements when the submittal requirement would not be relevant to a determination as to whether the proposed Activity complies with the applicable Watershed protection standards set forth in Section 14-5-16.

A. Submittal of Application. The application materials shall be submitted to the Town Manager by the owner of the lands that are the subject to the Activity, or any agent acting through written authorization of the owner. All owners of the lands that are the subject of the Activity shall be named as the applicant on the application.

B. Application Costs; Reimbursement Agreement.

1. The applicant shall be responsible for all the actual costs and expenses whatsoever incurred by the Town in the review, processing and prosecution of an application for a Watershed Permit.

2. An estimate of the costs and expenses to be incurred by the Town will be provided by the Town Staff within ten (10) working days following the pre-application conference and shall reflect the estimated costs and expenses of reviewing, processing and prosecuting the application package, including, without limitation, the costs and expenses of copying, mailings, publications, labor and overhead, all hearings and meetings on the application package, and the retention and use of any consultants, experts and attorneys that the Town Staff deems advisable and appropriate to aid the same during the Permit application and approval process.

3. The application package shall be accompanied by an initial deposit of up to *fifty-thousand dollars ($50,000.00)* for a Major Impact Activity. The Town shall establish and administer a projected schedule for the payment of installments of the aforesaid costs and expenses in connection with the application. The installments shall be structured so that, throughout the application process, the Town, at all times, retains a minimum balance of at least up to *twenty thousand dollars ($20,000.00)*. If the balance falls below the

minimum balance, the Town may cease processing the application package pending receipt of additional installments bringing the balance to at least the minimum amount. The amount of the initial deposit and the minimum balance required may be reduced upon a finding by the Town that the application processing and review costs and expenses are likely to be less than the minimum amount set by these Regulations.

4. The Town will deposit that portion of the initial deposit which is not necessary to cover current costs and expenses in an interest-bearing escrow account. The Town will obligate, encumber or use such funds, from time to time, at its discretion, when necessary to cover the cost of processing the application. Interest earned on the account will belong to the applicant and will be applied by the Town toward subsequent installments of the application costs.

5. The Town will maintain accurate records of the manner in which the initial deposit is used and will make such records available for inspection by the applicant and the public at reasonable times as determined by the Town.

6. Any portion of the initial deposit submitted by the applicant, or any interest earned on such initial deposit which is not necessary to cover the cost of processing the application package will be reimbursed to the applicant after the application review process has been completed.

7. The Town will take no action on the application package until all costs and expenses related to the application review process have been paid.

8. At the time of submission of the application materials to the Town Manager, the applicant shall deliver to the Town an executed Watershed Permit costs and expenses reimbursement agreement obligating the applicant to reimburse the Town for all costs and expenses whatsoever incurred by the Town in connection with the processing, review and prosecution of a Watershed Permit.

C. **Information Describing the Applicant.**

1. The name, address, email address, fax number, and business of the applicant and, if different, the owner of the project.

2. Documentation of the applicant's financial qualifications and

technical expertise and capability to develop and operate the Activity, including a description of the applicant's experience developing and operating similar projects and using the technologies proposed to conduct the Activity.

3. The names, addresses and qualifications, including areas of expertise and experience with projects directly related or similar to the Activity proposed in the application package, of individuals who are or will be responsible for constructing and operating the Activity.

4. Written qualifications of those preparing reports and providing certifications required by these Regulations.

D. Description of the Activity.

1. **Narrative Description**. Written description of the Activity.

2. **Vicinity Map.** An 8 ½ x 11 vicinity map locating the site where the proposed Activity will occur. The vicinity map shall clearly show the boundaries of the subject property, and all property within a *3-mile radius* of the subject property.

3. **Site Plan.** Detailed site plan and specifications of the Activity. The site plan shall include the following elements.

   a. Legal description of the property.

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

   c. Existing and proposed topographic contours at vertical intervals sufficient to show the topography affecting the Activity and storm drainage.

   d. Significant on-site and off-site features that influence the Activity, including: natural and artificial drainage ways, wetland areas, ditches, and hydrologic features; slopes and areas of subsidence; vegetative cover; dams, reservoirs, excavations, and mines.

   e. Existing and proposed roads, railroad tracks, irrigation ditches, fences and utility lines on or adjacent to the site,

shown by location and dimension.

f. Uses and grantees of all existing and proposed easements and rights-of-way on or adjacent to the site, shown by location and dimension.

g. All existing and proposed structures and appurtenant facilities, shown by location and dimension.

h. Existing and proposed parking areas, driveways, sidewalks and paths, shown by location and dimension.

i. Description of the wastewater treatment system proposed to serve the Activity, including location and size of leach field, sewer service lines, and treatment facilities.

j. Location and size of well(s) and/or water lines to serve the Activity.

(1) Description of the source and capacity of the water supply, including amount and quality of water; the applicant's right to use the water, including adjudicated decrees, and application for decrees; proposed points of diversion and changes in the points of diversion; and, the existing uses of the water. If an augmentation plan for the Activity has been decreed or an application for such plan has been filed in court, the applicant shall submit a copy of that plan.

(2) For purposes of a Activity involving storage, the applicant shall be the owner of the water rights to be stored in the facility. Applicant shall provide documentation of the applicant's ownership of the water rights to be stored in the facility.

k. Calculation of impervious surface area.

l. Additional information that may be reasonably requested by the Town to enable an adequate evaluation of the application.

4. Phasing and Scheduling. Schedules for designing, permitting, constructing and operating the Activity, including the estimated life

of the Activity.

5. **Operations of Activity.** Operational details, including the hours of operation, number of employees on site on a daily basis, and types of vehicles that would be driven in the Watershed Protection District in association with the Activity.

6. **Alternatives.** Discussion of the alternatives to the Activity 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.

7. **Need for the Activity.** Discussion of the need for the Activity, including existing and proposed facilities that perform the same or related function.

E. **Property Rights, Permits and Other Approvals.**

1. A list of all federal, state and Gunnison County permits and approvals that have been or will be required for the Activity, together with any proposal for coordination with the Town's permitting process.

2. Description of property rights that are necessary for or that will be affected by the Activity, and documentation establishing property rights and easement and right-of-way agreements connected with the site where the proposed Activity will occur.

3. Copies of all official federal and state consultation correspondence, correspondence and submissions prepared for the Activity; a description of all mitigation and surety required by federal, state and local authorities; and copies of any draft and final environmental assessments or impact statement required for the Activity.

F. **Technical and Financial Feasibility of the Project.**

1. The estimated construction costs and period of construction for each development component, and the total mitigation costs for the Activity.

2. Revenues and operating expenses for the Activity.

3. The amount of any proposed debt and the method and estimated