

Model Land Use Regulations

CHAPTER 7

HISTORICAL AND ARCHAEOLOGICAL RESOURCE AREA REGULATIONS

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Introductory Comments

These comments are provided as aids to local governments in considering adoption of regulations for administration of the designated areas of Historical and Archaeological resources pursuant to H.B. 1041.

The Model Regulations herein have been developed by the Land Use Commission staff in conjunction with the State Historical Society and have been approved by the Land Use Commission for use by local governments. The Land Use Commission recognizes that the varying needs of local governments will on some occasions lead to adoption of local regulations that differ in some respects from this model and it is emphasized that these are model regulations.

While these regulations are a model and need not be adopted verbatim by local governments, certain sections are considered by the LUC to be required under H.B. 1041. These required sections in the model regulations are indicated by asterisks. In addition, because these model regulations are considered by the LUC to provide optimum compliance with H.B. 1041, they will be used as one of the standards for Commission review, under section 24-65.1-406, 1973, C.R.S., of regulations adopted by the local government. The Commission would also urge that, in order to provide consistency with other model regulations and between regulations adopted in different jurisdictions, local governments should follow the general format of these model regulations.

These regulations for Historical and Archaeological Resource areas were developed on the basis of technical information contained in the following:

1. State Historical Society of Colorado Guidelines for Identification and Designation of Historical Natural and Archaeological Resources, (Denver, 1974).
2. Miner, R.W., Conservation of Historic and Cultural Resources, (American Society of Planning Officials Planning Advisory Service Report No. 244, Chicago, 1969).

Local governments should consider technical information contained in these or similar publications before adopting regulations that differ in any significant, substantive respect from this model.

The purpose of regulating historical and archaeological resources is to promote a positive atmosphere of our manmade environment from a perspective which is appreciative of the finite remains of history and archaeology. Basic to this perspective is an understanding of the philosophical differences of the two disciplines.

History refers to the behavior of humans that is known or can be discovered. The term "Historical" covers both history (the time that can be known by abstract records, such as writings) and prehistory (the time that may be known only by an analysis of objects and their relationships). Prehistory is not limited to the distant past; it simply means history without its written evidence.

Archaeology is often loosely used as meaning prehistoric. The actual, precise meaning is a method of discovering and analyzing human cultural information. It must be applied to prehistory, can often be useful to understanding history, and may be applied to modern human behavior.

Accordingly, the methods of preservation applied to each are different as well. Historic sites need visibility and designation; archaeological sites do not. The preservation of archaeological sites may be best accomplished by NOT designating, or releasing information, without safeguards about their locations or possibly even their existence because of the extremely delicate and unknown nature of the resource.

Based on these philosophical differences, the regulations have been drawn up to properly insure the protection of our historical and archaeological resources. Included in these regulations are basic procedures which comprehensively address preservation, but are not so burdensome so as to unduly impede planned growth.

Throughout the regulations are the following basic terms which refer to the classification of historical and archaeological resources and their resulting hierarchy of evaluation:

- (1) "*Colorado Inventory of Historic Sites*" means a listing, without rating or consequence, of all structures, districts, objects, and sites which are adequately documented by survey records and recognized by the State Historical Society. It may be useful as a planning tool and includes properties listed on the State Register of Historic Properties and the National Register of Historic Places, 1041 Designated historical and archaeological resources, or properties designated by local government action independent of the above methods.
- (2) "*State Register of Historic Properties*" means a listing of sites maintained by the State Historical Society and designated in accordance with the procedures and criteria of the State Register Act of 1975.
- (3) "*National Register of Historic Places*" means a listing of sites maintained by the Secretary of the Interior through the Keeper of the Register and designated in accordance with the procedures and criteria of the National Historic Preservation Act of 1966.
- (4) "*1041 Designated Historical and Archaeological resources*" means a listing of sites maintained by the county in cooperation with the State Historical Society and designated under the procedures of H.B. 1041 (1974) and under criteria established by the county.
- (5) "*Ordinance Designation*" means any recognition of sites by city or county ordinance under the procedures and criteria of such ordinance as authorized by H.B. 1041 (1974).

The key role in the implementation of these regulations will be the consultative process between the local jurisdiction and the State Historical Society. This process is based on the idea of cooperative partnership which provides a forum whereby the State Historical Society can provide technical advice to local government on issues involving historical and archaeological resources. Through this process, the issues can be discussed within an elastic framework of cooperation, communication, and education. In addition, the technical publications of the State Historical Society--the Guidelines-History and Archaeology in all three parts (identification, designation, and administration) shall provide a large portion of the information and assistance communicated during the consultative process.

Perhaps the most challenging conceptual aspect of historic preservation as administered in these regulations is relating the past with the present--and even the future. The design of new buildings in historic areas, new buildings adjacent to historic buildings, new additions to old buildings: these are among the problems of marrying new buildings with old in a way that preserves the historic and architectural integrity of both. It does not come without effort. It took time to build the buildings and the neighborhoods; it will take time to fully understand them in order to build compatibly with them. The regulations and the Guidelines have been designed to suggest ways to identify those essential characteristics and to harmonize with them.

Until such time as the Guidelines for Administration have been promulgated for this purpose, local governments may submit development proposals affecting designated sites to the State Historical Society for appraisal and comment.

The provisions of this regulation should be read in conjunction with the Administrative Regulation adopted by the Land Use Commission as Chapter 1 of its Model Land Use Regulations. The Administrative Regulation sets out procedures and other provisions common to this and all other regulations for specific matters of state interest. Thus common provisions are incorporated by reference into this model regulation.

ARTICLE 1.

GENERAL AND INTRODUCTORY PROVISIONS

7-101. Purpose and Intent

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

- (1) Administer in conjunction with the State Historical Society, historical and archaeological resources in a manner that will allow man to function in harmony with, rather than be destructive to, these resources.*
- (2) Ensure that development in areas containing historical or archaeological resources shall be conducted in a manner which will minimize damage to these resources for future use.*
- (3) Establish certain requirements which must be met before development in a historical or archaeological resource area is permitted.
- (4) Ensure that historical and archaeological resources are preserved to the extent possible for the education and enjoyment of the present and future residents of this jurisdiction and the state.
- (5) Insure that creative and functional design and development are conducted in harmony with the character of the historical and archaeological resource areas.

7-102. Definitions

I. General Terms

- (1) "*Adverse impacts*" means conditions which include but are not limited to:
 - (a) *destruction* or alteration of all or part of a resource;
 - (b) *isolation* from or alteration of its surrounding historical or archaeological environment;
 - (c) *introduction* of visual, audible, vibratory, or polluting elements that are out of character with the resource and its setting or that adversely affect the physical integrity of the resource.
- (2) "*Development*" means any construction or activity which changes the basic character or the use of the land on which the construction or activity occurs.*
- (3) "*Historical or archaeological resource area*" means the area containing a "historical or archaeological resource of statewide importance."*
- (4) "*Historical or archaeological resource impact area*" means an area within which certain development activities may have significant impacts upon the historical or archaeological resource(s) within or adjacent to such area.*
- (5) "*Mitigate*" means the minimization of adverse impacts to historical and archaeological resources through appropriate action to preserve the resource and to recover data such as specimens and information before proceeding with the development.
- (6) "*Nonconforming use*" means a use in existence at the time of the adoption of these regulations, which use, were it a new use, would be one for which a permit is required under this regulation.

II. *Historical and archaeological resources of statewide importance**** means resources which have been officially included in the National Register of Historic Places, designated by statute, or included in an established list of places compiled by the State Historical Society.

- (1) "*Buildings*" means constructions that are utilized to shelter any form of human activity.
- (2) "*Districts*" means a geographically definable area with a significant concentration or linkage of sites, buildings, structures, or objects that are unified historically or architecturally.
- (3) "*Objects*" means material things of functional, aesthetic, cultural, historical, prehistorical, or scientific value.
- (4) "*Sites*" means places where events took place or where buildings, structures, or objects once stood.
 - (a) "*Archaeological sites*" means areas or locations occupied as residences or utilized by humans (of any culture: prehistoric, historic) for a sufficient length of time to construct features or deposit artifacts, which may remain in greater or lesser degrees of preservation and order.
 - (b) "*Historical sites*" means locations on or in which significant historic events, persons, or acts are associated.
 - (c) "*Natural sites*" means geographical formations which are of historic and/or archaeological significance.
- (5) "*Structures*" means works constructed by man, including but not limited to, bridges, canals, and stacks.

III. "*Preservation*" means the adaptive use, conservation, excavation protection, reconstruction, rehabilitation, restoration, salvage, or stabilization of buildings, districts, objects, sites, and structures significant in Colorado history or prehistory.

- (1) "*Adaptive Use*" means the restrained alteration of a resource in order to accommodate uses for which the resource was not originally constructed but in such a way as to maintain the general historical character of the resource.
- (2) "*Conservation*" means the sustained use and appearance of a resource essentially in its existing state.
- (3) "*Excavation*" means the process of scientifically controlled recovery or salvage of an archaeological site designed to yield historic or prehistoric information about human life styles and environments.
- (4) "*Protection*" means the security of a resource as it exists through the establishment of physical, administrative, or legal safeguards which do not affect the physical condition or appearance of the resource itself.
- (5) "*Reconstruction*" means the process of recreating or reproducing by new construction all or part of the form and detail of a vanished resource as it appeared at a specific period in time.
- (6) "*Rehabilitation*" means the process of returning interior resource elements to a state of efficiency or soundness by repairs or alterations designed to encourage its continued use but without noticeably changing the exterior appearance of the resource.
- (7) "*Restoration*" means the process of accurately recovering all or part of the form and detail of a resource and its setting as it appeared at a particular period of time by means of the removal of later work and the replacement of missing earlier work.
- (8) "*Salvage*" means the retrieval of archaeological, historical, and paleontological objects and data, including all ruins, sites, buildings, artifacts, fossils, and significant objects of human behavior through professionally-controlled recovery or relocation.
- (9) "*Stabilization*" means the process of applying measures designed to halt deterioration and to reestablish the structural stability of an unsafe or deteriorated resource while maintaining the essential form as it presently exists without noticeably changing the exterior appearance of the resource.

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

- (1) "*Building materials*" means the physical characteristics which create the aesthetic and structural appearance of the resource, including but not limited to, a consideration of the texture and style of the components and their combinations such as stone, brick, shingle, adobe, wood.
- (2) "*Detail*" means architectural aspects that, due to particular treatment, draw attention to certain parts or features of a structure.
- (3) "*Feeling*" means a mental or physical reaction caused by experiencing an historic resource.
- (4) "*Height*" means the vertical dimension of a given structure or object.
- (5) "*Mass*" means the volume, magnitude or overall size of a resource.
- (6) "*Proportion*" means the relative physical sizes within and between buildings and building components.
- (7) "*Rhythm*" means a regular pattern of shapes including but not limited to windows, doors, projections, and heights within a building or group of buildings.
- (8) "*Scale*" means the harmonious proportion of parts of a structure to one another and to the human figure.
- (9) "*Setting*" means the surrounding buildings, objects, landscaping, and natural features which provide visual, aesthetic or auditory quality of the historic or archaeological resources.
- (10) "*Shape*" means the physical configuration of structures or objects and their component parts including but not limited to roofs, doors, windows, and facades.
- (11) "*Street Accessories*" means those sidewalk or street fixtures, which provide cleanliness, comfort, direction, or safety, are compatible in design to their surroundings, and include but are not limited to trash receptacles, benches, street name signs, and fire hydrants.
- (12) "*Workmanship*" means the visual results of expertise in the making and assembling of an historic resource.

7-103. Authority

These regulations are adopted pursuant to inter alia, 24-65.1-101, et seq., and 29-20-101, et seq., C.R.S. 1973.

7-104. Applicability

- (1) These regulations apply to applications for permits to engage in development in all designated or regulated historical or archaeological resource areas and historical or archaeological resource impact areas within this jurisdiction.*
- (2) Any person seeking to engage in development in any designated or regulated resource area and resource impact area in this jurisdiction shall obtain a permit pursuant to these regulations before seeking any other permit, rezoning, or other action by the jurisdiction.

7-105. Nonconforming Uses

- (1) The provisions of this chapter shall not apply to or affect any development described in §1-105 of the Administrative Regulations adopted by this jurisdiction, if these regulations were adopted pursuant to only §§24-65.1-101, et seq., C.R.S. 1973.*
- (2) The provisions of this chapter shall not apply to any nonconforming use existing on the date the area is designated or subjected to regulation, provided that when such a nonconforming use shall be discontinued for six months or more or a nonconforming structure is damaged or destroyed to the extent of at least fifty (50) percent of the appraised value, any reuse, reconstruction, or replacement of such structure shall be deemed a new use and shall be subject to the provisions of these regulations.

7-106. Relationship to other Requirements

- (1) Nothing in these regulations shall be construed as exempting an applicant for a permit from any other requirements of this jurisdiction or other state or federal laws and regulations.
- (2) To the extent that the requirements of these regulations differ from any other applicable requirements, the more restrictive requirements shall apply.

ARTICLE 2

REGULATIONS FOR HISTORICAL AND ARCHAEOLOGICAL RESOURCE AREAS AND HISTORICAL AND ARCHAEOLOGICAL IMPACT AREAS

7-201. Provisions Common to All Historical and Archaeological Resource Areas and All Historical and Archaeological Resource Impact Areas.

- (1) The provisions of this section 7-201 apply to each designated historical and archaeological resource area and each designated historical and archaeological resource impact area listed or shown on map or maps adopted pursuant to Article 3 of Chapter 7.
- (2) No person shall engage in any development in any historical or archaeological resource area or historical or archaeological resource impact area without a permit.*
- (3) Upon receipt of an application for a permit, the administrator shall at a minimum make the following determinations pursuant to the provisions of Section 7-405:
 - (a) Identify all adverse impacts, if any, the proposed development may have on the historical and/or archaeological resource(s) within the historical or archaeological resource area and/or the historical or archaeological resource impact area.
 - (b) Evaluate the character and degree of the adverse impacts, identified in (a) above.
 - (c) Provide methods that must be employed to mitigate those adverse impacts discussed in (a) and (b) above.
- (4) Determinations made pursuant to this section 7-201 shall be provided in a report presented by the administrator to the permit authority at the permit hearing.
- (5) Development in a historical or archaeological resource area or a historical or archaeological resource impact area shall be conducted in accordance with the following:
 - (a) Development shall be designed to preserve the integrity of the resource, and any association with persons, events, and artistic or natural values which qualified the resource for designation;

- (b) Development shall maintain and complement the unique features of the designated resource;
 - (c) Development shall preserve all relevant aspects of the setting which it will affect and which will be affected by it;
 - (d) Development shall be in harmony with all historical resource(s) in such resource areas or resource impact area(s);
 - (e) Development shall not be destructive to such resources;
 - (f) Development having any adverse impacts as determined by the permit authority shall be adequately mitigated;
 - (g) Development shall comply with all requirements for mitigation of such adverse impacts as determined by the permit authority.
- (6) Any development in a historical or archaeological resource area or historical or archaeological resource impact area shall be conducted in accordance with the applicable provisions contained in Guidelines - History and Archaeology, promulgated by the State Historical Society of Colorado and any subsequent amendment thereto.
- (7) Any development in a historical or archaeological resource area or historical or archaeological resource impact area shall be in compliance with the local master plan, health and safety regulations, other local rules and regulations and any applicable regional and state plans.

7-202. Archaeological Resource Area and Archaeological Resource Impact Area.

- (1) The provisions of this section 7-202 apply to each archaeological resource area and each archaeological resource impact area listed and shown on the map or maps in Article 3 of this Chapter 7. Such determination as required herein shall be made pursuant to 7-405.
- (2) Archaeological sites shall be protected from inappropriate or improper digging or scavenging by requiring a presentation of qualifications and issuance of a permit for study according to the standards set by the office of the State Archaeologist.
- (3) Any discovered materials shall be properly reported, stored and/or exhibited according to the standards set by the office of the State Archaeologist.
- (4) All development in a designated archaeological resource area or archaeological resource impact area shall provide for the permanent preservation of the resource or provide for the completion of the necessary and appropriate study and work as specified by the office of the State Archaeologist before any aspect of development begins.

7-203. Historical Resource Area and Historical Resource Impact Area

- (1) The provisions of this section 7-203 apply to each historical resource area and each historical resource impact area listed and shown on the map or maps in Article 3 of this Chapter 7. Such determinations as required herein shall be made pursuant to 7-405.
- (2) All development in a designated historical resource area shall provide for the preservation of the resource.

- (3) All development in a designated historical resource area and/or impact area shall be carried out in accordance with the appropriate design and performance standards issued by this jurisdiction and approved by the State Historical Society of Colorado as part of and conditional to permit approval. The design and performance standards shall at a minimum control the following factors, if appropriate, as determined by this jurisdiction and approved by the State Historical Society:
- (a) architectural details
 - (b) building height
 - (c) building materials
 - (d) building scale
 - (e) design of lighting and sign fixtures, and the illumination intensities of lights and signs
 - (f) feeling
 - (g) landscaping and ground surfacing or paving
 - (h) mass
 - (i) proportion
 - (j) rhythm of openings between buildings
 - (k) rhythm of openings in buildings
 - (l) rhythm of projections
 - (m) roof shapes
 - (n) setback
 - (o) setting
 - (p) shape and proportion of building fronts
 - (q) shape and proportion of building openings
 - (r) site development
 - (s) street accessories
 - (t) workmanship
- (4) All development in a designated historical resource area and/or historical resource impact area shall be designed and developed in such a manner that it will not cause or result in the destruction or deterioration of any historical resource.
- (5) All development in a designated historical resource area and/or historical resource impact area shall be designed and developed in such a manner that it will be compatible with the resource but not necessarily a reproduction of the resource.

ARTICLE 3

SPECIFIC HISTORICAL AND ARCHAEOLOGICAL RESOURCE AREAS AND IMPACT AREAS IN THIS JURISDICTION SUBJECT TO REGULATION

7-301. All Areas Designated or Regulated Must be Listed

All areas within this jurisdiction that are subject to regulation or designation under this chapter are listed and described in §7-303. Any and all areas not so listed have not been designated or regulated under this chapter.

7-302. Designation or Regulation of Historical and Archaeological Resource Areas*

This body having considered the intensity of current and foreseeable development pressures, applicable Guidelines for Identification and Designation adopted and issued by the Colorado Land Use Commission and Guidelines: History and Archaeology promulgated by the State Historical Society of Colorado, it is the order of this body that the historical and archaeological resource areas and impact Areas described in §7-303, below, are designated as areas of state interest and that the historical and archaeological resource areas and impact areas described in §7-303, below, are subject to these regulations hereby adopted by this jurisdiction.

7-303. Description of Designated or Regulated Historical and/or Archaeological Resource Areas*

This jurisdiction finds and declares that areas containing historical and archaeological resources listed in the state inventory which are located in this jurisdiction and are shown on map or maps adopted by this jurisdiction pursuant to the provisions of this regulation shall be designated as historical and/or archaeological resource areas in order to meet the purposes and interest of these regulations.

7-304. Description of Designated or Regulated Historical and Archaeological Resource Impact Areas*

This jurisdiction finds and declares that areas in which development may have a significant impact upon historical and/or archaeological resources which are located in this jurisdiction and are shown on map or maps adopted by this jurisdiction pursuant to the provisions of this regulation shall be designated as historical and/or archaeological resource impact areas in order to meet the purpose and intent of these regulations.

7-305. Reasons for Designation*

The historical and archaeological resource areas described in §§7-303 and the Historical and Archaeological resource impact areas described in 7-304 are hereby designated as matters of state interest for the reasons stated in §7-101 of this chapter.

ARTICLE 4

APPLICATIONS AND PERMITS

7-401. Procedural Requirements

- (1) The procedures concerning permit applications, review of permit applications, review of permit authority decisions and issuance of permits set forth in Article 4 of the Administrative Regulations adopted by this jurisdiction shall be followed if the resource area and/or impact area was designated pursuant to § 24-65.1-101, et seq., C.R.S. 1973.*
- (2) If the area was regulated under H.B. 1034 (1974), § 29-20-101, et seq., C.R.S. 1973, the procedures set forth in other regulations shall control.

7-402. Application Fee*

Any application for a permit to engage in development in a designated historical or archaeological resource area or historical or archaeological resource impact area shall be accompanied by nonrefundable certified funds in the amount of not more than (ten (10) percent)** of the total cost of the development, but shall not exceed the amount necessary to cover the costs incurred in the review and approval of the permit application, including all hearings conducted therefore.

7-403. Applicant's Submission Requirements

- (1) An application for a permit to develop in a historical or archaeological resource area or in a historical or archaeological resource impact area shall be accompanied by (4) copies of the following documents and information:
 - (a) Completed application form;*
 - (b) Description of the specific activity or development proposed:
 - (i) Describe the relationship of this development with the master plan of this jurisdiction and any applicable regional or state plans;
 - (ii) Describe how this development will protect, enhance, and/or is compatible with the resource.
 - (c) Qualifications and experience of the applicant in this type of development;
 - (d) Proposed timetable for this development;
 - (e) Cost estimate of completed development;
 - (f) Description of proposed work affecting the historical and/or archaeological resource(s) including but not limited to the following information:
 - (i) location and dimensions of yards, open spaces, parking spaces, paving, fence, wall, gate, landscaping, and other significant site features; architectural elevations, perspectives, floor plans;
 - (ii) building, materials, type, textures, colors and distinctive features;
 - (iii) construction technique and the estimated life of each structure;

- (iv) specifications for any digs, cuts, fills, grading, dredging channel change, paving surfacing, cultivation, plant propagation, domestic or wildlife management, drilling, storage of water or materials;
 - (v) equipment and processes to be used during all phases of the development;
 - (vi) plans for the protection of existing vegetation and prevention of soil erosion and sedimentation;
 - (vii) re-vegetation, landscaping, and screening proposals;
 - (g) Indicate the plans and procedures for notification to the State Historical Society and particularly the Office of the State Archaeologist upon discovery of historical or archaeological resources or sites.
 - (h) Describe the plans for the protection of historical or archaeological resources including the measures required to mitigate adverse impacts upon historical and/or archaeological resources.
- (2) Description of affected historical resource area and impact area;
- (a) Diagram and photo of existing structures on or near the proposed development site - including but not limited to building spacings, floor plans, yard limits, setbacks, density of uses and orientations;
 - (b) Indicate the following by photos or other adequate description:
 - (i) building materials, type textures, colors and distinctive features of historic structures in the Historical Resource area;
 - (ii) significant exterior details, including but not limited to doorways, floors, ceilings, walls, paneling, moldings and fireplaces of historic structures in the Historical Resource area.
- (3) Description of affected archaeological resource area and resource impact area.
- (a) Initial survey report, as submitted by a qualified archaeologist, identifying the time period, culture, physical extent, and the nature of remains and the means by which they are preserved.
 - (b) Supporting information about the site, such as modern land use, modern or past flora and fauna, and the site's known or suspected relationship(s) to other sites of pertinent time space, or cultural affiliations;

7-404. Waiver of Submission Requirements

- (1) The permit authority may waive any part but not all of the submission requirements imposed by this regulation upon petition of the applicant that full compliance with the submission requirements would be unreasonably burdensome for the applicant and that the proposed development will have an insubstantial impact on the surrounding area. Such a waiver may be granted, after due consideration by the permit authority, upon a written determination that the information to be submitted is sufficient for the permit authority to arrive at a permit decision in full compliance with the law and these regulations and that the proposed development will have an insubstantial impact on the surrounding area.
- (2) The petition shall be considered and the decision rendered by the permit authority at a public hearing held in compliance with the provisions of Section 403 of the Administrative Regulations adopted by this jurisdiction.

7-405. Review by the State Historical Society***

- (1) Upon receipt of an application for a permit to develop in a historical or archaeological resource area or a historical or archaeological resource impact area, the permit authority shall notify the Administrator that such application has been received.
- (2) Within a reasonable time after receipt of the permit application the Administrator shall transmit to the State Historical Society the permit application, all information submitted with the application, and the Administrator's comments on the permit application.
- (3) The State Historical Society shall within a reasonable time review and evaluate the permit, application and the comments made by the Administrator.
- (4) Upon completion of said review the State Historical Society shall within a reasonable time transmit to the Administrator its comments and recommendations. In the event the State Historical Society determines that the permit application should be denied, the State Historical Society shall transmit said decision to the Administrator.
- (5) The results of such reviews shall be reported by the Administrator at the permit hearing. The report shall address the following:
 - (a) All matters referred to in Section 7-201, 202, and 203 of this regulation;
 - (b) The design and performance standards as approved by the State Historical Society;
 - (c) All recommendations presented by the State Historical Society;
 - (d) All recommendations presented by the Administrator;
 - (e) Any objections to the above matters raised by the applicant.

7-406. Approval of Permit Application

The permit authority shall approve an application for a permit to engage in development in a historical and/or archaeological resource area or impact area only if the application complies with all of the following requirements and criteria:

- (1) The applicant has submitted all information required by 7-403 of these regulations.
- (2) The development shall not violate any of the applicable provisions set out in Article 2 of these regulations.
- (3) The development shall not otherwise violate the purposes and intent of these regulations.
- (4) The permitted development shall be in harmony with and not destructive to historical and archaeological resources.*
- (5) The development shall be conducted in a manner that will minimize damage to historical and archaeological resources for future use.*
- (6) The development shall adhere to guidelines for historical and archaeological areas promulgated by the State Historical Society of Colorado.***
- (7) The permit authority shall consider the recommendations made by the State Historical Society that differ from those made by the Administrator. In the event the State Historical Society determines that some or all of its recommendations must be adhered to the permit authority shall adhere to said recommendations. ***
- (8) The applicant shall adhere to the design and performance -standards included as part of the permit.

7-407. Denial of a Permit Application

The permit authority shall deny the permit if the development does not meet all the requirements and criteria set out in Section 7-406 of these regulations.

ARTICLE 5

ADMINISTRATION, ENFORCEMENT, AND PENALTIES

7-501. Administration, Enforcement and Penalties, Enforcement Provisions

The provisions of this regulation and any permit issued hereunder shall be administered and enforced according to the provisions of the Administrative Regulations adopted by this jurisdiction.

7-502. Severability

If any section, clause, provision, or portion of these regulations should be found to be unconstitutional or otherwise invalid by a court of competent jurisdiction, the remainder of this regulation shall not be affected thereby and is hereby declared to be necessary of the public health, safety, and welfare.

*Required by H.B. 1041 (1974), 24-65.1-101, et seq., C.R.S. 1973.

**The ten percent permit fee limit is merely advisory. Local government may establish any reasonable permit fee, expressed in dollars, as a percentage or otherwise.

***This section is asterisked as a requirement of H.B. 1041. Section 202(3) of the statute requires that designated historical and archaeological resource areas and historical and archaeological resource impact areas "be administered by the appropriate state agency in conjunction with the appropriate local government." Since the State Historical Society, as the "appropriate state agency," has decided to fulfill its responsibilities under H.B. 1041 in the manner described in this section of the model regulation the Land Use Commission has concluded that the statute requires local governments to follow; this procedure in administering designated historical and archaeological resource areas or historical and archaeological resource impact areas.