



LARIMER COUNTY 1041 REGULATIONS

BACKGROUND & OVERVIEW



JOINT BCC / PC WORK SESSION
FEBRUARY 14, 2024

PURPOSE OF WORK SESSION

- Provide an overview and background about Larimer County's 1041 Regulations
- Outline the process for a 1041 application
- Role of the Planning Commission and Board of County Commissioners
- Describe the review criteria that apply to a 1041 application
- Information on technical review and enforcement



WHY ADOPT 1041 REGULATIONS?

- Gives local governments the authority to regulate matters of statewide concern
- Includes the development of regional transportation and utility infrastructure
- Can also be used to protect specific geographic areas with historical, cultural, or natural resources of statewide importance

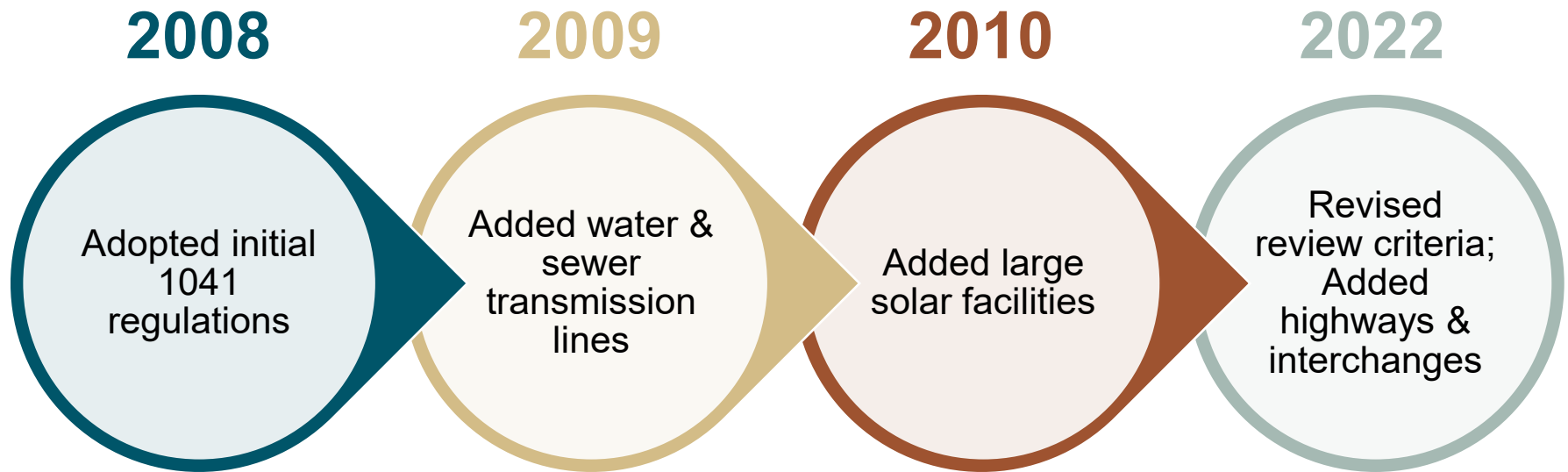


STATUTORY AUTHORITY



- HB 74-1041 was introduced in 1974 and enacted as the Areas and Activities of State Interest Act (AASIA)
- Defines a set of activities and areas of state interest and delegates power to local governments to regulate such areas or activities
- Generally referred to as a “1041 Powers” or “1041 Regulations”
- Statute governs timeframes and deadlines

HISTORY IN LARIMER COUNTY



***Removed option for Intergovernmental Agreement in place of 1041 permit**

REGULATED ACTIVITIES

New electrical
power plant

Conversion of
electrical power
plant to new type of
fuel

Nuclear power
plant

Wind power plant

Solar energy power
plant

Electric
transmission lines

Transmission line
upgrade expanding
easement or
increasing height

Electrical
substation or
transition site for
switching

New natural gas or
petroleum pipeline

New or extended
domestic water or
sewer transmission
lines

New or expanded
water storage
reservoir

New highways and
interchanges

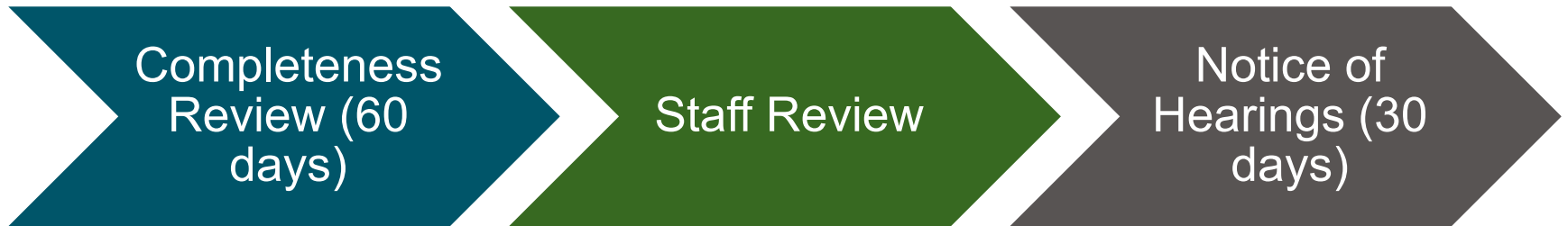
***Specific definitions and thresholds apply to each activity type**

PROCESS - START

The steps in the 1041 permitting process are described in Section 10.8.2 of the Land Use Code:



PROCESS - REVIEW



PROCESS - HEARINGS



If permit is granted:



REVIEW CRITERIA

22 General Criteria that all must be met. They can be divided into 10 themes:

1. Resources of State & National Significance
2. Neighborhoods and Property
3. Environmental Resources
4. Public Safety
5. County Planning and IGAs
6. Article 4 Development Standards
7. Adequate Public Facilities and Services
8. Environmental Health & Hazards
9. Response to Referral Agencies
10. Technical and Financial Feasibility of Project and Mitigation

In addition to specific review criteria for:

- Power plants
- Electric transmission lines
- Highways & interchanges
- Water & sewer projects

REVIEW CRITERIA

Resources of State & National Significance

J. No adverse effect on sites and structures listed on the State or National Registers of Historic Places or identified on a Class 1 Cultural Resource Survey.

I. No significant impact on natural resources of statewide importance, including critical habitat for threatened and endangered species.

REVIEW CRITERIA

Projects Affecting Cultural Resources

- A. Design to preserve the integrity of the resource.
- B. Compatible with the preservation of the resource and minimize damage to the resource.

REVIEW CRITERIA

Neighborhoods and Property

H. No significant effect on adjacent land use, neighborhoods, rural development, or adjacent natural resources. Impacts can be mitigated.

A. The project will mitigate impacts to property held by others.

REVIEW CRITERIA

Visual Resources and Recreation

R. No interference with public view of scenic viewsheds, ridgelines, or vista; riparian tree canopies; or unique land formations. OR interference has been mitigated.

P. No undue degradation of the quality or quantity of recreational opportunities and experience.

REVIEW CRITERIA

County Planning and IGAs

B. Consistent with applicable intergovernmental agreements.

C. Considered reasonable siting and design alternatives including:

- Co-location when requested by Larimer County or
- Why alternatives are not available or feasible, and
- Project is the best alternative available based on consistency with the Comprehensive Plan, Land Use Code, need, existing technology, cost, and impact on the site and surrounding property.

REVIEW CRITERIA

Projects that Impact Public Conservation Lands

1041 Projects are strongly discouraged on public conservation lands.

If resources (natural, cultural, agricultural, scenic and/or recreation values) of equal or greater value exist in the surrounding non-conserved lands, the County may consider permitting 1041 project/activities on public conservation lands.

Additional criteria in LUC Section 10.10.6

REVIEW CRITERIA

Environmental Stewardship

Q. Based on principles of resource stewardship and conservation, energy efficiency, recycling or reuse, adaptive management, and conservation or mitigation strategies for forests, water, soil, other natural assets, etc.

F. Mitigates impacts on rivers, streams, and wetlands to the greatest extent possible.

- First, avoid impacts to high value resources,
- Second, minimize the impacts,
- Third, mitigate the impacts that occur.

REVIEW CRITERIA

Article 4 Development Standards

E. Project complies with the growth, development, environmental and mitigation policies in the Comprehensive Plan and regulations in Article 4.0, Development Standards to ensure that it, has mitigated impacts to the environment and natural resources, will not significantly degrade the environment or natural resources, or exacerbate climate change.

REVIEW CRITERIA

Article 4 Development Standards (cont'd)

First avoid impacts to resources of highest value. Second minimize impacts that are unavoidable Finally, mitigate the impacts that occur.

Environment includes:

1. Air quality,
2. Surface water quality and stream and river health,
3. Groundwater quality,
4. The ecological and functional health of wetlands and riparian areas,
5. Terrestrial and aquatic animal life,
6. Terrestrial and aquatic plant life,
7. Soils and geologic conditions, and
8. Visual quality.

REVIEW CRITERIA

Adequate Public Facilities and Services

N. No significant adverse effect on the capability of local government to provide services. Not exceed the capacity of service delivery systems.

M. Adequate public facilities and services, including water and wastewater treatment capacity, are available or will be provided by the applicant.

REVIEW CRITERIA

Environmental Health & Hazards

- K. No significant impact on public health and safety.
- L. The proposed project will not be subject to risk of significant damage or harm to human life or structures from natural hazards including floods, wildfire, or geologic hazards.
- G. The proposed project will not result in unreasonable risk of releases of or exposure to hazardous materials.

REVIEW CRITERIA

Response to Referral Agencies

V. Recommendations of staff and referral agencies have been addressed.

S. Mitigation of construction impacts to county roads, bridges, and related facilities. Construction access will be re-graded and revegetated to minimize environmental impacts.

REVIEW CRITERIA

Technical and Financial Feasibility of Project and Mitigation

D. Proposal is technically and financially feasible. Applicant has expertise and financial capability to develop and operate the proposed project consistent with all requirements and conditions.

T. Benefits of physical improvements, enhanced services, or environmental impacts, outweigh the losses of natural resources and agricultural lands

U. The application demonstrates that the costs to mitigate the proposed project are proportional to the benefits achieved from the mitigation.

CONDITIONS OF APPROVAL

Why Conditions of Approval?

1. To bridge a gap between the project and the criteria.
2. To clarify how the project is implemented and operated.
3. To guide the Technical Review Process.

CONDITIONS OF APPROVAL

Are there limitations?

1. Must be related to impacts caused by the project.
2. Must be proportional to the impacts.
3. Must be within the County's jurisdiction and authority.
4. Must be reasonably consistent.
5. Must be practical and enforceable.

TECHNICAL REVIEW

Technical review is common to many County processes:

1. 1041 Permits
2. Location and Extent Reviews
3. Special Reviews

*Similar to the County's final plat process

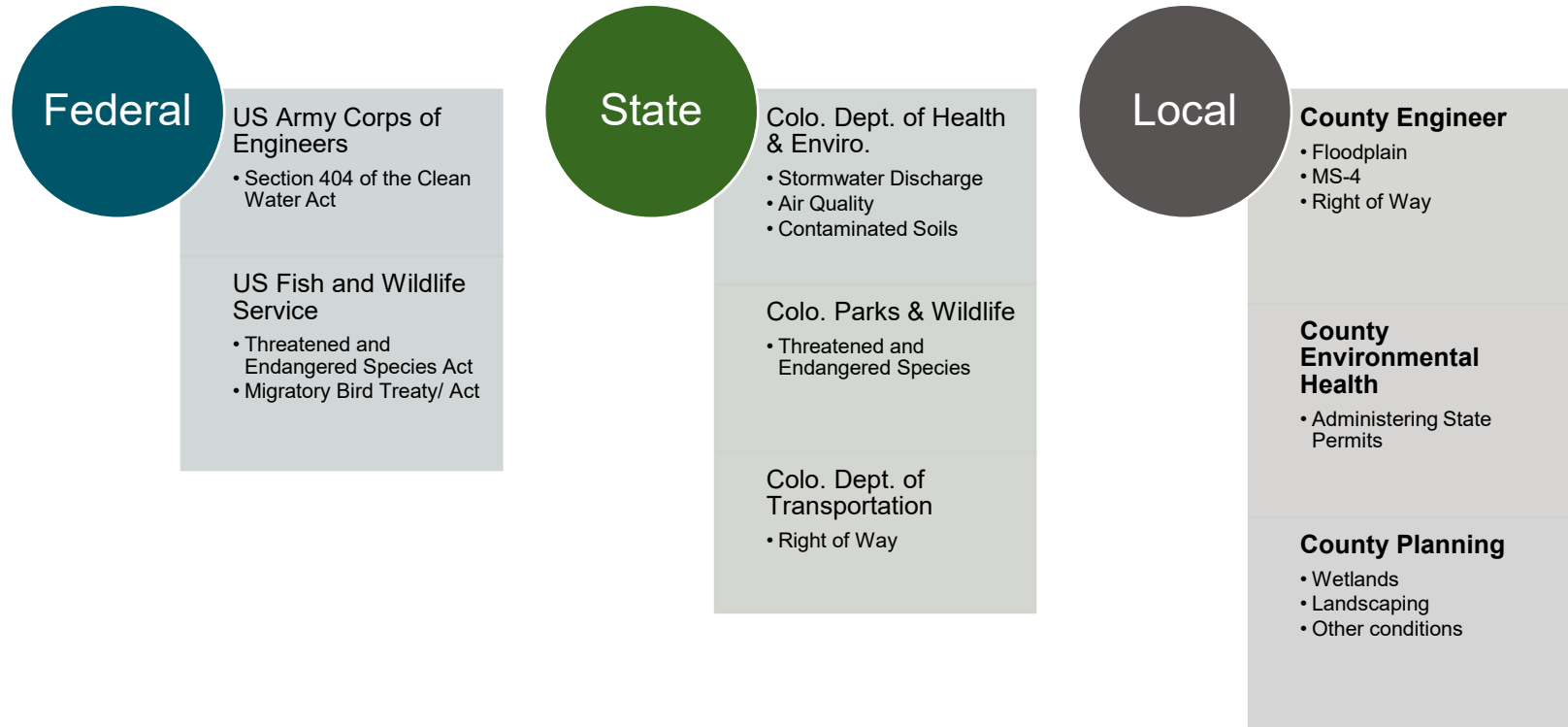
TECHNICAL REVIEW

Purpose

1. Final Engineering and design of on-site and off-site improvements.
2. Implement conditions.
3. Work out utility conflicts.
4. Project owners obtain easements leases, or ownership of property.
5. Prepare mitigation designs.
6. Obtain necessary construction permits.
7. Negotiate development agreements if necessary.
8. Secure financial guarantees where necessary.

ENFORCEMENT

Permits & Construction Oversight



Q&A

- What questions do you have for staff related to the 1041 permit process or regulations?
- What analysis or information is helpful to the Planning Commission and Board of County Commissioners when making decisions on 1041 permits?

More information here:

<https://www.larimer.gov/planning/1041-regulations>