

## CHAPTER 25

### Areas and Activities of State Interest

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**ARTICLE I**  
**General Provisions**

**Sec. 25-1. Title.**

These regulations may be cited as the "Idaho Springs Regulations for Areas and Activities of State Interest," the "Idaho Springs 1041 Regulations" or "these regulations."  
(Ord. 8 §1, 2006)

**Sec. 25-2. Purpose and findings.**

(A) The purpose of this Chapter is to facilitate identification, designation and administration of matters of state interest consistent with the statutory requirements and criteria set forth in Section 24-65.1-101 *et seq.*, C.R.S., as amended.

(B) The specific purposes and intent are as follows:

- (1) Regulate projects which would otherwise cause excessive noise, water and/or air pollution, or which would otherwise degrade or threaten the existing environmental quality within the City;
- (2) Promote efficient and economical use of public resources; and
- (3) Protect the public health, safety, welfare and the environment.

(C) These regulations apply to the entire City.

(D) This Article interprets and applies to any provisions adopted for specific areas of state interest and specific activities of state interest which have been, or may be, designated by the City Council.  
(Ord. 8 §1, 2006)

**Sec. 25-3. Authority.**

This Chapter is authorized by, *inter alia*, Sections 24-32-111, 24-65.1-101 *et seq.*, 29-20-101 *et seq.*, 31-23-101 *et seq.*, and Article 15 of Title 31, C.R.S., as amended.  
(Ord. 8 §1, 2006)

**Sec. 25-4. Applicability.**

This Chapter shall apply to all proceedings concerning the identification and designation by the City Council of any area or activity of state interest and the control of development in any area of state interest or the conduct of any activity of state interest which has been or may hereafter be designated by the City Council in any area of the City, whether on public or private land.  
(Ord. 8 §1, 2006)

**Sec. 25-5. Exemptions.**

The provisions of this Chapter shall not apply to any development in an area of state interest or any activity of state interest if, on May 17, 1974:

- (1) The specific development or activity was covered by a current building permit issued by this jurisdiction;
- (2) The specific development or activity was directly approved by the electorate of the State or this jurisdiction; provided that approval by the electorate of any bond issue by itself shall not be construed as approval of the specific development or activity;
- (3) The specific development or activity is on land which had been finally approved, with or without conditions, for planned unit development or for a use other than a subdivision substantially the same as planned unit development;
- (4) The specific development or activity is on land which was either zoned or rezoned in response to an application which specifically contemplated said specific development or activity; or

(5) The specific development or activity is on land with respect to which a final plat for a subdivision had been approved, with or without conditions, pursuant to the provisions of Sections 2—11 of Chapter 81, Session Laws of Colorado 1972, codified at Sections 30-28-101, 110, 133, 136 and 137, C.R.S., as amended.  
(Ord. 8 §1, 2006)

**Sec. 25-6. Interpretation with other enactments and plans.**

(A) Whenever any provision of this Chapter is found to be inconsistent with any other ordinance, code or regulation, other enactment or the Comprehensive Plan, the enactment imposing the more restrictive standards or requirements shall control.

(B) In the event that any provision of this Chapter is found to be less stringent than the statutory criteria for administration of matters of state interest set forth in Sections 24-65.1-202 through 24-65.1-204, C.R.S., as amended, the statutory criteria shall control.

(C) Provisions of this Chapter relating to nonconforming uses shall apply as expressly set forth herein and shall, to that extent only, supersede and control over corresponding provisions of the Zoning Regulations of the City relating to nonconforming uses.  
(Ord. 8 §1, 2006)

**Sec. 25-7. Maps.**

Each map referred to in any ordinance adopted by the City Council designating or regulating a particular area or activity of state interest is deemed incorporated herein as if set out in full. Maps referred to in any such ordinance shall be filed with and be available for inspection at the office of the City Clerk.  
(Ord. 8 §1, 2006)

**Sec. 25-8. Definitions.**

The words and terms used in these regulations for administration of areas and activities of state interest shall have the meanings set forth below unless the context requires otherwise:

*Administrator.* The City Administrator, or some other person designated by resolution of the City Council, to be responsible for the administration and enforcement of the provisions of this Chapter, or his or her designee. The City Administrator may delegate his or her duties and responsibilities under this Chapter, in whole or in part, for a particular project or application with the consent of the City Council. Such consent may be expressed by the City Council by motion and without resolution or ordinance.

*Applicant.* Any person or entity applying for a permit under these regulations.

*Comprehensive Plan.* The City Comprehensive Plan, as it may be amended and supplemented from time to time.

*Designation.* The legal procedure specified by Section 24-65.1-101 *et seq.*, C.R.S., as amended, carried out by the City Council.

*Developer.* Any person engaging or proposing to engage in development in an area of state interest or in conduct of an activity of state interest designated or proposed to be designated under these regulations.

*Extension.* The construction or installation of a new facility, an increase in hydraulic capacity, an upgrade in treatment or transmission capability, an increase in facility size or a replacement of an existing facility.

*Flood or flooding.* A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of water from channels;
- (2) The unusual and rapid accumulation of runoff or surface waters from any source; or
- (3) Mudslides (*i.e.*, mudflows) which are proximately caused by flooding as defined herein and which are sufficiently fluid so as to flow on and over the surface of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

*Flood hazard area.* An area containing or directly affected by a flood.

*Floodplain.* An area adjacent to a stream, which area is subject to flooding as the result of the occurrence of an intermediate regional flood and which area thus 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:

- (1) Mainstream floodplains;
- (2) Debris-fan floodplains; and
- (3) Dry wash channels and dry wash floodplains.

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

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

*Mainstream floodplain.* An area adjacent to a perennial stream, which area is subject to periodic flooding.

*Matter of state interest.* An area of state interest, an activity of state interest or both, as defined under Section 24-65.1-101 *et seq.*, C.R.S., as amended.

*Mudflow.* The downward movement of mud in a mountain watershed because of peculiar characteristics of extremely high sediment yield and occasional high runoff.

*Natural hazard.* A geologic hazard or a flood.

*Person.* Any individual, limited liability company, partnership, corporation, association, company or other public or corporate body, and includes without limitation any political subdivision, agency, instrumentality or corporation of the State or the United States government.

*Planning Commission.* The Idaho Springs Planning Commission.

*Reservoir* (except in the context of the separately defined term *major publicly owned reservoir*). An area of land where water is retained or an area intended for water retention, and which is used or proposed for use in whole or in part for the storage of municipal water supplies or of water which is part of a domestic water treatment system.

*Slope.* The gradient of the ground surface that is definable by degree or percent.

*Unstable or potentially unstable slope.* An area susceptible to a landslide, a mudflow, a rock fall or accelerated creep of slope-forming materials.  
(Ord. 8 §1, 2006)

**Sec. 25-9—25-20. Reserved.**

## ARTICLE II

### Designation of Matters of State Interest

#### Sec. 25-21. Designation; initiation.

Designations and amendments or revocations of designations may be initiated in any of the following ways:

- (1) Upon recommendation of the Planning Commission.
- (2) Upon a determination by the City Council to proceed on its own initiative, with or without participation by the Planning Commission.
- (3) Upon the entry of a court order requiring designation of any matter of state interest by the City, in which event the City Council shall hold proceedings to adopt such designation. At any time after the designation of

any matter of state interest by the City Council pursuant to court order, proceedings to revoke or amend any such designation may be held upon the subsequent order of the same court which ordered the designation.  
(Ord. 8 §1, 2006)

**Sec. 25-22. Inclusion in Comprehensive Plan.**

After designation of an area or activity of state interest as provided in this Article, the City Council shall initiate procedures to incorporate such designation into the Comprehensive Plan. The "careful and comprehensive surveys and studies" upon which the Comprehensive Plan must be based according to Section 31-23-207, C.R.S., as amended, shall consist of the record of the designation hearing prepared pursuant to this Article.  
(Ord. 8 §1, 2006)

**Sec. 25-23. Moratorium.**

(A) The City Council may, in its discretion, impose a moratorium on development in an area of state interest or on conducting an activity of state interest by separate resolution at any time prior to its designation as such pursuant to this Article.

(B) The City Council may grant a special exception to any moratorium issued under Subsection (A) above, pursuant to the following procedures:

- (1) The person proposing development in a designated area of state interest or to undertake a designated activity of state interest shall submit a written application for a special exception indicating the purpose of the proposed development or activity and stating with particularity the substantial hardship that the applicant will suffer if the special exception is not granted.
- (2) Within thirty (30) days after receiving the application, the City Council shall hold a public hearing on the application. Notice shall be given at least seven (7) days in advance of such public hearing as follows:
  - (a) The owner of the property, or agent, shall be notified by U.S. mail; and
  - (b) Notice of the hearing shall be posted on the property and shall be published in a newspaper of general circulation.
- (3) The City Council may grant the special exception and order the issuance of a building permit if it finds all of the following:
  - (a) That the development or activity is necessary to prevent undue hardship on the applicant;
  - (b) That the development or activity will not adversely affect the public interest or the purposes of this moratorium; and
  - (c) That the development or activity would be proper and in accordance with all of the ordinances and regulations of the City if the moratorium were not in effect.

(C) No moratorium imposed under Subsection (A) above shall prohibit the continuation of any legal nonconforming use.  
(Ord. 8 §1, 2006)

**Sec. 25-24. Public hearing; mailing list; publication.**

(A) The City Council shall hold a public hearing before designating any matter of state interest and adopting regulations for the administration thereof.

(B) The Administrator shall prepare a notice of the designation hearing, which shall include:

- (1) The time and place of the hearing;
- (2) The place at which materials relating to the matter to be designated and any provisions for the administration thereof may be examined; and

- (3) A description of the area or activity proposed to be designated in sufficient detail to provide reasonable notice as to property which would be included or affected. The notice shall include either a legal description or a general or layman's description of the property. If the designation is applicable to the entire City, the notice shall so state and no other description of the property included in the designation shall be required.

(C) At least thirty (30) days but no more than sixty (60) days before the public hearing, the Administrator shall publish the notice in a newspaper of general circulation in the City.  
(Ord. 8 §1, 2006)

**Sec. 25-25. Matters to be considered at designation hearing.**

At the public hearing described above, the City Council shall consider such evidence as may appear appropriate, including, at a minimum:

- (1) The intensity of current and foreseeable development pressures;
- (2) The matters and considerations set forth in any applicable guidelines for identification and designation;
- (3) Recommendations from state agencies, if appropriate;
- (4) The boundaries of the proposed area;
- (5) Reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner;
- (6) Any master or comprehensive plan pertaining to or affected by the area or activity under consideration;
- (7) Recommendations of the Planning Commission, if any; and
- (8) Other relevant testimony and documents presented.

(Ord. 8 §1, 2006)

**Sec. 25-26. Record of designation proceeding.**

(A) The Administrator shall provide for recording of the designation hearing by audiotape, stenographer or other appropriate means.

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

- (1) Notice of hearing;
- (2) Certificate of publication of the notice;
- (3) Names and addresses of persons making written or oral statements, appearing as witnesses or offering documentary evidence;
- (4) Evidence relating to the identification of the matter of state interest proposed to be designated;
- (5) Written findings concerning each of the matters referred to in Section 25-25 above;
- (6) Written minutes of the City Council relating to the public hearing; and
- (7) The recording prepared pursuant to Subsection (A) above, provided that the City is under no obligation to transcribe such recording unless requested and paid for by the requesting party.

(Ord. 8 §1, 2006)

**Sec. 25-27. Adoption of designation and regulations.**

(A) At the conclusion of the public hearing, the City Council may adopt, adopt with modification or reject the proposed designation and associated provisions which were the subject of the public hearing.

(B) Any designation shall be made by ordinance. Rejection of a proposed designation shall be by written resolution.

(C) Each designation ordinance adopted by the City Council shall, at a minimum:

(1) Specify the boundaries of the designated area of state interest or the boundary of the area in which an activity of state interest has been designated;

(2) State reasons why the particular area or activity is of state interest, the dangers that would result from uncontrolled development of any such area or uncontrolled conduct of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner; and

(3) Set forth in full detail the regulations applicable to the designated matter of state interest.  
(Ord. 8 §1, 2006)

**Sec. 25-28. Recording of notice of designation.**

A notice of the designation shall be certified by the City to the County Clerk and Recorder for filing in the real property records of the County.

(Ord. 8 §1, 2006)

**Sec. 25-29. Combined designation and permit hearing.**

If a person proposes to engage in development in an area of state interest or to conduct an activity of state interest not previously identified or designated, or for which regulations have not been adopted, the City Council alone may hold one (1) hearing for determination of identification, designation and regulations, as well as for granting or denying the permit. No permit that is granted at the conclusion of any such hearing shall authorize the applicant to engage in development or to conduct an activity until the identification, designation and regulations are finally determined.

(Ord. 8 §1, 2006)

**Sec. 25-30—25-40. Reserved.**

### ARTICLE III

#### Permits

**Sec. 25-41. Permits required after designation; receipt of application form.**

(A) Any person who desires to engage in development within an area designated pursuant to this Chapter or to conduct an activity designated pursuant to this Chapter shall first apply for and obtain a permit as provided in this Article.

(B) An application for a permit for such development or activity pursuant to this Article shall not be accepted unless it is complete and is in form and content as required by state law and this Article. If the application is considered incomplete by the Administrator, the Administrator shall specify what additional information is required. When a submitted application is considered to be complete by the Administrator, the Administrator shall note upon the application the date of its receipt.

(C) When the applicant seeks a permit to engage in development in more than one (1) area of state interest, to conduct more than one (1) activity of state interest or to engage in development in an area of state interest and to conduct an activity of state interest, a single application may be completed for all such activities or developments and may be reviewed by the City Council in one (1) consolidated hearing.

(D) For any application to be considered complete under these regulations, in addition to meeting the requirements of Section 25-45 below, the application shall include and cover the entire development as presently contemplated and reasonably foreseeable for the subject property or activity for a period of not less than five (5) years following the date of the application. For purposes of this Subsection, the subject property is the property on which the development is located, and any other contiguous property which is under the developer's ownership or control and is otherwise subject to regulatory jurisdiction under this Chapter. The application shall describe and cover all development planned for the subject property within said five-year period. The purpose of this requirement is to

assure that the application is reviewed in a rational context of reasonably foreseeable development for the property, to avoid piecemeal analysis of applications and to allow for a comprehensive consideration of the cumulative impacts of development under these regulations.

(E) The Administrator's determination regarding whether a permit application is complete may be appealed to the City Council by any person aggrieved by the determination in accordance with Section 25-69 of this Chapter. (Ord. 8 §1, 2006)

**Sec. 25-42. Application fee.**

Any person who applies for a permit under this Article shall pay all of the actual costs incurred by the City to review and act upon said application. If requested by the City, the applicant shall deposit an amount reasonably estimated by the City to cover such costs when the application is filed. The City need not perform or continue any review or consideration of the application without an adequate amount to pay the costs therefor being on deposit. Any unused portion of the deposit will be refunded, and any deficit will be invoiced to the applicant and shall be paid in full prior to the issuance of any permit. (Ord. 8 §1, 2006)

**Sec. 25-43. General process outline.**

The following is a general outline of the steps required for any permit decision under these regulations. Specific information regarding each of the referenced steps follows this Section.

- (1) Preapplication conference.
- (2) Application.
- (3) Administrator review.
- (4) Agency referrals.
- (5) Public hearing and consideration by the City Council.
- (6) Post-approval requirements.

(Ord. 8 §1, 2006)

**Sec. 25-44. Preapplication conference.**

(A) A preapplication conference is required of all applicants.

(1) The preapplication conference shall be held between the applicant and the Administrator.

- (a) This meeting is intended to provide an understanding of the applicable review procedures, requirements and standards, and provide information pertinent to the application and the geographical area affected by the application.
- (b) The Administrator will explain the application procedures and the materials required for submittal.
- (c) The applicant shall bring a conceptual site plan to the conference.

(2) If the Administrator feels that the proposal raises any of the following issues, the applicant shall also meet with members of the appropriate City department to discuss the proposal:

- (a) Flood or floodplain, road, access, traffic concerns, parking design and engineering, and all vehicular movement patterns and volumes.
- (b) Water supply, sanitation, water quality or other public health concerns.
- (c) Open space or environmental resources concerns.

(B) Any comments or commitments made by any member of the City staff during the preapplication conference are only preliminary in nature and should not be relied upon by the applicant. Formal comments cannot be made by

City staff until after the application is submitted and adjacent and/or nearby property owners and referral agencies have had an opportunity to respond.

(C) Preapplication conferences may be held individually with each department, or a joint conference for all or some of the departments may be scheduled.

(D) City staff will make available to the applicant any public information regarding the application which is in the City's possession.  
(Ord. 8 §1, 2006)

**Sec. 25-45. Application submittal requirements.**

(A) Application. Before any request for City approval under these regulations may be processed, a complete application meeting the requirements of this Section must be filed with the City.

- (1) The application must include an application form designating any person authorized to act as agent for the applicant in connection with the application, exhibit the applicant's or agent's signature and supply all required information. The form shall be accompanied by all fees, maps, plans and reports required by these regulations.
- (2) The signature on an application form evidences the applicant's approval of and concurrence with all statements and commitments contained in the application.
- (3) The application shall provide a written description of the development or activity, including any capital improvements plan, facilities plan or other planning document which the applicant has prepared for its use, covering at a minimum a period of five (5) years from the date of the application.
- (4) If the application anticipates new surface development, it shall include written certification of compliance with the provisions of Article 65.5 of Title 24, C.R.S., as amended, that require examination of the public records to determine the existence and identity of owners and lessees of severed mineral interests in the property covered by the application. The application shall inform the City of the results of such examination. If such examination reveals the existence of any such owners or lessees, the application shall include a complete list of the names and addresses of such persons and describe the severed mineral interests owned or leased by each. In accordance with Subsection 25-49(C) below, public hearing on the application will not be held unless the applicant furnishes the City with signed certification confirming that the applicant has, at least thirty (30) days prior to the public hearing, transmitted to the City and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S., as amended.

(B) The applicant shall furnish a detailed description of the need for the proposed development or activity, including but not limited to:

- (1) The present and projected population of the area to be served;
- (2) The predominant types of users or communities to be served by the proposal;
- (3) The percentage of the design capacity at which the current system is now operating; and
- (4) The relationship of the proposal to the applicant's long-range planning and capital improvements programs, including specific reference to the plans required to be submitted pursuant to Subsection 25-41(D) above and Paragraph (A)(3) of this Section.

(C) The applicant shall prepare and submit a complete environmental impact analysis of the proposed development or activity, including all of the documents and information set forth below:

- (1) Land use.
  - (a) Specify whether the proposal conforms to the City's planning policies and master plans.
  - (b) Detail the agricultural productivity capability of the land affected by the proposal (SCS classification).

- (c) Specify how the proposed development will utilize existing easements or rights-of-way for any associated transmission, distribution or collector networks.
  - (d) Specify any additional rights-of-way or easements for new or expanded transportation facilities.
- (2) Water resources.
- (a) On the same or another appropriate map, indicate any flood hazard area associated with the proposal. Documentation of historical flooding activity on the parcel where the activity or development will be located, and on other property affected by the activity or development, should be included. Detail potential, adverse impacts related to the associated flood hazard area.
  - (b) Map and describe all surface waters, including applicable state water quality standards, to be affected by the project.
  - (c) Describe the immediate and long-term impact and net effects that the activity would have on the quantity and quality of surface water under both average and worst-case conditions.
  - (d) Map and describe all groundwater, including any aquifers. Describe the impacts and net effect of the activity on groundwater. At a minimum, the description should include:
    1. Seasonal water levels in each subdivision of the aquifer affected by the activity.
    2. Artesian pressure in aquifers.
    3. Groundwater flow directions and levels.
    4. Existing aquifer recharge rates and methodology used to calculate recharge to the aquifer from any recharge sources.
    5. For aquifers to be used as part of a water storage system, methodology and results of tests used to determine the ability of the aquifer to impound groundwater and aquifer storage capacity.
    6. Seepage losses expected at any subsurface dam and at stream-aquifer interfaces, and methodology used to calculate seepage losses in the affected streams, including description and location of measuring devices.
    7. Existing groundwater quality and classification.
    8. Location of all water wells and their uses.
  - (e) Describe the impacts and net effect of the activity on wetlands and riparian areas.
    1. Map and describe wetlands and riparian areas to be affected by the activity, including a description of each type of wetlands, species composition and biomass.
    2. Describe the source of water interacting with the surface systems to create each wetland (*i.e.*, side-slope runoff, over-bank flooding, groundwater seepage, etc.).
    3. Describe impacts and the net effect that the project would have on the wetlands and riparian areas.
- (3) Terrestrial and aquatic animals and habitat.
- (a) Map and describe terrestrial and aquatic animals, including the status and relative importance of game and nongame wildlife, livestock and other animals; a description of stream flows and lake levels needed to protect the aquatic environment; and a description of threatened or endangered animal species and their habitat.
  - (b) Map and describe critical wildlife habitat and livestock range to be affected by the activity, including migration routes, calving areas, summer and winter range and spawning beds.
  - (c) Describe the impacts and net effect that the activity would have on terrestrial and aquatic animals, habitat and food chain.
- (4) Threatened and endangered species.
- (a) Map and describe terrestrial and aquatic plant life, including the type and density, and threatened and endangered plant species and habitat.

- (b) Describe the impacts and net effect that the activity would have on terrestrial and aquatic plant life.
- (5) Air quality.
- (a) Detail how many average daily trips will be generated by the proposal.
  - (b) Explain any other adverse impacts on air quality anticipated from the proposal.
  - (c) Describe how any state or federal air quality standards will be impacted and if the proposed transportation facility has been included in the region's air quality models to verify conformity with the air quality plan.
  - (d) Describe the air sheds to be affected by the activity, including the seasonal pattern of air circulation and microclimates.
  - (e) Describe the impacts and net effect that the activity would have on air quality during both construction and operation under both average and worst-case conditions.
- (6) Significant environmentally sensitive factors. Identify and locate on a map of appropriate scale the juxtaposition of any of the following features present in the proposed development or activity and its environs, and detail the potential impact of the proposal upon each feature:
- (a) Potential natural hazards.
  - (b) Public outdoor recreation and open space areas.
  - (c) Unique areas of geologic, historic and archeological importance.
- (7) Visual aesthetics and nuisance factors.
- (a) Identify view sheds, scenic vistas, unique landscapes or land formations.
  - (b) Identify any significant deterioration of existing natural aesthetics, creation of visual blight, noise pollution or obnoxious odors which may stem from the proposal.
  - (c) Identify and describe any structures, excavations and embankments that will be visible as a result of this project.
- (8) Transportation impacts. Describe what impacts the proposal will have upon transportation patterns in the City intended to be served or affected by the proposal through the submittal of a traffic impact analysis of the proposed transportation facilities. The traffic impact analysis should include but not be limited to the following:
- (a) Identify the facilities required to support the existing and future land uses being served by the proposed transportation facility.
  - (b) Furnish the traffic model data verifying consistency with the most current Denver Regional Council of Governments (DRCOG) regional plan, the Colorado Department of Transportation (CDOT) Statewide Transportation Improvement Program (STIP) and the DRCOG Transportation Improvement Program (TIP).
  - (c) Provide the existing and proposed traffic volume impacts to the adjacent road system, including local roads.
  - (d) Provide the existing and future level of service (LOS) and capacity of the transportation facilities before and after the proposed transportation project is completed.
  - (e) Provide all transportation access information as required by the CDOT State Highway Access Code, 1998 revisions or the most current edition thereof.
  - (f) Submittal of a benefit/cost analysis of the proposed transportation improvements and identify the distribution of the burden of the cost for the proposed improvements to the project, as well as the adjacent state or local road system.

(9) Less damaging alternatives.

- (a) If the Administrator determines that the nature or extent of the proposal involves the potential for significant damage to cultural or historic resources or for significant environmental damage and warrants examination of one (1) or more specific, less environmentally damaging alternatives, or appropriate mitigation, the Administrator may request that the City Council require the applicant to evaluate and present information on such alternatives or mitigation as part of the application.
- (b) Required information on alternatives or mitigation measures may include, but shall not be limited to, information on the environmental impacts or adverse impacts upon historic or cultural resources, and cost-effectiveness of the alternative or mitigation measure in relationship to the proposal presented.

(D) The following are general requirements for any map or plan required as part of the application. Minimum requirements include:

- (1) The name of the proposed development or use and total number of acres under consideration.
- (2) Because all maps and plans may be used for public presentation, the map scale and size should be large enough for effective presentation and should accurately illustrate the application.
- (3) Name, address and telephone number of the applicant, designer, engineer, surveyor and any other consultants of the applicant.
- (4) Date of preparation, revision box, written scale, graphic scale and north arrow for each map.
- (5) Name of specific project or file.

(E) Professional qualifications.

- (1) A professional consultant may not be necessary for all applications. Only the following will require professional assistance:
  - (a) Improvement plans and reports for water supply, sanitation, drainage, utilities, soils, grading, roads, structures, transportation modeling, transportation planning, transit planning, air quality planning or modeling, floods and floodplains and other civil engineering work must be certified by a registered Colorado Professional Engineer, or other qualified professional engineer exempted from licensing requirements by state statute.
  - (b) All documents containing land survey descriptions must be certified by a registered Colorado Professional Land Surveyor or other qualified professional surveyor exempted from licensing requirements by state statute.
  - (c) Geology reports shall be prepared by either a member of the American Institute of Professional Geologists, a member of the Association of Engineering Geologists, an individual registered as a geologist by a state or other qualified professional geologist exempted from licensing requirements by state statute.
- (2) All documents described in Paragraph (1) above submitted for review must show the formal education and relevant experience of the individual in charge of the work.

(Ord. 8 §1, 2006)

**Sec. 25-46. Number of copies.**

Within twenty (20) days following conclusion of the preapplication conference, the Administrator shall by administrative order determine the number of copies of documents that must be submitted as and with permit applications, based upon the number of referrals needed for consideration of the application and other reasonable criteria, such determination to be made according to the type of permit for which application is to be made. The Administrator may, in the exercise of reasonable discretion, reduce the number of copies normally required for a permit application in cases where it is clear that the number normally required will not be needed for a specific application.

(Ord. 8 §1, 2006)

**Sec. 25-47. Consultants.**

(A) If the City does not have qualified staff to review certain elements of an application, or referral agencies are not able to adequately advise the City regarding certain elements of an application, the City Council may authorize the review to be performed by a consultant engaged or approved by the Administrator. The City Council shall have the discretion to decide whether the applicant shall pay all, part of or none of the consultants' fees, based upon the nature and extent of consulting expertise required.

(B) If a referral agency imposes a fee for its review of the application, the public hearing on the application will not be held until such referral agency's fees have been paid.  
(Ord. 8 §1, 2006)

**Sec. 25-48. Agency referrals; notice of filing.**

(A) Referral of applications. When an application meeting the requirements of Section 25-45 above is filed with the City, relevant portions of the application materials as determined by the Administrator shall be referred to the agencies listed below. Based on the specifics of the application, the Administrator may waive referrals that are not necessary to a complete review of the application.

- (1) The State Engineer shall review the application to ensure conformity with all applicable regulations of the Colorado Division of Water Resources and for comment on applicable water rights administration and determination concerns.
- (2) The Colorado and County Health Departments shall review the application for conformity with all applicable state and county health-related regulations.
- (3) The Colorado Geological Survey may evaluate those geologic factors which would have a significant impact on the proposed use of the land.
- (4) CDOT shall review the application for conformity to the State Highway Access Code, STIP and the regulations relative to the administration of state and federal transportation systems.
- (5) The DRCOG shall review the proposed transportation facility and provide information relative to the impacts to the region's Five-Year Program and the 2020 Transportation Improvement Program (TIP).
- (6) The Colorado Division of Wildlife and the Colorado Natural Areas Council shall review all applications in areas affecting natural resources of statewide importance.
- (7) The Public Works Department shall review all engineering aspects of the proposal, including referral responses and other relevant evidence, and shall transmit findings and preliminary recommendations to the Administrator.
- (8) The Administrator shall review the application for open space and environmental impacts.
- (9) The Administrator shall evaluate the application for conformance with the Comprehensive Plan, these regulations, sound planning and comments from the referral agencies and individuals.
- (10) The Public Works Department and the Colorado Water Conservation Board shall review the application for flood hazard impacts.

(B) Notice of filing. On or before the date on which the first referral made pursuant to Subsection (A) above is sent, notice of the filing of the application and of its availability for inspection and copying by the public shall be posted at City Hall, posted on any website maintained by the City and posted on any local access cable television channel operated by a City-franchised cable television franchisee. Such notice shall include the name of the proposal, the general location of property affected by the proposal, the proposed uses and impacts of the proposal and any other information deemed appropriate by the Administrator.

(C) Referral responses. Referral responses must be received by the Administrator within twenty (20) days after referral in order to ensure that recommendations and findings are considered. Failure of any referral agency to re-

spend within the above-mentioned time period or within the period of any extension granted by the Administrator will be regarded as a response with no conflict.

(D) Post-referral action. If referral comments received by the City require response from the applicant, the following actions shall occur:

- (1) The Administrator will send the relevant comments from referral agencies to the applicant as soon as possible following receipt thereof.
- (2) Within fourteen (14) days after transmittal of those comments, or by a later date specified by the Administrator, the applicant shall respond in writing to those issues raised during the referral process that are identified by the Administrator for applicant response.
  - (a) Such response shall be considered an amendment to the application, and shall be made part of the application to be used as a basis for a final recommendation by the Administrator.
  - (b) If the Administrator finds that this new information results in a substantial change in the proposal, the Administrator may re-refer the amended application and supporting materials to the referral agencies. The processing schedule will be amended accordingly.
  - (c) If the applicant is unable to supply responses within the fourteen (14) days allowed, then the applicant may request, in writing, a delay in processing the application for up to ninety (90) days.
  - (d) If the applicant fails to supply satisfactory responses within the specified time, the Administrator may either base the Administrator's recommendation on review of the file as it exists, or reject the application as a result of the failure to provide information necessary to its proper review.
  - (e) The Administrator shall transmit the referral comments and the applicant's responses thereto to the City Council for its consideration at the public hearing on the application.

(Ord. 8 §1, 2006)

**Sec. 25-49. Notice of permit hearing.**

(A) Not later than thirty (30) days after receipt of a completed application for a permit, the City Council shall set and publish notice of a date, time and place for a hearing before the City Council on said application. Such notice shall be published once in a newspaper of general circulation in the City, not less than thirty (30) nor more than sixty (60) days before the date set for hearing. On or before the date of publication, said notice shall also be mailed to the applicant, posted at City Hall, posted on any website maintained by the City and posted on any local access cable television channel operated by a City-franchised cable television franchisee.

(B) Notwithstanding any other provision of this Article, the applicant shall be solely responsible for complying with any applicable requirements of Article 65.5 of Title 24, C.R.S., as amended. Therefore, if the application is one (1) for surface development which requires compliance with Article 65.5 of Title 24, C.R.S., as amended, and if the applicant has certified as part of its application submittal that mineral estate owners or lessees owning less than full fee title in the property which is the subject of the application exist, the public hearing on the application before the City Council shall not be held unless the applicant provides signed certification confirming that the applicant has, at least thirty (30) days prior to the public hearing, transmitted to the City and to the affected mineral estate owners and lessees the notices required by Article 65.5 of Title 24, C.R.S., as amended.

(C) If the applicant has failed to provide notice of the public hearing on its application as required by Article 65.5 of Title 24, C.R.S., as amended, at least thirty (30) days prior to the public hearing, the City Council, or the Administrator on behalf of the City Council, may continue, reschedule or vacate the public hearing to allow proper notice to be provided under Article 65.5 of Title 24, C.R.S., as amended.

(Ord. 8 §1, 2006)

**Sec. 25-50. Conduct of permit hearing.**

(A) The City Council shall hear relevant oral and documentary evidence, including any recommendations of the Administrator and the Planning Commission.

(B) The Administrator shall provide for recording of the hearing by audiotape, stenographer or other appropriate means.

(C) The Administrator shall collect and preserve the following record of the public hearing:

- (1) The permit application;
  - (2) The names and addresses of all persons making oral or written statements, appearing as witnesses or offering documentary evidence;
  - (3) Any documentary evidence or written statements or testimony presented in support of or in opposition to the permit application;
  - (4) The recording and any transcript of the hearing as provided in Subsection (B) above, provided that the City is under no obligation to transcribe the recording unless requested and paid for by the requesting party;
  - (5) Written minutes of the City Council relating to the public hearing;
  - (6) The resolution of the City Council granting or denying the permit application; and
  - (7) A copy of the permit, if issued.
- (Ord. 8 §1, 2006)

**Sec. 25-51. Standards for approval of a permit application.**

(A) General provisions.

- (1) If the City Council finds that there is not sufficient information concerning any material feature of a proposed development or activity, the City Council may deny the application or it may continue the hearing until the additional information has been received. No such continuance may exceed sixty (60) days unless agreed to by the applicant.
- (2) The City Council may approve an application for a permit to engage in development in an area of state interest or for the conduct of an activity of state interest if the proposed development or activity complies with the provisions of this Chapter governing such area or activity. If the proposed development does not comply with such provisions, the permit shall be denied. The City Council may impose reasonable conditions and requirements upon approval of the permit to assure compliance with such provisions.
- (3) The City Council shall reach a decision on a permit application within one hundred twenty (120) days after the completion of the permit hearing, or the permit shall be deemed approved. Final action approving or denying a permit application shall be by resolution stating the City Council's reasons for its decision and its findings and conclusions.

(B) Approval criteria. The City Council shall approve an application that meets the requirements of Paragraph (A)(2) above and, in addition, meets all of the following criteria:

- (1) The applicant has obtained or will obtain all property rights, permits and approvals necessary for the proposal, including surface, mineral and water rights. The City Council may, in its discretion, defer making a final decision on the application until necessary property rights, permits and approvals for the proposal are obtained.
- (2) The applicant has the necessary expertise and financial capability to develop and operate the proposal consistent with all requirements and conditions.
- (3) Adequate water supplies are available for the proposal if applicable.
- (4) The proposal will not cause unreasonable loss of significant agricultural lands as identified in the Comprehensive Plan, or identifiable on or near the site.
- (5) The proposal will not significantly degrade or pose a significant hazard to any aspect of the environment, including environmental resources and open space areas as identified in the Comprehensive Plan, and other fea-

tures or elements that are deemed to be significant components of the natural environment worthy of preservation. For purposes of this Section, the following aspects of the environment shall be considered:

- (a) Air quality. The proposal will not significantly deteriorate air quality. In determining impacts to air quality, the City Council shall apply the following considerations:
  - 1. Changes to seasonal ambient air quality;
  - 2. Changes in visibility and microclimates; and
  - 3. Applicable air quality standards.
- (b) Visual quality. The proposal will not significantly degrade visual quality. In determining impacts to visual quality, the City Council shall apply the following considerations:
  - 1. Visual changes to groundcover and vegetation, waterfalls and streams or other natural features;
  - 2. Interference with view sheds and scenic vistas;
  - 3. Changes in appearances of forest canopies;
  - 4. Changes in landscape character types or unique land formations; and
  - 5. Compatibility of building and structure design and materials with surrounding land uses.
- (c) Surface water quality. The proposal will not significantly degrade surface water quality. In determining impacts to surface water quality, the City Council shall apply the following considerations:
  - 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. Applicable narrative and numeric water quality standards;
  - 3. Increases in point and nonpoint source pollution loads;
  - 4. Increase in erosion;
  - 5. Increases in sediment loading to water bodies;
  - 6. Changes in stream channel or shoreline stability;
  - 7. Changes in stormwater runoff flows;
  - 8. Changes in trophic status or in eutrophication rates in lakes and reservoirs;
  - 9. Changes in the capacity or functioning of streams, lakes or reservoirs;
  - 10. Changes in flushing flows; and
  - 11. Changes in dilution rates of mine waste, agricultural runoff and other unregulated sources of pollutants.
- (d) Groundwater quality. The proposal will not significantly degrade groundwater quality. In determining impacts to groundwater quality, the City Council shall apply the following considerations:
  - 1. Changes in aquifer 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 impact area; and
  - 3. Changes in quality of well water within the impact area.
- (e) Wetlands and riparian areas. The proposal will not significantly degrade the quality of wetlands and riparian areas. In determining impacts to wetlands and riparian areas, the City Council shall apply the following considerations:
  - 1. Changes in the structure and function of wetlands;
  - 2. Changes to the filtering and pollutant uptake capacities of wetlands and riparian areas;
  - 3. Changes to aerial extent of wetlands;
  - 4. Changes in species' characteristics and diversity;
  - 5. Transition from wetland to upland species; and
  - 6. Changes in function and aerial extent of floodplains.
- (f) Terrestrial and aquatic animal life. The proposal will not significantly degrade the quality of terrestrial and aquatic animal life. In determining impacts to terrestrial and aquatic animal life, the City Council shall apply the following considerations:

1. Changes that result in loss of oxygen for aquatic life;
  2. Changes in flushing flows;
  3. Changes in species composition or density;
  4. Changes in number of threatened or endangered species;
  5. 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;
  6. 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; and
  7. Changes to the aquatic and terrestrial food webs.
- (g) Terrestrial and aquatic plant life. The proposal will not significantly degrade the quality of terrestrial and aquatic plant life. In determining impacts to terrestrial and aquatic animal life, the City Council shall apply the following considerations:
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; and
  4. Changes in threatened or endangered species.
- (h) Soils and geologic conditions. The proposal will not significantly degrade soils and geologic conditions. In determining impacts on soils and geologic conditions, the City Council shall apply the following considerations:
1. Changes to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential and flood hazard areas;
  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 and debris fans, and other unstable and potentially unstable slopes; and
  5. Exacerbation of seismic concerns and subsidence.
- (6) The proposal will not have a significant adverse effect on the quality or quantity of recreational opportunities and experience.
  - (7) The proposal will not cause unreasonable loss or impairment of significant cultural resources, including but not necessarily limited to historic resources or sites and archaeological artifacts or sites.
  - (8) The proposal or its associated transmission collector or distribution system will not create blight or cause other nuisance factors such as excessive noise or obnoxious odors.
  - (9) The proposal will not be subject to significant risk from floods, fires, earthquakes or other disasters or natural hazards.
  - (10) The proposal or its associated transmission collector or distribution system will not create an undue financial burden on existing or future residents of the City.
  - (11) The proposal will not have a significant adverse effect on the capability of local government to provide services or exceed the capacity of service delivery systems.
  - (12) The planning, design and operation of the proposal will reflect appropriate principles of resource conservation, energy efficiency and recycling or reuse.

- (13) For those applications for which the Administrator has required information on the environmental impacts and costs of alternatives under Paragraph 25-45(C)(9) above, the proposal represents the least damaging alternative of reasonable cost among the alternatives analyzed.
  - (14) The proposal is in accordance with the Comprehensive Plan, zoning and any other applicable land use designations and requirements, and any applicable intergovernmental agreement affecting land use and development.
  - (15) The proposal represents the complete, reasonably foreseeable development for the subject property as required under Subsection 25-41(D) above, except that the City Council may approve development constituting less than the complete development, provided that the applicant clearly demonstrates that a lesser proposal constitutes a discrete phase of the complete development as supported by the applicable master planning document required under Subsection 25-41(D), which can be logically and adequately reviewed as a separate project under the applicable criteria of these regulations.
- (Ord. 8 §1, 2006)

**Sec. 25-52. Issuance of permits.**

- (A) The permit shall be issued in the form adopted by the Administrator.
  - (B) The permit shall set forth in detail any and all conditions imposed upon the development by the City Council to eliminate, minimize or mitigate adverse effects and impacts of such development.
  - (C) The City Council may establish and set forth in the permit the time or times within which substantial development activity subject to the permit must commence, or within which specified and defined substantial progress with a designated activity must occur.
  - (D) A certified copy of the permit shall be recorded in the real property records of the County Clerk and Recorder.
- (Ord. 8 §1, 2006)

**Sec. 25-53. Financial security.**

- (A) As a condition of issuing any permit, the City Council may, in its discretion, require the applicant to file a guarantee of financial security deemed adequate by the City Council and payable to the City.
- (B) The purpose of such financial guarantee shall be to assure that the permittee shall faithfully perform all requirements of the permit and any conditions imposed by the City Council.
- (C) The amount of such financial guarantee shall be established by the City Council upon consideration of the following criteria:
  - (1) The estimated cost of returning the site of the permitted development or activity to its original condition or to a condition acceptable to the City for the matter of state interest for which the permit is being granted;
  - (2) The estimated cost of completing the permitted development or activity; and
  - (3) The estimated cost of complying with all requirements of the permit.
- (D) The financial guarantee may be in the form of an irrevocable letter of credit, performance bond or escrow of either cash or corporate or municipal bonds rated at least "AA" by Standard and Poor's or an equivalent rating by Moody's, with such escrow agreement as is acceptable to the City Attorney, subject to the following terms and conditions:
  - (1) The City Council may require that a cash deposit in an amount up to ten (10) percent of the financial guarantee be provided to the City Treasurer, to be placed in a separate interest-bearing account.
  - (2) The irrevocable letter of credit, performance bond or escrow shall provide a financial guarantee that the permittee will fulfill all obligations under the terms of the permit. Letters of credit acceptable hereunder shall have an expiration date no sooner than six (6) months following the scheduled completion of the permitted development.

- (3) The surety issuing a performance bond shall have at least an "A" Rating from Moody's or an equivalent rating as designated by a nationally recognized rating firm, and shall additionally be included in the most recent listing of companies holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, Department of Treasury, Circular 570.
- (4) The surety issuing an irrevocable letter of credit must maintain an office or corresponding bank within seventy-five (75) miles of the City and shall have a current rating of 125 or better from IDS Financial Services, Inc., or otherwise be approved by the City Treasurer.
- (5) The permittee shall not have greater than a ten-percent ownership or managerial control over the surety issuing any financial guarantee.
- (6) The permittee may request, and the City shall grant, reductions in the financial guarantee for development constructed and initially accepted by the City; provided, however, that sufficient security remains to ensure completion of all remaining obligations.

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

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

(F) Any financial guarantee may be cancelled by a surety only upon receipt of the City Council's written consent, which consent may be granted only when such cancellation will not compromise the purposes of the security.

(G) In the event that, prior to release of a financial guarantee filed pursuant to this Article, the license to do business in Colorado of the surety upon financial guarantee is suspended or revoked by any state authority, the financial guarantee expires, the surety issuing the financial guarantee becomes nonqualifying, or the cost of completing the permitted development or returning the site to an acceptable condition is reasonably determined by the City to be greater than the amount of the financial guarantee provided, then the City shall furnish the permittee with written notice of such conditions and, within thirty (30) days of receipt of such notice, the permittee shall provide the City with a substituted qualifying financial guarantee or augment the deficient security to achieve the required security. If such financial guarantee is not timely furnished, then the permit may be suspended by the City pending compliance herewith.

(H) If the City Council determines that a financial guarantee should be forfeited because of any violation of the permit or any applicable provisions adopted by the City Council, it shall provide written notice to the surety and to the permittee and shall order the financial guarantee forfeited.

(I) The cash deposit described in Paragraph (D)(1) above may be used by the City in the event of the default or alleged default of the permit holder only for the purposes of recovering on the surety or fulfilling the permit obligations of the permit holder. In the event that a reviewing court determines that there has been no default by the permit holder, that portion of any moneys expended by the City shall be replaced in the separate interest-bearing account described in Paragraph (D)(1) by the City immediately following such determination. The City may arrange with a lending institution which provides money for the permit holder, that said institution may hold in escrow any funds required for said cash deposit. Funds shall be disbursed out of escrow by the institution to the City upon the City Council's demand for the purposes specified in this Section.

(J) If the forfeiture results in inadequate funds to cover the costs of accomplishing the purposes of the financial guarantee, the City shall take such steps as it deems appropriate to recover such costs where recovery is deemed possible.

(Ord. 8 §1, 2006)

**Sec. 25-54—25-60. Reserved.**

## **ARTICLE IV**

### **Administration, Enforcement, Penalties, Judicial Review**

#### **Sec. 25-61. Enforcement and penalties.**

It is unlawful and a violation of this Chapter for any person to engage in or undertake any development in an area designated pursuant to this Chapter or to conduct an activity designated pursuant to this Chapter without a permit issued pursuant to Article III of this Chapter, to fail or refuse to comply with permit requirements, or to act outside the authority of the permit. A separate violation shall be deemed to occur on each day that violation of this provision occurs or continues.

(Ord. 8 §1, 2006)

#### **Sec. 25-62. Mapping disputes.**

Where interpretation is needed as to the exact location of the boundary of any designated area and where there appears to be a conflict between a mapped boundary and actual field conditions, the Administrator shall make the necessary determination of the boundary. Any person contesting the location of the boundary shall be given an opportunity to present his or her case to the Administrator.

(Ord. 8 §1, 2006)

#### **Sec. 25-63. Administrator authority; right of entry.**

The Administrator is hereby authorized and directed to inspect and examine the use, occupation or development of or activity in each and every area or activity designated pursuant to this Article for the purpose of determining from time to time whether or not any use, occupation, development or activity is in violation of any of the provisions of this Article or of any permit issued or required pursuant hereto. Duly authorized representatives of the City, bearing proper credentials and identification, shall be permitted to enter upon all property at reasonable times for the purpose of inspecting, observing, measuring, sampling and testing in connection with the enforcement and administration of this Chapter or any permit issued pursuant hereto, and for the performance of any duty or function authorized to or required of the City pursuant to this Chapter.

(Ord. 8 §1, 2006)

#### **Sec. 25-64. Revocation or suspension of permits.**

(A) In addition to and without waiving any other available remedy, the City shall have and may exercise the right to suspend or revoke any permit issued pursuant to this Article when any violation of this Article or the terms or conditions of such permit occurs or continues, including without limitation the failure of the permittee to proceed with development in a designated area or with a designated activity within the times specified in the permit, in accordance with the following:

- (1) Immediate suspension or revocation. The Administrator may immediately suspend a permit when such suspension is necessary to stop or prevent an actual or threatened imminent endangerment to the health or welfare of any person or to the environment, or interference with or damage to City facilities. The permittee shall have the right to a prompt hearing following such termination or suspension as provided below.
- (2) Notice and opportunity for hearing. If the City elects to exercise its right to suspend or revoke a permit issued pursuant to this Article, the Administrator shall notify the permittee in writing of the following, by mail or by personal delivery:
  - (a) The alleged violation;
  - (b) That the permit will be suspended or revoked on account of such violation on a date not less than thirty (30) days from the date of the notice unless the stated violation is sooner cured;
  - (c) That he or she has the right to a hearing before the City Council, at which he or she may be heard concerning the alleged violation; and

(d) That, if he or she desires a hearing, he or she must request the same in writing before the suspension or revocation date specified in the notice.

(B) Delivering or mailing the notice to the address given for the permittee on the permit shall constitute delivery thereof to the owner.

(C) If the permittee does not cure the stated violation or request a hearing within the time provided, the City shall forthwith order the permit suspended or revoked, as appropriate.

(D) If the permittee makes a timely request for a hearing, the City Council shall promptly schedule and hold such hearing. The City Council shall issue a written findings and order stating the reasons supporting its decision. Except as provided in Paragraph (A)(1) above, suspension or revocation of the permit shall be stayed until the City Council holds the hearing and renders its decision.

(E) Execution of order. Any person notified of a suspension or revocation of his or her permit shall immediately cease and desist from any and all actions or undertakings for which the permit was required. The City shall be entitled to exercise such remedies as deemed necessary, including injunctive relief, to enforce the suspension or revocation.

(F) Grounds for revocation; effect. A permit shall be revoked and not merely suspended if the violation is of such a nature that it or its adverse effects cannot be cured or reasonably mitigated, or if the permit was suspended at least two (2) times within the preceding five (5) years as a consequence of the acts or omissions of the same permittee. Any permit revoked pursuant to this Section may not be reinstated. The holder of a permit which has been revoked may apply for a new permit pursuant to this Chapter.

(G) Reinstatement of suspended permit. Any suspension shall be rescinded by the City upon a determination that the violation forming the basis for such suspension has been cured and that no further or other nonconforming conditions or uses by the permittee are evident. The City shall not reinstate a permit until the person requesting reinstatement has paid the full amount of any applicable charges and any amounts expended by the City to cure the violation or enforce the terms of this Chapter or the permit.  
(Ord. 8 §1, 2006)

**Sec. 25-65. Cure of violations.**

(A) Order to cure. If the City determines that the holder of any permit issued pursuant to this Chapter is using or developing property or is conducting an activity subject to the permit in a way that is not in conformity with this Chapter or with the terms or conditions of the permit, it may give written notice thereof to the permit holder. Such notice shall specify the nonconformity, direct the permittee at its cost to perform specified curative work and specify the period of time determined by the City to be reasonably necessary for completion of the curative work.

(B) City cure at permittee's cost. If the permittee fails within the specified time following such notice to cure the nonconformity stated therein, the City may, in addition to and without waiving any other remedy, perform the work and charge the permittee for its actual costs incurred in connection therewith. The costs so charged shall be a perpetual lien against any property subject to the permit until paid in full.  
(Ord. 8 §1, 2006)

**Sec. 25-66. Civil damages.**

In addition to and without waiving any other available remedy, the City may recover civil damages from any person liable to the City under the laws of the United States or the State as a result of any violation of this Chapter or any permit issued pursuant hereto, or any other unlawful act or omission. Such damages shall include the City's actual costs of discovering, investigating, curing, mitigating and repairing the consequences of such violation or other unlawful acts or omissions.  
(Ord. 8 §1, 2006)

**Sec. 25-67. Injunctive relief.**

In addition to and without waiving any other available remedy, the City may obtain injunctive relief from or cure any act or omission which violates this Chapter or any permit issued pursuant hereto or which otherwise jeopardizes the property or health of any person, including the City.

(Ord. 8 §1, 2006)

**Sec. 25-68. Remedies cumulative.**

The remedies available to the City under this Article and under state and federal law shall be deemed cumulative, and the utilization by the City of any single such remedy or combination thereof shall not preclude the City from utilizing any other remedy or combination thereof.

(Ord. 8 §1, 2006)

**Sec. 25-69. Administrator authority; appeal.**

(A) Subject to the provisions of Subsection (B) below, the Administrator shall have the authority to administer, interpret and enforce the provisions of this Chapter on behalf of the City.

(B) Any orders, directives, determinations or decisions of the Administrator relating to the administration, interpretation or enforcement of this Chapter may be appealed in writing to the City Council, within thirty (30) days after the date of the order, directive or decision. The appeal shall state the specific claims of error asserted, with citations to relevant provisions of this Chapter or other relevant legal authority. The person appealing such order, directive or decision shall have the burden of demonstrating that the Administrator abused his or her discretion or acted outside his or her authority, or that said order, directive or decision was plainly unreasonable and contrary to the purposes and intent of this Chapter. The order, directive or decision shall be upheld if the person appealing the same fails to meet this standard to the reasonable satisfaction of the City Council.

(Ord. 8 §1, 2006)

**Sec. 25-70—25-80. Reserved.**

**ARTICLE V**

**Historic Resource and Historic Resource Impact Area Regulations**

**Sec. 25-81. Designation of Idaho Springs Downtown Historic Resource Areas.**

The City Council, having considered the intensity of current and foreseeable development pressures, applicable guidelines for the nomination of property to or inclusion of property in the State Register of Historic Properties, and other relevant factors set forth in Section 25-25 above, at a duly noticed public hearing held in accordance with Part 4 of Article 65.1, C.R.S., as amended, does hereby find and declare that the area described in this Section contains historic resources which have been officially included in the National Register of Historic Places, designated by statute or included in an established list of places compiled by the State Historical Society. Said areas are hereby designated as an historic resource area of statewide interest in order to meet the purposes and intent of this Chapter. The area is shown and identified as the Downtown Idaho Springs Historic Resource Area on the map entitled "Idaho Springs Historic Resource and Historic Resource Impact Areas of Statewide Interest," a copy of which is on file in the office of the City Clerk, and is more fully described as follows:

All of Blocks 7, 8, 15, 16, 22, 25, 28 and 33, the West one foot of Lot 9, all of Lots 10, 11 and 12, Block 9, and the South forty feet of Lots 1 and 2, Block 17, City of Idaho Springs, County of Clear Creek, Colorado.

(Ord. 8 §1, 2006)

**Sec. 25-82. Designation of Idaho Springs Downtown Historic Resource Impact Areas.**

(A) The City Council, having considered the intensity of current and foreseeable development pressures, applicable guidelines for the nomination of property to or inclusion of property in the State Register of Historic Properties, and other relevant factors set forth in Section 25-25 above, at a duly noticed public hearing held in accordance with Part 4 of Article 65.1, C.R.S., as amended, does hereby find and declare that development in the area described in this

Section will have significant impact upon the Idaho Springs Downtown Historic Resource Area designated in Section 25-81 above. The area described in this Section is hereby designated as the Idaho Springs Downtown Historic Resource Impact Area in order to meet the purposes and intent of this Chapter. Said area is shown and identified as the Downtown Idaho Springs Historic Resource Impact Area on the map described in Section 25-81 above. Subject to the provisions of Subsection (B) below, it consists of all lands located within the corporate limits of the City, as now or hereafter constituted, that are in the area bounded on the east by the I-70 Bridge over Clear Creek approximately two thousand five hundred (2,500) feet west of the west portal of the Twin Tunnels, on the south by the ridgeline that forms the immediate valley boundary, on the west by 1st Street south of Colorado Boulevard and the western limit of the West End Annexation to the City of Idaho Springs (the "West End Annexation") north of Colorado Boulevard, and on the north by the mountain backdrop that forms the enclosure of the Idaho Springs valley and Clear Creek. The north and south boundaries of the Idaho Springs Downtown Historic Resource Impact Area have been formulated to capture side slopes that create the valley setting that is Idaho Springs. These two boundaries are described as follows, with all elevations given in feet above sea level:

- (1) South: The southern boundary is the contour elevation line located at seven thousand six hundred ninety (7,690) feet. The eastern end of this boundary is at an elevation of seven thousand four hundred (7,400) feet at the I-70 Bridge over Clear Creek. The west end is at the westernmost point of the West End Annexation approximately seven hundred eighty-five (785) feet west of 1st Street, at an elevation of seven thousand six hundred ninety (7,690) feet.
- (2) North: The northern boundary is divided into four separate segments, as follows:
  - (a) Segment 1: Beginning at the westernmost point of the West End Annexation, thence generally easterly to an elevation of eight thousand ninety (8,090) feet, then descending gradually and continuing easterly along the seven-thousand-seven-hundred-ninety-foot elevation contour line to the Colorado School of Mines (CSM) Research Facility. This segment is approximately three thousand eight hundred fifty (3,850) linear feet.
  - (b) Segment 2: The second segment extends easterly from CSM to Canon Street and covers a distance of three thousand eight hundred (3,800) feet. The elevation decreases about one hundred (100) feet from CSM to Canon Street, which is at an elevation of seven thousand six hundred ninety (7,690) feet.
  - (c) Segment 3: This segment extends easterly from Canon Street to Gilson Gulch, a distance of approximately six thousand four hundred forty (6,440) feet, generally along the seven-thousand-six-hundred-ninety-foot contour line to an elevation of seven thousand seven hundred (7,700) feet at Gilson Gulch. The boundary of this segment reaches seven thousand eight hundred (7,800) feet at about its midpoint.
  - (d) Segment 4: This segment extends easterly generally along the seven-thousand-seven-hundred-foot contour line from Gilson Gulch to the I-70 Bridge over Clear Creek, a distance of approximately five thousand seven hundred ninety (5,790) feet to the I-70 Bridge over Clear Creek, at which point the elevation is approximately seven thousand four hundred (7,400) feet.

(B) The Downtown Idaho Springs Historic Resource Impact Area does not include the area within the Downtown Idaho Springs Historic Resource Area.  
(Ord. 8 §1, 2006)

**Sec. 25-83. Reasons for designation.**

(A) The historic resource areas and historic resource impact areas described in Sections 25-81 and 25-82 above are designated as matters of state interest for the reasons set forth in said Sections and for the following additional specific reasons:

- (1) Historical background.
  - (a) During the winter of 1858-1859, George Jackson set up camp at the point where the Chicago and Clear Creeks meet. It was here that Mr. Jackson discovered gold on January 7, 1859, and helped spark the Colorado Gold Rush. Within a matter of months following Mr. Jackson's discovery, thousands flocked to the region, bringing the first major European populations into the area and settling the cities of Denver, Boulder, Central City and Idaho Springs. By 1861, the region was no longer considered part of the

Kansas Territory but the new territory of Colorado. The population of the area now known as Clear Creek County grew to more than sixty thousand (60,000) people. The Gold Rush ended by 1863, but the territory continued to prosper in part because of the railroads built for the transport of gold. Statehood came in 1876, only fifteen (15) years after Colorado became a territory.

- (b) The development of Idaho Springs' Miner Street commercial district coincided with the Gold Rush, and it still boasts an array of Victorian era homes and commercial buildings. The area has been designated an Historic District and was named to the National Register of Historic Places in 1984. In 1988, the City of Idaho Springs created its own Historic Preservation District to further protect and preserve the City and, most especially, the Miner Street commercial district.
- (c) Colorado Preservation, Inc., added Idaho Springs and other historic areas along the I-70/Clear Creek Expansion Corridor to its List of Endangered Places in Colorado in 2005.

(2) Community setting.

- (a) Many of the towns created by the miners of the 1800's have disappeared or become ghost towns. Idaho Springs, widely regarded as one (1) of the first sites of a major Colorado gold strike, is among the handful of western gold rush towns that have survived. Unlike many of the others, however, Idaho Springs has not just survived but continues to be a vibrant community with a thriving downtown, steady population and growing economy.
- (b) Idaho Springs is still nestled between the ridges of the mountains that made many fortunes. It is easy to see how the City grew around the mines and followed the contours of the land. Industry developed along Clear Creek, homes and narrow streets sprang up at the base of the steep inclines and the miners and merchants built a host of churches. In the middle of this, the Miner Street commercial district grew into the cornerstone of Idaho Springs' historic landscape. All of these elements, the topography, the mines, the homes and shops, the churches and the creek have survived relatively intact and, when viewed as a whole, afford modern-day Coloradans a rare insight into the history not just of Colorado but of the whole western United States.
- (c) Idaho Springs grew from the gold nuggets found in Clear Creek. As the town became a city, it was cradled by the mountains that still stand silently to the north and the south. Those who came to claim the gold concentrated their efforts underground and made an essentially small mining impact on the landscape. Their true legacy was the City of Idaho Springs, a community built to support the mining industry and the needs of its workforce. The construction of housing, shops, streets and public facilities was carefully scaled to those needs, and succeeding generations have maintained this practice. As a result, the City of Idaho Springs remains in many ways as it was in the days of the Gold Rush.

(B) Rationale for designation.

- (1) The City Council is charged with the responsibility to preserve and protect the unique role of the City in the history of Colorado and of the United States. The discovery of gold in Clear Creek led to the establishment of the Colorado Territory, the expansion of America's rail network and the statehood of Colorado. Propelled by these events, a steady wave of settlers moved through Colorado helping to create a nation that spanned the breadth of North America. In their wake, these settlers left churches, schools and other institutions that were vitally important in creating the diverse and rich cultural heritage of the State of Colorado.
- (2) As of the date this Chapter is adopted, the City of Idaho Springs remains relatively unchanged. Housing patterns mirror those of the Gold Rush and there has been little development of the ridgelines surrounding the City. Clear Creek continues to be a focal point of the community, and the Miner Street commercial district remains the commercial and cultural center of the community.
- (3) The historic fiber of the City extends beyond the Historic District. From the layout of the streets, to the homes built on the mountainside, to the Argo Mine building, all of these elements play a part in the story of Idaho Springs and how Idaho Springs contributed to the growth of Colorado and the expansion of the United States.

(Ord. 8 §1, 2006)

**Sec. 25-84. Applicability.**

This Article applies to all development in the areas designated in Sections 25-81 and 25-82 above. Any person seeking to engage in development in any such designated area in the City shall comply with these regulations. If any portion of a proposed development is located within any such area, the entire development shall be considered to be within the designated area and shall be reviewed under these regulations. All construction or uses which comprise or are directly associated with the development shall be considered to be part of the development, including but not necessarily limited to buildings, other associated structures, access roads or drives, utility lines and parking areas. (Ord. 8 §1, 2006)

**Sec. 25-85. Purpose and intent.**

The purpose and intent of the designations and regulations contained in this Article shall be to:

- (1) Administer historic resources in conjunction with the State Historical Society in a manner that will allow man to function in harmony with, rather than be destructive to, these resources.
- (2) Ensure that development in areas containing historic resources shall be conducted in a manner which will minimize damage to these resources for future use.
- (3) Establish certain additional requirements which must be met before development in an historic resource or historic resource impact area is permitted.
- (4) Ensure that historic resources are preserved to the extent possible for the education and enjoyment of the present and future residents of the City and the State.
- (5) Ensure that creative and functional design and development are conducted in harmony with the character of the historic resource and historic resource impact areas.
- (6) Regulate projects that would otherwise cause excessive noise, air pollution and/or aesthetic visual impact or which would otherwise degrade, threaten or adversely impact historic resources and historic resource impact areas.

(Ord. 8 §1, 2006)

**Sec. 25-86. Definitions.**

Defined terms used in this Article shall have the meanings set forth for them in Section 25-8 of this Chapter, and as set forth below:

*Adaptive use.* The restrained alteration of a resource in order to accommodate uses for which the resource was not originally constructed but in such a way as to maintain the general historic character of the resource.

*Adverse effect* shall have the meaning attributed to it by federal regulations set forth at 36 C.F.R. § 800.5, which provisions are incorporated herein by reference. *Adverse effect* generally means any alteration, directly or indirectly, of any of the characteristics of an historic property that qualify the property for inclusion in the National Register in a manner that would diminish the integrity of the property's location, design, setting, materials, workmanship, feeling or association. Interpretation of this standard shall follow and be guided by the practices and guidelines published by the Office of Archaeological and Historic Preservation within the State Historical Society. The specific terms used above in this definition shall have the meanings set forth for them below:

*Integrity* is the ability of the resource or group of resources to convey significance. Seven (7) aspects or qualities in various combinations define *integrity*. A resource that retains its integrity will possess several, and usually most, of the following:

- (1) *Location* refers to the place where the historic resource was constructed or the specific place where the historic event took place. It involves relationships that exist between the resource and place.
- (2) *Design* refers to the combination of elements that create the form, plan, space, structure and style of the property.

- (3) *Setting* refers to the physical environment of an historic property. It relates to the character of the place in which the resource played its historical role.
- (4) *Materials* refers to the physical elements that were combined during a particular period of time and in a particular pattern or configuration to form an historic property (a site, building, structure, object or district).
- (5) *Workmanship* refers to the physical evidence of the crafts of a particular culture or people during any given period in history.
- (6) *Feeling* refers to the property's expression of the aesthetic or historic sense of a particular period of time.
- (7) *Association* refers to the direct link between an important historic event or person and an historic property.

*Significance* of an historic resource relates to its historic context. Within its historic context, a resource is evaluated according to the following four (4) criteria:

- (1) It is associated with events that have made a significant contribution to the broad patterns of our history.
- (2) It is associated with the lives of persons significant in our past.
- (3) It embodies the distinctive characteristics of a type, period or method of construction, that represent the work of a master, that possess high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction.
- (4) It has yielded or may be likely to yield information important in history.

*Building.* Construction that is utilized to shelter any form of human activity.

*Building materials.* The physical characteristics which create the aesthetic and structural appearance of the resource, including but not limited to a consideration of the texture and style of the components and their combinations, such as stone, brick, shingle, adobe and wood.

*Conservation.* The sustained use and appearance of a resource essentially in its existing state.

*Detail.* Architectural aspects that, due to particular treatment, draw attention to certain parts or features of a structure.

*Development.* Any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs or, in the case of development in an historic resource impact area, which has or may have an adverse effect upon historic resources in the historic resource area.

*Excavation.* The process of scientifically controlled recovery or salvage of an archaeological site designed to yield historic or prehistoric information about human lifestyles and environments.

*Height.* The vertical dimension of a given structure or object.

*Historic Preservation District.* The Idaho Springs Historic Preservation District designated for preservation by the Historic Preservation Ordinance.

*Historic Preservation Ordinance.* Ordinance No. 4, Series 1988, creating the Idaho Springs Historic Preservation District and enacting regulations governing the construction and demolition of structures within the District, codified in Chapter 22 of this Code.

*Historic Preservation Review Commission.* The Commission established by the Historic Preservation Ordinance.

*Historic resource area.* An area containing one (1) or more historic resources of statewide importance.

*Historic resource impact area.* An area within which development activities may have significant impacts upon historic resources of statewide importance.

*Historic resources.* Properties, buildings and sites which have been officially included in the National Register of Historic Places, designated by statute or included in the State Register of Historic Places or some other established list of places compiled by the State Historical Society.

*Historic sites.* Locations on or in which significant historic events, persons or acts are associated.

*Mass.* The volume, magnitude or overall size of a resource.

*Mitigate.* The minimization of adverse effects to historic resources through appropriate action to preserve the resource and to recover data such as specimens and information before proceeding with the development.

*National Register.* The National Register of Historic Places maintained pursuant to 16 U.S.C. § 470(a).

*Natural sites.* Geographical formations which are of historic significance.

*Nonconforming use.* A use in existence at the time of the adoption of these regulations, which use, were it a new use, would be one for which a permit is required under this Article.

*Objects.* Material things of functional, aesthetic, cultural, historic, prehistoric or scientific value.

*Preservation.* Adaptive use, conservation, excavation, protection, reconstruction, rehabilitation, restoration, salvage or stabilization of buildings, districts, objects, sites and structures significant in Colorado history or prehistory, and ensuring that development in areas containing historic resources shall be conducted in a manner which will minimize damage to these resources for future use.

*Proportion.* The relative physical sizes within and between buildings and building components.

*Protection.* The security of a resource as it exists through the establishment of physical, administrative or legal safeguards which do not affect the physical condition or appearance of the resource itself.

*Reconstruction.* The process of recreating or reproducing by new construction all or part of the form and detail of a vanished resource as it appeared at a specific period in time.

*Rehabilitation.* The process of returning interior resource elements to a state of efficiency or soundness by repairs or alterations designed to encourage its continued use but without noticeably changing the exterior appearance of the resource.

*Resource.* Is synonymous with *historic resource* unless the context clearly requires another meaning.

*Restoration.* The process of accurately recovering all or part of the form and detail of a resource and its setting as it appeared at a particular period of time by means of the removal of later work and the replacement of missing earlier work.

*Rhythm.* A regular pattern of shapes, including but not limited to windows, doors, projections and heights within a building or group of buildings.

*Salvage.* The retrieval of historic objects and data, including all ruins, sites, buildings, artifacts and significant objects of human behavior, through professionally controlled recovery or relocation.

*Scale.* The harmonious proportion of parts of a structure to one another and to the human figure.

*Setting.* The surrounding buildings, objects, landscaping and natural features which provide visual, aesthetic or auditory quality of the historic resources.

*Shape.* The physical configuration of structures or objects and their component parts, including but not limited to roofs, doors, windows and facades.

*Significant characteristics.* Those elements of historic resources which are important to or expressive of the historic, prehistoric, architectural or scientific integrity and quality of the resource and its setting, and which include but are not limited to building materials, detail, feeling, height, mass, proportion, rhythm, scale, setback, setting, shape, street accessories and workmanship.

*Sites.* Places where events took place or where buildings, structures or objects once stood.

*Stabilization.* The process of applying measures designed to halt deterioration and to reestablish the structural stability of an unsafe or deteriorated resource while maintaining the essential form as it presently exists without noticeably changing the exterior appearance of the resource.

*State Historic Preservation Officer.* The officer designated or appointed to administer the Colorado State Historic Preservation Program, as provided by the National Historic Preservation Act (16 U.S.C. § 470 *et seq.*, as amended).

*State Historical Society.* The Colorado State Historical Society designated and provided for in Part 2 of Article 80, Title 24, C.R.S., as amended.

*Street accessories.* Those sidewalk or street fixtures which provide cleanliness, comfort, direction or safety, are compatible in design to their surroundings and include but are not limited to trash receptacles, benches, street name signs and fire hydrants.

*Structures.* Works constructed by man, including but not limited to, bridges, canals and stacks.  
(Ord. 8 §1, 2006)

**Sec. 25-87. Nonconforming uses and structures.**

(A) This Article shall not apply to or affect any development exempted from this Chapter in Section 25-5 of this Chapter.

(B) Any use or structure which does not conform to this Article but which lawfully existed on the date on which the area in which such use or structure is located was designated or subjected to regulation under this Article may be continued; provided, however, that, when such nonconforming use is discontinued for six (6) months or more, regardless of any intent to resume such use, neither that nor any other nonconforming use shall thereafter be reestablished upon said property and all subsequent uses of such land shall conform to the regulations specified by this Article; and provided further that, when any such nonconforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the appraised value, any reuse, reconstruction or replacement of such structure shall be deemed a new use and shall be subject to the provisions of these regulations. No nonconforming structure or use shall be enlarged upon, expanded, extended or used as grounds for adding other structures or uses prohibited elsewhere in the designated area.

(Ord. 8 §1, 2006)

**Sec. 25-88. Relationship to other requirements.**

(A) Nothing in this Article shall be construed as exempting an applicant for a permit from any other requirements of the City or other state or federal laws and regulations, including the requirements for all applications found in Section 25-45 of this Chapter.

(B) The boundaries of the Idaho Springs Downtown Historic Resource Area designated in Section 25-81 above are coextensive with those of the Historic Preservation District. Applications to demolish any structure located within this area, and applications for a building permit for projects located within this area which do not change the basic character or use of the affected property, as reasonably determined by the Administrator, are not subject to the provisions of this Article and shall be administered by the Historic Preservation Review Commission in accordance with Chapter 22 of this Code. Proposals for projects located within said resource area which the Administrator reasonably determines do change the basic character or use of the affected property are subject to the provisions of this Article and shall be administered by the Administrator and the City Council as provided herein. Any permit for development within the historic resource area issued pursuant to this Article shall specify the extent to which the permit controls or governs the authority of the Historic Preservation Review Commission to administer the provisions of Chapter 22 of this Code with respect to the permitted development.

(C) To the extent that the requirements of this Article differ from any other applicable requirements, the more restrictive requirements shall apply.

(Ord. 8 §1, 2006)

**Sec. 25-89. Permit procedures.**

The procedures and requirements set forth in Article III of this Chapter and in this Article shall govern applications for permits for development in the areas designated pursuant to Sections 25-81 and 25-82 above. The provisions of this Article shall control in the event of any conflict or inconsistency between the provisions of Article III and this Article.

(Ord. 8 §1, 2006)

**Sec. 25-90. Submission requirements.**

(A) In addition to the requirements set forth in Section 25-45 of this Chapter, an application for a permit to develop in an historic resource area or in an historic resource impact area shall include and be accompanied by the following documents and information:

- (1) Description of the specific activity or development proposed:
  - (a) Describe the relationship of this development with the Comprehensive Plan; and
  - (b) Describe how this development will protect, will enhance and/or is compatible with the historic resources.
- (2) Statement of qualifications and experience of the applicant in this type of development.
- (3) Proposed timetable for the development.
- (4) Cost estimate of the completed development.
- (5) State historic site survey form applicable to the proposal, completed by a qualified professional acceptable to the State Historic Preservation Officer for the historic resources affected by the development.
- (6) Description of proposed work affecting the historic resources, including but not limited the following information:
  - (a) Location and dimensions of yards, open spaces, parking spaces, paving, fence, wall, gate, landscaping and other significant site features; architectural elevations, perspectives and floor plans;
  - (b) Building materials, type, textures, colors and distinctive features;
  - (c) Construction technique and the estimated life of each structure;
  - (d) Specifications for any digs, cuts, fills, grading, dredging channel change, paving, surfacing, cultivation, plant propagation, domestic or wildlife management, drilling or storage of water or materials;
  - (e) Equipment and processes to be used during all phases of the development;
  - (f) Plans for the protection of existing vegetation and prevention of soil erosion and sedimentation; and
  - (g) Revegetation, landscaping and screening proposals.
- (7) Plans and procedures for notification to the State Historic Preservation Officer and the Office of the State Archaeologist upon discovery of historic or archaeological resources or sites.
- (8) Plans for the protection of historic and archaeological resources, including the measures required to mitigate adverse impacts upon them.
- (9) Description of the affected historic resource area and impact area, consisting of the following:
  - (a) Diagram and photo of existing structures on or near the proposed development site, including but not limited to building spacings, floor plans, yard limits, setbacks, density of uses and orientations;
  - (b) Building materials, type, textures, colors and distinctive features of historic structures in the historic resource area, shown by photos or other adequate description; and

(c) Significant exterior details, including but not limited to doorways, floors, ceilings, walls, paneling, moldings and fireplaces of historic structures in the historic resource area, shown by photos or other adequate description.

(B) The application shall additionally be accompanied by the following:

(1) A state historic site survey form completed by a qualified professional acceptable to the State Historic Preservation Officer for all resources affected by the development.

(2) A description of the mitigating efforts to be taken to preserve the designated resource.

(C) The number of copies of written submittals required to be filed shall be as determined from time to time by the Administrator.

(Ord. 8 §1, 2006)

**Sec. 25-91. Waiver of submission requirements.**

(A) The Administrator may waive any part but not all of the submission requirements imposed by Section 25-90 above upon written petition of the applicant. In considering the requested waiver, the Administrator shall consider:

(1) The scope of the proposed development.

(2) Whether providing the information requested to be waived would be unduly burdensome to the applicant.

(3) Whether, without the information requested to be waived, the application contains sufficient information to allow the City Council to reach a decision on all criteria necessary to issue a permit.

(B) A waiver granted by the Administrator shall not preclude the City Council from requiring the submission of any additional information or materials related to the application.

(Ord. 8 §1, 2006)

**Sec. 25-92. Administrator review.**

(A) Upon receipt of an application for a permit, the Administrator shall prepare a written report addressing at a minimum the following:

(1) Identification of all adverse effects, if any, the proposed development may have on historic resources within the historic resource area.

(2) Evaluation of the character and degree of the adverse effects identified in Paragraph (1) above.

(3) Recommendation of measures that might mitigate those adverse effects identified pursuant to Paragraphs (1) and (2) above.

(B) Immediately upon completion of the report provided for in Subsection (A) above, the Administrator shall send a copy of it to the State Historical Society and to the Historic Preservation Review Commission to be used in connection with their review of the application. The Administrator's report shall also be included among the materials presented to the City Council at the permit hearing.

(Ord. 8 §1, 2006)

**Sec. 25-93. Review by State Historical Society and Historic Preservation Review Commission.**

(A) Upon receipt of an application, the Administrator shall transmit a full and complete copy of it to the State Historical Society. The State Historical Society may review and evaluate the application and present any comments and recommendations it may have to the City Council at the permit hearing. Promptly upon receipt of any written comments and recommendations from the State Historical Society, the Administrator shall furnish a copy thereof to the applicant, and the written comments and recommendations shall be included among the materials presented to the City Council at the permit hearing.

(B) Within the time constraints of Subsection 25-49(A) of this Chapter, the Administrator shall schedule the application for review by the Historic Preservation Review Commission. Notice of the Historic Preservation Review

Commission review shall be mailed to the applicant and published in a newspaper of general circulation in the City at least seven (7) days before the date of such review. The Historic Preservation Review Commission shall review the application and, upon the completion thereof, shall prepare and forward to the City Council its written comments and recommendations on the application.

(Ord. 8 §1, 2006)

**Sec. 25-94. Approval criteria.**

(A) The City Council shall approve an application for a permit to engage in development in an Historic Resource Area or Historic Resource Impact Area only if the application meets the general approval requirements set forth in Section 25-51 of this Chapter and, in addition, meets all of the following requirements and criteria:

- (1) The development will be consistent with the purposes and intent of this Article.
- (2) The development will not have or impose an unreasonable adverse effect upon the historic resources in the Historic Resource Area designated pursuant to Section 25-81 above, which effects cannot be reasonably and effectively mitigated by conditions imposed upon the issuance of the permit.
- (3) All work performed upon any historic resource located in the Historic Resource Area designated pursuant to Section 25-81 above shall be done in accordance with the standards set forth in 36 C.F.R. Part 68 (Secretary of the Interior's Standards for the Treatment of Historic Properties) and applicable guidelines utilized by the State Historical Society.

(B) The City Council shall consider any and all recommendations made by the State Historical Society and the Historic Preservation Review Commission and shall not rule contrary to any such recommendations with respect to approval or denial of an application, or with respect to the imposition of conditions upon any permit approval, except for manifest good cause clearly demonstrated and support by a preponderance of the evidence received at the permit hearing.

(Ord. 8 §1, 2006)

**Sec. 25-95. Denial of permit application.**

The City Council shall deny the permit if the development does not meet all the requirements and criteria set out in Section 25-94 above.

(Ord. 8 §1, 2006)

**Sec. 25-96—25-100. Reserved.**

**ARTICLE VI**

**Site Selection of Arterial Highways, Interchanges and Collector Highways**

**Sec. 25-101. Designation.**

The City Council, having considered the intensity of current and foreseeable development pressures and applicable guidelines for identification and designation, as well as the other relevant factors set forth in Section 25-25 above, at a duly noticed public hearing held in accordance with Part 4 of Article 65.1, C.R.S., as amended, does hereby find and declare that the site selection of arterial highways, interchanges and collector highways to be a matter of state interest and hereby adopts the accompanying regulations requiring permits for this activity as set forth in this Article. The conduct of this activity within the boundaries of the City shall be subject to this designation.

(Ord. 8 §1, 2006)

**Sec. 25-102. Reasons for designation.**

The site selection of arterial highways, interchanges and collector highways has been designated as a matter of state interest for the reasons set forth in Section 25-101 above and for the following additional specific reasons:

- (1) The historic and cultural significance of the City is not limited to a single structure or thoroughfare. The primary matter of state interest is the continued preservation of the historic landscape of the City. The location of arterial highways, interchanges and collector highways within that landscape has a high potential for sig-

nificant adverse impacts upon this landscape, and this establishes the primary basis for its designation as an activity of state interest.

- (2) The location of arterial highways, interchanges and collector highways has a high potential for significant adverse impacts upon air and water quality in the City, and this establishes a basis for its designation as an activity of state interest.
- (3) The location of arterial highways, interchanges and collector highways has a high potential for significant adverse impacts upon levels of noise in the City, and this establishes a basis for its designation as an activity of state interest.
- (4) The location of arterial highways, interchanges and collector highways has a high potential for significant adverse impacts upon the quality of life in the City, and this establishes a basis for its designation as an activity of state interest.

(Ord. 8 §1, 2006)

**Sec. 25-103. Applicability.**

(A) These regulations shall apply to the site selection of all arterial highways, interchanges and collector highways within the City.

(B) Any person seeking to select a site for an arterial highway, interchange or collector highway in the City shall obtain a permit pursuant to these regulations. The permit shall be effective only for the period of time specified by the permit.

(Ord. 8 §1, 2006)

**Sec. 25-104. Purpose and intent.**

The purpose and intent of the designation and regulations contained in this Article shall be to:

- (1) Enable and facilitate the local administration of site selection of arterial highways, interchanges and collector highways by establishing requirements that must be met before a site may be selected, to the end that any such site selected will conform to the permit approval criteria set forth in Article III and this Article.
- (2) Ensure that site selection of arterial highways, interchanges and collector highways occurs so that community land use, economic development and traffic needs are met, property values are preserved, desirable community patterns are not disrupted, historic, natural and archeological values are preserved and such site selection conforms to the City's Comprehensive Plan, as well as regional and state master plans.
- (3) Ensure that community traffic capacity, flow and safety needs are met.
- (4) Provide for the continuation of desirable local and regional community patterns in the face of regional development pressures.
- (5) Discourage expansion of demand for government services beyond the reasonable capacity of the community or region to provide such services.
- (6) Prevent direct conflicts with local, regional and state master plans.
- (7) Ensure that highway development is compatible with surrounding land uses.
- (8) Encourage the coordination of highway planning with the Comprehensive Plan and avoid highway construction which divides existing communities.
- (9) Discourage traffic hazards and congestion.
- (10) Ensure that traffic noise and air and water pollution remain at acceptable levels.
- (11) Protect property values.
- (12) Protect scenic, recreational, natural, historic and archaeological resources, including the mountain backdrop and historic districts in and around the City.

(Ord. 8 §1, 2006)

**Sec. 25-105. Definitions.**

Defined terms used in this Article shall have the meanings set forth in Section 25-8 of this Chapter and as set forth below.

*Alternative mode of transportation.* Any mode of transportation other than a single occupancy vehicle.

*Applicant.* Any person, including a local, metropolitan, state or federal entity, proposing to locate an arterial highway, interchange or collector highway within the City.

*Arterial highway.* Any limited-access highway which is part of the federal-aid interstate system or any limited-access highway constructed under the supervision of the Colorado Department of Transportation, including any substantial modification or expansion thereof that involves a site selection or corridor location process.

*Collector highway.* A major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers, recreation areas or industrial centers that is constructed under guidelines and standards established by, or under the supervision of, the Colorado Department of Transportation, including any substantial modification or expansion thereof that involves a site selection or corridor location process. *Collector highway* does not include a City street or local service road or a county road designed for local service and constructed under the supervision of a local government.

*Constructed under guidelines and standards established by or constructed under the supervision of the Colorado Department of Transportation* shall each include, without limitation, any of the below-listed forms of participation by the Colorado Department of Transportation:

- (1) The Colorado Department of Transportation, or any entity formed directly or indirectly by it or the Colorado Transportation Commission, or formed by contract or agreement with it or the Colorado Transportation Commission (including, without limitation, any enterprise formed under Article 4 of Title 43, C.R.S., as amended, or nonprofit entity formed by such enterprise), and:
  - (a) Is an applicant;
  - (b) Sells, leases, loans, donates, grants, conveys, assigns, transfers or otherwise provides any real or personal property or interests therein used or to be used in the proposed construction, modification or expansion of the arterial highway, interchange or collector highway, including transfer or assignment of any contract to the applicant that may have been awarded for the proposed construction, modification or expansion of the arterial highway, interchange or collector highway;
  - (c) Delegates authority to the applicant or is a signatory to any intergovernmental agreement or other form of contract, agreement, conveyance, delegation or authorization required for the applicant to construct, modify or expand the arterial highway, interchange or collector highway; or
  - (d) Performs or funds any planning, design, study, construction, supervision or maintenance functions associated with all or any portion of the construction, modification or expansion of the arterial highway, interchange or collector highway.
- (2) A state highway access permit from the Colorado Department of Transportation is necessary for access from the proposed construction, modification or expansion of the arterial highway, interchange or collector highway to a state highway either within or outside the City.

*Corridor.* Any area, measured both horizontally and vertically, within which highway facilities may be located and which the applicant proposes to recommend to the Federal Highway Administration or Colorado Department of Transportation for approval under the corridor location phase of highway development.

*Impact area.* That area within the corporate limits of the City which is served or potentially could be served by the highway facility, or which would be impacted in other ways, direct, indirect or cumulative, by the location of an arterial highway, interchange or collector highway.

*Interchange.* The intersection of two (2) or more highways, roads or streets, at least one (1) of which is an arterial highway. At such intersection, there must be direct access to and from the arterial highway.

*Limited-access highway.* A highway which gives preference to through traffic by providing access connection with selected roads only. A highway may be considered a *limited-access highway* even though it has some crossings at grade and private driveway connections.

*Locate,* as used in this Article, is synonymous with *select a site* for or *site selection* of an arterial highway, interchange or collector highway.

*Nonconforming use.* A use in existence at the time of the adoption of this Chapter which use, were it a new use, would be one (1) for which a permit would be required under this Chapter.

*Rapid transit.* The element of a mass transit system involving a mechanical conveyance on an exclusive land or guide way constructed solely for that purpose.

*Site selection.* The determination of a specific corridor or facility location which is made at the end of the corridor location studies in which:

- (1) Construction of an arterial highway, interchange or collector highway is proposed.
- (2) Expansion or modification of an existing arterial highway, interchange or collector highway is proposed that would result in:
  - (a) An increase in highway capacity by at least one (1) lane through widening or alternative lane configurations, or an equivalent increase in capacity produced by access controls, technological or other types of highway improvements; or
  - (b) The elimination of direct, at-grade, access from a public road or street within the City to such existing arterial or collector highway.
- (3) Expansion or modification of an existing highway is proposed which would result in a change in classification to *collector highway* or *arterial highway* as defined in this Article.

(Ord. 8 §1, 2006)

**Sec. 25-106. Authority.**

These regulations and the guidelines and requirements contained herein are adopted in furtherance of the authority set forth in Title 24, Article 65.1, C.R.S., as amended, and under the authority cited in Section 25-3 of this Chapter. To the extent that this Article contains requirements that are more stringent than the requirements of the criteria listed in Section 24-65.1-204, C.R.S., as amended, reference is made to the authority set forth in Section 24-65.1-402(3), C.R.S., as amended.

(Ord. 8 §1, 2006)

**Sec. 25-107. Relationship to other regulations.**

(A) Nothing in this Article shall be construed as exempting an applicant for a permit under this Article from any other obligations or requirements of the City or other state or federal laws and regulations. In no event shall the approval of a permit under this Article be considered a representation by the City, its staff members or consultants or the City Councilmembers that the proposed construction, modification or expansion complies generally with such federal, state or local guidelines and regulations, nor shall such approval otherwise give rise to any claim against the City, its staff members or consultants or the City Councilmembers related to the failure of an applicant to comply therewith.

(B) To the extent that the requirements of these regulations differ from any other applicable requirements, the more restrictive requirements shall apply.

(Ord. 8 §1, 2006)

**Sec. 25-108. Permit procedure.**

(A) The procedures and requirements set forth in Article III of this Chapter and in this Article shall govern applications for permits to engage in the site selection of arterial highways, interchanges and collector highways. The provisions of this Article shall control in the event of any conflict or inconsistency between the provisions of Article III and this Article.

(B) Any person subject to the requirements of this Article shall contact the Administrator to schedule a preapplication conference within sixty (60) days after the proposal is complete to the extent of ten (10) percent of engineering design and, upon the scheduling of such conference, shall observe and follow the requirements set forth in Section 25-44 of this Chapter.

(C) Any person subject to the requirements of this Article shall submit his or her application for a permit under this Article within sixty (60) days after the proposed project is complete to the extent of sixty (60) percent of engineering design.

(Ord. 8 §1, 2006)

**Sec. 25-109. Determination of applicability.**

Any person seeking to choose an alignment, site or location for an expansion or modification of an existing arterial highway, interchange, collector highway or other major roadway within the City may seek a determination from the Administrator as to whether the proposed undertaking qualifies as a *site selection* under the provisions of this Article, by providing to the Administrator the information applicable to the proposed location set forth in Subparagraphs 25-110(2)(a) through (d) below. The Administrator shall render a written determination on the matter within thirty (30) days after receipt of the above information. An appeal of the Administrator's determination may be made to the City Council.

(Ord. 8 §1, 2006)

**Sec. 25-110. Submission requirements.**

In addition to the requirements set forth in Section 25-45 of this Chapter, an application for a permit to locate or engage in the site selection of an arterial highway, interchange or collector highway shall include and be accompanied by the following documents and information:

- (1) A list of all reasonable alternative corridor locations for the proposed arterial highway, interchange or collector highway.
- (2) For the proposed and each alternative corridor location considered, including the no-action alternative, the information specified below:
  - (a) A general description of the proposal, with a discussion of the advantages and disadvantages of the alternative.
  - (b) A discussion of social, economic and environmental impacts whose significance is uncertain. The level of analysis should be sufficient to adequately identify the impacts and appropriate mitigation measures, and address known and foreseeable public concerns.
  - (c) A location map showing the corridor and general area.
  - (d) Any corridor location proposal, study or other documentation which includes:
    1. Type, scale and appearance of the improvement;
    2. Cost estimate, including mitigation costs; and
    3. Approximate timetable for construction and right-of-way acquisition.
  - (e) If an alternative considered uses, either actually or constructively, an historic resource or is located within an historic resource impact area (as those terms are defined in Article V of this Chapter), a copy of the Section 4(f) evaluation required by 23 U.S.C. § 138.

- (f) If an alternative considered uses, actually or constructively, an historic resource or is located within an historic resource impact area (as those terms are defined in Article V of this Chapter), a copy of the Federal Highway Administration Section 4(f) approval.
- (g) If an alternative considered uses, actually or constructively, an historic resource or is located within an historic resource impact area (as those terms are defined in Article V of this Chapter), a description of possible mitigation measures, including possible replacement measures for the historic resource or the value of the historic resource.
- (h) Demographic information in the impact area and within the City, including:
  1. Current population and density;
  2. Total employment, occupation types and major employer locations;
  3. Average family income; and
  4. Population projections in five-year increments over the next twenty (20) years.
- (i) The need for the proposed arterial highway, interchange or collector highway.
- (j) Major traffic generators in the impact area and the City.
- (k) The planned level of service in relationship to projected user demand within the City.
- (l) A map and description of existing land use in the impact area within the City in relationship to the existing circulation system and the proposed arterial highway, interchange or collector highway.
- (m) A map of the impact area within the City showing planned, proposed or expected land use at each year of population projection provided pursuant to Subparagraph (h)4 above, with and without the proposed arterial highway, interchange or collector highway.
- (n) The approximate number of users of the proposed corridor or interchange location in terms of existing City residents, new City residents and non-City residents.
- (o) Plans for promoting the use of alternative modes of transportation.
- (p) Anticipated noise levels resulting from the arterial highway, interchange or collector highway, including noise levels expressed through eight-hour and twenty-four-hour equivalent sound level metrics, as well as single-event noise metrics.
- (q) A description of noise abatement measures that are proposed for each alternative, including for each alternative the estimated construction costs and costs of operations and maintenance, decibel reduction effectiveness and height, length and material type for barriers.
- (r) A description of resulting net shade and shadow impacts, after mitigation measures.
- (s) The local air quality impacts of the proposed arterial highway, interchange or collector highway, including attainment of federal and state ambient air quality standards and risks to human health and the environment posed by air pollutants, including but not limited to nitrogen oxides (NOx), ozone, PM-10, benzene, 1,3-butadiene and other fuel combustion by-products.
- (t) The impacts of the proposed arterial highway, interchange or collector highway on accessibility to and from existing public facilities, commercial and industrial facilities and residential areas within the City.
- (u) Any health and safety hazards, including exposure to hazardous materials, which may result from locating the proposed arterial highway, interchange or collector highway.
- (v) How the proposed arterial highway, interchange or collector highway and its impacts will conform to the Comprehensive Plan goals, objectives and policies.
- (w) How the proposed arterial highway, interchange or collector highway and its impacts will conform to any applicable state plans, goals, objectives and policies.

- (x) The development potential that would result in the impact area and within the City with and without the completion of the proposed arterial highway, interchange or collector highway, measured in terms of land values, land availability, land use controls, vacancy rates, tax revenues and public expenditures, along with indices of accessibility to school/education, utility service, other public and quasi-public services, local and regional amenities and employment opportunities and the demographic indices identified in Subparagraph (h) above.
- (y) The increased demand that the potential development described in Subparagraph (x) above will place on the following public services within the City: other roadways, mass transit, trails, bike paths and other transportation, housing, employment, schools, commercial services, health services, police and fire protection, solid waste disposal, water supply systems, wastewater collection and disposal systems, storm water collection and release systems, power, communications, parks, open space and recreation, other public and quasi-public utilities and other planned public services.
- (z) The costs and benefits to the City resulting from the land use commitment necessitated or facilitated by the proposed arterial highway, interchange or collector highway compared to alternative projected land uses in terms of land suitability, transportation, community services, utilities and revenues.
- (aa) Alternatives which may be utilized by the City in planning for and controlling adjacent land use.
- (bb) Local impacts of the proposed arterial highway, interchange or collector highway on water quality and water resources, including effects on floodplains and wetland values and functions.
- (cc) The impact of the proposed arterial highway, interchange or collector highway on historic properties and districts or other historic resources in the City.
- (dd) The impact, including but not limited to the impact on property values and other economic indicators, of the proposed arterial highway, interchange or collector highway on sensitive, key commercial tourist or visitor areas or districts within the City and the region.
- (ee) Impacts of the proposed arterial highway, interchange or collector highway on wildlife and fisheries, sensitive, endangered or threatened species and scenic parks, recreational, archeological, paleontological or other natural resources, including but not limited to the mountain backdrop.
- (ff) Impacts of the proposed arterial highway, interchange or collector highway on the character of adjacent or nearby neighborhoods or development, as well as the impacts of increased division or separation of neighborhoods caused by the proposed arterial highway, interchange or collector highway.
- (gg) All feasible alternatives for mitigating adverse effects of the proposed arterial highway, interchange or collector highway described above, including but not limited to effects on the level of public services, access to public services, division of existing communities, water quality, air quality, noise levels and scenic, historic, recreational, archeological or natural resources. Mitigation alternatives to be considered include, but are not limited to:
  1. Alternative locations, configurations and access for the highway or interchange, including but not limited to grade-separated interchanges and complete or partial construction below grade with cover and landscaping suitable for recreational use or for construction of City streets, bike paths or pedestrian walkways;
  2. Alternative pavement types;
  3. Alternative highway maintenance and snow removal methods;
  4. Sound walls and other sound-mitigating structures, such as transparent noise barriers;
  5. Berms;
  6. Landscaping;
  7. Speed limits;
  8. Speed control devices;
  9. Limits on the use of compression brakes; and
  10. Wildlife crossings and pedestrian bridges.

(Ord. 8 §1, 2006)

**Sec. 25-111. Waiver of submission requirements.**

(A) The Administrator may waive any part but not all of the submission requirements imposed by Article III or Section 25-110 above upon written petition of the applicant. In considering the requested waiver, the Administrator shall consider:

- (1) The scope of the site selection proposal.
- (2) Whether providing the information requested to be waived would be unduly burdensome to the applicant.
- (3) Whether, without the information requested to be waived, the application contains sufficient information to allow the City Council to reach a decision on all criteria necessary to issue a permit.

(B) Submission requirements set out in Section 25-110 above may be satisfied in whole or in part by submission of an environmental assessment or a draft or final environmental impact statement if:

- (1) Such assessment or statement is required for compliance with the National Environmental Policy Act or Federal Highway Administration regulations;
- (2) The Administrator determines that such assessment or statement provides substantially the same information required under Section 25-110 above; and
- (3) Such assessment or statement uses appropriate data and methodologies to allow adequate review of the permit application under these regulations.

(C) Any waiver granted by the Administrator shall not preclude the City Council from requiring the submission of any additional information or materials related to the site selection proposal.  
(Ord. 8 §1, 2006)

**Sec. 25-112. Administrator review.**

(A) Upon receipt of an application for a permit, the Administrator shall prepare a written report addressing at a minimum the following:

- (1) Identification of adverse effects and advantages of each of the alternative locations identified in the application.
- (2) Evaluation of the character and degree of the adverse effects identified above.
- (3) Recommendation of measures that might mitigate those adverse effects identified pursuant to Paragraphs (1) and (2) above.

(B) The Administrator's report shall also be included among the materials presented to the City Council at the permit hearing.  
(Ord. 8 §1, 2006)

**Sec. 25-113. Approval criteria.**

The City Council shall approve an application for a permit to locate an arterial highway, interchange or collector highway in the City only if the proposed location complies with this Article, other relevant federal, state and local guidelines and regulations, and meets all the following requirements and criteria:

- (1) All of the provisions of the permit application procedure have been complied with.
- (2) The proposed arterial highway, interchange or collector highway will be located so that community traffic needs are met.
- (3) The proposed arterial highway or interchange or collector highway will be located only in a corridor for which a clear and reasonable local and regional need for such highway facilities has been demonstrated.
- (4) Reasonable alternative modes of transportation will be incorporated into the highway proposal.

- (5) Desirable local and regional community land use patterns will not be disrupted by the location of the proposed arterial highway, interchange or collector highway.
- (6) The location of the proposed arterial highway, interchange or collector highway will not impede the delivery of essential community services and goods.
- (7) The location and access limitations for the arterial highway, interchange or collector highway will not isolate community neighborhoods from and, where practicable, will enhance access from community neighborhoods to, public facilities, including the downtown area, schools, hospitals, mass transit, pedestrian walkways and bikeways, recreational areas and open spaces.
- (8) The location and access limitations for the arterial highway, interchange or collector highway will not restrict access via other roadways, mass transit facilities, pedestrian walkways and bikeways to the downtown area, local commercial services, business and employment centers and public facilities, including schools, hospitals, recreational areas and open spaces.
- (9) The location and access limitations for the arterial highway, interchange or collector highway will not create safety hazards to motorists, pedestrians or bicyclists by causing or contributing to overuse, improper use or congestion, or cause unnecessary diversion of regional traffic onto other City roadways or inappropriate or inadequate connections to pedestrian and bicycle routes.
- (10) The location of the arterial highway, interchange or collector highway will not directly conflict with applicable local, regional and state master plans, including but not limited to transportation plans.
- (11) The proposed arterial highway, interchange or collector highway will be located and implemented in accordance with the Comprehensive Plan.
- (12) The location of the proposed arterial highway, interchange or collector highway will not contribute to the expansion of demand for public services beyond the reasonable capacity of the City or the region to provide such services.
- (13) The location of the proposed arterial highway, interchange or collector highway will not contribute to the expansion of regional or local demand for public utilities beyond the reasonable capacity of the utility companies or authorities to provide such services.
- (14) The proposed arterial highway, interchange or collector highway will be located so as to complement the compact and efficient extension of planned public services, utilities and development in general, both regionally and within the City.
- (15) The site selection for the arterial highway, interchange or collector highway will adhere to the plan, process, procedure and requirements of the State and the Federal Highway Administration, and such construction, expansion or modification will be included in the then-current Denver Metropolitan Regional Transportation Plan.
- (16) The benefits to the City of the proposed arterial highway, interchange or collector highway, including expected development in the regional and local impact areas, will outweigh the social, fiscal and environmental impact and the loss of any scenic, historic, archeological or natural resources or agricultural lands rendered unavailable as a result of the location of the proposed construction, expansion or modification of the arterial highway, interchange or collector highway.
- (17) The proposed location of the arterial highway, interchange or collector highway will not increase water pollution levels in violation of applicable federal, state and local water quality control standards and will result in no net loss of wetland values and functions.
- (18) The maximum anticipated use over the next twenty (20) years of the arterial highway, interchange or collector highway will not increase air pollution levels beyond applicable federal or state ambient air standards or to levels that pose unacceptable risks to human health and the environment, and will conform to the vehicle emissions budget of the State Implementation Plan.

- (19) Noise levels caused by the arterial highway, interchange or collector highway will not exceed fifty-five (55) decibels as measured by a twenty-four-hour Equivalent Sound Level metric at the property line of any residence, school, church or other noise-sensitive location nearest to the proposed arterial highway, interchange or collector highway, unless the City Council determines that meeting such sound level is infeasible, that all feasible avoidance or mitigation measures will be incorporated, and the public benefit of any new or modified arterial highway, interchange or collector highway necessitates the proposed construction, expansion or modification of the arterial highway, interchange or collector highway.
  - (20) The proposed location of the arterial highway, interchange or collector highway will not result in the destruction, impairment or significant alteration of historic properties or districts within the City and will not impair the function or historic integrity of an historic resource of statewide importance.
  - (21) The proposed location of the arterial highway, interchange or collector highway will not result in the destruction, impairment or significant alteration of sensitive, key commercial, tourist or visitor areas or districts within the City.
  - (22) The proposed location of the arterial highway, interchange or collector highway will not contribute to a negative economic impact to commercial, tourist or visitor areas or districts within the City.
  - (23) The proposed location of the arterial highway, interchange or collector highway will not significantly or unnecessarily detract from the mountain backdrop or other significant scenic resources within the City or the region.
  - (24) The proposed arterial highway, interchange or collector highway will be designed to avoid or minimize visual impacts, including views of the highway or interchange from residential areas and designated historic districts in the City, and to blend into the surroundings, yet will allow the City to be seen from the highway. Interchanges will be attractively landscaped and will identify major gateways to the City consistent with the Comprehensive Plan.
  - (25) If the proposed arterial highway, interchange or collector highway includes the imposition of tolls, any existing state roads which have historically provided free access within the City limits will continue to provide free and nontolled access.
  - (26) The proposed arterial highway, interchange or collector highway will not result in a design speed greater than fifty-five (55) miles per hour, unless the City Council finds that achieving such design speed is infeasible and all feasible mitigation of the adverse effects of higher speeds (including, without limitation, noise levels, air quality and safety) will be incorporated, and the public benefit of any new or modified arterial highway, interchange or collector highway necessitates the proposed construction, expansion or modification of the arterial highway, interchange or collector highway.
- (Ord. 8 §1, 2006)

**Sec. 25-114. Denial of permit application.**

The City Council shall deny the permit if the proposed location of the arterial highway, interchange or collector highway does not meet all of the criteria set out in Section 25-113 above.

(Ord. 8 §1, 2006)

**Sec. 25-115. Supplemental enforcement remedy.**

In addition to any other remedies available to the City, the City shall be entitled to injunctive and other relief to enjoin or restrain any person who has not obtained a permit under this Article from constructing, installing or locating any facilities or improvements of any kind associated with an arterial highway, interchange or collector highway on any site selected for such facilities or improvements without or in violation of the terms of any permit required pursuant to this Article.

(Ord. 8 §1, 2006)

**Sec. 25-116—25-120. Reserved.**

