

DRAFT SUBJECT TO FURTHER REVIEW AND REVISION

**ARTICLE [REDACTED]
CITY OF FORT COLLINS COLORADO
GUIDELINES AND REGULATIONS FOR
AREAS AND ACTIVITIES OF STATE INTEREST**

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***DIVISION 1
General Provisions, Designation, and Exemptions
Section 1
Introductory and General Provisions***

1-101 Title and Citation

The various regulations constituting Divisions 1 through 5 of Article [redacted] are titled and may be cited as the “Guidelines and Regulations for Areas and Activities of State Interest of the City of Fort Collins,” or “Regulations.”

1-102 Purpose and Findings

(A) **Purpose.** The general purpose of these Regulations 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.; The specific purposes are to:

- (1) Protect public health, safety, welfare, the environment, and historic and wildlife resources;
- (2) Implement the vision and policies of the City’s Comprehensive Plan;
- (3) Ensure that infrastructure, growth and development in the City occur in a planned and coordinated manner;
- (4) Protect natural, historic, and cultural resources; protect and enhance natural habitats and features of significant ecological value as defined in Section 5.6.13-4-1; protect air and water quality; reduce greenhouse gas emissions and enhance adaptation to climate change;
- (5) Promote safe, efficient, and economic use of public resources in developing and providing community and regional infrastructure, facilities, and services;
- (6) Regulate land use on the basis of environmental, social and financial, ~~social and environmental~~ impacts of proposed development on the community and surrounding areas; and
- (7) Ensure City participation in the review and approval of development plans that pass through and impact City residents, businesses, neighborhoods, property owners, resources and other assets/resources.

(B) **Findings.** The City Council of the City of Fort Collins finds that:

- (1) The notice and public hearing requirements of Section 24-65.1-404, C.R.S., have been followed in adopting these Regulations;

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- (2) These Regulations are necessary because of the intensity of current and foreseeable development pressures on and within the City;
- (3) These Regulations are necessary to protect the public health, safety, welfare, the environment, and cultural and wildlife resources;
- (4) These Regulations apply to the entire area within the incorporated municipal boundaries of the City; and
- (5) These Regulations interpret and apply to any regulations adopted for specific areas of state interest and specific activities of state interest which have been or may be designated by the City Council.

1-103 Authority.

These Regulations are authorized by, inter alia, Fort Collins City Charter Article I, Section 4, Colorado Constitution Article XX, Section 24-65.1-101, et seq., C.R.S.; Section 30-23-101, et seq., and Section 29-20-101, et seq., C.R.S.

1-104 Applicability.

These Regulations shall apply to all proceedings and decisions concerning identification, designation, and regulation of any development in any area of state interest or any activity of state interest that has been or may hereafter be designated by the City Council.

- (A) To the extent a development plan could be reviewed under these Regulations and also as a Site Plan Advisory Review, Overall Development Plan, Project Development Plan, Final Plan, **Basic Development Review, or Minor or Major Amendment, or other site-specific development plan,** such development plan shall only be reviewed under these Regulations unless the Director issues a FONAI pursuant to Section **2-3042-303 or an exemption as set forth in Section 1-401 applies,** in which case the development plan shall **instead** be reviewed under the other applicable review process.
- (B) Development plans that have completed Site Plan Advisory Review pursuant to the Land Use Code prior to the effective date of these Regulations shall be subject to these Regulations unless a **FONAI** is issued **or an exemption applies.**
- (C) **City Council has designated as an activity of state interest subject to these Regulations, the Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and the Major Extension of Existing Domestic Water and Sewage Treatment Systems. Definitions for major new domestic water systems and major new sewage treatment systems and major extensions of each are set forth in Section 1-110.**
- (D) **City Council has also designated as an activity of state interest subject to these Regulations, the Site Selection of Arterial Highways and Interchanges and Collector Highways. Definitions for determining which development plans for arterial highways, interchanges and collector highways are subject to these Regulations are set forth in Section 1-110.**

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1-105 Permit Required; Allowed Use Not Required; Stay On Issuance of Easements and Other Permits

(A) Permit Required.

Other than as stated in Sections 1-104 and 1-401, no person may conduct a designated activity of state interest or develop in a designated area of state interest within the City without first obtaining ~~an administrative permit, full permit,~~ or a permit amendment under these Regulations.

(B) Allowed Use in Zone District Not Required.

A permit pursuant to these Regulations may be issued for a development plan that is to be located in one or more zone districts regardless of whether the zone district or districts list the use proposed by the development plan as an allowed use or otherwise prohibit such use.

(C) Stay on Issuance of Easements and Other Permits

No easements on City-owned real property and no permits issued by the City other than under these Regulations, including but not limited to flood plain and right-of-way encroachment permits, shall be granted for any development plan subject to these Regulations without such development plan having first obtained a permit pursuant to these Regulations or as otherwise allowed under these Regulations.

1-106 Relationship of Regulations to Other City, State and Federal Requirements.

(A) Whenever these Regulations are found to be inconsistent with any other ~~resolution, ordinance, code, regulation, or other enactment of the City, the enactment imposing~~ **Land Development Code provision**, the more ~~restrictive~~ **stringent** standards or requirements shall control.

(B) In the event these Regulations are found to be less stringent than the statutory criteria for administration of matters of state interest set forth in Section 24-65.1-202, C.R.S., the statutory criteria shall control.

(C) In the event these Regulations are found to be more stringent than the statutory criteria for administration of matter of state interest set forth in Sections 24-65.1-202 and 24-65.1-204, C.R.S., these Regulations shall control pursuant to the authority of Section 24-65.1-402 (3), C.R.S.

(D) **Unless otherwise specified in these Regulations,** ~~T~~hese Regulations are intended to be applied in addition to, and not in lieu of, any other City regulations or policies, including, without limitation, the Land Use **Development** Code, as amended, Natural Areas Easement Policy, and regulations regarding flood plain and encroachment permits as set forth in the Code of the City of Fort Collins.

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- (E) Permit requirements included in these Regulations shall be in addition to and in conformance with all applicable local, state, and federal water quality and air quality, and environmental laws, rules, and regulations.
- (F) Review or approval of a development plan by a federal or state or local agency does not substitute for a permit under these Regulations. Any applicant for a permit under these Regulations that is also subject to the regulations of other agencies may request in writing that the City application and review process be coordinated with that of the other agency or agencies. If practicable, and in its ~~its~~ **their** discretion, the Director may attempt to eliminate redundant application submittal requests and may coordinate City review of the application with that of other agencies as appropriate.
- (G) These Regulations shall not be construed as modifying or amending existing laws or court decrees with respect to the determination and administration of water rights.

1-107 Maps.

- (A) Each map referred to in designations and regulations for any particular matter of state interest adopted by the City Council is deemed adopted therein as if set out in full.
- (B) Maps referred to in any such designations and regulations shall be available for inspection in the offices of the Community Development and Neighborhood Services Department.

1-108 Modification of Standards, Variances, and Appeal from Administrative Decisions to the Land Use Review Commission Not Applicable.

The following Land **Development** Use Code Divisions are not applicable to these Regulations:

- (A) Division ~~26.8~~ -- Modification of Standards;
- (B) Division ~~6.142-10~~ – Variances; and
- (C) Division ~~6.182-11~~ – Appeal from Administrative Decisions to the Land Use Review Commission

1-109 Severability.

If any division, section, clause, provision, or portion of these Regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder shall not be affected thereby.

1-110 Definitions.

The words and terms used in these Regulations shall have the meanings set forth below or in Article ~~75~~ subject to Section ~~6.24.9~~ ~~1.4.9~~ regarding the rules of construction for text:

Adequate security shall mean such funds or funding commitments, whether in the form of ~~cash~~, negotiable securities, letters of credit, bonds or other instruments or guarantees, as are deemed sufficient, in the Director’s discretion, and in a form approved by the City Attorney, to guarantee performance of the act, promise, permit condition or obligation to which it pertains.

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~~Administrative permit shall mean a permit under these Regulations that is subject to Director review and decision pursuant to the Land Use Code basic development review procedure set forth in Divisions 2.18 and 2.20 and these Regulations.~~ **Adverse impact shall mean the direct or indirect negative effect or consequence resulting from development. Adverse impact shall refer to the negative physical, environmental, economic, visual, auditory, or social consequences or effects that may or may not be avoidable or fully mitigable. Adverse impacts may include reasonably foreseeable effects or consequences caused by the development that may occur later in time or be cumulative in nature.**

Aquifer recharge area shall mean any area where surface water may infiltrate to a water-bearing stratum of permeable rock, sand or gravel. This definition also applies to wells used for disposal of wastewater or toxic pollutants.

Arterial highway shall mean any limited access highway that is part of the federal-aid interstate system, any limited access highway constructed under the supervision of the Colorado Department of Transportation, or any private toll road constructed or operated under the authority of a private toll road company. Arterial 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 local government.

Collector highway shall mean a major thoroughfare serving as a corridor or link between municipalities, unincorporated population centers or recreation areas, or industrial centers and constructed under guidelines and standards established by, or under the supervision of, the Colorado Department of Transportation. Collector highway does not include a city street or local service road or a county road designed for local service and constructed under the supervision of local government.

Collector sewer shall mean a network of pipes and conduits through which sewage flows to an **interceptor main and/or a** sewage treatment plant.

Designation shall mean only that legal procedure specified by Section 24-65.1-401, et seq., C.R.S., and carried out by the City Council.

***Disproportionately Impacted Community or DIC* shall mean a community that is in a census block group where the proportion of households that are low income, that identify as minority, or that are housing cost-burdened is greater than 40% as such terms are defined in Section 24-4-109(2)(b)(II), C.R.S., and as amended.**

~~*Distribution system* shall mean a network of pipes and conduits through which water is piped for human consumption or a network of pipes and conduits through which water is piped in exchange or trade for human consumption.~~

Domestic water and sewage treatment system shall mean a wastewater treatment facility, water distribution system, or water treatment facility, as defined in Section 25-9-102(5), (6) and (7), C.R.S., and any system of pipes, structures and facilities through which wastewater is collected for treatment.

***FONASI* shall mean a finding of no significant **negligible adverse** impact pursuant to Section 2-3043.**

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~~Full permit shall mean a permit under these Regulations that is subject to City Council review and decision pursuant to the Land Use Code areas and activities of state interest procedure set forth in Division 2.20 and these Regulations.~~

Highways shall mean state and federal highways.

Historic resource shall have the meaning set forth in Chapter 14 of the Code of the City of Fort Collins.

~~*Historic resource impact area* shall mean an area within which development activities may have significant impacts upon historic resources of statewide or City importance.~~

~~*Impact* shall mean the direct or indirect effect or consequence resulting from development. The term shall include physical, environmental, economic, visual, auditory, or social consequences or effects.~~

Impact area shall mean the geographic areas, including the development site, in which any adverse impacts are likely to be caused by the development.

Interceptor mainline shall mean a pipeline that receives wastewater flows from collector sewers to a wastewater treatment facility or to another interceptor line or meeting other requirements of the Colorado Department of Public Health and Environment to be classified as an interceptor.

Interchange shall mean the intersection of two or more highways, roads or streets, at least one of which is an arterial highway or toll road where there is direct access to and from the arterial highway or toll road.

~~*Major extension of an existing wastewater treatment system* shall mean any modification of an existing wastewater treatment plant or lift station that will result in a material change, or any extension or upgrade of existing interceptor lines provided such extension or upgrade meets the Land Use Code definition of the term development. Major extensions shall not include wastewater mains or service lines.~~

~~*Major extension of an existing domestic water treatment system* shall mean the expansion of an existing domestic water treatment plant or capacity for storage that will result in a material change, or the extension or upgrade of existing transmission lines or new pump station, provided the extension or upgrade meets the Land Use Code definition of the term development. Major extensions shall not include service lines or distribution lines.~~

~~*Major new domestic wastewater treatment*~~ *sewage system* shall mean:

1. A new wastewater treatment plant; or
2. A new lift station, interceptor mainlines or collector sewer and used lift station(s) for the purposes of transporting and treating wastewater.

~~*Major new domestic water system*~~ shall mean:

1. A system of wells, water diversions, transmission mains, distribution mains, ditches, structures, and facilities, including water reservoirs, water storage tanks, water

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- treatment plants or impoundments and their associated structures, through which a water supply is obtained, stored, and sold or distributed for domestic uses; or
2. Aa system of wells, water diversions, transmission mains, distribution mains, ditches, structures, and facilities, including water reservoirs, water storage tanks, water treatment plants or impoundments and their associated structures, through which a water supply is obtained that will be used directly or by trade, substitution, augmentation, or exchange for water that will be used for human consumption or household use.

In determining whether a proposed development plan is a major new domestic water supply system, the Director may consider water rights decrees, pending water rights applications, intergovernmental agreements, treaties, water supply contracts and any other evidence of the ultimate use of the water for domestic, human consumption or household use. ~~In order to be a major new domestic water system, such system must meet the Land Use Code definition of development. Major new domestic water system shall not include service lines or distribution lines.~~

Major extension of an existing domestic water treatment system shall mean the expansion of an existing domestic water treatment plant or capacity for storage that will result in a material change, or the extension or upgrade of existing transmission mains, distribution mains, or new pump stations that will result in a material change.

Major extension of an existing sewage treatment system shall mean any modification of an existing wastewater treatment plant or lift station that will result in a material change, or any extension or upgrade of existing interceptor main or collector sewer that will result in a material change.

Material change shall mean any change in an approved development plan as approved under these Regulations which significantly changes the scale, magnitude, or nature of the approved development plan or the adverse impacts considered by the Permit Authority in approval of the original permit; or in the case of existing development not previously issued a permit or a proposed development plan for which a FONAI was issued, a structural modification, change of use, change of operation, change of user, or change of location that significantly changes the scale, magnitude, or nature or location of (1) the existing development or development plan for which a FONAI was issued, or (2) and its the associated adverse impacts.

Matter of state interest shall mean an area of state interest or an activity of state interest or both.

Mitigation shall mean avoiding an impact; minimizing impacts by limiting the degree or magnitude of the action or its implementation; rectifying the impact by repairing, rehabilitating or restoring the impact area, facility or service; or compensation for the impact by replacing or providing for the replacement of biological or physical conditions, services or facilities.

Permit shall mean an administrative or full permit issued under these Regulations to conduct an activity of state interest or to engage in development in an area of state interest, or both. ~~See also the defined terms administrative permit and full permit.~~

Permit Authority shall mean, the City Council or with respect to matters delegated by these Regulations, the Director and the Planning and Zoning Commission, as established and further described in Section 2-101. ~~Director for a FONSI, level of permit review, and administrative~~

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~~permits, the Planning and Zoning Commission for appeals of Director FONSI, level of permit review, and administrative permit decisions and for recommendations to City Council regarding full permits, and the City Council for full permits and appeals of Planning and Zoning Commission decisions for appeals of Director FONSI, level of permit review, and administrative permit decisions.~~

Responsible party shall, ~~for the purpose of providing required financial security,~~ mean the person or persons responsible for construction or operation of a permitted development in an area of state interest, or a permitted activity of state interest under these Regulations. This term includes all persons responsible for compliance with any permit condition.

Significant shall mean deserving to be considered important, notable, and not trifling.

Site selection of arterial highways and interchanges and collector highways shall mean the determination of a specific corridor or facility location which is made at the conclusion of the corridor location studies in which:

1. Construction of an arterial highway, interchange, or collector highway is proposed; or
2. Expansion or modification of an existing arterial highway, interchange or collector highway is proposed.

~~, provided that site selection or expansion of highways or interchanges meets the definition of development in the Land Use Code. This shall also mean the closure of frontage roads in association with arterial highways, interchanges, and collector highways.~~

Source development area shall mean the geographic area or region wholly or partially within the municipal boundaries of the City which will be developed or altered in connection with the development of a municipal or industrial water project.

Transmission mainline shall mean a domestic water supply system's line that is designed to transport raw or treated water from a water source to a water treatment plant, storage facility or distribution systems, ~~and having the characteristic that it does not allow customer service taps.~~

Wastewater treatment plant shall mean a facility or group of units used for treatment of industrial or domestic wastewater or the reduction and handling of solids and gases removed from such wastes, whether or not such facility or group of units discharges into state waters. Wastewater treatment plant specifically excludes individual wastewater disposal systems such as septic tanks or leach fields.

Water Distribution main shall mean a domestic water supply system's pipeline that is designed to transport treated water from a transmission main to individual water customers through service laterals.

Water Distribution system shall mean a network of pipes and conduits through which water is piped for human consumption or a network of pipes and conduits through which water is piped in exchange or trade for human consumption.

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Water diversion shall mean removing water from its natural course or location or controlling water in its natural course or location by means of a control structure, canal, flume, reservoir, bypass, pipeline, conduit, well, pump or other structure or device.

Water treatment plant shall mean the facilities within the domestic water supply system that regulate the physical, chemical or bacteriological quality of the water.

DIVISION 1

Administrative Regulations

Section 2

Procedure for Designation of Matters of State Interest

1-201 City Council to Make Designations.

Designations and amendments of designations may be initiated in ~~two~~ **three** ways:

- (A) The City Council may in its discretion designate and adopt regulations for the administration of any matter of state interest.
- (B) The Planning and Zoning Commission may on its own motion or upon City Council request, recommend the designation of matters of state interest to City Council. The City Council shall decide, in its sole discretion, whether or not to designate any or all of the requested matters of state interest.
- (C) City staff may request that City Council designate an area or activity of state interest and adopt regulations for the administration of the matter designated. The City Council shall decide, in its sole discretion, whether or not to designate any or all of the requested matters of state interest.**

1-202 Public Hearing Required.

The City Council shall hold a public hearing before designating any matter of state interest and adopting regulations for the administration thereof. Said hearing shall be held not less than thirty (30) days nor more than sixty (60) days after the giving of public notice of said hearing.

1-203 Notice of Public Hearing; Publication.

- (A) The City 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 guidelines and regulations for the administration thereof may be examined;
 - (3) The telephone number and e-mail address where inquiries may be answered;
 - (4) 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.
- (B) At least thirty (30) days, but no more than sixty (60) days before the public hearing, the City shall publish the notice in a newspaper of general circulation in the City and shall mail the notice to each of the following as deemed appropriate in the City's discretion:
 - (1) State and federal agencies;

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- (2) Any local government jurisdiction that would be directly or indirectly affected by the designation.

1-204 Matters to be Considered at Designation Hearing.

At the public hearing, the City Council shall receive into the public record:

- (A) Testimony and evidence from any and all persons or organizations desiring to appear and be heard, including City staff;
- (B) Any documents that may be offered; and
- (C) The recommendation of the Planning and Zoning Commission.

~~1-205 Record of Designation Proceeding.~~

~~The City Council shall collect and preserve the following record of the public hearing:~~

1-206 Adoption of Designations and Regulations.

- (A) City Council shall consider the following when determining whether to designate an area or activity to be of state interest:
 - (1) All testimony, evidence and documents taken and admitted at the public hearing;
 - (2) The intensity of current and foreseeable development pressures in the City;
 - (3) The matters and considerations set forth in any applicable guidelines or model regulations issued by the Colorado Land Use commission and other State agencies; and
 - (4) 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.
- (B) Any City Council order designating an area or activity to be of state interest and the adoption of any regulations for the administration of an area or activity of state interest shall be by ordinance.
- (C) In the event the City Council finally determines that any matter is a matter of state interest within the City, it shall be the City Council's duty to designate such matter and adopt regulations for the administration thereof.
- (D) Each designation order adopted by the City Council shall:
 - (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; and
 - (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

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of such activity, and the advantages of development of such area or conduct of such activity in a coordinated manner.

1-207 Effect of Designation – Moratorium Until Final Determination.

After a matter of state interest is designated, no person shall engage in development in such area and no such activity shall be conducted until the designation and regulations for such area or activity are finally determined as required by Section 24-65.1-404 (4), C.R.S.

1-208 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 City Council shall make the necessary boundary determination at a public hearing after providing notice pursuant to Section 1-203.

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***DIVISION 1
Administrative Regulations
Section 3
Designated Activities of State Interest***

1-301 Designated Activities of State Interest.

The City Council has designated the following matters of state interest for regulation:

- (A) Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and Major Extension of Existing Domestic Water and Sewage Treatment Systems (Ordinance No. 22, 2021)
- (B) Site Selection of Arterial Highways and Interchanges and Collector Highways (Ordinance No. 22, 2021)

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***DIVISION 1
Administrative Regulations
Section 4
Exemptions***

1-401 Exemptions.

These Regulations are not applicable to the following:

- (A) Any use otherwise lawfully existing on the date the area or activity is designated or subjected to these Regulations which use becomes nonconforming as a result of the adoption of these Regulations. Such nonconforming uses shall be governed by Division 6.161-5 with the exception that enlargement or expansion of nonconforming uses shall require a permit under these Regulations. An enlargement or expansion requiring a permit shall not include the maintenance, repair or replacement of existing buildings or structures associated with such use, including retrofitting or updating technology, provided any changes do not result in a material change as determined by the Director. Enlargements or expansions not requiring a permit may still be subject to Section 6.16.51-5-5.
- ~~(B) Any approved development plan that would be subject to these Regulations but for which a currently valid building permit has been issued by the City as of the effective date of these Regulations.~~
- ~~(C) Any proposed project that would be subject to these Regulations but does not meet the Land Use Code definition of development.~~
- (B) ~~(D)~~ Any site specific development plan that would be subject to these Regulations but has received final City plan approval as of the effective date of these Regulations so long as the vested rights for such final approved site specific development plan have not expired. This exemption does not apply to any subsequent modifications to the approved final site specific development plan or expansion of the development site that was not included within the City approved application and for which a new or revised development application is required.
- (C) Any proposed development plan otherwise subject to these Regulations but such proposed development plan is (1) subject to review and approval as part of the review of a proposed residential, commercial, industrial or mixed-use project under a development review process other than Site Plan Advisory Review under the Land Development Code, and (2) which proposed development plan is directly necessitated by a proposed residential, commercial, industrial or mixed-use development.
- (D) Any proposed development plan issued a FONAI pursuant to Section 2-304.

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Division 2
Permits

Section 1 Permit Authority

2-101 Permit Authority Established

~~Section 2 Intergovernmental Agreement In Lieu of Permit~~

~~2-201 Intergovernmental Agreement In Lieu of Permit~~

Section 3 Permit Application Procedures

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***DIVISION 2
Permits
Section 1
Permit Authority***

2-101 Permit Authority Established.

- (A) The Fort Collins Permit Authority is hereby established consisting of the Fort Collins City Council, or with respect to matters delegated by these Regulations, the Director and the Planning and Zoning Commission.
- (B) The Director shall be the decision maker regarding issuing or not issuing a FONSI, FONAI level of permit review, and administrative permits. Administrative permits are reviewed pursuant to the basic development review procedure set forth in Divisions 2.18 and 2.20 and these Regulations.
- (C) The Planning and Zoning Commission shall be the decision maker regarding appeals of Director decisions to issue or not issue a FONSI, FONAI, level of permit review, and administrative permit decisions and recommendations to City Council regarding full permits.
- (D) The City Council shall be the decision maker for approving or not approving permits. The City Council shall also be the decision maker regarding appeals of Planning and Zoning Commission decisions regarding the appeal of Director decisions to issue or not issue a FONSI, FONAI, level of permit review, and administrative permit decisions and full permits. Full permits are reviewed by the City Council pursuant to the procedure set forth in Division 2.20 and these Regulations.

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Division 2

Permits

Section 2

Intergovernmental Agreement In Lieu of Permit

~~2-201 Intergovernmental Agreements.~~

~~Upon the request of the State of Colorado or a political subdivision of the State, as defined by Section 29-1-202, C.R.S., proposing to engage in a designated activity of state interest or development in a designated area of state interest, the requirements of these Regulations may be met by the approval of an intergovernmental agreement between the City and the State or political subdivision applicant. The City Council may, but shall be under no obligation to, approve such an intergovernmental agreement in lieu of requiring an approved permit pursuant to these Regulations and the approval of any intergovernmental agreement is a legislative act that must occur by ordinance. In the event such an agreement is approved by the City, no approved permit application shall be required, provided that all of the following conditions are met:~~

- ~~(A) The State or political subdivision applicant and the City must both be authorized by Article XIV, Section 18(2) of the Colorado Constitution and Section 29-1-201, et seq., to enter into the agreement.~~
- ~~(B) The purpose and intent of these Regulations must be satisfied by the terms of the agreement.~~
- ~~(C) Action on the proposed intergovernmental agreement by the governing body of the State or political subdivision applicant must be in the manner required of it by the Colorado Constitution and statutes.~~
- ~~(D) Exercise of the provisions of this Section by the State or political subdivision applicant will not prevent that entity from electing at any time to seek a permit pursuant to these Regulations. Additionally, any entity which has previously proceeded under the permit provisions of these Regulations may at any time elect to proceed instead under this Section.~~

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*Division 2
Permits
Section 3
Permit Application Procedures*

~~2-301—Application Procedure Overview.~~

~~The application procedure for activities and areas of state interest are described in Land Use Code Division 2.20 and in these Regulations and must be read together along with other applicable portions of the Land Development Code in order to fully understand the procedure. The following summary of the procedure is provided for convenience:~~

~~(A) Conceptual/Preliminary Design Review. A proposed development plan first undergoes a conceptual or preliminary design review, unless waived pursuant to Section 2.20(C)(1), to determine whether the project may be subject to these Regulations. Based upon the conceptual or preliminary design review, proposed development plans that may be subject to these regulations must then undergo a pre-application area or activity review.~~

~~(B) Pre-application Area or Activity Review. In addition to providing information on the application requirements and the review process, the purpose of the pre-application area or activity review is to determine the level of permit review as described in Sections 2-303 and 2-304 and whether the permit is:~~

- ~~(1) Not likely to have significant adverse impacts, a finding of no significant impact or FONSI, and is not subject to these Regulations. The decision to issue or not issue a FONSI is subject to appeal to the Planning and Zoning Commission; or~~
- ~~(2) Subject to administrative permit review; or~~
- ~~(3) Subject to full permit review.~~

~~(C) Unless waived pursuant to Section 2-305, a neighborhood meeting must be conducted at least ten (10) days prior to submittal of a permit application.~~

~~(D) Once at least ten (10) days have passed after the neighborhood meeting, if required, a permit application may be submitted, and the application submission requirements are described in Section 2-306.~~

~~(E) Upon submittal of an application, City review of the application shall not commence until the Director determines that the application is complete or has informed the applicant of any additional information required for the application to be deemed complete pursuant to Section 2-307. Once an application is deemed complete, referral agencies will be informed of the application pursuant to Section 2-307.~~

~~(F) Once the permit application has been fully reviewed, it is ready for a decision and the timing and procedure for making a decision are described in Sections 2-311 through 2-314.~~

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~~(G) The Director's decisions to issue or not issue a FONSI, determining the appropriate level of permit review, and to approve or not approve an administrative permit are subject to appeal to the Planning and Zoning Commission. The Planning and Zoning Commission decision on appeal of any of these Director's decisions is subject to further appeal to City Council.~~

2-302 Application Fee; Financial Security Waiver.

(A) Each pre-application area or activity review application and development application for a permit submitted must be accompanied by the fees established pursuant to Section 2.2.3(D). The Director may determine at any time during the pre-application review and development application review process that it is necessary to retain a third-party consultant to assist in reviewing the application pursuant to Section ~~6.3.3~~2.2.3(D). All costs incurred in the third-party consultant review shall be borne by the applicant in addition to the City's internal application review fees.

(B) A referral agency may impose a fee for the review of a development application and the applicant shall pay such fee. No hearings by the Permit Authority will be held if any such referral agency's fee has not been paid.

~~2-303 Determination of Level of Permit Review.~~

~~The Director shall make the initial determination whether a permit is required pursuant to these Regulations. There are two levels of permit review under these Regulations: (1) administrative permit review for which the Director is the decision maker; and (2) full permit review for which the City Council is the decision maker. The Director shall determine the appropriate level of permit review based upon the pre-application area and activity review meeting described in Section 2-304 and any required follow up information or third-party consultation.~~

~~(A) FONSI. Based on the information provided at and for the pre-application area and activity review meeting as described in Section 2-304 and any required follow up information or third party consultation, the Director may make a finding that no significant impacts, or FONSI, are likely to occur from the proposed development plan and therefore a permit under these Regulations is not required.~~

~~(1) The Director may issue a FONSI if the construction or operation of the proposed development plan in its proposed location without additional mitigation is unlikely to have any significant adverse impact(s) within the city in consideration of the applicable approval criteria in these Regulations. The decision to issue or not issue a FONSI shall be in writing and describe in detail how this criterion has or has not been met. At the applicant's cost, the written decision shall be mailed to the applicant, to the property owners within one thousand (1000) feet in all directions of the location of the proposed development plan and shall also be posted on the City's website at www.fegov.com. The Director decision to issue or~~

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not issue a FONSI is subject to appeal to the Planning and Zoning Commission pursuant to Land Use Code Section 2.2.12(D).

(2) If the Director issues a FONSI, the applicant does not need to submit a permit application under these Regulations. However, issuance of a FONSI does not exempt the proposed development plan from all Land Use Code requirements and an alternative review process may be required.

(B) If the Director determines a FONSI is not appropriate and the proposed development plan is subject to these Regulations, the Director shall determine whether the proposed development plan should be subject to the administrative permit review or full permit review process. The Director shall make the determination based on the following criteria:

Administrative Permit	Full Permit
Whether the proposed development plan has received written consent from affected property owners or obtained easements necessary for completion of the proposed development plan, and	Whether the development plan requires the use of eminent domain, or
Whether the proposed development plan will likely result in significant adverse impacts in only one (1) category of development standards.	Whether the proposed development plan will likely result in significant adverse impacts in two (2) or more categories of approval criteria.

(1) The Director's determination of the appropriate level of review shall be based upon information provided for and at the pre-application review, any additional information the Director requests from the applicant after the pre-application review, and any third party consultant input.

(2) At any time prior to the final decision on a permit application, the Director may determine that information received subsequent to the level of permit determination indicates that the nature and scope of the impacts are that of a different level of permit review. If a different level of permit review is required, the Director shall notify the applicant in writing within seven (7) days of the Director's revised determination. If a revised determination is issued subsequent to the permit application being deemed complete pursuant to Section 2-307, the schedule and procedure described in Section 2-311 shall reset from the date such revised determination is made as though the application had been deemed complete on the revised determination date.

(3) Each Director determination or revised determination shall be in writing and describe in detail the reasons for the determination. The Director shall make this determination within twenty-eight (28) days after the latter of the pre-application review meeting or the date of receipt of any requested additional information or third party consultation.

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~~Each determination shall be in writing and describe in detail the basis for the determination. At the applicant's cost, the written decision shall be mailed to the applicant, to the property owners within one thousand (1000) feet in all directions of the location of the proposed development plan and shall also be posted on the City's website at www.fcgov.com. Director determinations and revised determinations are subject to appeal to the Planning and Zoning Commission pursuant to Land Use Code Section 2.2.12(D).~~

- ~~(4) The Director's initial level of review determination and any revised determination pursuant to (2) above are subject to appeal pursuant to Land Use Code Section 2.2.12(D). The filing of a timely notice of appeal pursuant to Section 2.2.12(D) shall prevent the Director from revising a determination and decision issued to resolve the appeal is not subject to Director revision. The filing of a timely notice of appeal shall stay any time period set forth in Section 2-311 until the appeal is decided and a change in the level of review from administrative to full permit or vice versa shall reset the schedule and procedure described in Section 2-311.~~

2-303 ~~2-304~~ Pre-Application Area or Activity Review.

- (A) After conceptual or preliminary design review has occurred or has been waived pursuant to Section ~~2.20(C)(1)~~, and before holding a neighborhood meeting or submitting a permit application, the Director shall require a pre-application area or activity review for proposed development plans that may be subject to these Regulations.
- (B) To schedule the pre-application area or activity review, the applicant must first provide the Director with the following:
- (1) Names and addresses of all persons proposing the activity or development;
 - (2) Name and qualifications of the person(s) responding on behalf of the applicant;
 - (3) A written summary of the proposed development plan including a map prepared at an easily readable scale showing:
 - (a) The boundaries of the proposed development plan;
 - (b) The relationship of the proposed development plan to surrounding ~~topographic~~ natural habitats and features and human-made features and cultural features such as ~~ridgelines, historic resources~~, roads, streams, wetlands, and existing structures;
 - (c) ~~The location of p~~Proposed buildings, improvements and infrastructure to be constructed as part of the proposed development plan; and
 - (d) ~~A written summary of the proposed development plan that sufficiently describes the impacts of the proposed development plan as it relates to applicable approval standards set forth in these Regulations~~ Information that is sufficient for

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determining the nature of the development plan and degree of impacts associated with the development plan.

(e) Siting and design alternatives.

- (4) The required application fee and applicant agreement to pay the costs of (1) the Director retaining third-party consultants necessary to assist the Director in making the determination of the appropriate level of review pursuant to applicability of these Regulations pursuant to Section 2-3043; (2) the Director retaining third-party consultants necessary to assist the Director with the completeness review of any submitted application pursuant to Section 2-307; and (3) the Director retaining third-party consultants necessary to assist City staff in reviewing a complete permit application or City Council in rendering a decision on a permit; and
 - (5) Any additional information requested by the Director as necessary to make a determination of the appropriate level of review applicability of these Regulations pursuant to Section 2-3043.
- (C) The purpose of the pre-application meeting is to determine if a permit the appropriate permit, if any is, required for the proposed development plan, application submittal requirements, procedural requirements, and relevant agencies to coordinate with as part of any permit review process. Topics of discussion may include, as relevant to the specific application, but are not limited to:
- (1) Characteristics of the activity, including its location, ~~significant~~ proximity to natural and human-made features, ~~with particular attention to natural hazard, resource or other special areas~~; the size and accessibility of the site; surrounding development and land uses; and its potential impact on surrounding areas, including potential environmental effects and planned mitigation strategies.
 - (2) The nature of the development proposed, including land use types and their densities; placement of proposed buildings, pipelines, structures, operations, and maintenance; the protection of natural habitats and features, historic resources, and City natural areas, parks, or other City property or assets; staging areas during construction; alternatives considered; proposed parking areas and internal circulation system, including trails, the total ground coverage of paved areas and structures; and types of water and wastewater treatment systems proposed.
- (3) Proposed mitigation of adverse impacts**
- (4) Siting and design alternatives and reasons why such alternatives are not feasible.**
- (5) ~~(3)~~ Community policy considerations, including the review process and likely conformity of the proposed development with the policies and requirements of these Regulations.
 - (6) ~~(4)~~ Applicable regulations, review procedures and submission requirements.

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(7) ~~(5)~~ Other regulatory reviews or procedures to which the applicant is subject, the applicant's time frame for the proposed development plan, and other applicant concerns.

(D) In addition to providing the applicant with a written determination pursuant to Section 2-3043 of the whether the Director has made a finding of negligible adverse impacts, or FONAI, appropriate level of review, if any, the Director shall provide the applicant with written comments, to the extent such comments differ from comments provided for any conceptual or preliminary design review, regarding the proposal to inform and assist the applicant in preparing components of the permit application.

2-304 Determination of Applicability of Regulations- FONAI.

The Director shall determine the applicability of these Regulations based upon the pre-application area or activity review meeting described in Section 2-303 and any required follow up information or third-party consultation.

(A) The Director may make a finding of negligible adverse impacts, or FONAI, which has the effect that no permit under these Regulations is required. The FONAI shall be evaluated against the applicable review standards set forth in these Regulations as to whether the proposed development plan may result in negligible adverse impacts in relation to each respective standard. The FONAI review of negligible adverse impacts may or may not include consideration of proposed mitigation depending on factors that may include, but are not limited to, the scale, magnitude, and complexity of mitigation, and the sensitivity of the resource being mitigated.

(1) If the Director issues a FONAI, the applicant does not need to submit a permit application under these Regulations. However, issuance of a FONAI does not exempt the proposed development plan from all Land Development Code requirements, and an alternative review process may be required.

(2) If the Director issues a FONAI and the applicant subsequently makes material changes to the development plan, the applicant is required to schedule another pre-application area or activity review pursuant to Section 2-303 discuss the changes. Based on the new information and whether the revised development could result in adverse impacts, the Director may rescind the FONAI by issuing a written determination pursuant to below Subsection (C) and require a permit under these Regulations.

(B) Permit Required. If the Director determines a FONAI is not appropriate, the proposed development plan requires a permit and is subject to these Regulations.

(C) Notice of Director's Determination.

(1) The Director's determination to issue a FONAI or require a permit shall be in writing and describe in detail the reasons for the determination. The Director shall make this determination within twenty-eight (28) days after the pre-application area or activity review meeting or the date of receipt of any requested additional information or third-

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party consultation. If a FONAI determination is not made within twenty-eight (28) days, the proposed development plan shall be deemed not subject to these Regulations and such deeming shall not be subject to appeal.

(2) At the applicant's cost, the written decision shall be mailed to the applicant, to the property owners within one-thousand (1000) feet in all directions of the location of the proposed development plan as determined by the Director in their reasonable discretion and shall also be posted on the City's website at www.fcgov.com.

(D) Appeal of the Director's Determination. The Director's determination pursuant to (C) above is subject to appeal pursuant to Land Development Code Section _____. After the filing of a timely notice of appeal pursuant to Section _____, the Director shall not accept any application that may be affected by an appeal decision and, if an application has been accepted, shall cease processing such application until the appeal has been decided, which in the case of an appeal to Council shall be the date of adoption of the appeal resolution. The filing of a timely notice of appeal shall reset any time period set forth in 2-307 and 2-311 and such time period shall begin from the date the appeal is decided as previously described.

2-305 Neighborhood meeting.

~~If a development plan requires a permit under these Regulations, a~~ Unless waived pursuant to this Section, ~~a neighborhood meeting is required pursuant to Land Development Code Section 2.2.2. The meeting must be held at least ten (10) days prior to submission of a permit application to the Director for completeness review pursuant to these Regulations. The Director may waive this requirement only for a proposed development plan determined to be subject to administrative permit review if the Director determines such development plan would not have significant neighborhood impacts. A neighborhood meeting may not be waived for a proposed development plan determined to be subject to full permit review. Notice of the neighborhood meeting shall be given in accordance with Section 2.2.6(A), (B) and (D).~~

2-306 Application Submission Requirements.

In addition to specific submission requirements for the activities addressed in Divisions 3, 4 and 5, all applications for a permit under these Regulations shall be accompanied by the following materials, ~~as appropriate in the number required by the Director:~~

(A) Completed application form in the format established by the Director.

(B) Any plan, study, survey or other information, in addition to the information required by this Section, at the applicant's expense, as in the Director's judgment is necessary to enable the Permit Authority to make a determination on the application. Such additional information may include applicant's written responses to comments by a referral agency.

Additional materials may be required by the Director for a particular type of proposed development plan. To the extent an applicant has prepared or submitted materials for a federal, state, county, or

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city permit which are substantially the same as required herein, a copy of those materials may be submitted to satisfy the corresponding requirement below.

2-307 Determination of Completeness.

(A) No permit application may be processed, nor shall a ~~full~~ permit be deemed received pursuant to Section 24-65.1-501(2)(a), **C.R.S.**, until the Director has determined it to be complete. Following the pre-application review meeting and neighborhood meeting, the applicant may submit a permit application only after at least ten (10) days have passed since the neighborhood meeting ~~and any application must be in the form approved as Appendix B or C, as applicable to the chosen activity or activities of state interest being applied for.~~ Upon submittal of the application, the Director shall determine whether the application is complete or whether additional information is required, and if so, shall inform the applicant and pause the completeness review until information is received. Any request for waiver of a submission requirement shall be processed prior to the Director making a determination that an application is complete. **The Director may retain at the applicant's cost third-party consultants necessary to assist the Director with the completeness review.**

(B) No determination of completeness may exceed sixty (60) days unless one or more of the following occurs:

(1) The Director determines in writing that more than sixty (60) days is necessary to determine completeness in consideration of the size and complexity of the proposed development plan or available City resources. In such case, the Director shall determine how many additional days are needed, which shall not exceed sixty (60) additional days.

(2) The Director and the applicant agree in writing to exceed sixty (60) days.

(C) ~~(B)~~ When the Director has determined that a submitted application is complete, or the time limit for making the completeness determination has elapsed even though the application may not be complete, the Director shall ~~note upon the application the date and hour~~ inform the applicant in writing of the date of its receipt. Only upon the Director's determination that an application is complete, or the time limit for making the completeness determination has elapsed even though the application may not be complete, may the City's formal review process commence pursuant to these Regulations.

2-308 Referral Agencies.

All permit applications under these Regulations shall be referred to internal and external review agencies as determined by the Director, **including for pre-application submittals, completeness reviews and final application submittals.** Copies of any such referral agency comments received shall be ~~promptly~~ forwarded to the applicant for its response **at the time that comments are provided from City review staff.**

2-309 Simultaneous Processing of Associated Development Applications.

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If a development plan subject to these Regulations contains project components not subject to these Regulations but subject to other requirements in the Land Use **Development** Code that result in an **additional and separate** ~~different~~ development application, then both development applications can be processed simultaneously.

2-310 Combined Application for Multiple Activities or Development in More than One Area of State Interest.

When approval is sought to conduct more than one activity of state interest, engage in development in more than one area of state interest, or a combination of activities and areas, a combined application may be completed for all **such** activities or developments in areas **of state interest** ~~determined to have the same level of review pursuant to Section 2-303~~ and may be reviewed simultaneously and, **if appropriate in the discretion of City Council,** a single **determination made to grant or deny permit approval** ~~permit issued~~. The City reserves the right to charge an application fee pursuant to Section 2-302 of these Regulations for each activity or area that is the subject of a combined application.

2-311 Permit Decision Making Procedures

When an application has been determined complete by the Director pursuant to Section 2-307 of these Regulations, **or the time limit for making the completeness determination has elapsed even though the application may not be complete,** then, and only then, shall the permit review process commence. At that time, the following schedule shall apply:

~~(A) Administrative Permits. For administrative permits, no public hearing is held, and the application is reviewed and decided pursuant to the basic development review procedure set forth in Divisions 2.18 and 2.20 and these Regulations. The Director decision on an administrative permit must be issued within ninety (90) days of the date the application is determined to be complete pursuant to Section 2-307 or the application shall be deemed approved. To the extent a permit is deemed approved because the Director has not made a decision, issuance of a written decision pursuant to Section 2.18.3(G) is not required.~~

(A) ~~(B) Full Permits.~~ No later than thirty (30) days after the receipt of a completed application, the Director will schedule a hearing before City Council. The thirty (30) day period to schedule the hearing may be extended if the applicant agrees to an extension in writing. Prior to such hearing, the Planning and Zoning Commission shall forward a recommendation to City Council to approve, approve with conditions, or deny the permit application.

(B) The Director may retain third-party consultants at the applicant's expense necessary to assist City staff in reviewing a complete permit application or assist City Council in rendering a decision on a permit.

~~(C) (4)~~ Upon setting a hearing date, the Director shall publish notice once in a newspaper of general circulation in the City of Fort Collins containing:

- (1) ~~(a)~~ The date, time, and place of each permit hearing not less than thirty (30) nor more than sixty (60) days before the date set for the hearing. The thirty (30) and

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sixty (60) day periods may be extended if the applicant agrees to an extension in writing.

- (2) ~~(b)~~The date, time, and place of the Planning and Zoning Commission hearing where a recommendation will be made at least seven (7) days prior to the hearing.
- (D) ~~(2)~~At least fourteen (14) days prior to ~~the~~ a City Council ~~full~~ permit hearing, the Director shall mail notice of the date, time, and place of the hearing to the applicant and to property owners pursuant to Section ~~6.3.62.2.6~~ 6.3.62.2.6. Notice of the Planning and Zoning Commission hearing where a recommendation will be made shall also be mailed at least fourteen (14) days prior to such hearing pursuant to Section ~~6.3.62.2.6~~ 6.3.62.2.6 and may be combined with the mailed notice for the City Council hearing.

2-312 Conduct of ~~Full~~ Permit Hearing.

City Council ~~full~~-permit hearings and the associated Planning and Zoning Commission hearings where a recommendation is made shall follow the requirements and procedures of Section ~~6.3.72.2.7~~ 6.3.72.2.7. With regards to hearings before City Council, the public hearing process shall be deemed completed at the closing of the public hearing. No further comments or evidence will be received from the public, agencies or applicant, including at any general public comment period for a City Council meeting or public comment associated with a specific agenda item such as a designation associated with a permit application, unless specifically authorized by ~~City Council~~ City Council the ~~Permit Authority~~ by reopening the public hearing.

2-313 Approval or Denial of Permit Application.

- (A) The burden of proof shall be upon the applicant to show compliance with all applicable standards of the Regulations. ~~To the extent a permit application may not comply with a particular standard, the applicant may demonstrate compliance with such standard by proposing mitigation measures that sufficiently offset the extent of noncompliance.~~
- (B) A permit application to conduct a designated activity of state interest or develop in a designated area of state interest may not be approved unless the applicant satisfactorily demonstrates that the proposal, in consideration of all proposed mitigation measures, complies with all the applicable criteria. The permit shall be denied unless City Council determines that reasonable conditions can be imposed on the permit which will enable the permit to comply with the applicable criteria.
- (C) ~~(B)~~ If ~~the Permit Authority~~ City Council finds that there is insufficient information concerning any of the applicable standards, ~~Permit Authority~~ City Council may deny the permit, may approve with conditions which if fulfilled, would bring the development plan into compliance with all applicable standards, ~~or in the case of a full permit, or~~ may continue the public hearing, or reopen a previously closed public hearing, for additional information to be received. However, no ~~such~~ continuance to receive additional evidence may exceed ~~sixty (60) days~~ sixty (60) days unless agreed to by ~~Permit Authority~~ City Council and the applicant.

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(D) ~~(C) The Permit Authority~~ **City Council** shall approve a permit application if the proposed development plan satisfies all applicable review standards, **in consideration of proposed mitigation measures**, of these Regulations. ~~The Permit Authority~~ **City Council** may also impose additional conditions pursuant to Section 2-314 on any permit.

~~(D) For full permits:~~

(E) ~~(1)~~ **City Council** may close the public hearing and make a decision, or it may continue the matter for a decision only. However, **City Council** shall make a decision by majority vote within ~~one hundred twenty~~ **ninety (90)** days after the closing of the public hearing, or the permit shall be deemed approved. To the extent the public hearing is reopened and closed, the closing date of the public hearing shall be measured from the most recent closing date.

(F) ~~(2) No later than the date of its next regular meeting after making its decision,~~ **City Council** shall adopt by resolution findings of fact in support of its decision and, if approved, the written permit shall be attached to such resolution. To the extent a permit is deemed approved because **City Council** has not made a decision, adoption of such a resolution is not required.

~~(E) For administrative permits, decisions shall be issued pursuant to Division 2.18. Administrative permit decisions may be appealed to the Planning and Zoning Commission for a de novo review and decision pursuant to Sections 2.2.12(C) and 2.18.3(L).~~

2-314 Issuance of Permit; Conditions.

(A) ~~The Permit Authority~~ **City Council** may attach conditions to the permit pursuant to Section ~~6.3.92.2.9~~ and additional conditions to ensure that the purpose and requirements of these Regulations are continuously met **throughout the development, execution, operational life, and any decommissioning period.** A development agreement between the City and the permittee may be required as a condition of approval.

(B) Issuance of a permit signifies only that a development plan has satisfied, or conditionally satisfied, the applicable Regulations, and prior to commencing any development, conditions of the permit, additional Land Use **Development** Code, Code of the City of Fort Collins, other City requirements, or other state or federal requirements, may need to be met.

(C) **Subject to (D) below and Section 5-201,** ~~the~~ permit may be issued for an indefinite term or for a specified period of time **with such period** depending upon the size and complexity of the development plan.

(D) If the permittee fails to take substantial steps to initiate the permitted development plan within twelve (12) months from the date of **the approval of** the permit or such other time period specified in the permit, or if such steps have been taken but the applicant has failed to complete the development with reasonable diligence, then the permit may be revoked or suspended in accordance with Section 5-201. This time may be extended by the Director for only one (1) additional year upon a showing of substantial progress.

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~~(E) All issued permits shall require that the permittee notify all fee owners of real property to be used in completing the approved development plan that failure of the permittee to comply with permit conditions may result in foreclosure of a City lien.~~

*Division 2
Permits
Section 4
Common Review Standards*

2-401 Review Standards for All Applications.

In addition to the review standards for specific activities listed at Divisions 3 and 4, all applications under these Regulations, including proposed mitigation measures, shall be evaluated against the following general standards, to the extent applicable or relevant to the development plan, in the Permit Authority City Council's reasonable judgment. To the extent a permit application may not comply with a particular standard, the applicant may demonstrate compliance with such standard by proposing mitigation measures that sufficiently offset the extent of noncompliance.

- ~~(A) All of the provisions of the permit application procedure have been complied with~~ The applicant has obtained or will obtain all property rights, permits and approvals necessary for the proposal, including surface, mineral and water rights.
- (B) The health, welfare and safety of the community members citizens of the City will be protected and served.
- (C) The proposed activity is in conformance with the Fort Collins Comprehensive Plan and other duly adopted plans of the City, or other applicable regional, state or federal land development or water quality plan.
- ~~(D) The development plan is financially feasible. The determination of financial feasibility of the development plan may include but is not limited to the following considerations:~~
 - ~~(1) The business plan submitted by the applicant.~~
 - ~~(2) Relevant bond issue, loan and other financing approval or certifications including an approved bond issue or bond counsel opinion.~~
- ~~(E) The development plan will not create an undue financial burden on existing or future residents of the City.~~
- (D)(F) The development plan is not subject to significant risk from natural or human caused environmental hazards. The determination of risk from natural hazards to the development plan may include but is not limited to the following considerations:
 - (1) Unstable slopes including landslides and rock slides.

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- (2) Expansive or evaporative soils and risk of subsidence.
 - (3) Wildfire hazard areas.
 - (4) Floodplains.
- (E) ~~(G)~~ The development plan will not have an ~~significant adverse effect~~ **impact** on the capability of local governments affected by the development plan to provide local infrastructure and services or exceed the capacity of service delivery systems. The determination of the effects of the development plan on local government services may include but is not limited to the following considerations:
- (1) Current and projected capacity of roads, schools, infrastructure, drainage and/or stormwater infrastructure, housing, and other **local government facilities and** services necessary to accommodate development, and the impact of the development plan upon the current and projected capacity.
 - ~~(2) Changes caused by the development plan in the cost of providing education, transportation networks, water treatment and wastewater treatment, stormwater drainage, channel stabilization, bridges, emergency services, or other governmental services or facilities.~~
 - (2) ~~(3)~~ Need for temporary roads **or other infrastructure** to ~~access~~ **serve** the development plan for construction and maintenance.
- (F) ~~(H)~~ The development plan will not ~~have a significant adverse effect~~ **adversely impact** on the quality or quantity of recreational opportunities and experience. The determination of ~~effects~~ **impacts** of the development plan on recreational opportunities and experience may include but is not limited to the following considerations:
- (1) Changes to existing and projected visitor days.
 - (2) Changes in quality and quantity of fisheries.
 - (3) Changes in instream flows or reservoir levels.
 - (4) Changes in access to recreational resources.
 - (5) Changes to quality and quantity of hiking, biking, **multi-use** or horseback riding trails.
 - (6) Changes to regional open space.
 - (7) Changes to existing conservation easements.
 - (8) Changes to City parks, ~~trails, natural areas, or recreation facilities,~~ **playgrounds, community gardens, recreation fields or courts, picnic areas, and other City park amenities.**

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(G) ~~(F)~~ The development plan **when completed** will not ~~significantly degrade~~ **adversely impact** existing visual quality. The determination of visual ~~impacts~~ effects of the development plan may include but is not limited to the following considerations:

- (1) Visual changes to ground cover and vegetation, ~~waterfalls and~~ streams, or other natural features.
- (2) Interference with viewsheds and scenic vistas.
- (3) Changes in landscape character ~~types~~ of unique land formations.
- (4) Compatibility of structure size and color with scenic vistas and viewsheds.
- (5) Changes to **the visual character of** regional open space.
- (6) Changes to **the visual character of** existing conservation easements.
- (7) Changes to **the visual character of** City parks, trails, natural areas, or recreation facilities.

(H) ~~(J)~~ The development plan will not **adversely impact** ~~significantly degrade~~ air quality. The determination of effects of the development plan on air quality may include but is not limited to the following considerations:

- (1) Changes in visibility and microclimates.
- (2) Applicable air quality standards.
- (3) Increased emissions of greenhouse gases.**
- (4) Emissions of air toxics.**

(I) ~~(K)~~ The development plan will not ~~significantly degrade~~ **adversely impact** surface water quality. The determination of ~~effects~~ **impacts** of the development plan on surface water quality may include but is not limited to 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) Changes in point and nonpoint source pollution loads.
- (4) Increase in erosion.
- (5) Changes in sediment loading to waterbodies.
- (6) Changes in stream channel or shoreline stability.

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- (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 to the topography, natural drainage patterns, soil morphology and productivity, soil erosion potential, and floodplains.
 - (11) Changes to stream sedimentation, geomorphology, and channel stability.
 - (12) Changes to lake and reservoir bank stability and sedimentation, and safety of existing reservoirs.
- (J) ~~(L)~~ The development plan will not significantly degrade **adversely impact** groundwater quality. The determination of **impacts** effects of the development plan on groundwater quality may include but is not limited to 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.
 - (3) Changes in quality of well water within the impacted area.
- (K) ~~(M)~~ The development plan will not significantly degrade **adversely impact** wetlands and riparian areas **of any size regardless of jurisdictional status**. In determining impacts to wetlands and riparian areas, the following considerations shall include but not be limited to:
- (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.
 - (6) Changes in function and aerial extent of floodplains.
- (L) ~~(N)~~ The development plan shall not significantly degrade **adversely impact** the quality of terrestrial and aquatic animal life. In determining impacts to terrestrial and aquatic animal life, the following considerations shall include but not be limited to:
- (1) Changes that result in loss of oxygen for aquatic life.
 - (2) Changes in flushing flows.

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- (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.
 - (7) Changes to the aquatic and terrestrial food webs.
- (M) ~~(O)~~ The development plan shall not significantly degrade **adversely impact** the quality of terrestrial and aquatic plant life. In determining impacts to terrestrial and aquatic animal life, the following considerations shall include but not be limited to:
- a. Changes to habitat of threatened or endangered plant species.
 - b. Changes to the structure and function of vegetation, including species composition, diversity, biomass, and productivity.
 - c. Changes in advancement or succession of desirable and less desirable species, including noxious weeds.
 - d. Changes in threatened or endangered species.
- (N) ~~(P)~~ The development plan will not significantly degrade or **adversely impact** natural habitats and features as defined in Land **Development** Use Code Section **5.6.13.4.1**.
- (O) ~~(Q)~~ **The development plan will not adversely impact historic resources.**
- (P) **The development plan will not adversely impact significant trees as defined in Land Development Code Section 5.10.1.**
- (Q) The development plan will not significantly deteriorate **adversely impact** soils and geologic conditions. The determination of ~~effects~~ **impacts** of the development plan on soils and geologic conditions may include but is not limited to the following considerations:
- (1) Loss of topsoil due to wind or water forces.
 - (2) Changes in soil erodibility.
 - (3) Physical or chemical soil deterioration.

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- (4) Compacting, sealing and crusting.
- (R) The development plan will not cause a nuisance. The determination of nuisance **impacts** effects of the development plan may include but is not limited to the following considerations: increase in odors, dust, fumes, glare, heat, noise, vibration or artificial light.
- (S) The development plan will not result in ~~unreasonable~~ risk of releases of, or exposures to, hazardous materials or regulated substances. The determination of the risk of release of, or increased exposures to, hazardous materials or regulated substances caused by the development plan may include but is not limited to the following considerations:
- (1) Plans for compliance with federal and state handling, storage, disposal, and transportation requirements.
 - (2) Use of waste minimization techniques.
 - (3) Adequacy of spill **and leak** prevention and response plans.
- ~~(T) For applications requiring an evaluation of alternatives, the proposed development plan must, to the extent reasonably feasible, be the least environmentally impactful alternative among the alternatives analyzed.~~
- (T) The development plan will not have negative impacts that fall disproportionately on disproportionately impacted communities within the City considering, for example, the distribution of impacts to the following:**
- a. Air quality.
 - b. Water quality.
 - c. Soil contamination.
 - d. Waste management.
 - e. Hazardous materials.
 - f. Access to parks, natural areas, trail and other recreational or natural amenities.
 - g. Nuisances.

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Division 3

Regulations for Site Selection and Construction of Major New Domestic Water and Sewage Treatment Systems and Major Extension of Such Systems

Section 1 General Provisions

3-101 Applicability

3-102 Purpose and Intent Designation of Site Selection and Construction of Major New Domestic Water and Treatment Systems and Major Extension of Such Systems

Section 2 Specific Review Standards

3-201 Specific Review Standards for Major New Domestic Water or Sewage Treatment Systems or Major Extensions

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Division 3

*Regulations for Site Selection and Construction of Major New Domestic
Water and Sewage Treatment Systems and Major Extension of Such Systems*

Section 1

General Provisions

3-101 Applicability.

These Regulations shall apply to the site selection and construction of all major new domestic water and sewage treatment systems, and major extensions of such systems, ~~wholly or partially~~ within the municipal boundaries of the City.

3-102 Purpose and Intent.

The specific purpose and intent of this Division 3 are:

- (A) To ensure that new domestic water and sewage treatment systems and major extensions of such systems are constructed in areas which will result in the proper utilization of existing treatment plants and the orderly development of domestic water and sewage treatment systems within the City;
- (B) To ensure that site selection and construction of major new domestic water and sewage treatment systems and major extensions of such systems are conducted in such a manner as to ~~minimize~~ **avoid or fully mitigate** ~~environmental~~ impacts associated with such development;
- (C) To ensure that site selection and construction of major new domestic water and sewage treatment systems and major extensions of such systems are planned and developed in a manner so as not to impose an undue economic burden on existing or proposed communities ~~or ratepayers~~ within the City;
- ~~(D) To ensure that urban development, population densities, and site layout and design of water, wastewater, storm water and sanitation systems shall be accomplished in a manner that will prevent the pollution of aquifer recharge areas;~~
- (D) ~~(E)~~ To ensure that the off-site **adverse** impacts of new domestic water and sewage treatment systems are ~~effectively~~ **avoided or fully** mitigated; and
- (E) ~~(F)~~ To ensure that the surface and groundwater resources of the City are protected from any adverse impact of the development of major water and sewage treatment systems and major extensions of such systems.

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Division 3

*Regulations for Site Selection and Construction of Major New Domestic
Water and Sewage Treatment Systems and Major Extension of Such Systems*

Section 2

Specific Review Standards

3-201 Specific Review Standards for Major New Domestic Water or Sewage Treatment Systems or Major Extensions.

A permit application for the site selection and construction of a major new domestic water or sewage treatment system or major extension of such system shall be approved with or without conditions only if the development plan complies with the review standards in Section 2-401 and the below standards, to the extent applicable or relevant. To the extent a permit application may not comply with a particular standard, the applicant may demonstrate compliance with such standard by proposing mitigation measures that sufficiently offset the extent of noncompliance. If the Permit Authority finds the development plan does not comply with all applicable standards, the permit shall be denied or, in the discretion of the Permit Authority, may be approved with conditions which if fulfilled, would bring the development plan into compliance with all applicable standards. The Permit Authority may also impose additional conditions pursuant to Section 2-314. The specific review standards are:

- (A) New domestic water and sewage treatment systems shall be constructed in areas which will result in the proper use of existing treatment plants and the orderly development of domestic water and sewage treatment systems within the City;
- ~~(B) Adequate water supplies, as determined by the Colorado Department of Health, are available for efficient operational needs;~~
- (B)(C) Existing domestic water treatment systems servicing the area must be at or near operational capacity as determined by the Colorado Department of Public Health and Environment;
- (C)(D) Existing domestic sewage treatment facilities servicing the area must be at a level requiring expansion as determined by the Colorado Department of Public Health and Environment or greater than eighty percent (80%) of operational capacity;
- (D)(E) The scope and nature of the proposed development will not compete with existing water and sewage services or create duplicative services;
- ~~(F) Age of existing water and sewage systems, operational efficiency, state of repair or level of treatment is such that replacement is warranted;~~
- (G) Area and community development and population trends demonstrate clearly a need for such development;
- (H) Existing facilities cannot be upgraded or expanded to meet waste discharge permit conditions of the Colorado Water Quality Control Commission;
- ~~(I) Easements can be obtained for any associated transmission line or interceptor line that will serve existing and proposed needs;~~

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- ~~(J) The benefits of the proposed development plan outweigh the losses of any natural resources or agricultural lands rendered unavailable or less productive as a result of the proposed development;~~
- (I) ~~(K)~~ The proposed development plan, if for a domestic water system, is capable of providing water meeting the requirements of the Colorado Department of **Public Health and Environment** and other state and federal water quality requirements; and
- ~~(L) All jurisdictions receiving water diverted from within City limits must demonstrate adopted policies, regulations and programs related to water conservation are sufficient to reduce lower per capita water use over time. Such policies, regulations and programs may include but not be limited to:~~
- ~~(1) Green plumbing code.~~
 - ~~(2) Indoor efficiency standards.~~
 - ~~(3) Reuse of water.~~
 - ~~(4) Smart meters.~~
 - ~~(5) Submetering multifamily units.~~
 - ~~(6) Incentive and rebate programs to reduce water use.~~
 - ~~(7) Demand-based tap fees.~~
 - ~~(8) Xeriscape/turf limitations code requirements.~~
 - ~~(9) Irrigation efficiency code requirements.~~
 - ~~(10) Post-occupancy violations.~~

Division 4
Site Selection of Arterial Highways
and Interchanges and Collector Highways

Section 1 General Provisions

4-101 Applicability

4-102 Purpose and Intent

Section 2 Specific Standards

4-201 Specific Review Standards for Arterial Highway, Interchange or Collector Highway
Projects

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*Division 4
Site Selection of Arterial Highways
and Interchanges and Collector Highways
Section 1
General Provisions*

4-101 Applicability.

This Division shall apply to the site selection of all arterial highways and interchanges and collector highways ~~wholly or partially~~ within the municipal boundaries of the City.

4-102 Purpose and Intent.

The specific purpose and intent of this Division are:

- ~~(A) To facilitate the local administration of site selection of arterial highways and interchanges and collector highways by establishing requirements which must be met before a site may be selected;~~
- (A) ~~(B)~~ To ensure that community traffic needs are met;
- (B) ~~(C)~~ To provide for the continuation of desirable community **traffic circulation** patterns **by all modes;**
- (C) ~~(D)~~ To discourage expansion of demand for government services beyond the reasonable capacity of the community or region to provide such services as determined by the City;
- (D) ~~(E)~~ To prevent direct conflicts with local, regional and state master plans;
- (E) ~~(F)~~ To ensure that highway and interchange development is compatible with surrounding land uses;
- (F) ~~(G)~~ To encourage the coordination of highway planning with community and development plans;
- (G) ~~(H)~~ To discourage traffic hazards and congestion;
- (H) ~~(I)~~ To minimize sources of traffic noise, air and water pollution; **and**
- (I) ~~(J)~~ To protect scenic, natural, historical and ~~archeological~~ **cultural** resources from destruction; **and**
- ~~(J) To ensure that site selection of arterial highways, interchanges and collector highways occurs so that community land use, economic development, and traffic needs are met, 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.~~

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*Division 4
Site Selection of Arterial Highways
and Interchanges and Collector Highways
Section 2
Specific Standards*

4-201 Specific Review Standards for Arterial Highway, Interchange or Collector Highway Projects.

A permit for the site selection of an arterial highway, interchange or collector highway shall be approved with or without conditions only if the proposed development plan complies with the review standards in Section 2-401 and the below standards, to the extent applicable or relevant. To the extent a permit application may not comply with a particular standard, the applicant may demonstrate compliance with such standard by proposing mitigation measures that sufficiently offset the extent of noncompliance. If the Permit Authority finds the development plan does not comply with all applicable standards, the permit shall be denied or, in the discretion of the Permit Authority, may be approved with conditions which if fulfilled, would bring the development plan into compliance with all applicable standards. The Permit Authority may also impose additional conditions pursuant to Section 2-314. The specific review standards are:

- (A) ~~The proposed arterial highway, interchange or collector highway will be located so that community traffic needs are met;~~
- (B) ~~The closure of frontage roads in association with arterial highways, interchanges and collector highways occurs in a coordinated manner with the City and do not cause traffic impacts.~~
- (A) ~~(C)~~ The proposed arterial highway, interchange or collector highway will be located so that natural habitats and features, historic resources, and City natural areas and parks and other local government facilities and resources are protected to the maximum extent feasible;
- (B) ~~(D)~~ The proposed arterial highway or interchange or collector highway will be located only in a corridor for which a clear and reasonable local and regional need has been demonstrated;
- (C) ~~(E)~~ The location and access limitations for the arterial highway, interchange or collector highway will not isolate community neighborhoods from and, where practicable, will enhance access from community neighborhoods to public facilities including schools, military installations, hospitals, mass transit, pedestrian walkways and bikeways, recreational facilities and areas, community centers, government and social services provider offices and facilities, natural areas, and open spaces;
- (D) ~~(F)~~ The construction of the arterial highway and interchange or collector highway shall be phased to minimize interference with traffic movement;
- (E) ~~(G)~~ The location and access limitations for the arterial highway, interchange or collector highway will not restrict access via to other roadways, mass transit facilities, pedestrian

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walkways and bikeways, local commercial services, residential developments, business and employment centers, and public facilities including schools, hospitals, recreational facilities and areas, natural areas, and open spaces;

- (F) ~~(H)~~ Alternative modes of transportation will be incorporated into the proposal to the extent feasible;
- (G) ~~(I)~~ If park-and-ride facilities are utilized, they shall be located in areas designated **approved** by the City;
- (H) ~~(J)~~ The location of the proposed **new or expanded** arterial highway, interchange or collector highway will not impede the delivery of essential community services and goods;
- (I) ~~(K)~~ Desirable local and regional community land use patterns will not be disrupted by the location of the proposed **new or expanded** arterial highway, interchange or collector highway;
- (J) ~~(L)~~ 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;
- (K) ~~(M)~~ The proposed **location of the new or expanded** arterial highway, interchange or collector highway will be located so as to complement the efficient extension of planned public services, utilities and development in general, both regionally and within the City;
- (L) ~~(N)~~ The site selection for the **proposed location of the new or expanded** 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 Larimer Weld Council of Governments Regional Transportation Plan, Central Front Range Plan (CFR), the Colorado Department of Transportation (CDOT) Statewide Transportation Plan and the Statewide Transportation Improvement Program (STIP), the Fort Collins Major Transportation Corridor Plan~~ **local and regional transportation plans**;
- (M) ~~(O)~~ The proposed location of the **new or expanded** 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;
- (N) ~~(P)~~ The proposed location of the **new or expanded** arterial highway, interchange or collector highway will not contribute to a negative economic impact to residential, commercial, tourist or visitor areas or districts within the City;
- (O) ~~(Q)~~ To the extent tolling is proposed, the use or level of tolling is appropriate in light of existing toll levels, if any, and any prior or projected public infrastructure investment;
- (P) ~~(R)~~ The proposed highways can be integrated into the regional transportation network;

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- (Q)(S)The **new or expanded** proposed arterial highway, or interchange or collector highway will not have a ~~significant~~ adverse impact on prime or unique farmland as defined by the U.S. Department of Agriculture, Natural Resources Conservation Service;
- (T) ~~Land acquisitions and/or the relocation of uses and improvements will follow the Uniform Relocation Assistance and Real Property Acquisition Policies Act;~~
- (R) ~~The benefits of the development plan, including expected development in the regional and local surroundings of the development site, will outweigh the social, fiscal, and environmental impact and the loss of any scenic, historical, archeological, or natural resources rendered unavailable as a result of the location of the development plan;~~
- (S) ~~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 a historic resource of statewide importance;~~
- (R)(W)The proposed location and design of the arterial highway, interchange or collector highway does not cause lighting impacts from headlights or streetlights to nearby residential neighborhoods or other developments or night sky objectives and plans;
- (S) (X)Noise levels caused by the **new or expanded** arterial highway, interchange or collector highway will follow federal noise regulations; and
- (T) (Y)**Vertical s**~~Structures and buildings~~ will match the character of the **e**City through materials and design.
- (U)(Z)**The local air quality impacts of the new or expanded arterial highway, interchange or collector highway shall support attainment of federal and state ambient air quality standards and shall not increase risks to human health and the environment posed by air pollutants.**

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Division 5

Financial Security, Post-Issuance Administration, Enforcement

Section 1 Financial Security

5-101 Financial Security

Section 2 Suspension or Revocation of Permits

5-201 Suspension or Revocation of Permits

Section 3 Review, Renewal, Amendment, Transfer

5-301 Annual Review; Progress Reports

5-302 Permit Renewal

5-303 Permit Amendment

5-304 Technical **Minor** Revision **Not Constituting a Material Change** or Modification

5-305 Transfer of Permits

Section 4 Enforcement

5-401 Enforcement

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*Division 5
Financial Security, Post-Issuance Administration, Enforcement
Section 1
Financial Security*

5-101 Financial Security.

- (A) Before any development occurs pursuant to an approved permit issued pursuant to these Regulations, the applicant shall provide the City with a guarantee of financial security deemed adequate by the Director to accomplish the purposes of this Section, in a form approved by the City Attorney and payable to the City of Fort Collins. ~~Parties signatory to the financial guarantee shall include the permittee and all responsible parties as defined at Section 1-110.~~
- (B) The purpose of the financial guarantee is to ensure that the permittee shall faithfully perform all requirements of the permit and the Director shall determine the amount of the financial guarantee in consideration of the following standards, to the extent applicable or relevant to the approved development plan:
- (1) The estimated cost of returning the site of the permitted development plan to its original condition or to a condition acceptable in accordance with standards adopted by the City for the matter of state interest for which the permit is being granted;
 - (2) The estimated cost of implementing and successfully maintaining any revegetation required by the permit.
 - (3) The estimated cost of completing the permitted development plan; and
 - (4) The estimated cost of complying with any permit conditions, including mitigation, monitoring, reporting, and City inspections to ensure compliance with the terms of the permit.
- (C) Estimated cost shall be based on the applicant's submitted cost estimate. The Director shall consider the duration of the development plan and compute a reasonable projection of increases due to inflation over the entire life of the development plan. The Director may require, as a condition of the permit, that the financial security shall be adjusted upon receipt of bids.
- (D) The financial guarantee may be released in whole or in part with the approval of the Director only when:
- (1) The permit has been surrendered to the Director before commencement of any physical activity on the site of the approved development plan;
 - (2) The approved development plan has been abandoned and the site thereof has been returned to its original condition or to a condition acceptable to the Director in accordance with standards adopted by the Permit Authority for the matter of state interest for which the permit is being granted;

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- (3) The approved development plan has been satisfactorily completed; or
- (4) Applicable guaranteed conditions have been satisfied.
- (E) Any security may be cancelled by a surety only upon receipt of the Director's written consent which may be granted only when such cancellation will not detract from the purposes of the security.
- (F) If the license to do business in Colorado of any surety upon a security filed pursuant to these Regulations is suspended or revoked by any State authority, then the permittee, within sixty (60) days after receiving notice thereof, shall substitute a good and sufficient surety licensed to do business in the State. Upon failure of the permittee to make substitution of surety within the time allowed, the ~~Permit Authority~~ Director shall suspend the permit until proper substitution has been made.
- (G) No security is acceptable if signed by or drawn on an institution for or in which the permittee ~~or any responsible party~~ is an owner, shareholder, or investor other than simply an account holder.
- (H) The Director may determine at any time that a financial guarantee should be forfeited because of any violation of the permit. The Director shall provide written notice of such determination to the surety and the permittee of their right to written demand of the Director within thirty (30) days of receiving written notice from the Director.
 - (1) If no demand is made within said period, then the Director shall order in writing that the financial guarantee be forfeited and provide a copy of such order to the surety and permittee.
 - (2) If a timely demand is received, the Director shall make good faith efforts to meet with the permittee and surety within thirty (30) days after the receipt of such demand. At the meeting the permittee and surety may present any information with respect to the alleged violation for the Director's consideration. At the conclusion of any meeting, the Director shall either withdraw the notice of violation or order in writing that the financial guarantee should be forfeited and provide a copy of such order to the surety and permittee.
- ~~(I) The Director may require the recording of a lien in favor of the City on real property to be used in completing the approved development plan and owned in fee by the permittee or responsible parties in order to further guarantee permit compliance.~~
- (I) ~~(J)~~ If the forfeiture results in inadequate revenue to cover the costs of accomplishing the purposes of the financial guarantee, the City Attorney shall take such steps as deemed proper to recover such costs, including imposing and foreclosing ~~a~~ of the City lien on real property and/or certifying the same to the County Treasurer for collection in the same manner as real property taxes, pursuant to Sections 31-20-105 and 106, C.R.S.
- (J) ~~(K)~~ The financial security under this Section may be waived, in the Director's sole discretion, if a proposed development plan is solely financed by state agencies, a political

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subdivision of the state, or a special or enterprise fund that has established to the Director's satisfaction the availability of funds required to complete the proposed development plan.

Division 5
Financial Security, Post-Issuance Administration, Enforcement
Section 2
Suspension or Revocation of Permits

5-201 Suspension or Revocation of Permits.

- (A) If the Director has reason to believe that the permittee has violated any provision of ~~the~~any permit or the terms of any regulation for administration of the permit, and such violation poses a danger to ~~public health, safety, welfare, the environment or wildlife resources, the health or safety of the public,~~ the Director has the authority to order the immediate suspension of all operations associated with implementing the approved development plan and suspension of the permit until the danger has been eliminated. At such time as the Director has determined the danger is eliminated and any violations of the permit or the terms of any regulation for administration of the permit, the Director shall withdraw the suspension. Should the danger be eliminated but violations of the permit still exist, the Director shall suspend the permit for up to an additional one-hundred and eighty (180) days pursuant to (B)(3) below.
- (B) If the Director has reason to believe that the permittee has violated any provision of any permit or the terms of any regulation for administration of the permit, and such violation does not pose a danger to ~~public~~the ~~health, or safety, welfare, the environment or wildlife resources,~~ of the public, the Director may temporarily suspend the permit for an initial period of up to thirty (30) days or until the violation is corrected, whichever occurs first.
- (1) Before imposing such temporary suspension, the Director shall provide written notice to the permittee of the specific violation and shall allow the permittee a period of at least fifteen (15) days to correct the violation from the date notice was provided.
 - (2) If the permit holder does not agree that there is a violation, the permittee shall, within fifteen (15) days of the date notice was provided, submit a written response to the Director **detailing** why the temporary suspension should not occur. Upon receiving such response, the Director shall within ten (10) days issue a written response either withdrawing the notice of violation or imposing the temporary permit suspension. The Director's decision is not subject to appeal.
 - (3) Should a violation remain uncorrected after the initial period of temporary suspension has elapsed, the Director shall extend in writing the period of temporary suspension for up to an additional one-hundred and eighty (180) days or until the violation is corrected, whichever occurs first. Notice of such extension shall be provided to the permittee and the extended suspension may be appealed pursuant to Chapter 2, Article VI, of the Code of the City of Fort Collins, however, pending such appeal hearing, the permit suspension shall remain in effect.

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- (C) Subsequent to any **extended** temporary suspension imposed under (B)(3) above, the Director may permanently revoke the permit upon a written determination that the violation for which the temporary suspension was premised remains uncorrected. The determination shall be provided to the permittee and such revocation may be appealed pursuant to Chapter 2, Article VI, of the Code of the City of Fort Collins, however, pending the decision of such appeal, the **permit revocation** shall remain in effect.
- (D) The Director may permanently revoke a permit upon a written determination that the permittee has failed to take substantial steps to initiate the permitted development or activity within twelve (12) months from the date of the issuance of the permit **or within the timeframe of any extensions granted**, or, if such steps have been taken, the permittee has failed to complete or pursue completion of the development or activity with reasonable diligence. The determination shall be provided to the permittee and such revocation may be appealed pursuant to Chapter 2, Article VI, of the Code of the City of Fort Collins, however, pending such appeal hearing, the revocation shall remain in effect. The permanent revocation of a permit does not bar the future submittal of a new permit application for the same, or substantially the same, proposed development plan.

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*Division 5
Financial Security, Post-Issuance Administration, Enforcement
Section 3
Permit Review, Renewal, Amendment, Transfer*

5-301 Annual Review; Progress Reports.

- (A) Within thirty (30) days prior to each annual anniversary date of the granting of a permit, the permittee shall submit a report detailing any and all activities conducted by the permittee pursuant to the permit including, but not limited to, a satisfactory showing that the permit has complied with all conditions of the permit and applicable regulations for administration of the permit.
- (B) Director shall review the report within thirty (30) days from the date of submittal thereof. If the Director determines, based upon its review, that the permittee was likely to have violated the provisions of the permit or applicable regulations, or both, the Director shall make a good faith effort to meet with the permittee to discuss the matter. If the Director determines after any meeting that the permittee has violated the provisions of the permit or applicable regulations, or both, the Director may suspend and/or revoke the permit in accordance with Section 5-201.
- (C) Upon fulfillment of all permit conditions, this annual review requirement may be waived by the Director.
- (D) At any time, the Director may require the permittee to submit an interim progress report.

5-302 Permit Renewal.

Permits issued under these Regulations may be renewed following the same procedure for approval of new permits except the renewal process shall not include the Director's FONSI/FONAI review pursuant to Section 2-303. ~~The Director may impose additional conditions at the time of renewal if necessary to ensure that the approved development plan will comply with these Regulations.~~

5-303 Permit Amendment.

The Director shall require a permit amendment for any material change, as determined by the Director, in the construction, use, or operation of an approved development plan from the terms and conditions of an approved permit. The amendment shall be processed in accordance with and subject to the same procedures and requirements set forth herein for a full permit ~~or administrative permit~~ except that the Director's FONSI/FONAI review pursuant to Section 2-304~~3~~ shall not occur.

5-304 ~~Technical~~ Minor Revision ~~or Modification~~ Not Constituting a Material Change.

The permittee may apply to the Director for a ~~technical~~ minor revisions ~~or modification~~ to an issued permit to correct errors or make other ~~modification~~ changes to conform the permit to actual conditions to the extent such ~~minor~~ revision ~~or modification~~ is not a material change to the permit as determined by the Director. The Director is granted discretion to approve such ~~minor~~ revisions ~~or modification~~ or to determine that a permit amendment is required pursuant to Section 5-303. ~~In reviewing a requested minor revision or revisions, the Director shall consider the request in the~~

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context of previously approved minor revisions to determine whether in the aggregate, the requested minor revision or revisions constitute a material change.

5-305 Transfer of Permits.

A permit may be transferred only upon the Director's written consent. The Director must ensure in approving any transfer that the proposed transferee can and will comply with all the requirements, terms, and conditions contained in the permit and these regulations; that such requirements, terms, and conditions remain sufficient to protect the health, welfare, and safety of the public; and that an adequate guarantee of financial security can be made.

5-306 Inspection.

The Director in their sole discretion is empowered to cause the inspection of any development, operation, or decommissioning activities related to a permit, including on or off-site mitigation activities, to ensure compliance with such permit and applicable laws and regulations. The permittee shall provide reasonable access to property for which the permittee has the authority to do so and shall make good faith efforts to coordinate access for other property. To the extent such inspection is ongoing or otherwise subject to advance planning, the Director shall consult with the permittee to coordinate inspection to minimize potential disruptions. The Director may retain a third-party consultant to conduct such inspections, including a consultant with specialized knowledge or training, and the cost of all such inspections shall be the responsibility of the permittee. The inspections provided for under this Section are in addition to Section 6.26.3.

DRAFT SUBJECT TO FURTHER REVIEW AND REVISION

*Division 5
Financial Security, Post-Issuance Administration, Enforcement
Section 4
Enforcement*

5-401 Enforcement.

Any person engaging in development in a designated area of a state interest or conducting a designated activity of state interest who does not first obtain a permit pursuant to these Regulations, who does not comply with permit requirements, or who acts outside the authority of the permit, is in violation of this Land **Development** Use Code and the City may take enforcement action pursuant to Division **6.262-14** and may additionally take any other action available under these Regulations and civil or criminal law, including seeking injunctive relief, or revoking or suspending any permit issued pursuant to these Regulations or any permit issued pursuant to the Land **Development** Use Code or the Code of the City of Fort Collins. These Regulations are not intended to create third party rights of enforcement.